Welcome to "Avoid Foreclosure: Pre-Foreclosure and Deed in Lieu to the Rescue!

This presentation will review more effective ways to leverage the pre-foreclosure and deed in lieu loss mitigation options to help more USDA guaranteed loan borrowers avoid foreclosure!

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COST OF FORECLOSURE

Survey of FY 2017 paid claims

- **Average loss claim: $50,990**
- **Average liquidation costs: $6,168**

Foreclosure is certainly not cost effective. Not for the borrower. Not for the lender. Not for the U.S. Government.

In a review of over 11,600 loss claims paid due to foreclosure in calendar year 2017:
- The average loss claim was over $50,000 and
- Average liquidation costs per claim were over $6,000

These figures include loss claims paid for properties sold while in REO, unsold but held in REO, and foreclosures completed through third parties.

That’s a lot of money!

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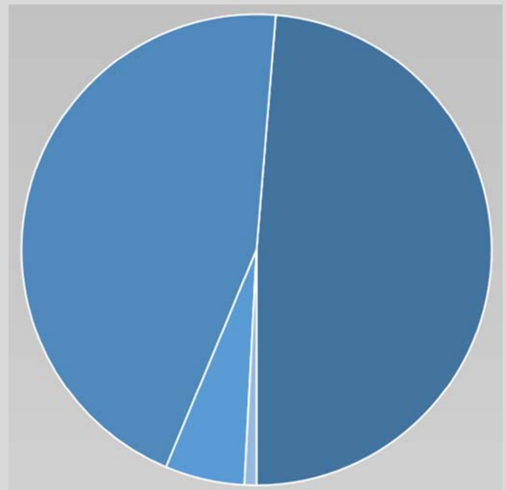
LOSS MITIGATION OPTION USE

- ✓ **Loan Modification** 49%
- ✓ **Repayment Agreements** 45%
- ✓ **Pre-Foreclosure Sales** (Less than 1%)
- ✓ **Deed In Lieu** (Less than 1%)



This chart represents over 14,700 lender approved loan servicing plans for calendar year 2017.

- 7,166 were loan modifications and Special Loan Servicing modifications
- 6,623 were forbearance repayment agreements
- 805 are short sales, and only
- 121 are deed-in-lieu

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COULD FORECLOSURE BE AVOIDED?

The big question we would like to answer is: Could foreclosure have been avoided?

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EVIDENCE OF HOPE

- **Less than 3,000 claims**
- **Not due to foreclosure**

There is evidence that USDA’s loss mitigation strategies, when approved and executed, are halting the breaks on foreclosure activity.

In calendar year 2017, less than 3,000 loss claims were paid for non-foreclosure losses.

Let’s review two very successful loss mitigation options that may be utilized to assist more guaranteed loan borrowers to avoid foreclosure!

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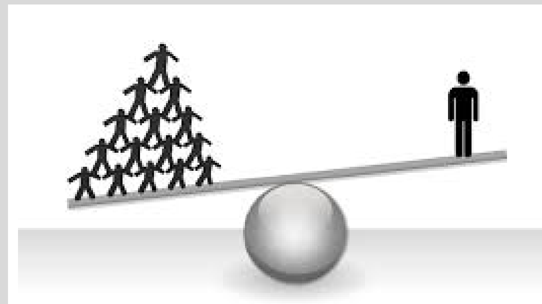
LEVERAGE YOUR OPTIONS!

- Pre-Foreclosure Sale
- Deed in Lieu



It’s time to leverage the pre-foreclosure sale and deed in lieu options to help decrease larger losses that are paid through foreclosures.

So how can we make that happen? Let’s look at each of these options to see where there may be more opportunity to extend these less expensive loss mitigation options.

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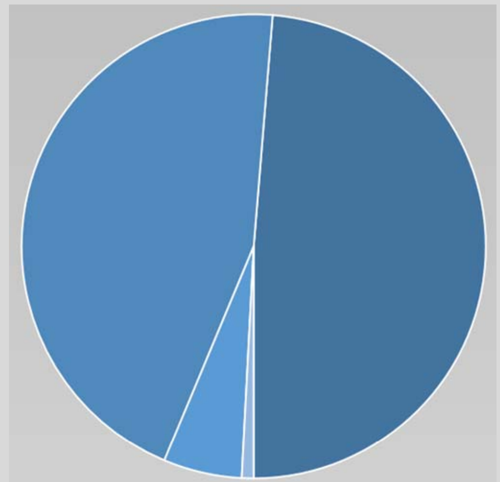
Pre-Foreclosure Sales:

LESS THAN 1%?

Missed Opportunities?

- **Failed repayment plan**
- **Repair language confusing**



Pre-foreclosure sales or short sales are certainly viable options to pursue for eligible borrowers, yet they were utilized for less than one percent as a loss mitigation strategy . Perhaps more borrowers are eligible than some may think!

- Borrowers who have failed to meet the requirements of an approved repayment plan or special forbearance agreement have demonstrated that they are unable to meet these payments. USDA would encourage servicers to consider a short sale of the property in order to avoid foreclosure.
- USDA has heard feedback regarding the confusing language associated with required repairs to the property that may lead a servicer to deny the borrower for a short sale. Today we hope to address these concerns and assure you that many repair scenarios are not going to reduce your ability to offer a short sale to your borrowers.

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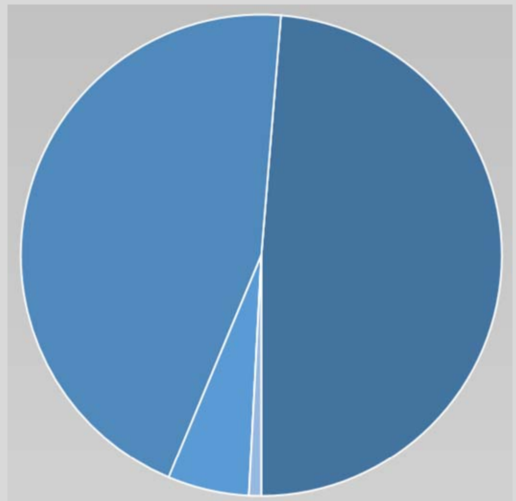
Deed In Lieu:
LESS THAN 1%?

- **Short Sale falls apart**
- **Borrower in bankruptcy**
- **Failed repayment plan**



A deed in lieu does not have to reserved for very specific borrowers or very specific mitigating circumstances.

It is clear from the data we reviewed earlier for calendar year 2017, that approved loss mitigation options compared to loss claims paid due to foreclosure, indicate the deed in lieu option is woefully under utilized. It's use also accounted for less than one percent of loss mitigation options. Today we are hoping to clarify that the use of a deed in lieu is responsible and acceptable.

Some great examples of when a deed in lieu is certainly an eligible loss mitigation strategy include, but are not limited to:

- Short sales that never make it to the closing table. When a short sale has been approved, but it cannot close, the servicer may change the loss mitigation option to a deed in lieu. The borrower may continue to exit the property. The servicer may continue to work to close the short sale, or market the property to a new buyer.
- Borrower's that are currently in bankruptcy or discharged from a bankruptcy present well documented income and repayment issues. If a deed in lieu is accepted by the borrowers, the servicer may be able to market the property in a more efficient and expedient manner.
- Failed repayment plans indicate the borrower's inability to continue to meet the

mortgage payments. It can be a better option for the servicer, the borrower, and the government to execute the deed in lieu in order to quickly secure title and begin marketing the property for sale.

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GOALS

- **Empower Partners**
- **Encourage flexibility**
- **Document appropriately**

Have you ever reviewed a borrower's current financial situation, mitigating circumstances, credit, and collateral and thought X would be a great option, but you do not think the guidelines allow for you to offer it to them?
If so, that is PERFECT! The goals for this training are to:

- Empower our servicing partners to more effectively leverage available loss mitigation options.
- Encourage flexibility! When a loss mitigation solution makes sense, USDA wants you to pursue it and assist all parties involved. And finally,
- Encourage documentation! It is very important to always document your decisions, explain your assessment of the file, and why you chose the specific loss mitigation option as the best solution for all parties.

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With these goals in mind, let's all work together to help more borrowers avoid foreclosure through the analysis of provided servicing scenarios!

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Regulation and Handbook

7 CFR 3555:

3555.305 Voluntary Liquidation

HB-1-3555: Chapter 18

Attachment 18-A: Loss Mitigation Guide

The information that will covered today is available in the program regulation, 7 CFR 3555, Section 3555.305 for "Voluntary Liquidation," and technical Handbook (HB-1-3555) Chapter 18, Attachment 18-A "Loss Mitigation Guide."

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USDA Regulations and Guidelines

https://www.rd.usda.gov/publications/regulations-guidelines/handbooks#hb13555

HB-1-3555 SFH GUARANTEED LOAN PROGRAM TECHNICAL HANDBOOK

A consolidated version of the handbook is available. HB-1-3555 is a large document and may take sometime to load.

Table of Contents

These resources are available online from the USDA Regulations and Guidelines website from the link provided.
HB-1-3555 is listed by Chapter. 7 CFR 3555 is available as "Appendix 1."

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APPLIED ASSUMPTIONS

- **Waterfalls are exhausted**

1. **Informal Repayment Agreement**
2. **Special Forbearance**
3. **Loan Modification**
4. **Special Loan Servicing**
5. **Pre-Foreclosure Sale**
6. **Deed-In-Lieu**

Special Relief Options:

1. **Extended term and lower interest rate**
2. **Extended term, lower interest rate, and Mortgage Recovery Advance (MRA)**
3. **MRA alone**

As we work through the servicing scenarios we are assuming that the applicable waterfalls have been exhausted including special relief options as applicable.

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LEARNING CHECKS:

START YOUR ENGINES!

So start your engines and let's get moving through some learning checks!

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Question 1: True or False

- **Borrower is discharged from Chapter 7 bankruptcy**
- **Mortgage debt is not reaffirmed**

Lender must pursue PFS before a foreclosure may be initiated.

Question 1:

- The borrower has been discharged from a Chapter 7 bankruptcy.
- They have not reaffirmed the mortgage debt.
- The lender must pursue a pre-foreclosure sale before they can initiate a foreclosure.

- True or False?

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Question 1: FALSE

Offer a Deed in Lieu (DIL)!

- **Borrower is no longer liable for the mortgage debt**
- **No financial package is required: recent BK**
- **Save foreclosure/acquisition costs**
- **Title must be clear**

Answer: False!

The lender could offer a deed in lieu!

- The borrower is no longer liable for the mortgage debt, as it has been discharged through the Chapter 7 bankruptcy.
- The servicer does not need a new financial package. They were just discharged from a Chapter 7 bankruptcy, so it is acceptable to work from this recent incident and any previous financials they may have.
- The deed in lieu will assist the servicer to save on foreclosure and acquisition costs.
- The servicer must ensure the title is clear in order to proceed with the offer of the deed in lieu.

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Question 2: True or False

- **Borrower is 60 days delinquent**
- **Property appraised for $100,000**
- **Required repairs: $10k floor coverings, $10k replace A/C and heating system, and $10k deck replacement = $30k total**
- **Repairs due to borrower neglect, not eligible for a homeowners insurance claim**

Repairs exceed 10% of appraised value. A PFS or DIL is not an eligible option.

Question 2:

- The borrower is 60 days delinquent.
- The lender has ordered an appraisal of the property to determine appropriate loss mitigation options. It has appraised for $100, 000.
- The appraiser has listed required repairs that include $10,000 to replace floor coverings, $10,000 to replace the air conditioning and heating system, and $10,000 to replace the deck. Which totals $30,000.
- These repairs are due to borrower neglect or inability to afford normal home maintenance. None of these qualify as homeowners insurance claims.
- Since the repairs exceed 10 percent of the appraised value, the lender cannot offer the borrower a pre-foreclosure sale or deed in lieu.

True or False?

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Question 2: False

This property is eligible for a PFS or DIL.

- **Property is in average to poor condition**
- **Repairs are not an insurable loss or eligible for reimbursement**
- **Lender may either 1. Offer PFS without repairs or 2. Offer DIL, complete repairs, market property**

Either option = avoiding foreclosure and saving money

Answer: False

The property will remain eligible for a pre-foreclosure and/or deed in lieu opportunity.

- The property is in average to poor condition, and
- The repairs are not an insurable loss or eligible for reimbursement as part of a future loss claim submission….BUT

The servicer may continue to offer:

1. A pre-foreclosure sale option without making any of the stated repairs, or
2. Offer a deed in lieu, repair the property, and then market it for sale.

Either of these options will accomplish the goal to avoid foreclosure and save all parties from massive costs/fees.

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Question 3: True or False

- **Borrower is 30 days delinquent**
- **Residence was vacated and rented due to job relocation and upside down equity**
- **Renters left after two years, borrower is unable to cover the current mortgage**

Borrower is eligible for a PFS.

Question 3:

- The borrower is 30 days delinquent.
- They relocated the home as a primary residence when they relocated due to a new job. They were unable to successfully sell the home because the market value is upside down.
- The dwelling was rented for two years, but they have now vacated the home. The borrower is unable to pay the current mortgage, nor find new renters in a short amount of time.
- The borrower is eligible to be offered a pre-foreclosure sale.

- True or False

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Question 3: True

The borrower is eligible for a PFS.

- **Reason to vacate the property and hardship is involuntary**
- **Capacity to repay is not supported**

Answer: True

The borrower is eligible for a pre-foreclosure sale!

- They may not be currently residing in the home as a primary residence, but that does not disqualify them from being considered for a pre-foreclosure sale.
- The reason they originally vacated the property was for an employment opportunity. Their inability to repay the current mortgage is considered a hardship and an involuntary circumstance.
- They have no capacity to repay the current mortgage and all of their additional debts.
- Therefore there is sufficient evidence to document in order to support the pre-foreclosure sale option.

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Question 4: True or False

- Borrower was approved for a PFS
- Reason for default was involuntary
- No capacity to repay the mortgage
- Property has been on the market for 90 days, no offers

Borrower is eligible for a DIL.

Question: 4

- A borrower was approved for a pre-foreclosure sale.
- The reason for the default was determined to be involuntary, and they have no capacity to repay the mortgage.
- The property has been on the market for 90 days with no offers.
- The borrower is now eligible to be considered for a deed in lieu?

True or False

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Question 4: True

The borrower is eligible for a DIL.

- **Borrower's capacity to repay is unchanged**
- **No new financial package is required if there is no change in hardship circumstances**

Answer: True

- The borrower's capacity to repay remains unchanged….they still cannot afford the home.
- No new financial package is required to consider the borrower for the deed in lieu because there has been no change in their hardship circumstances.

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Question 5: True or False

- All borrowers to the mortgage are deceased
- The home is now held by the heirs of the estate
- Mortgage balance is $105,000
- Appraised value is $98,500

Lender must offer a PFS before a DIL could be considered.

Question 5:

- All borrowers to the current mortgage loan are deceased.
- The home is currently held by the heirs of the estate.
- The current mortgage balance is $105,000.
- The current appraised value is $98,500.
- The lender must approve and attempt a pre-foreclosure sale before a deed in lieu may become an option.

True or False?

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Question 5: False

The lender may offer the heirs a DIL.

- **There is no equity in the home**
- **Title must be clear**
- **The DIL reduces the burden on the heirs**
- **Reduces financial costs to liquidate the property**

Answer: False

- There is no equity in the home.
- The servicer must ensure the title is clear before the deed in lieu may be offered.
- The deed in lieu will effectively reduce the burden on the heirs.
- It will also reduce the financial costs to obtain title to the property and ultimately liquidate it.

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Question 6: True or False

- **Loan is DQ 30 + days**
- **Loss of job 2 months ago**
- **Borrower was renovating the kitchen, fire occurred: Total damage: $45,000**
- **Appraised value of dwelling: $215,000**
- **Insurable loss**

Lender must proceed to foreclosure due to damage.

Question: 6

- The loan is delinquent more than 30 days.
- The borrower suffered the loss of their employment two months ago.
- They were renovating their kitchen in order to prepare it for listing when a fire occurred. The total damage was $45,000.
- The current appraised value of the dwelling is $215,000.
- Fortunately, this is an insurable loss, however the lender must directly proceed to foreclosure of the home due to the damage.

True of False

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Question 6: False

The lender may offer the borrower a PFS.

- **The damage is an insurable loss**
- **Lender must work with insurance company to repair**
- **Market property for 90 days**
- **If no sale after 90 days, proceed to DIL and continue to market property**

Answer: False

The lender may offer the borrower a pre-foreclosure sale.

- The damage is an insurable loss, so the servicer must work with their homeowners insurance company to obtain reimbursement for the repair.
- The property can be marketed for 90 days.
- If there is no sale after 90 days, the lender may proceed to offer a deed in lieu, vacate the occupants, and continue to market the property.

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Goal: Avoid Foreclosure

- **Reduce costs to lender and government**
- **Avoid lengthy litigation**
- **Encourage homeowner to leave peacefully, collateral intact**
- **Reduce personal/emotional loss**
- **Assist homeowner to maintain better credit: Avoid bankruptcy**

To summarize: the ultimate goal presented to today is to assist USDA guaranteed loan borrowers to AVOID FORECLOSURE! By doing so:

- Lenders and the government will achieve reduced costs to obtain title and liquidate the property.
- Pre-foreclosure and deed in lieu opportunities allow the homeowner to leave the dwelling peacefully. There is a greater chance the collateral will remain intact and in the best condition possible.
- Pre-foreclosure and deed in lieu options have the ability to reduce the personal and emotional loss of the home. Borrowers are able to leave the home on their own terms, without the burden of public notices and other tell tale publications of pending foreclosure actions.
- These options can also be presented to the borrower as credit protective. If the homeowner is able to successfully complete a pre-foreclosure sale or deed the home over and leave, their credit will not be as damaged as those that remain in the home to file bankruptcy and potentially end up with a foreclosure as well. As we are all aware, these incidents can detour future homeownership opportunities for a minimum of three to five years under lender underwriting guidelines.

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1. **Reason**
2. **Prudence**
3. **Good judgment**

Knowing USDA's desire to avoid foreclosure, we ask that you approach the assessment of a borrower's current situation under a new Standard Operating Procedure:

1. Reason: Their explanation will become part of your justification
2. Prudence: It is not prudent to jump to a pre-foreclosure sale or deed in lieu except in scenarios where they borrower truly does not qualify for any loss mitigation opportunities. But when the well is dry: it is much more prudent to offer these options rather than pursue a long and costly foreclosure.
3. Good judgment: When you apply good judgement to your decisions, it will be reflected in your efforts to assist the borrower, think outside of the box, and not be afraid to pursue less costly loss mitigation options in an attempt to make this transition as easy and dignified as possible for the homeowner.

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1. Document
2. Document
3. Document!

The most important tip of all is to:
DOCUMENT, DOCUMENT, and DOCUMENT!!

For yourself, for USDA, and for any auditors that may come knocking, it is very important that these parties can pick up the servicing notes and follow the justification for the loss mitigation opportunities that were approved, executed, and ultimately concluded.

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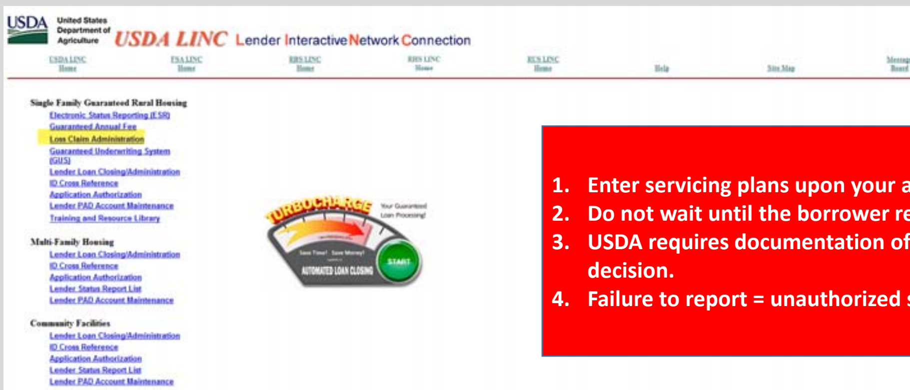
Speaking of Document: USDA LINC

https://usdalinc.sc.egov.usda.gov/RHShome.do



1. **Enter servicing plans upon your approval.**
2. **Do not wait until the borrower responds.**
3. **USDA requires documentation of your decision.**
4. **Failure to report = unauthorized servicing.**

Speaking of documentation….Don't forget to upload your approved servicing plans electronically into the USDA LINC "Loss Claim Administration" portal.

1. Enter servicing plans when YOU approve them.
2. You do not have to wait until the borrower responds or accepts your offer.
3. USDA requires documentation of your approved decisions, regardless of the borrower's acceptance.
4. If you fail to upload your approved servicing plans, it may result in unauthorized servicing. Missing service plans may impact a loss claim payment.

All servicing lenders have been granted delegated authority to approve servicing options as of August 2016. Therefore USDA is not approving your plans, but we need the documentation to support portfolio performance and gauge the effectiveness of our loss mitigation guidelines and options.

The Lender Loss Claim Administration webpage allows you to access items related to:

- Adding a Loss Mitigation plan
- View a Loss Mitigation List
- Display uploaded documents, and
- Maintain Lender/Branch Representatives, so they may have access to these items for your company

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Helpful Tips

- **Be Empowered!**
- **Put PFS and DIL options on the table**
- **Document decisions**
- **Low cost options are win/win**

A few parting tips!

- Be empowered! As long as you are making reasonable decisions that result in reduced overall costs and time to liquidate, then you are on the right track!
- Put pre-foreclosure sale and deed in lieu options on the table. Do not be afraid to utilize them!
- DOCUMENT, DOCUMENT, and DOCUMENT you decisions. Good notes are a good friend in a time of need!
- Low cost loss mitigation options will always be in style. Every borrower and their situation is unique. When you can craft an eligible loss mitigation opportunity that works for you, the borrower, and USDA: it is a win/win!

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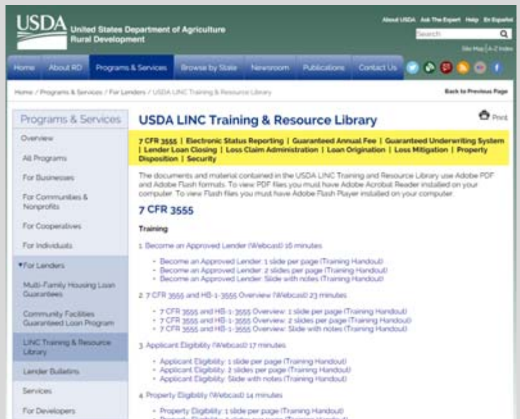
Resources: USDA LINC

https://www.rd.usda.gov/programs-services/lenders/usda-linc-training-resource-library



The USDA LINC "Training and Resource Library" website has a lot of information available for not only Loss Mitigation, but also other topics for the origination, Guaranteed Underwriting System (GUS), Electronic Status Reporting, and Loss Claim Administration.

All of these trainings and resources are available 24 hours a day!

You can use the "bread crumbs" at the top of the webpage to quickly access the section of this website where your topic is located.

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Resources: USDA LINC

Loss Claim Administration and Servicing

Documentation & Resources

1. Guaranteed Servicing Contact Information (PDF)
2. Trading Partner Agreement - Addendum E (PDF)
3. Quick Reference Upload Loss Claim Documents (PDF)

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Loan Origination

Documentation & Resources

1. Guaranteed Annual Fee Calculation Methodology (PDF)
2. Guarantee Fee & Annual Fee Calculator(EXCEL)
3. Electronic Doc Delivery (Non-GUS loans) PDF

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Loss Mitigation

Documentation & Resources

1. Loss Mitigation Servicer User Guide (PDF)
2. RD Special Loan Servicing Final Rule (PDF)
3. RD Special Loan Servicing Job Aid (PDF)
4. Quick Reference Upload Loss Mitigation Documents(PDF)
5. Loss Mitigation User Agreement(PDF)

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Property Disposition

Documentation & Resources

1. Property Disposition and Document Upload Servicer User Guide (PDF)

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Security

Training

1. Lender eAuth Training for SFH (FLASH)

Documentation & Resources

1. Additional Lender Security Administrator - Fillable (PDF)

This is an example of the Loss Claim Administration and Servicing, Loss Mitigation, and Property Disposition sections of the Training and Resource Library website.

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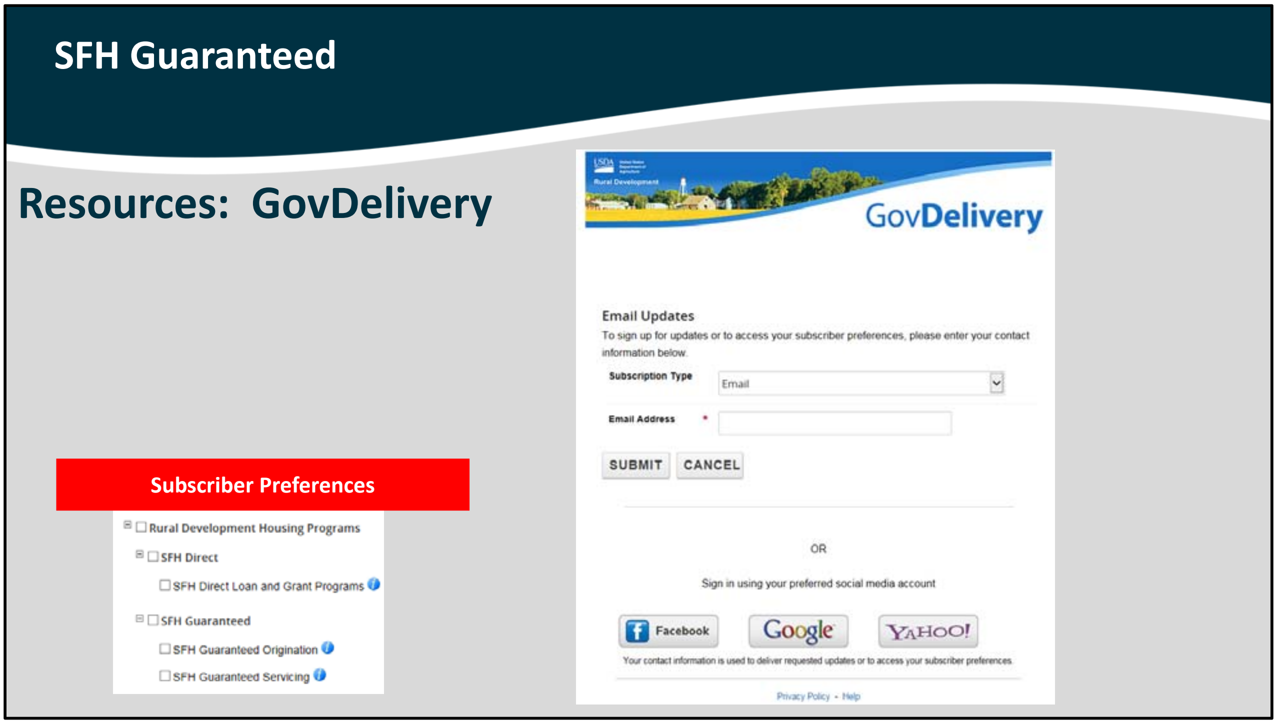
Resources: GovDelivery

Please sign up for GovDelivery messages. These are email notifications of program updates that USDA will send as necessary.

On the USDA LINC Training and Resource Library website, please click on the maroon circle that has the image of a letter on it. It is the third icon from the right.



This will take you to the GovDelivery webpage where you can select your "Subscription Type" as "Email" or "SMS/Text Message."

Depending upon your selection, enter the required email address of phone number. Then select "Submit."

This will take you to a "Subscriber Preferences" webpage where you can select from any number of available USDA program updates. This includes the "Rural Development Housing Programs." Under "SFH Guaranteed" there are options for "Origination" and "Servicing." Please select as many options as you wish. You can unsubscribe and update at any time.

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Thank you very much for joining us today! We hope this presentation will help you to assist more USDA guaranteed loan borrowers and avoid foreclosure!

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EQUAL HOUSING OPPORTUNITY

This will conclude this session. Thank you very much for your time!