

Farm Credit Administration

§ 617.7500

pursuant to § 617.7310 of this part, accompanied by counsel or any other representative, if the borrower chooses.

§ 617.7425 What type of notice should be given to a borrower before foreclosure?

The qualified lender must send the 45-day notice, as described in § 617.7410(a)(2), no later than 45 days before any qualified lender begins foreclosure proceedings. The notice informs the borrower in writing that the loan may be suitable for restructuring and that the qualified lender will review any suitable loan for possible restructuring. The 45-day notice must include a copy of the policy and the materials described in § 617.7410(b). The notice must also state that if the loan is restructured, the borrower must perform under this restructure agreement. If the borrower does not perform, the qualified lender may initiate foreclosure.

(a) *Does the notice have to inform the borrower that foreclosure is possible?* The notice must inform the borrower that the alternative to restructuring may be foreclosure. If the notice does not inform the borrower of potential foreclosure, then the qualified lender must send a second notice at least 45 days before foreclosure is initiated.

(b) *How are borrowers who are debtors in a bankruptcy proceeding notified?* A qualified lender must restate the language from the automatic stay provision to emphasize that the notice is not intended to be an attempt to collect, assess, or recover a claim. The qualified lender should send the notice to the borrower and, if retained, the borrower's counsel.

(c) *May a qualified lender foreclose on a loan when there is a restructuring application on file?* No qualified lender may foreclose or continue any foreclosure proceeding with respect to a distressed loan before the lender has completed consideration of any pending application for restructuring and CRC consideration, if applicable. This section does not prevent a lender from taking any action necessary to avoid the dissipation of assets or the diversion, dissipation, or deterioration of collateral if the lender has reasonable grounds to believe that such diversion,

dissipation, or deterioration may occur.

§ 617.7430 Are institutions required to participate in state agricultural loan mediation programs?

(a) If initiated by a borrower, System institutions must participate in state mediation programs certified under section 501 of the Agricultural Credit Act of 1987 and present and explore debt restructuring proposals advanced in the course of such mediation. If provided in the certified program, System institutions may initiate mediation at any time.

(b) System institutions must cooperate in good faith with requests for information or analysis of information made in the course of mediation under any loan mediation program.

(c) No System institution may make a loan secured by a mortgage or lien on agricultural property to a borrower on the condition that the borrower waive any right under the agricultural loan mediation program of any state.

(d) A state mediation may proceed at the same time as the loan restructuring process of § 617.7415 or at any other appropriate time.

Subpart F—Distressed Loan Restructuring Directive

§ 617.7500 What is a directive used for and what may it require?

(a) A distressed loan restructuring directive is an order issued to a qualified lender when FCA has determined that the lender has violated section 4.14A of the Act.

(b) A distressed loan restructuring directive requires the qualified lender to comply with the specific distressed loan restructuring requirements in the Act.

(c) A distressed loan restructuring directive is enforceable in the same manner and to the same extent as an effective and outstanding cease and desist order that has become final. Any violation of a distressed loan restructuring directive may result in FCA assessing civil money penalties or seeking a court order pursuant to section 5.31 or 5.32 of the Act.