

Public Comment and Response September 2021

Draft Homeowner Assistance Fund Plan

Comment Period: September 3, 2021 through September 15, 2021

Public Comment provided by Lone Star Legal Aid on Behalf of Pleasantville Civic League

Comment Summary

Pleasantville Civic League encourages HAF plan to allocate funding to prevent homeowner displacement due to repairs and habitability, and recommends funding for title clearing and related mediation services due to predatory investors, tax foreclosures, and enforcement violations.

TDHCA Response

Due to the number of homeowners that are delinquent on their mortgage loan or property charges and, as a result, are at risk of foreclosure and displacement, the initial programs offered under HAF are the Reinstatement Program and the Property Charge Default Resolution Program. Additional programs, such as one for home repair, may be considered and proposed to Treasury in the future, depending on available funds. Eligible homeowners facing foreclosure due to delinquent property taxes may qualify to receive assistance through the Property Charge Default Resolution Program. In addition, the HAF budget includes funds for legal services to assist homeowners in default and foreclosure, and subject to Treasury approval, those funds may be used to assist in clearing title and avoiding displacement.

Public Comment provided by Stephanie Clemons

Comment Summary

Plan does not specify if applicant can apply for multiple items of assistance, ie: Mortgage reinstatement and also property tax relief.

TDHCA Response

Homeowners are eligible to apply for either or both the Reinstatement Program and the Property Charge Default Resolution Program, subject to the requirements of each program.

Comment Summary

Suggests that borrowers who can be assisted on a short term basis and avoid foreclosure may be in better position for a short sale for the long term solution, should also be considered, rather than only to borrowers who expect to remain in the home.

TDHCA Response

Due to the number of homeowners that are delinquent on their mortgage loan or property charges and, as a result, are at risk of foreclosure and displacement, the initial programs offered under HAF are the Reinstatement Program and the Property Charge Default Resolution Program. Additional programs may be considered and proposed to Treasury in the future, depending on available funds and homeowner need.

Comment Summary

Income capacity to service the mortgage debt should be expanded for Single HH borrowers. This borrower believes they would not qualify under proposed plan guidelines without loan modification to reduce payment amount.

TDHCA Response

TDHCA recognizes that while many homeowners have loan modification available through loss mitigation with their servicer, some do not. Due to the number of homeowners that are delinquent on their mortgage loan or property charges and, as a result, are at risk of foreclosure and displacement, the initial programs offered under HAF are the Reinstatement Program and the Property Charge Default Resolution Program. Additional programs, may be considered and proposed to Treasury in the future, depending on available funds.

Public Comment provided by Amanda Reyes

Comment Summary

By limiting the Reinstatement Program to mortgages that are at least 30 days delinquent, Texas homeowners will not have access to the assistance and relief provided by the HAF. TDHCA should expand the eligibility for the Reinstatement Program to mortgages that are current at the time of application to the program, but that would have met the delinquency criteria during the time frame of July 1, 2021 to the date the full program launches.

TDHCA Response

A reinstatement is, by definition, to cure delinquency. Homeowners that become delinquent between July 1, 2021 and full program launch can apply for funds at the time they are 30-days delinquent.

Comment Summary

The delayed availability of the federal Homeowner Assistance Fund and the proposed eligibility criteria for the state's Reinstatement Program will prevent otherwise eligible homeowners from receiving assistance.

TDHCA Response

Eligibility criteria has been developed based on Treasury Guidance and a data-driven needs assessment. TDHCA is submitting its HAF plan to Treasury by September 30, 2021, and will implement its full program following Treasury approval.

Public Comment provided by Delores Pierce

Comment Summary

Concerned about her inability to repay a HELOC that was originated ten years ago with a ten year payback period beginning in November 2021 and a potential high variable interest rate due to low credit score.

TDHCA Response

Subject to Treasury Approval, delinquent HELOCs are eligible for assistance through the Reinstatement Program.

Comment Summary

Concerned about an inability to pay back property taxes, for which there is a lien on her property.

TDHCA Response

The Property Charge Default Program provides assistance for delinquent property taxes and associated penalties and interest, subject to program maximum charges.

Comment Summary

Concerned about paying delinquent HOA charges, for which there is a lien on her property.

TDHCA Response

The Property Charge Default Program provides assistance for delinquent HOA fees and associated penalties and interest, subject to program maximum charges.

Comment Summary

Concerned about fines owed to the City for services on the property, for which there is a lien on her property.

TDHCA Response

The Property Charge Default Program provides assistance for delinquent fees expenses that place a homeowner at risk of foreclosure and displacement. To the extent the referenced fees place the homeowner at risk of foreclosure and displacement, the Property Charge Default Program provides the related assistance, subject to program maximum charges.

Comment Summary

Concerns over high water/sewage bills escalating as other property costs are increasing

TDHCA Response

Due to the number of homeowners that are delinquent on their mortgage loan or property charges and, as a result, are at risk of foreclosure and displacement, the initial programs offered under HAF are the Reinstatement Program and the Property Charge Default Resolution Program. Additional programs, such as those that might assist with delinquent water and sewage bills, may be considered in the future.

Public Comment provided by Texas Housers

Comment Summary

Suggest building in performance goals that track and ensure long term stability for the assisted households that also assures Servicers and Lenders do not accept funds, and then proceed with foreclosure, despite receiving assistance on behalf of the borrower.

TDHCA Response

Performance goals have been established in accordance with Treasury guidance and template. TDHCA intends to monitor, to the extent possible and for a limited period of time, the status of reinstated loans. In addition, homeowners for whom assistance has been provided can reach out to TDHCA in the event foreclosure proceedings have been initiated or resumed.

Comment Summary

Plan should include Set Asides for Low, Very Low and Extremely Low Incomes.

TDHCA Response

The initial programs assist homeowners with incomes up to 100% AMFI or 100% US Median income, whichever is greater, with targeted outreach to, and set-asides for, Persistent Poverty Counties. At this time, TDHCA does not believe additional set-asides are necessary.

Comment Summary

Plan should include Set Asides for Non Traditional Mortgages which include Seller Financed loans that cannot explicitly qualify for an exemption to the NMLS rule which may result in a disproportionate negative impact on Texas based on race or national origin.

TDHCA Response

TDHCA believes the exemptions to the NMLS requirement provided by Texas Finance Code Section 156.202 to be sufficiently broad to accommodate non-traditional mortgage loans while safeguarding against potential fraud and abuse.

Comment Summary

Plan should include self-certification to address property eligibility documentation, similar to the self-certification for homeowner eligibility.

TDHCA Response

Self certification for property eligibility documentation remains under consideration and will be included to the extent it is determined to be prudent and may be limited to certain circumstances.

Comment Summary

Allocate and approve funds to be used to clear title and heirship issues to assist disadvantage households who otherwise may be displaced.

TDHCA Response

The HAF budget includes funds for legal services to assist homeowners in default and foreclosure, and subject to Treasury approval, those funds may be used to assist in clearing title and avoiding displacement.

Comment Summary

Plan must emphasize that all outreach, marketing, intake, qualification, approval or disqualification, appeals be conducted in manner that provides persons with LEP the same level of benefits and services received by native English speakers. Recommend native speakers in primary language of applicant.

TDHCA Response

Outreach, marketing, intake, qualification, approval or disqualification, and appeals are being implemented and conducted in a manner that will provide persons with LEP the same level of benefits and services as those received by native English speakers.

Comment Summary

Plan should include special attention to the Colonias with aggressive marketing and outreach.

TDHCA Response

As stated in the HAF Plan, specific targeting and outreach efforts will be directed to Persistent Poverty Counties, which include the six counties with the highest concentration of Colonias in the state. Also included is specific targeting and outreach will be performed directed to reach the traditionally underserved area in South Texas that borders Mexico from South Padre Island, the southernmost part of the state, then West to the city of El Paso and all points in between.

Comment Summary

Provide funding to engage Community Action Agencies and Legal services for homeowners going through default and foreclosure to help identify and solicit program applicants.

TDHCA Response

The HAF budget includes funding for counseling and educational services, and legal services to assist homeowners in default and foreclosure. The budget also includes funding for intake centers to be primarily housing counselor, community development corporations, and other community action agencies to aid in soliciting program applicants and assisting those homeowners, when necessary, through the application process.

Public Comment provided by Avenue CDC

Comment Summary

Inclusion of all Household income, 18+ may disqualify HHs where minor children and students above 18 are working in the HH.

TDHCA Response

TDHCA understands that income for those over 18 may disqualify a household. Based on Treasury guidance, TDHCA believes the correct approach is to include income from all household members 18 or over.

Comment Summary

Plan mentions Pilot program. Are there other programs such as the Endeavor program that is essentially the same program?

TDHCA Response

The pilot program noted in the draft HAF Plan is a smaller scale of the proposed HAF Plan. The program for which public comment was requested is for the Texas Homeowner Assistance Fund (HAF), for which TDHCA serves as the sole administrator and which is separate and apart from the Endeavor program, which is funded through the Texas Emergency Mortgage Assistance Program (TEMAP).

Comment Summary

Provide a comprehensive list of resources and contact point for Housing Counselor who can assist homeowners on the application process, guidelines and timelines.

TDHCA Response

While the comment pertains to the TEMAP program, with respect to the HAF Plan, a complete list of resources, including intake centers, counselors, and legal assistance will be provided once the program has been approved by Treasury.

Comment Summary

Quite a bit of confusion over the Endeavor program and their methods for assisting delinquent homeowners and whether that program is the same as the TDHCA program.

TDHCA Response

As stated above, the program for which public comment was requested is for the Texas Homeowner Assistance Fund (HAF), which is separate and apart from the Endeavor program, funded through the Texas Emergency Mortgage Assistance Program (TEMAP). TDHCA will market and perform significant outreach with respect to HAF and the type of assistance and requirements associated with HAF funds.

Public Comment provided by BCL of Texas

Comment Summary

Will funds and counseling be available to ITIN foreign nationals. ITIN borrowers are often excluded in federal programs. Recommend that the HAF plan NOT exclude ITIN homeowners from assistance.

TDHCA Response

The HAF plan will provide assistance to Texas homeowners. Proof of US Citizenship is not a requirement for HAF assistance.

Public Comment provided by Michelle P

Comment Summary

Consider principal reductions to reduce the balance or payoff or forgive mortgages for homeowners with significant equity and low balances remaining so that they could access the equity in their homes in the future, if needed and maintain homeownership and not be in jeopardy of losing their homes after many years of paying on the mortgage.

TDHCA Response

Due to the number of homeowners that are delinquent on their mortgage loan or property charges and, as a result, are at risk of foreclosure and displacement, the initial programs offered under HAF are the Reinstatement Program and the Property Charge Default Resolution Program. Additional programs may be considered and proposed to Treasury in the future, depending on available funds and homeowner need.

Public Comment provided by John Garcia

Comment Summary

How will I apply for the HAF Plan work if my income has increased this year but I was on a forbearance since last year shortly after the pandemic happened?

TDHCA Response

To be eligible for HAF, household income cannot exceed the greater of 100% AMFI or 100% US Median income.

Comment Summary

I need assistance with past due utilities due to Covid and can no longer qualify because I do have a higher paying job now and would this affect qualifying for mortgage assistance as well.

TDHCA Response

There are two programs provided through the Department that could potentially assist with utility bills, the Low-Income Household Water Assistance Program (LIHWAP) and the Low Income Home Energy Assistance Program (LIHEAP). With respect to HAF, household income cannot exceed the greater of 100% AMFI or 100% US Median income.

Public Comment provided by Erin Lamkin

Comment Summary

There is no reason a person with a standard mortgage should get 18 months of relief and a person paying separately should only get 12 months. The assistance for the PROPERTY CHARGE DEFAULT RESOLUTION PROGRAM should be approved for both years at the same time. By the time this HAF plan is approved and we can start to complete application the 2021 tax bills will be out and they can be included in the process.

TDHCA Response

There is no set period of delinquency for which assistance is provided under either the Reinstatement Program or the Property Charge Default Resolution Program. The amount of delinquent months covered through the Reinstatement Program is largely dependent on the PITI of the mortgage loan, which is based on the original loan balance, mortgage rate, insurance, and the property tax rate for the home.

Comment Summary

The other thought I would like to add is you can use the money in total instead of having to fit in the 4 designated categories. If a person qualifies, they qualify for their bill to be paid in full. If you have to take some out of the HOA portion to pay the taxes then so be it. Don't let this be a cookie cutter plan. Allow flexibility where and when it is needed only.

TDHCA Response

Treasury requires a defined limit for each of the categories. TDHCA agrees that additional flexibility could be provided and will adjust the categories as follows, subject to a maximum of \$25,000 in total:

Delinquent Property Taxes	\$25,000
Insurance (homeowner's, flood, wind, mortgage, and hazard)	5,000
Homeowner and Condo Association Fees and Common Charges	5,000
Pre-Foreclosure/Foreclosure-related Legal Fees and Other Charges	5,000

Comment Summary

This plan will need to be completely separate from other fund from the CARES act. Although nothing or no one should get double benefits a person should not be excluded because they received funds from another plan like CDBG CARES Rent Relief.

TDHCA Response

There are no provisions in the HAF plan that prohibit homeowners from receiving various forms of assistance through multiple programs, however TDHCA is implementing safeguards against duplication of benefits. Typically, a homeowner eligible for HAF will not be eligible for rent relief.

Public Comment provided by NDC

Comment Summary

I am writing to encourage TDHCA to allocate funding for one additional eligible activity:

- measures to prevent homeowner displacement, such as home repairs to maintain the habitability of a home or assistance to enable households to receive clear title to their properties.

Specifically, I encourage TDHCA to allocate funding for title clearing and related mediation services that will help low-income Texans receive clear title to their properties and therefore, avoid displacement due to predatory investors, property tax foreclosure, and code enforcement action. Owners of "heirs property" are particularly vulnerable to displacement due to decreases in income because they are unable to access funding for home repairs through a Home Equity Line of Credit (HELOC) or government repair programs that require clear title. Similarly, such owners often pay higher property taxes and are vulnerable to property tax foreclosure due to their inability to obtain a homestead exemption. While recent reforms to the Property Tax Code made it easier for owners of "heirs property" to obtain a homestead exemption, many vulnerable homeowners are not yet aware of these reforms.

TDHCA Response

Due to the number of homeowners that are delinquent on their mortgage loan or property charges and, as a result, are at risk of foreclosure and displacement, the initial programs offered under HAF are the Reinstatement Program and the Property Charge Default Resolution Program.

Additional programs, such as one for home repair, may be considered and proposed to Treasury in the future, depending on available funds. Eligible homeowners facing foreclosure due to delinquent property taxes may receive assistance through the Property Charge Default Resolution Program. In addition, the HAF budget includes funds for legal services to assist homeowners in default and foreclosure, and subject to Treasury approval, those funds may be used to assist in clearing title and avoiding displacement.