

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	06/20/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 7/25/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

05 19 03 01-.12

3. Name of Promulgating Authority

Department of Housing and Community Development

4. Name of Regulations Coordinator Telephone Number
Mark S Petrauskas 410-514-7834

Mailing Address

100 Community Place

City State Zip Code
Crownsville MD 21032

Email

petrauskas@dhcd.state.md.us

5. Name of Person to Call About this Document Telephone No.
Mark Petrauskas 410-514-7800

Email Address

petrauskas@dhcd.state.md.us

6. Check applicable items:

X- New Regulations

- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: .
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Mark Petruskas, Assistant Attorney General, (telephone #410-514-7800) on June 13, 2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Raymond A. Skinner

Title

Secretary

Telephone No.

410-514-7005

Date

June 18, 2014

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 19 HOMEBUYER EDUCATION AND COUNSELING

05.19.03 Foreclosure Prevention and Housing Counseling Grant Programs

Authority: Housing and Community Development Article, §§2-102 and 4-507; Real Property Article, § 7-105.1; Commercial Law Article, § 12-1303, Annotated Code of Maryland

Notice of Proposed Action

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The Secretary of Housing and Community Development proposes to adopt new Regulations .01-.12 under COMAR 05.19.03 Foreclosure Prevention and Housing Counseling Grant Programs.

Statement of Purpose

The purpose of this action is to describe policies and procedures for making operating assistance grants under the National Foreclosure Mitigation Counseling Program, operating assistance grants under the Maryland Housing Counseling Fund (MHCF), and other housing counseling programs.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

I. Summary of Economic Impact.

The proposed action describes policies and procedures for making operating assistance grants under the National Foreclosure Mitigation Counseling Program, operating assistance grants under the Maryland Housing Counseling Fund (MHCF), and other housing counseling programs. Local governments will benefit from assistance provided to homeowners under the program. To the extent that assistance prevents a foreclosure from taking place, local governments may benefit by avoiding the lost revenue and negative community impacts associated with foreclosure. Nonprofit organizations that provide housing counseling and foreclosure mitigation counseling may benefit from operating assistance to provide counseling services.

II. Types of Economic Impact.	Revenue (R+/R-)	Magnitude
	Expenditure (E+/E-)	
A. On issuing agency:	NONE	
B. On other State agencies:	NONE	

C. On local governments:	(R+)	Indeterminable
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Benefit (+) Cost (-)	Magnitude
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D. On regulated industries or trade groups:	NONE	
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E. On other industries or trade groups:		
Nonprofit Organizations	(+)	Indeterminable

F. Direct and indirect effects on public:	(+)	Indeterminable
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III. Assumptions. (Identified by Impact Letter and Number from Section II.)

C. To the extent that assistance prevents a foreclosure from taking place, local governments may benefit by avoiding the lost revenue and negative community impacts associated with foreclosure.

E. Nonprofit organizations that provide housing counseling and foreclosure mitigation counseling may benefit from operating assistance to provide counseling services.

F. Homeowners will benefit from assistance provided under the program that prevents a foreclosure from taking place.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to John Papagni, Program Officer, Division of Neighborhood Revitalization, Department of Housing and Community Development, 100 Community Place, Crownsville, MD 21032, or call 410-209-5807 , or email to papagni@mdhousing.org, or fax to 410-685-8270. Comments will be accepted through August 25, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

A. Fiscal Year in which regulations will become effective: FY 2015

B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?

Yes

C. If 'yes', state whether general, special (exact name), or federal funds will be used:
Special Funds (Maryland Housing Counseling Fund). Sources include fees paid into the

Fund by lenders from foreclosure filings and a separate grant from NeighborWorks America.

D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:

E. If these regulations have no economic impact under Part A, indicate reason briefly:

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

G. Small Business Worksheet:

Attached Document:

Title 05 DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

Subtitle 19 HOMEBUYER EDUCATION AND COUNSELING

Chapter 03 Foreclosure Prevention and Housing Counseling Grant Programs

Authority: Housing and Community Development Article, §§2-102 and 4-507; Real Property Article, § 7-105.1; Commercial Law Article, § 12-1303, Annotated Code of Maryland

.01 General.

These regulations describe the policies and procedures for making:

- A. Operating assistance grants under the National Foreclosure Mitigation Counseling Program (NFMC).
- B. Operating assistance grants under the Maryland Housing Counseling Fund (MHCF); and
- C. Other housing counseling grants.

.02 Objective.

The objectives of the Programs are to:

- A. Make NFMC operating assistance grants to Eligible Entities that:
 - (1) Provide housing counseling assistance to owner-occupants of single-family properties, primarily in areas of the State with high rates of defaults and foreclosures; and
 - (2) Provide housing counseling assistance in other areas when there is a demonstrated need for such assistance.
- B. Make MHCF operating assistance grants to Eligible Entities that provide housing counseling services to owner-occupants of single-family properties facing mortgage default or foreclosure across the State.
- C. Make other operating and housing counseling assistance grants to Eligible Entities as resources become available.

.03 Definitions.

A. The terms appearing in the Act have the meanings defined there and, in addition, the meanings used in this chapter.

B. Terms Defined.

- (1) "Act" means Housing and Community Development Article, Annotated Code of Maryland.
- (2) "Department" means the Department of Housing and Community Development, a principal department of the State.
- (3) "Eligible Entities" means professional nonprofit housing counseling agencies, legal service providers, United States Department of Housing and Urban Development (HUD) certified housing counseling agencies and other eligible entities appearing on the list of non-profit and government agencies that provide housing counseling, which list is maintained by the Department pursuant to §12-1303(b) of the Commercial Law Article, Annotated Code of Maryland.
- (4) "Fund" means the Housing Counseling and Foreclosure Mediation Fund established under §4-507 of the Act.

(5) "Foreclosure mediation" means a conference at which the parties in a foreclosure action, their attorneys, additional representatives of the parties, or a combination of those persons appear before an impartial individual to discuss the positions of the parties in an attempt to reach agreement on a loss mitigation program for the mortgagor or grantor as set forth in the Real Property Act.

(6) "Housing counseling services" means professional pro bono housing counseling services, including foreclosure prevention assistance, foreclosure mediation assistance, legal counseling, post-mitigation and foreclosure counseling, credit repair, financial literacy counseling, and loss mitigation and analysis assistance provided to mortgagors or grantors by the Eligible Entities.

(7) "Local government" means any municipal corporation subject to the provisions of the State Constitution, Article XI-E, or any one of the 23 counties of the State or Baltimore City.

(8) "Loss mitigation analysis" means an evaluation of the facts and circumstances of a loan secured by owner-occupied single-family property to determine, as defined in the Real Property Act:

(a) Whether a mortgagor or grantor qualifies for a loan modification; and

(b) If there will be no loan modification, whether any other loss mitigation program may be made available to the mortgagor or grantor.

(9) "Nonprofit organization" means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of any private shareholder or individual holding an interest in the entity.

(10) "Operating assistance grants" means NMFC and MHCF grants, or grants funded with other resources, made to Eligible Entities pursuant to these Regulations.

(11) "Programs" means the National Foreclosure Mitigation Program and the Maryland Housing Counseling Fund Grant Programs, or other housing counseling grant programs implemented by the Department.

(12) "Real Property Act" means the Real Property Article, § 7-105.1, Annotated Code of Maryland.

(13) "Single-family property" means residential property of four or fewer single-family dwelling units in which at least one unit is occupied by an individual who, as defined in the Real Property Act:

(a) Has an ownership interest in the property; and

(b) Uses the property as the individual's primary residence.

(14) "Secretary" means the Secretary of Housing and Community Development.

(15) "State" means the State of Maryland.

.04 Eligible Grantees.

Eligible Entities shall meet the following requirements to qualify for an operating assistance grant:

(1) Have all requisite legal capacity and due authority to enter into the grant;

(2) Satisfy all legal requirements to operate in the State; and

(3) Meet the performance standards of the Department, as follows:

(a) Not have defaulted on a prior grant or loan from the Department, and

(b) Not be currently barred or suspended from any of the Department's programs.

.05 Eligible Use of Grant Funds.

A. NFMC grants may be used for costs associated with providing housing counseling services primarily in areas of the State with high rates of defaults and foreclosures, or in other areas, based on demonstrated need, to owner-occupants of single-family properties who are:

(1) Delinquent or are at risk of becoming delinquent on their mortgages; and

(2) At risk of default and foreclosure.

B. MHCF grants may be used for costs associated with providing housing counseling services to owner-occupants of single-family properties across the State who are:

(1) Delinquent or are at risk of becoming delinquent on their mortgages; and

(2) At risk of default and foreclosure.

C. Eligible costs include:

(1) Staff salaries and benefits;

(2) A portion of general operating costs of the grantee reasonably associated with the approved activities of the grantee, including travel, administrative overhead, telephone, postage, office supplies, publications, and services;

(3) Costs directly associated with undertaking approved activities; and

(4) Other costs approved by the Department in its sole discretion.

D. Ineligible Costs. No funds made available under NFMC or MHCF may be provided directly to lenders, homeowners or occupants to discharge outstanding mortgage balances or for any other direct debt reduction payments unless it is permitted by the source of the grant funds made available to the Department.

.06 Grant Allocation and Criteria.

A. Allocations.

(1) The amount of funds available in the fiscal year for Programs grants shall be determined as of July 1 of each fiscal year.

(2) Initial determinations may be adjusted if appropriated funds available for the Programs are increased or decreased after July 1 in any fiscal year.

(3) The Department shall notify Eligible Entities of allocations, fund availability, and application cycles by advertisement posted on the Department's website and other statewide housing partners' websites, direct mailings, press releases or other methods selected by the Department.

B. Programs Grants. Applications for Programs grants shall be evaluated on the following factors, to the extent applicable:

- (1) The need for services provided by the applicant in the applicant's service area;
 - (2) The geographic area and client base demographics served by the applicant;
 - (3) The applicant's experience and performance in carrying out existing housing counseling and foreclosure prevention activities;
 - (4) The ability of the applicant to use the Programs grant to improve the ability of the applicant to provide Programs services;
 - (5) Whether the applicant's proposed services have measurable outcomes;
 - (6) Applicant's staffing and capacity; including bilingual and technology capacity, and client management software capacity;
 - (7) Applicant's other funding resources dedicated to carrying out the approved activities;
 - (8) Level of activities, number of clients served, and the anticipated outcomes that applicant proposes to achieve;
- and
- (9) Other factors considered relevant by the Department.

.07 Grant Terms and Conditions.

The Department shall establish grant terms and conditions in accordance with the terms of the funding source.

.08 Application and Processing Procedures.

A. Programs Grant Applications.

- (1) Applications for Programs grants shall be on forms approved by the Department.
- (2) The applications shall include the following information and supporting documentation:
 - (a) Organizational documents of the applicant;
 - (b) A description of the services to be funded with the applicable Program grant;
 - (c) A description of the geographic area in which the applicant will concentrate its efforts;
 - (d) An operating budget for the services, including the use of funds and the identification and description of leveraged funds and other resources;
 - (e) The term and amount of funds the applicant is seeking; and
 - (f) Other documentation the Department considers necessary to evaluate the grant request.

B. Programs Grant Awards.

(1) Applications for grants shall be evaluated based on the criteria set forth in Regulation .06B of this chapter by the Department's Division of Neighborhood Revitalization, which shall make recommendations to the Secretary for awards of Programs grants.

(2) The Secretary or his or her designee may disapprove or approve a grant either on the terms recommended by the Division of Neighborhood Revitalization, or on other terms and conditions as the Secretary considers appropriate.

(3) Following approval by the Secretary, the Department shall enter into a grant agreement with each successful applicant.

.09 Administration of Grants.

A. Recipients of Programs grants shall maintain accurate financial records, in forms acceptable to the Department, of all transactions which relate to the grants, and make these records available to the Department for review on request for a period of not less than 3 years following the expiration of the grant agreements.

B. Grantees receiving Programs grants shall submit periodic progress reports, in forms required by the Department and on schedules specified in the grant agreements, which clearly shows progress of the grantee in relation to the grantee's strategic plan and proposed goals and objectives.

C. Programs grantees that do not show adequate progress in meeting goals may not be approved for funding in the subsequent years of the grants.

D. All grantees under the Programs shall make their books, accounts, and records, their administrative offices and personnel, whether full-time, part-time, consultants, or volunteers, available to the Department during reasonable working hours, for the duration of the grant period and for a period of not less than 3 years following the expiration of the grant agreements.

.10 Assurance of Compliance with Law.

A. Grantees may not discriminate against any person on the basis of race, color, religion, national origin, sex, marital status, physical or mental handicap, or age in any aspect of their projects.

B. Each grantee shall comply with applicable federal, State, and local laws regarding discrimination and equal opportunity in employment, housing, and credit practices including:

- (1) Titles VI and VII of the Civil Rights Act of 1964;
- (2) Title VIII of the Civil Rights Act of 1968, as amended;

(3) For nonresidential properties, the Americans with Disabilities Act of 1990; and

(4) The Department's Minority Business Enterprise Program, as amended.

C. Grantees shall comply with the provisions of the Governor's Executive Order 01.01.1989.18 regarding a drug and alcohol free workplace and any regulations promulgated under it.

D. Covenants implementing these requirements, including affirmative action measures, shall be included in appropriate agreements between the Department and the grantee.

.11 Programs Administration.

A. Except for waivers under §D of this regulation, any action or decision required or permitted to be taken or made by the Department under these regulations may be taken or made by the Assistant Secretary, Division of Neighborhood Revitalization, or the Assistant Secretary's designee.

B. The Department may terminate a grant or refuse to make additional disbursements under a grant agreement if it finds that the grantee is not complying with any of the requirements of a Program or the grant agreement.

C. The Department may establish from time to time operational handbooks or manuals governing matters relating to the Programs including descriptive statements of Programs' procedures which do not directly affect the rights of the public or the procedures available to the public.

D. The Secretary may waive or vary particular provisions of these regulations if:

(1) The waiver or variance is not inconsistent with the authorizing provisions of the Act or the Real Property Act;

(2) In the written determination of the Secretary, the application of the regulations in a specific case or in an emergency situation would be inequitable or contrary to the purposes of the Act or the Real Property Act; and

(3) The Office of the Attorney General approves the waiver for form and legal sufficiency.

.12 False Statements.

A person may not knowingly make or cause to be made any false statement or report in any documents required to be furnished to the Department by any agreement relating to the Programs.