



AmeriNational Advantage Newsletter

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A Proud Partner of Habitat for Humanity

AmeriNational understands and supports Habitat for Humanity's mission of bringing people together to build homes, communities and hope, and making a decent shelter a matter of conscience and action. We are proud to partner with Habitat for Humanity to provide our corporate services as well as individual volunteer services to assist with builds in various communities.

AmeriNational is committed to providing exceptional service to Habitats nationwide. This commitment is reflected in the recent creation of our quarterly Habitat specific newsletter. Our vision for this newsletter is to provide valuable information to help Habitat Affiliates better understand the affordable housing industry.



Recent Events

AmeriNational's Chairperson & CEO Presents at Habitat for Humanity South Dakota's 2011 Statewide Training Conference

AmeriNational's Chairperson & CEO, Adrienne Thorson, was a education facilitator at the Habitat for Humanity South Dakota's 2011 "Raise the Roof" Statewide Training Conference. Adrienne provided valuable training regarding legal and compliance issues related to mortgage servicing. The objective of this session was to better understand the requirements of RESPA for escrow management as well as the general compliance issues pertaining to servicing, foreclosure and bankruptcy.

"I appreciate you taking the time out of your busy schedule to visit our conference and provide your wealth of knowledge on you session topic. The attendees were thrilled with the information given and excited to share it with their board members and volunteers."

*Patty Bacon, Executive Director
Habitat for Humanity South Dakota*

Other Habitat Conferences Attended:

Habitat for Humanity 2011 Annual Conference

Habitat for Humanity Camp Colorado

Habitat for Humanity New York SSO Conference

Habitat for Humanity Kentucky SSO Green and Affiliate Conference



"Harford Habitat for Humanity was drowning under the weight of trying to manage our mortgage loan administration in-house. Contracting with AmeriNational has been incredibly liberating with respect to the time we no longer spend on collection issues and escrow account analyses. The cost-benefit to our affiliate as a result of outsourcing our mortgage administration has been tremendous. The AmeriNational Loan Link web based reporting system is easy to use and provides really useful reports on portfolio and individual loan activity which easily export to Microsoft Excel. We couldn't be more pleased with our relationship with AmeriNational."

*Chuck Slusher
Director of Operations
Harford Habitat for
Humanity*

How should my Affiliate account for partial payments?

What happens when a borrower makes a payment of less than the full amount? Should the payment be posted to the loan? To escrow? Should it be included in the Affiliate's operating cash? The answer to this question, as with most questions, is "it depends".

Payment posting is governed by the terms defined in the loan documentation. The minimum servicing standards promulgated by the Mortgage Bankers Association of America state:

"Mortgage payments made in accordance with the mortgagor's loan documents shall be posted to the applicable mortgagor records within two business days of receipt", and Mortgage payments shall be allocated as to principal, interest, insurance, taxes or other amounts in accordance with the mortgagor's loan documents."

In most cases the loan document clearly defines what constitutes a payment. Many loan documents will define a payment by a fixed dollar amount. For example, a 20 year mortgage note might define a payment as follows: "240 payments of \$360.00 each due on July 15, 2011 and the 15th day of each month thereafter." A full payment in this scenario is \$360.00. Where some loan documents fall short is defining the action that will be taken by the Affiliate when less than a full payment is received. A well designed loan document addresses this issue with enough clarity that anyone reading the document, including the borrower, the Affiliate, or an attorney for either, will clearly understand the proper handling of a payment of less than the full amount. In addition to making sure that your loan documents are clear and concise, you should also make sure that they are in compliance with any state statutes or other applicable regulatory guidance.

In the absence of clear language in the loan documentation one can also look to state statute and industry practices. Industry practices are generally clear and consistent in respect to this issue. The accepted practice is that if a partial payment is accepted, any portion of it that equals one or more full installments should be applied. Any remaining portion should be held as "unapplied funds" until enough money to make a full installment is received.

In this case, "applied" means the payment is received into the Affiliate's operating cash and the loan balance is reduced accordingly. "Unapplied funds" means those payment amounts that the Affiliate accepts but holds in suspense on behalf of the borrower. The proceeds are not posted to the loan records, and are not receipted into the Affiliate's own operating cash. Rather, they are held in the Affiliate's custodial or suspense deposit account until such time as a full payment is received.

Keep in mind that a full payment will likely include not only the loan principal amount but also the amount of any tax, insurance or other escrow amount due. Again, you should refer to your loan documentation for the relevant definition of a full payment.

If your Affiliate has chosen to post partial payments rather than holding them in unapplied until a full payment is received, and if the loan documentation does not clearly address how those payments are to be applied, then at a minimum the Affiliate should post any and all partial payments in a consistent manner throughout the life of a loan. The best option, however, would be to do a recasting of each loan to ensure that the history is corrected and in compliance with the law and industry standards.

There are a number of reasons that this issue becomes very important to an Affiliate. If a loan is delinquent, and the Affiliate reports to the credit bureaus, the posting of partial payments could result in credit reporting errors and violations of the Fair Credit Reporting Act (FCRA). To illustrate, assume the following facts:

partial payments continued...

A loans' scheduled payment is \$460 of which \$360 is for principal and \$100 is for tax and insurance escrow. The loan's beginning balance is \$60,000. The Affiliate posted partial payments, as follows:

	Principal	Escrow	Total Paid	Loan Balance	Unapplied
Beginning Balance				60,000	
Month 1	250	0	250	59,750	0
Month 2		400	400	59,750	0
Month 3	150	150	300	59,600	0
Total Paid/Posted	400	550	950		

With this posting scenario, it becomes difficult to decipher the accurate delinquency status. If the due date on the loan record is only advanced once a full payment has been received, then the loan will show as 2 months delinquent at the end of month 3. If the Affiliate utilizes credit reporting, the loan would be reported to the credit bureaus as such. As you can see from the table below, this reporting is inaccurate. The loan is really only 1 month past due.

Under generally accepted servicing standards, the payments would be posted as follows:

	Principal	Escrow	Total Paid	Loan Balance	Unapplied
Beginning Balance				60,000	
Month 1 payment	0	0	250	60,000	250
Month 2 payment			400	60,000	400
Month 2 posting	360	100	0	59,640	(460)
Month 3 payment	0	0	300	59,640	300
Month 3 posting	360	100	0	59,280	(460)
Total Paid	720	200	950		30

Under the accurate posting, two full payments have been received by the end of month 2, and the loan is only 1 month past due.

If the affiliate chooses to always post to principal first, it will err to the benefit of the borrower ensuring that loan delinquencies are always under-reported to the credit bureaus. This may still result in FCRA violations, however, and will also cause the Affiliate's cash flow to be negatively impacted. Under this scenario, when property taxes, insurance or other escrowed items become due and payable, the Affiliate will have less funds available in escrow to pay them. The Affiliate will, at that point, need to pay these items out of their own operating cash, further exacerbating the financial effect of this delinquent borrower. In addition, the escrow payment mishandling could result in a violation of the Real Estate Settlement Procedures Act (RESPA).

Other concerns include potential violation of the Fair Debt Collections Practices Act (FDCPA) because of late fees charged as a result of incorrect payment postings, and the increased liability during loss mitigation and foreclosure actions due to ambiguities in the true delinquency status of the mortgage or due date of the loan. The longer the payment history is misapplied, the bigger the problem becomes.

According to Debra Zamora, AmeriNational's Operations Manager, payment misapplications are the most common error she sees in Habitat portfolios. "It represents a big risk to the Habitat industry. Luckily, a payment recasting will correct the loan balances and eliminate the risk going forward."



"Our mortgage portfolio has been performing better than ever...when we switched servicers to AmeriNational in 2006, our delinquency ratio improved within sixty days and has continued to be low. Currently our portfolio of 500+ mortgages has the lowest delinquency rate since 1996 when we had only 35 accounts. Please thank your team for their good efforts."

*Robert White
Vice President, CFO
Twin Cities
Habitat for Humanity*

AMERINATIONAL COMMUNITY SERVICES, INC.

217 South Newton Ave.
Albert Lea, MN 56007

Phone: 866-779-5546
Fax: 507-377-0838
E-mail:

aanderson@amerinational.net

Director's Page

A collection policy is a vital tool that will both guide and protect your Habitat affiliate. Whether you service your loans yourself or outsource to a third party, having a well thought out collection policy is critical. A thorough collections policy will specify the minimum actions that the staff and/or third party are expected to take and when, will provide options that should be considered along the way, and will protect the affiliate by ensuring treatment is fair and consistent across the borrowing base.

One of the most important steps an Affiliate can take to minimize past due problems is early identification and intervention. The policy should clearly address available actions that can be taken early in the delinquency. A good policy will provide an approved list of tools or options that the loan servicers are able to use. For example, an Affiliate may have an objective of allowing loan modifications. The policy should establish criteria about the type of modification programs that will be allowed, what other alternatives need to be considered first, how often a borrower is eligible to be considered for a modification (i.e. "once"), the circumstances under which a modification would be considered, and the qualifications that the borrower must meet to qualify. Once these factors are defined, the servicer is then able to efficiently carry out the Affiliate's policy and minimize the time from problem identification to resolution.

Your policy should set parameters while allowing flexibility within defined objectives. Because each borrower's situation is different and unique, the collections activity should be designed so that it can be customized for each specific situation, within policy constraints. If one type of collection action is not working, the servicer should have the flexibility to try something else in an effort to find the solution that best reaches and impacts the borrower in a positive fashion.

The policy should also be very clear as to the assignment of authority for the various collection actions. The Board or a designated committee there-of, should consider retaining approval authority of certain actions, particularly legal actions such as deeds in lieu of foreclosure or foreclosures. Because legal actions such as these expose the Affiliate to higher risk, the board should also seek out training for these topics. A fully informed board will be better able to understand all of the ramifications of these actions and delegate or exercise its responsibility in a way that fosters sustainability for the affiliate, and improves lives for their borrowers.

Quality Through Innovation and Experience