

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 385  
FORECLOSURE PREVENTION PROGRAM

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AUTHORITY: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.30.(a) of the Illinois Housing Development Act [20 ILCS 3805/7.30.(a)].

SOURCE: Adopted at 30 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL RULES

### **Section 385.101 Authority**

The Illinois Housing Development Authority is the designated administrator for the Foreclosure Prevention Program in Illinois, which was established by Section 7.30 of the Illinois Housing Development Act [20 ILCS 3805/7.30], effective October 1, 2010. This Part is authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.30.(a) of the Illinois Housing Development Act [20 ILSC 3805/7.30.(a)].

### **Section 385.102 Purpose and Objectives**

The purpose of the Program is to use moneys appropriated from the Foreclosure Prevention Program Fund, and any other funds appropriated for this purpose to support housing counseling and foreclosure prevention outreach. Under the Program, the Authority will make grants to the Counseling Agencies and the Community-Based Organizations for Eligible Uses, and will make distributions to the City for Eligible Uses.

### **Section 385.103 Definitions**

The following terms used in this Part shall have the following definitions:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Administering Agency" or "Administering Agencies": The Community-Based Organizations and the Counseling Agencies.

"Agency" or "Agencies": The Authority or the City.

"Applicant": A prospective Administering Agency making an Application for a Grant.

"Application": An application to an Agency on the Agency's form for a Grant completed by a prospective Administering Agency.

"Appropriation": The annual Appropriation of funds from the Foreclosure Prevention Fund, to the Illinois Department of Revenue for the Authority by the Illinois General Assembly for the Program and any other funds appropriated for this purpose.

"Attorney General": The Attorney General of the State.

"Auditor General": The Auditor General of the State.

"Authority": The Illinois Housing Development Authority.

"City": The City of Chicago.

"Commitment": A contract executed by an Agency and an Administering Agency under which the Agency agrees to make a Grant to the Administering Agency. Each Commitment shall contain a provision to the effect that the Authority shall not be obligated to provide funds under the Commitment if the Authority has not received sufficient funds from an Appropriation.

"Community-Based Organization": A not-for-profit entity that provides educational and financial information to residents of a community through in-person contact. A Community-Based Organization does not include a not-for-profit corporation or other entity or person that provides legal representation or advice in a civil proceeding or court-sponsored mediation services, or a governmental agency.

"Computer and Equipment Expenses": Computer and equipment costs incurred by an Administering Agency or the City, as applicable, in connection with the administration of the Grant.

"Counseling Agencies": shall have the meaning set forth in Section 385.302.

"Eligible Uses": shall have the meaning set forth in Section 385.303.

"Foreclosure Prevention Fund": Fund created in the State treasury for the collection of a fee of \$50 paid by a plaintiff at the time of a filing of a foreclosure complaint in connection with residential real estate.

"Foreclosure Prevention Outreach Program": A program developed by a Community-Based Organization that includes in-person contact with residents to provide (i) pre-purchase and post-purchase home ownership counseling and (ii) education about the foreclosure process and the options of a mortgagor in a foreclosure proceeding, as well as programs developed by the Authority or Community-Based Organization in conjunction with a State or federally chartered financial institution.

"General Operational Expenses": Operational costs incurred by an Administering Agency or the City in connection with the administration of the Grant.

"Grant": The portion of the Appropriation granted by an Agency to the Administering Agencies for Eligible Uses under the Program.

"Housing Counseling": In-person counseling provided by a counselor employed by a Counseling Agency to all homeowners, or documented telephone counseling where a hardship would be imposed on one or more homeowners. A hardship shall exist in instances in which the homeowner is confined to his or her home due to medical condition, as verified in writing by a physician, or the homeowner resides 50 miles or more from the nearest approved Counseling Agency. In

instances of telephone counseling, the homeowner must supply all necessary documents to the counselor at least 72 hours prior to the scheduled telephone counseling session.

"HUD": The U.S. Department of Housing and Urban Development.

"Program": The Foreclosure Prevention Program authorized by Section 7.30 of the Act.

"State": The State of Illinois.

"Statewide Activities": shall have the meaning set forth in Section 385.303(c).

"Technical Assistance": Costs incurred by an Administering Agency or the City, as applicable for:

planning for Foreclosure Prevention Outreach Program or Housing Counseling; or

assistance with an Application.

#### **Section 385.104 Compliance with Federal and State Law**

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal and State law.

#### **Section 385.105 Forms and Procedures for the Program**

The Authority may prepare, use, supplement, and amend such forms, agreements, and other documents and procedures as may be necessary to implement the Program, all as may be prescribed by the Authority. With respect to the distribution of 25% of funds from annual Appropriations to the City, the City may prepare, use, supplement, and amend such forms, agreements, and other documents and procedures as may be necessary to implement the Program, all as may be prescribed by the City.

#### **Section 385.106 Fees and Charges**

An Agency shall not charge an application fee for the Program.

#### **Section 385.107 Authority Administrative Expenses**

The Authority shall be entitled to deduct from each Appropriation, prior to any distribution of funds under the Program and prior to making any Grants, an amount not to exceed 8% of each Appropriation for expenses associated with the administration of the Program, including, without limitation, expenses for staff salaries and benefits for time spent on design and administration of the Program; expenses incurred in performing outreach activities and providing technical

assistance to the Administering Agencies; the use of the Authority's equipment for Program purposes; the cost of office space and utilities incurred in connection with the Program; and any other expenses incurred in the administration of the Program. The Authority shall maintain a detailed accounting of its administrative expenses, which shall be available to the public for review. Notwithstanding the 8% cap noted above, in the event neither a Counseling Agency nor a Community-Based Organization is able to administer all or a portion of the Statewide Activities, the Authority may oversee and implement the Statewide Activities directly and shall be entitled to a dollar for dollar reimbursement from the Foreclosure Prevention Fund of any costs and expenses incurred in connection with the administration of all or any portion of the Statewide Activities exclusive of the 8% cap.

### **Section 385.108 Amendment**

This Part may be supplemented, amended, or repealed by the Authority from time to time and in a manner consistent with the Illinois Administrative Procedures Act [5 ILCS 100], this Part, the Act, and other applicable laws. This Part shall not constitute or create any contractual rights.

### **Section 385.109 Severability**

If any clause, sentence, paragraph, subsection, Section, or Subpart of this Part is adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair, or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, paragraph, subsection, Section, or Subpart as to which the judgment is rendered.

### **Section 385.110 Gender and Number**

All terms used in any one gender or number shall be construed to include any other gender or number as the context may require.

### **Section 385.111 Non-Discrimination**

The Administering Agencies and the City shall comply with the applicable provisions of the Illinois Human Rights Act [775 ILCS 5] and the regulations promulgated under that Act, the Fair Housing Act (42 USC 3601), Section 504 of the Rehabilitation Act of 1973 (29 USC 794), the Illinois Environmental Barriers Act [410 ILCS 25], the Illinois Accessibility Code (71 Ill. Adm. Code 400), and all other applicable State and federal law concerning discrimination and fair housing.

### **Section 385.112 Titles and Captions**

Titles and captions of Subparts, Sections, and subsections are used for convenience and reference and are not a part of the text.

## **SUBPART B: DISTRIBUTION OF FUNDS**

### **Section 385.201 Grants to Administering Agencies**

The Authority shall distribute funds from annual Appropriations in accordance with the following priorities:

- a) To the Authority for its administrative expenses.
- b) After distributing the amount listed in subsection (a), but subject to Section 385.202 below, the Authority shall make Grants as follows:
  - 1) 25% of the moneys remaining in the Foreclosure Prevention Fund that have been appropriated shall be used to make Grants to the Counseling Agencies that provide for Housing Counseling located outside the City.
  - 2) 25% of the moneys remaining in the Foreclosure Prevention Fund that have been appropriated shall be used to make Grants to the Community-Based Organizations located outside of the City for Foreclosure Prevention Outreach Programs.
  - 3) 25% of the moneys remaining in the Foreclosure Prevention Fund that have been appropriated shall be used to make Grants to the Community-Based Organizations located within the City for Foreclosure Prevention Outreach Programs.

### **Section 385.202 Distribution of Funds to City**

After distributing the amount listed in Section 385.201(a) of this Part, the Authority shall distribute 25% of the moneys remaining in the Foreclosure Prevention Fund that have been appropriated to the City.

- a) **City Administrative Expenses:** The City shall be entitled to deduct from each distribution from the Authority, prior to making any Grants to the Counseling Agencies or support of foreclosure prevention programs administered by the City, an amount not to exceed 8% of such distribution from the Authority for General Operational Expenses, Computer and Equipment Expenses and Technical Assistance associated with the administration of the Program, including, without limitation, expenses for staff salaries and benefits for time spent on design and administration of the Program; expenses incurred in performing outreach activities and providing technical assistance to the Counseling Agencies; the use of the City's equipment for Program purposes; the cost of office space and utilities incurred in connection with the Program; and any other expenses incurred in the administration of the Program. The City shall maintain a detailed accounting of its administrative expenses, which shall be available to the public for review.
- b) **Eligible City Activities:** Eligible activities by the City under the Program are as follows:

- 1) making Grants to the Counseling Agencies located within the City for Housing Counseling, and
- 2) supporting, subject to Section 385.303(b) below, foreclosure prevention counseling programs administered by the City.

#### SUBPART C: GRANTS TO COMMUNITY-BASED ORGANIZATIONS AND COUNSELING AGENCIES

##### **Section 385.301 Community-Based Organizations Eligibility**

The Community-Based Organizations are generally eligible to submit an Application for funding if they provide:

- a) pre-purchase and post-purchase home ownership counseling,
- b) education about the foreclosure process and the options of a homeowner in a foreclosure proceeding, and
- c) foreclosure prevention programs in conjunction with the Authority or a state or federally chartered financial institution.

The Community-Based Organizations must agree to the terms and conditions of the Program in order to be eligible.

##### **Section 385.302 Counseling Agencies Eligibility**

The Counseling Agencies are generally eligible to submit an Application for funding if they have been certified as a housing counseling agency by HUD. The Counseling Agencies are eligible for funding if they are certified prior to their application for funding under the Program and committed to participation in the Program. The Counseling Agencies must agree to the terms and conditions of the Program in order to be eligible.

##### **Section 385.303 Eligible Uses of Grant Funds**

- a) Eligible Uses of Grant Funds by the Administering Agencies: Eligible uses of Grant funds by the Administering Agencies under the Program shall mean:
  - 1) Computer and Equipment Expenses,
  - 2) General Operational Expenses,
  - 3) pre-purchase Housing Counseling,
  - 4) post-purchase Housing Counseling,

- 5) foreclosure education,
- 6) foreclosure prevention outreach programs in conjunction with the Authority or a State or federally chartered financial institution,
- 7) counselor training,
- 8) training of an Administering Agency's employees,
- 9) capacity building that increases an Administering Agency's capacity to provide Foreclosure Prevention Outreach Programs and Housing Counseling,
- 10) Technical Assistance,
- 11) advertising and marketing of the Program, and
- 12) any other housing counseling activity as may be approved by the Authority.

No Administering Agency shall receive Grant funds for Computer and Equipment Expenses, General Operational Expenses and Technical Assistance in an amount greater than 10% of the Grant funds granted to an Administering Agency during the term of such Administering Agency's Grant.

- b) Eligible Uses of Grant Funds by the City: Eligible uses of Grant funds supporting foreclosure prevention programs administered by the City under the Program shall mean:
  - 1) pre-purchase home ownership counseling,
  - 2) post-purchase home ownership counseling,
  - 3) foreclosure education,
  - 4) foreclosure prevention outreach programs in conjunction with the Authority or a State or federally chartered financial institution, and
  - 5) counselor training.
- c) Eligible Uses for Statewide Activities: Eligible uses of Grant funds supporting Statewide Activities shall include but shall not be limited to:
  - 1) organizing regional homeownership, Housing Counseling and foreclosure prevention outreach fairs and events including the promotion of such events,



- 2) the creation and dissemination of radio and print advertising,
- 3) the creation and dissemination of posters, flyers and information materials,
- 4) establishing and operating a toll-free helpline to connect residents of the State,
- 5) the creation and use of internet resources, and
- 6) any other similar activities as may be approved by the Authority that are deemed necessary to help ensure the success of the Program on a statewide basis.

### **Section 385.304 Application Cycle**

An Agency will supply interested Applicants with an Application. Applications under the Program will be accepted periodically until the Appropriation is disbursed.

### **Section 385.305 Application Requirements**

Each Application shall include the information required by this Section, provided that those requirements are included in the Application to be completed by the Administering Agency, and any additional information the Agency may require to promote efficient Program administration and quality of performance. The Authority reserves the right to bifurcate its Applications as needed in connection with the different components of the Program.

- a) **Qualifications:** Each Applicant shall document qualifications to complete the Program activities, including with respect to a Counseling Agency, evidencing that it is a HUD certified housing counseling agency.
- b) **Number of Foreclosures:** Each Applicant shall document the number of foreclosures filed, present employment data and any known future job layoffs in the Administering Agency's service area.
- c) **Applicant's Capacity:** Each Applicant shall document its capacity and prior experiences to administer Housing Counseling and Foreclosure Prevention Outreach Program.
- d) **Capacity Building:** Each Applicant shall document how capacity will be expanded to meet the need for Housing Counseling and Foreclosure Prevention Outreach Programs in response to subsection (b) of this Section.
- e) **Activities to be Undertaken:** Each Applicant shall list which Eligible Uses are to be undertaken with Program funds, including without limitation those activities outlined in Section 385.303 and under this Part.

- f) Time for Expending: Each Applicant shall include a budget and timeline schedule for performing the eligible activities outlined in the Application.
- g) Marketing and Outreach Capacity: Each Applicant shall document its capacity and prior experiences to the sole satisfaction of the Authority to undertake and administer all or a portion of the Statewide Activities as set forth in the applicable Application.

### **Section 385.306 Review of Applications**

- a) Application Screening. An Agency shall screen all Applications to confirm that all elements of the Application package have been addressed. Applicants may be notified of deficiencies in Applications and may, at the option of the Agency, be given the opportunity to correct those deficiencies. Completed Applications will be reviewed and evaluated by Agency staff in accordance with criteria in subsections (b) through (e) of this Section.
- b) Basic Eligibility Evaluation. Each Application will be reviewed to assure compliance with Sections 385.301 and 385.302 of this Part.
- c) Willingness to Perform. The Administering Agency must commit to remain ready, willing and able to perform Foreclosure Prevention Outreach Programs, Housing Counseling and Statewide Activities as applicable throughout the Grant term.
- d) Costs. The Administering Agency must demonstrate that the costs identified in the Application are eligible Program costs under Section 385.303 of this Part.
- e) Capacity. The Applicant must demonstrate that the proposed activities as identified in the Application can be accomplished.

### **Section 385.307 Grant Administration**

- a) Commitment: Each Administering Agency shall enter into a Commitment with the Agency that is making its Grant; the Grant may be less than the amount requested in the Application. The term of Commitments shall be a term up to one year, subject to the availability of funds from an Appropriation, and may be renewed for one additional year at the discretion of the Agency.
- b) Record Retention: Each Administering Agency shall maintain records in connection with the Grant under the Administering Agency's Commitment for five years after the date of termination of the Commitment.
- c) Monitoring: An Agency, the Auditor General and the Attorney General shall have the right to monitor all Administering Agency books and records relating to

the implementation of the Program by an Agency. Each Administering Agency shall make all records relating to its Grant available for inspection, examination and copying by an Agency, the Auditor General and the Attorney General upon reasonable prior notice, as an Agency, the Auditor General or the Attorney General may reasonably require. The required documentation may include but is in no way limited to a copy of the Administering Agency's Application to an Agency; all records relating to the eligible uses of Grant funds under the Program as set forth in Section 385.303 of this Part; and any other documentation required by an Agency, the Auditor General and the Attorney General.

### **Section 385.308 Funding of Grants**

Subject to the terms of the applicable Commitment with an Administering Agency and the related documents evidencing the Grant, an Agency shall provide funds to the Administering Agencies when the Appropriation is made available and as set forth in Section 385.303 of this Part.

### **Section 385.309 Reporting Requirements**

- a) Administering Agency: Each Administering Agency shall provide reports to the Agency that made the Grant, on forms provided by the Authority, at the end of each quarter of the term of its Commitment. The Administering Agency shall identify, at a minimum, the number of households that attended pre-purchase home ownership counseling, post-purchase home ownership counseling, foreclosure education, and foreclosure prevention outreach programs; the number of existing counselors who attended training; the number of Administering Agencies who attended training; the number of new counselors hired to increase an Administering Agency's capacity; the expenditures incurred for Technical Assistance; and the expenditures incurred for Computer and Equipment Expenses and General Operational Expenses. In the event an Administering Agency administers all or a portion of the Statewide Activities, the Administering Agency shall identify, at a minimum, the costs and expenses incurred in connection with the administration of such Statewide Activity.
- b) City: If the City uses the Grant proceeds to support foreclosure prevention counseling programs administered by the City, the City shall provide quarterly reports to the Authority. The City shall identify, at a minimum, the number of households that attended pre-purchase home ownership counseling, post-purchase home ownership counseling, foreclosure education, and foreclosure prevention outreach programs; the number of existing counselors who attended training; the number of City's employees who attended training; the number of new counselors hired to increase the City's capacity; the expenditures incurred for Technical Assistance; and the expenditures incurred for Computer and Equipment Expenses and General Operational Expenses.

- c) Authority: In the event the Authority administers all or a portion of the Statewide Activities, the Authority shall maintain a detailed accounting of its costs and expenses in connection with the administration of the applicable undertaken Statewide Activity, which shall be available to the public for review.