

## Pre-Foreclosure Sale Procedures

- **Use of Real Estate Broker** – The services of a real estate broker/agent must be retained to market a property within 7 days of the date the approval to participate is granted. The broker/agent must market the property within the pre-established time frame and list the property for the established sales price. The broker/agent selected should have no conflict of interest with the mortgagor, the mortgagee, the appraiser or the purchaser associated with the PFS transaction. Any conflict of interest, appearance of a conflict, or self-dealing by any of the parties to the transaction is strictly prohibited. A broker/agent shall never be permitted to claim a sales commission on a PFS of his or her own property or that of an immediate family member (e.g., spouse, sibling, parent, or child).
- **Pre-Existing Purchasers** – The requirement to engage a real estate professional does not apply if a mortgagor located a buyer for the property prior to being approved to participate in the PFS Program, providing all PFS requirements are met concerning appraisal requirements and minimum ratios for net sales proceeds.
- **Required Listing Disclosure** – The Listing Agreement must include the cancellation clause which reads as follows: "Seller may cancel this Agreement prior to the ending date of the listing period without advance notice to the Broker, and without payment of a commission or any other consideration if the property is conveyed to the mortgage insurer or the mortgage holder. The sale completion is subject to approval by the mortgagee."
- **Property Maintenance** – Until the PFS transaction has closed, the mortgagor must maintain the property in "ready to show" condition, make basic property repairs, and perform all normal property maintenance activities (e.g., interior cleaning, lawn maintenance, etc.).
- **Arms-Length Transaction** – Mortgagors and mortgagees must adhere to ethical standards of conduct in their dealings with all parties involved in a PFS transaction. The PFS must be between two unrelated parties and be characterized by a selling price and other conditions that would prevail in a typical real estate sales transaction.
- **Relocation Services** – A relocation service affiliated with the mortgagor's employer may contribute a fixed sum towards the proceeds of the PFS, without altering the arms-length nature of the sale. This contribution simply reduces the shortfall between the proceeds and the amount owed on the mortgage note. As with any other PFS, such a transaction must result in the outright sale of the property and cancellation of the FHA mortgage insurance.

### J. Contract Approval

The mortgagee will have 5 working days from receipt of an executed Contract for Sale to respond back to the mortgagor using the Form HUD-90051 (*Sales Contract Review*). The PFS transaction must be an outright sale of the premises.