

State Home Foreclosure Prevention Project Frequently Asked Questions for Servicers

Updated – July 12, 2011

The following FAQs are intended to provide guidance to Servicers regarding compliance with the requirements of Article 11, Chapter 45, of the N.C. General Statutes, which amended the Emergency Foreclosure Reduction Program established in 2008, by Session Law 2008-226, ([HB 2623](#)) and amended by Session Law 2010-168, ([SB 1216](#)), s.1-5, and Session 2011-288, s. 1-5 ([HB 484](#)). A copy of the current law may be found [here](#).

1. Who is required to file information with the pre-foreclosure database?

For any foreclosure filed on or after November 1, 2010, any person, entity or mortgage servicer that services “home loans,” as that term is defined in N.C.G.S. 45-101(1b) must file information with the pre-foreclosure database.

2. What is a “home loan” under N.C. G.S. 45-101?

A “home loan” is a loan which:

- A. Was made to a natural person; **AND**
- B. Is a debt incurred by the borrower primarily for personal, family or household purposes; **AND**
- C. That is not a “jumbo loan” pursuant to Fannie Mae guidelines **at the time of origination; AND**
- D. Is secured by an interest in the borrower’s principal dwelling for property located in the State of North Carolina; **AND**
- E. Is secured by:
 - a. a security interest in a manufactured home as defined in G.S. 143-145; **OR**
 - b. a mortgage or deed of trust on real property upon which is located an existing structure designed principally for occupancy of from one to four families; **OR**
 - c. a mortgage or deed of trust on real property upon which there is to be constructed using the loan proceeds a structure or structures designed principally for occupancy of from one to four families, which when completed, will be the borrowers principal dwelling; **AND**
- F. A purpose of the loan is to:
 - a. Purchase the dwelling; **OR**
 - b. Construct, repair, rehabilitate, remodel or improve the dwelling or the real property on which it is located; **OR**
 - c. Satisfy and replace an existing obligation secured by the same real property; **OR**



d. Consolidate existing consumer debts into a new “home loan.”

3. What loans types are excluded from the definition of a “home loan” under N.C.G.S. 45-101?

The following loans types are excluded:

- A. An equity line of credit as defined in N.C.G.S. 24-9; OR
- B. A construction loan which is due and payable in full not later than 18 months from the date of origination or otherwise defined in N.C.G.S. 24-10; OR
- C. A reverse mortgage; OR
- D. A bridge loan with a term of 12 months or less.

4. How is information filed with the pre-foreclosure database?

Servicers will need to set up a log-in account to access the pre-foreclosure filing database through the Office of the Commissioner of Banks (“NCCOB”). These database accounts will be set up in different ways, depending on the type of institution servicing the loans:

- A. **Licensed mortgage loan servicers, mortgage bankers and mortgage brokers:** Institutions licensed with NCCOB as mortgage bankers or mortgage brokers will be able to access the pre-foreclosure filing database through their NCCOB account. For banker/brokers with a separate servicing contact, the database will permit the institution to have two qualified individuals (one for origination and one for servicing).
- B. **Exempt organizations:** Institutions that are exempt from the requirements of the Mortgage Licensing Act (banks, thrifts, and credit unions) may set up their account by filing a form with NCCOB. The form is available at: <http://www.nccob.gov/public/docs/Financial%20Institutions/Mortgage/MLA04ClaimOfExemption.pdf>. Once these forms have been processed, an access code will be provided to the servicer.
- C. **Stand-alone servicing institutions not otherwise exempt or licensed as mortgage bankers:** Servicers that are not licensed as mortgage servicers, mortgage bankers or mortgage brokers currently and not otherwise exempt by virtue of their status as a depository institution will need to apply for a license as a mortgage servicer in order to service loans. In order to set up an account in the pre-foreclosure filing database, you will need to begin the application process for a servicing license. To get started, please see information on the Nationwide Mortgage Licensing System at: http://www.stateregulatoryregistry.org/AM/Template.cfm?Section=North_Carolina.

5. When will the pre-foreclosure filing database be available?

The pre-foreclosure database is currently available for all “home loans.” Servicers may access the database either through the website for the Administrative Office of the Courts at: www.nccourts.org, through the NCCOB’s website at: <https://www.nccob.org/Online/FCS/CompanyLogin.aspx>, or through our foreclosure website at: www.ncforeclosurehelp.org.



To set up a log-in account, the Servicing Qualifying Individual should email a request for database access to exemptionrequests@nccob.gov.

6. What is the required contact information that must be included in the pre-foreclosure notice?

The contact number required in the pre-foreclosure notice for the Office of the Commissioner of Banks is 316 W. Edenton Street, Raleigh NC 27699 and the telephone number for consumer complaints is 1-888-384-3811.

7. Where can a servicer find a list of HUD-approved counseling agencies operating to assist borrowers to avoid foreclosure?

The U.S. Department of Housing and Urban Development maintains a list of HUD-approved counseling agencies.¹ In addition, the State Home Foreclosure Prevention Project has published a list of counseling agencies in North Carolina that are participating in State Home Foreclosure Prevention Project. This list is available at <http://www.ncforeclosurehelp.org/CertifiedHousingCounselors.aspx>.

8. When does the servicer have to file the information with the pre-foreclosure database?

The mortgage servicer must file certain information with the pre-foreclosure database within three (3) business days of mailing the pre-foreclosure notice required by N.C.G.S. 45-102. If more than three (3) business days have passed and the servicer has not entered the required information into the database, a new 45 day pre-foreclosure notice must be mailed and the matter entered into the pre-foreclosure database within three (3) business days of the subsequent letter.

9. What information is *required* to be filed with the pre-foreclosure database?

Servicers will need to provide the following information for every notice submitted to the database:

- A. Name of the borrower(s);
- B. Address of the borrower;
- C. Date the pre-foreclosure notice was mailed to the borrower; and
- D. Due date of the last scheduled payment made by the borrower – this will be the regularly scheduled due date of the last full payment received from the borrower.

10. What additional *optional* information will servicers be able to provide to assist the State Home Foreclosure Prevention Project's outreach efforts to homeowners?

The database will permit servicers to provide additional contact information which may enable the State Home Foreclosure Prevention Project to target its outreach efforts and to



connect homeowners to available resources, i.e., phone numbers and email addresses. The database will also enable servicers to identify loans by the servicer loan number, identify whether the servicer believes the property is vacant or if the servicer has knowledge that the homeowner has recently lost a job.

11. Are there any origination dates that would eliminate the need to file a loan with the database?

No. For any loan for which foreclosure proceedings are begun on November 1, 2010, or after, all time period limitations were eliminated pursuant to S.L. 2010-168. Any loan that meets the definition of a “home loan” under N.C.G.S. 45-101 must be entered into the database prior to proceeding with foreclosure regardless of the date of origination.

12. Why are phone numbers of homeowners requested?

A key component of our program is the State Home Foreclosure Prevention Project’s effort to contact homeowners directly. We have the capacity to make outbound phone calls to homeowners to complement existing efforts by creditors and servicers to reach homeowners. Please provide phone numbers, if available, to allow us to assist you in reaching borrowers as well as to support our outreach efforts.

13. Can a servicer send in a batch file of pre-foreclosure notice filings?

Yes. Any servicer that is interested in batch filing should contact the NCCOB IT Team at NCCOBDevelopers@nccob.gov to arrange for IT assistance to accommodate batch filing.

14. What evidence will servicers need to prove they have complied with this program?

Clerks of Court are vested with the authority to determine if a foreclosure filing meets the requirements of Chapter 45. The pre-foreclosure database enables servicers to print a certificate directly from the database which indicates that the loan was filed in the database, that the servicer has submitted the date of the pre-foreclosure notice to the database, and that the period of time required by the statute has elapsed as of a particular date. This certificate cannot be printed prior to the end of the time period required by the statute.

15. What should a servicer do if servicing is transferred after the AOC filing, but before the filing of the foreclosure proceeding?

If servicing is transferred after a pre-foreclosure notice is filed, the new servicer should send the homeowner a new pre-foreclosure notice and re-file the information with the database to ensure the homeowner has received the correct contact information for the mortgage servicer authorized to work with the borrower to avoid foreclosure. The new filing will ensure that the correct certificate is available to the servicer.



16. How will servicers be notified if the Commissioner of Banks extends the foreclosure filing date by 30 days?

The Commissioner will notify the servicer by mail at the contact address provided in the database. In addition, servicers will be able to review the status of each loan submitted to the database to identify if a foreclosure filing date has been extended.

Additionally, IF servicers have filed a contact email address within each specific loan filing, an email notification email will be sent to that email address. A mailed notice will still follow to the contact address provided in the database.

17. Is there a fee for filing a loan with the AOC database?

Yes. Upon the filing of the information required under N.C.G.S. 45-103, the mortgage servicer shall pay a fee of seventy-five dollars (\$75.00) to the State Home Foreclosure Prevention Trust Fund. The fee shall not be charged more than once for a “home loan” covered by N.C.G.S. Article 11 of Chapter 45.

18. How does billing and fee payment work?

General Process:

- A. All fees, invoicing and payment processes will be handled through the pre-foreclosure database;
- B. No paper invoices will be provided to the Servicer;**
- C. Monthly invoices will be available at the Servicer Home Page;
- D. Payment options will be available through the Servicer Home Page;
- E. Payment must be made by credit card or electronic funds transfer; and
- F. Failure to submit timely payment will result in a freezing of the Servicer’s ability to use the pre-foreclosure database.

Fees:

- A. The \$75.00 fee is assessed to the servicer at the time a loan is initially submitted to the pre-foreclosure database;
- B. The fee for each loan will be invoiced on the first day of the month following the date the loan was submitted to the database;
- C. The servicer identity is tracked by the database access login information for billing purposes and will be invoiced by that servicer name;
- D. No fee is incurred for subsequent filings of the same loan in the database; and
- E. The process for tracking, whether a submission is an initial filing or subsequent filing, is identical to the process used to identify and link files under the current process.

Invoicing:

- A. Invoices will be generated on the first day of the each month;
- B. All loans will be billed monthly on the first of the month following the date the loan was registered in the database (e.g. all loans submitted during June 2011 will be billed July 1, 2011);
- C. Invoices will be available to the servicer through the database at the Servicer Home Page;



- D. Once at the Servicer Home Page, the Servicer will be notified whether invoices are pending;
 - E. The servicer can click on the Pending Invoice tab and the pending invoice(s) will appear;
 - F. The servicer will also be able to click on the paid invoices tab to review all invoices paid to date;
- ***Paper invoices will not be provided to the Servicer AND invoices will not be emailed to the Servicing Qualifying individual.***

Payment:

- A. All invoices are due 15 days after the invoice date;
- B. The invoice will be late if not paid within 15 days of when the invoice was generated (May 1, 2011 invoice will be late on May 16, 2011);
- C. Payment must be by credit card or electronic funds transfer;
- D. The number of unpaid invoices will be indicated on the Servicer Home Page by the number in parenthesis next to the ‘Unpaid Invoices’ link;
- E. The Servicer will be able to choose whether they want to make a payment by credit card or by electronic funds;
- F. Once the Servicer chooses the payment option, the database will request the necessary information for payment processing; and
- G. Once payment has been received by NCCOB, the pending invoice will be marked as paid and will be available for viewing through the paid invoice tab.

Penalty for non-payment:

- A. The invoice will be late if not paid within 15 days of when the invoice was generated (May 1, 2011 invoice will be late on May 16, 2011);
- B. If the payment is not received and the invoice is considered late, the servicer will not be able to submit new pre-foreclosure notices or print certificates until the late invoice is paid; AND
- C. Once the invoice is paid in full, full database access will be restored.

SHFPP Filing Fee Credit Request Process:

- A. If a servicer thinks they have been charged the \$75.00 fee in error, the servicer should pay the invoice in full to avoid suspension of access to the database.
- B. To request a credit for a filing fee charged in error, servicer must request a credit through the “Invoice Detail Page” of the SHFPP database.
- C. If a credit is approved, the credit will appear on the next invoice immediately following the notification of the credit.
- D. Suspension of access to the database will not be stopped during the credit request review process.

19. How does a servicer set up an account with the State Home Foreclosure Prevention Trust Fund?

Invoices are payable directly through the pre-foreclosure database by credit card or electronic funds transfer. The payment information should be entered directly into the database on the Servicer Home Page. Therefore, no servicer billing accounts are needed and servicers do not have to set up any billing accounts in advance of using the system.



20. What if I cannot print the certificate?

- A. A certificate will not be available for loans submitted to the database by a servicer with an outstanding balance due to the State Home Foreclosure Prevention Trust Fund.
- B. The certificate will not be available for printing prior to the earliest possible court filing date shown for the particular loan.
- C. The certificate will not be available for printing if the servicer received an error code indicating a problem with the information submitted to the database address.
- D. The certificate will not be available for printing if the matter was resolved through a loss mitigation workout between the servicer and borrower prior to the printing of the certificate.
- E. The certificate will not be available for printing if the address provided in the system is not recognized by the United States Postal Service as a valid or deliverable address.

21. Where can a servicer get assistance with SHFPP Certificate questions or issues?

The servicer can email certificates@nchfa.com or call (919) 981-2675 for questions or concerns regarding certificates and database questions.

22. Where can a servicer get assistance with SHFPP filing fee credit request questions or issues?

The servicer can email labarber@nchfa.com or call (919) 981-2697 for questions or concerns regarding SHFPP filing fee credit requests.

23. Where can a servicer get assistance with SHFPP invoice payment questions or issues?

The servicer can email pyang@nccob.gov or call (919) 716-1005 for questions or concerns regarding SHFPP invoice payment.

