**This notice will be published in the Federal Register. The effective date of the notice will be established by the notice published in the Federal Register.**

**Billing Code 4210-67**
**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**[Docket No. FR-5470-N-02]**

# Emergency Homeowners' Loan Program: Announcement of Activation of Program and Availability of Emergency Assistance

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** This notice announces the reactivation of the Emergency Homeowners' Loan Program, originally established by statute in 1975, and reauthorized, with certain modifications, by the Dodd-Frank Wall Street Reform and Consumer Protection Act, which also made $1 billion in funding available for this program. The Emergency Homeowners' Loan Program provides emergency mortgage relief to homeowners who are unemployed or underemployed and at risk of foreclosure and who meet certain requirements of the program. This notice sets out the requirements and procedures by which emergency relief will be made available to eligible homeowners.

**DATES:** Effective Date: **[Insert date that is 30 days after date of publication in the FEDERAL REGISTER.]**

**FOR FURTHER INFORMATION CONTACT:** Office of Housing Counseling, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW, Washington, DC 20410; telephone number 202-708-0317 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 800-877-8339.

**SUPPLEMENTARY INFORMATION:**

## I. Activation of Emergency Homeowners' Loan Program

The Emergency Housing Act of 1975 (12 U.S.C. 2701), signed into law on July 2, 1975, conferred on HUD, through title I of the statute, entitled the "Emergency Homeowners' Relief Act," standby authority to provide emergency assistance, including emergency mortgage relief loans or advances of credit, and to make emergency mortgage assistance payments for the benefit of certain eligible homeowners to defray their mortgage expenses so as to prevent widespread mortgage foreclosures and distress sales of homes resulting from a homeowner's substantial reduction in income resulting from temporary involuntary loss of employment or underemployment due to adverse economic conditions. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203, approved July 21, 2010) (Dodd-Frank Act) revised and reauthorized this 1975 statute, and makes available $1 billion to HUD to implement the Emergency Homeowners' Loan program during Fiscal Year (FY) 2011. HUD is reinstating the 1975 program, with such modifications as necessary to mirror the statutory changes made by the Dodd-Frank Act, that provide the regulatory framework by which emergency assistance may be provided to eligible homeowners. This notice announces the activation of the Emergency Homeowners' Loan Program (EHLP), and the availability of emergency mortgage relief payments for eligible homeowners.

## II. Emergency Homeowners' Loan Program Funding for FY 2011

For FY 2011, HUD will administer funding under EHLP, as follows:

### A. Counseling for Homeowners

HUD, through a network of HUD-approved housing counselors, and other such organizations, will provide homeowners with services that include but are not limited to:

- Developing and disseminating program marketing materials;
- Providing an overview of the program and eligibility requirements;
- Conducting initial eligibility screening (including verifying income);
- Counseling homeowners, including providing information concerning available employment and training resources;
- Collecting and assembling homeowner documentation; and
- Providing transition counseling by exploring with the homeowner other loss mitigation options, including loan modification, short sale, deed-in-lieu of foreclosure, or traditional sale of home.

**B. Intermediary to Perform Funds Control and Mortgage Servicing Functions**

Pursuant to statutory authority to make such delegations, HUD may contract with a fiscal agent to provide general accounting and fiscal control services, including collecting payments from homeowners, distributing emergency mortgage relief payments to servicers on a monthly basis, performing accounting, managing loan balances, and providing payoff information.

**C. States with Substantially Similar Programs**

One of the changes enacted by the Dodd-Frank Act was to authorize the Secretary to allow emergency assistance to be administered by states with existing programs that provide substantially similar assistance to homeowners. On November 12, 2010, HUD published a notice in the Federal Register (75 FR 69454) that described key features of HUD's emergency mortgage relief payment program for homeowners, and which solicited applications from states that have existing programs that may be substantially similar to the EHLP (EHLP Substantially Similar Program). (See http://www.hud.gov/offices/hsg/sfh/hcc/ehlp/ehlphome.cfm.)

**D. Emergency Mortgage Relief Payments**

To the extent that a state does not submit information about an existing program that provides substantially similar assistance to homeowners, or such submission does not meet the requirements outlined in HUD's November 12, 2010 notice, HUD will administer the EHLP in that state in accordance with the requirements of Section III of this notice.

The regulations in 24 CFR part 2700, as applicable to emergency mortgage relief payments, apply to the emergency mortgage relief payments made available through this notice, including use of defined terms, eligibility requirements for the homeowner, and mortgaged property, unless otherwise superseded by requirements of this notice. To minimize cross-reference to the regulations, some defined terms and regulatory requirements are repeated in this notice.

**III. HUD's Emergency Mortgage Relief Payments Program for 2011**

**A. Homeowner Eligibility**

To be eligible for emergency assistance under the EHLP in FY 2011, a homeowner must have experienced a substantial reduction in income due to involuntary but temporary unemployment or underemployment resulting from adverse economic conditions or medical conditions (referred to as the Event) and meet the requirements set forth in section III.A of this notice. Accordingly the following requirements determine the eligibility of the homeowner to receive emergency mortgage relief payments.

1. Income Thresholds. The homeowner, whose income (annual adjusted gross income as "income" is defined in 24 CFR 2700.5) is combined with the income of all mortgagors and/or co-signers on the delinquent mortgage and note,[1] must have a total pre-Event income equal to, or less than, 120 percent of the area median income (AMI), as determined by HUD, of the area in

[1] Mortgagors and co-signers who are covered by this provision do not have to have signed both documents. If only one document is signed by an individual, both are covered under this provision.

which the homeowner's principal residence is located, and which income includes, but is not limited to, wage, salary, self-employed earnings, and other adjusted gross income.

2. Substantial Income Reduction. The homeowner, whose income is combined with the income of all co-makers and/or co-signers on the note secured by the delinquent mortgage and the other mortgagors on the delinquent mortgage, must have a current monthly income that is at least 15 percent lower than the homeowner's pre-Event monthly income, with such reduction resulting from the homeowner's involuntary but temporary unemployment or underemployment due to adverse economic conditions or medical conditions.

3. Employment. With respect to employment, the homeowner may be a wage and salary worker or may be self-employed.

4. Delinquency and Likelihood of Foreclosure. The homeowner and all co-makers and/or co-signers on the note secured by the delinquent mortgage and all other mortgagors on the delinquent mortgage must certify that circumstances at the time of application for emergency mortgage relief payments, including the homeowner being at least 3 months delinquent on the delinquent mortgage, make it probable that the mortgagee will foreclose on the delinquent mortgage.

5. Ability to Resume Repayment. The homeowner must have a reasonable likelihood of being able to resume repayment of the delinquent mortgage obligations, and meet other housing expenses and debt obligations when the homeowner regains full employment, as determined by:

a. The homeowner's income, combined with all mortgagors and/or co-signers on the delinquent mortgage and note, must have a back-end ratio or debt-to-income (DTI) below 55 percent (principal, interest, taxes, insurance, and revolving and fixed installment debt divided by total monthly income). For this calculation, homeowner's combined income will be measured at the pre-Event level.

b. Homeowners with second mortgage debt or an equity line of credit (ELOC) are not disqualified from receiving emergency mortgage relief payments. Applicants with second mortgage payments or ELOC payments whose DTI ratio is within the program's 55 percent limit may still qualify for emergency mortgage relief payments based on all other program eligibility criteria.

6. Principal Residence. The homeowner must occupy the mortgaged property as the homeowner's principal residence. The mortgaged property must also be a single-family residence (1-to-4 unit structure, or condominium, cooperative, or manufactured home).

**B. Terms and Conditions of Emergency Mortgage Relief Payments**

1. Declining Balance Loans. The repayment mechanism for the emergency mortgage relief payments made on behalf of the homeowner to the mortgagee shall be a declining balance, deferred payment, non-recourse, subordinate loan with zero interest. The declining balance loan will cover emergency mortgage relief payments provided for arrearages, including delinquent taxes and insurance, in accordance with section III.B.2., and up to 24 months of monthly payments on the homeowner's delinquent mortgage to include principal, interest, insurance, taxes, and hazard insurance, in accordance with section III.B.3.

2. Use of Funds for Arrearages. Emergency mortgage relief payments shall be used to pay 100 percent of the eligible homeowner's delinquent mortgage arrearages (such as mortgage insurance, principal, interest, insurance, taxes, hazard insurance, and ground rent, homeowners' assessment fees, late fees, condominium fees, and certain foreclosure-related legal fees and late payments, if any) on the homeowner's delinquent mortgage.

3. Homeowner Contribution Payments. The homeowner contribution to the delinquent

mortgage monthly mortgage payment shall be set at 31 percent of the sum of the eligible homeowner's monthly income at the time of EHLP application and the monthly income of all other mortgagors and co-signers (if applicable) of the delinquent mortgage and note at the time of EHLP application, but in no instance will the homeowner contribution to the monthly mortgage payment be less than $25 per month.

4. Use of Funds for Continuing Mortgage Assistance. Monthly emergency mortgage relief payments on the delinquent mortgage shall be made to the mortgagee or servicing institution in combination with the homeowner contribution payments.

5. Duration of Emergency Mortgage Relief Payments. If at any time the homeowner's monthly income, including all other co-makers and co-signers of the note secured by the delinquent mortgage and other mortgagors on the delinquent mortgage, increases to greater than 85 percent or more of its pre-Event income level, emergency mortgage relief payments will be phased out over a 2-month period. In any event, the aggregate amount of emergency mortgage relief payments provided to any homeowner shall not exceed the earlier in occurrence of: (i) the receipt of $50,000, or (ii) 23 months beyond the date of the first payment (this period includes the first emergency mortgage relief payment, which is inclusive of the first monthly emergency mortgage relief payment, and the payment of arrearages).

**C. Repayment Terms**

1. Transition Counseling. A housing counseling affiliate shall contact each homeowner who is approaching the last months of EHLP participation and who remains unemployed or underemployed (approximately 3 to 5 months before the emergency mortgage relief payments end) and require the homeowner to meet with a HUD-approved counseling agent to explore alternative available options, such as loss mitigation, loan modification, short sale, deed-in-lieu

of foreclosure, or traditional sale of home.

2. Repayment of Emergency Mortgage Assistance Payment. As a condition of the homeowner's approval for participation in the EHLP, the homeowner shall execute an EHLP Note and EHLP Mortgage in the amount of EHLP funds, which may not exceed $50,000. The EHLP Mortgage shall be secured by the mortgaged property in either second- or third-lien position (as applicable depending on the existence of a second-lien mortgage). The EHLP Note shall be in the form of a 5-year deferred declining balance, zero interest, nonrecourse note with a term of up to 7 years.

3. Terms for Declining Balance Feature. No payment is due on the EHLP Note during the term of the EHLP Note, so long as the homeowner remains current on the homeowner contribution payment while receiving emergency mortgage relief payments and on the homeowner's full monthly payments on the delinquent mortgage once the homeowner is no longer receiving emergency mortgage relief payments. If the homeowner meets this requirement, the balance due on the principal balance of the EHLP Note shall decline by 20 percent of the original principal amount, annually, until the balance owed on the EHLP Note is extinguished.

4. Ongoing Qualification of Homeowner. After initial income verification at intake, the homeowner shall be required to notify the housing counseling agency of any changes in the homeowner's income and/or employment status during the entire period in which emergency mortgage relief payments are provided.

5. Termination of Emergency Mortgage Relief Payments. Emergency mortgage relief payments will terminate and the homeowner will resume full responsibility for meeting the monthly payments on the delinquent mortgage in the event of the occurrence of one or more of the following circumstances:

a. The homeowner has received 24 months of emergency mortgage relief payments or assistance in the amount of $50,000, whichever occurs first;

b. The homeowner fails to report changes in employment status or income within 15 days of the change;

c. The homeowner's monthly income, combined with that of all mortgagors and/or co-signers on the delinquent mortgage and note, increases to greater than 85 percent or more of its pre-Event income level;

d. The homeowner sells the mortgaged property or refinances the mortgaged property for cash-out;

e. The homeowner defaults on the homeowner contribution payments; or

f. The homeowner defaults on the delinquent mortgage.

6. Events Triggering EHLP Note Repayment. The homeowner will be responsible for repayment of the outstanding balance of the EHLP Note, if, at any time during the term of the EHLP Note, one or more of the following events occur:

a. The homeowner defaults on the homeowner contribution payments while receiving emergency mortgage relief payments or on the full monthly payment owed on the delinquent mortgage once the homeowner is no longer receiving emergency mortgage relief payments; or

b. The homeowner sells the mortgaged property, resulting in net proceeds to the homeowner, and satisfies the outstanding balance on the EHLP Note or the homeowner refinances the mortgaged property and satisfies the outstanding balance on the EHLP Note. Net proceeds from sale of the mortgaged property shall be an amount equivalent to the contract sales price of the mortgaged property less applicable brokers fees, payoff of first- and (if applicable) second- and third-lien mortgage balances, and an allowance of $2,000 to the homeowner for relocation expenses. Net proceeds shall go towards satisfying the EHLP Note. In the event that net proceeds are not sufficient to satisfy the outstanding balance of the EHLP Note, any outstanding balance in excess of net proceeds shall be written off by HUD and net proceeds shall be sufficient to fully satisfy the EHLP Note and the EHLP Mortgage against the mortgaged property shall be released.

In the event of a cash-out refinance of the homeowner's delinquent mortgage (and/or second mortgage, as applicable), the outstanding balance of the EHLP Note shall be repaid from remaining cash-out proceeds available after the homeowner's delinquent mortgage (and/or second mortgage, as applicable) has been paid off, including the payment of all applicable closing costs, and the EHLP Mortgage against the property shall be released.

In the event remaining cash-out proceeds from a cash-out mortgage refinance are not sufficient to satisfy the outstanding balance of the homeowner's EHLP Note, any outstanding balance in excess of net proceeds shall be written off by HUD and the remaining cash-out proceeds shall be sufficient to fully satisfy the EHLP Note and the EHLP Mortgage against the mortgaged property shall be released.

7. Administration of Emergency Homeowners' Loans

HUD will work with its fiscal agent in the states that have been allocated funding for the

EHLP, but are not a part of the EHLP Substantially Similar Program, to make emergency mortgage relief payments to eligible homeowners under this notice and the regulations in 24 CFR part 2700.

Dated: _February 28, 2011_________________

/s/

David H. Stevens, Assistant Secretary for Housing—
Federal Housing Commissioner

[**FR-5470-N-02**]