

HAMP's New Rules

The Home Affordable Modification Program, or HAMP, is the Obama Administration's response to our current residential mortgage crisis. Ideally, the HAMP program would have stabilized the housing market by reducing an eligible borrower's monthly housing payment to 31% of their gross earnings.

Although the program has been in existence only since March of 2009, its effectiveness has been questioned and criticized publicly, and some would say with good reason. At the end of 2009, only 31,382 of the 728,000 trial modifications made it to a permanent loan modification. The Big Four lenders, Wells Fargo, Citicorp, JP Morgan Chase and Bank of America, had abysmally low trial-to-permanent conversion rates at the end of 2009.

Recently, the Treasury Department revised some of HAMP's guidelines in an effort to better advance the program's objectives. In addition, Treasury introduced the Home Affordable Foreclosure Alternative (HAFA) program, a new initiative aimed at assisting borrowers who are not eligible for a HAMP solution. These developments expand the options available to homeowners and will help borrowers avoid foreclosure. Hopefully, the recent enhancements will make the program more effective and attractive to struggling homeowners.

The recent Treasury changes can be divided into five categories, which will be discussed below. The revisions illustrate a new approach to addressing the needs of homeowners who qualify for HAMP. The Obama Administration seems to be concerned about those in need of bankruptcy protection, out-of-work borrowers, and individuals for whom foreclosure appears inevitable. In addition, the program is focusing on outreach, communication and timeliness. It's possible that these new changes may cause some critics to re-evaluate and revise their conclusions about the program.

New Treasury Regulations Protect Debtors

On June 1, 2010, new Treasury Department directives aimed at improving the HAMP program took effect. Of particular

interest is the Administration's attitude towards debtors involved in an active bankruptcy.

For example, the directives contain a "no discrimination" policy as an added safeguard for bankruptcy filers. A debtor who is in an active bankruptcy is eligible for the HAMP program, provided the debtor or the debtor's attorney requests a modification. Moreover, a debtor cannot be denied a modification simply because the debtor filed for bankruptcy relief while in a trial period. In fact, trial periods can be extended for two months to allow for the debtor to gain the court's approval of the loan modification. The new regulations also protect debtors from some creditor actions during the trial

payment period. If a debtor is in a trial modification plan and is current on his reduced monthly payments, a lender cannot object to confirmation, move to dismiss, or move for relief of the automatic stay unless other grounds exist.

The new regulations favor debtors in several other ways. Chapter 7 debtors who exercised the "ride-

through" option and did not reaffirm their mortgages are eligible for a HAMP modification. In fact, if the debtor received a discharge, the modification agreement must contain a provision that states the debtor has no personal liability for the loan. This is remarkable news for a Chapter 7 debtor. In addition to converting his mortgage from a recourse loan to a non-recourse loan, a borrower also may benefit from the lower payment the HAMP program can provide.

Arguably, the HAMP application process is simpler for a bankruptcy debtor due to the Treasury Department directives. Provided the schedules are less than 90 days old, debtors can use the schedules and tax returns provided in the bankruptcy case to verify income. Servicers are permitted to use this information to determine HAMP eligibility.

In the future, the directives state that Chapter 13 debtors may not have to endure the three-month trial payment period provided three qualifications are met. First, the debtor cannot be in default on his post-petition mortgage obligation.

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In addition, his mortgage payments must be more than the proposed modified amount, and lastly, the investor agreement must allow for it. If all three elements are satisfied, the proposed HAMP loan modification can be deemed permanent without the need of a trial period.

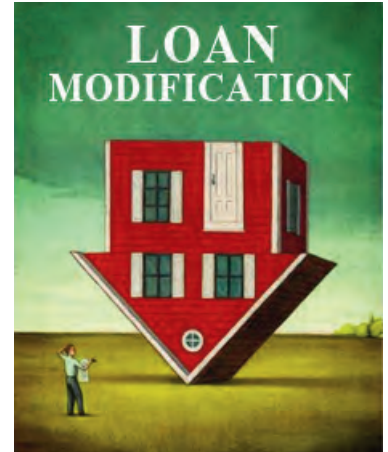
Help for the Unemployed Borrower

Due to our economic climate, HAMP needed to address the obvious problem of the unemployed borrower. Considering the alarmingly high unemployment rate, the Obama Administration had to begin rescuing people who no longer have the financial means necessary to sustain their obligations. Thus, the "temporary assistance period" for unemployed mortgagors was born.

For a period of three to six months, an unemployed homeowner's mortgage can be reduced to 31%, or less in some instances, of the household's gross income. During this reprieve, the mortgagor is expected to be searching for employment. If the homeowner finds a job, but is earning less income, he should apply for a permanent modification under traditional HAMP guidelines. Conversely, if the borrower is unable to find a job once the assistance period expires, the borrower may consider one of HAMP's foreclosure alternative programs, which will be discussed in a later section.

Changes in HAMP's Execution and Philosophy

Based on the recent changes to HAMP, the Obama Administration seems committed to improving the level of communication lenders have with eligible borrowers and modification applicants. For example, lenders must make a "reasonable effort" to contact eligible borrowers by mail and phone. In addition, lenders must adopt a more proactive approach for contacting delinquent borrowers. The program also increases incentive payment to lenders for permanent modifications. As a result, lenders do not have to absorb all of the additional costs associated with the new outreach efforts. It appears that access, communication and early intervention are now guiding principles for HAMP.



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✓ e-mailing us at newsletter@chi13.com,	
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✓ leaving them with Dave Latz.	
Please remember when making a submission to the newsletter, it must be:	
✓ type-written and	
✓ submitted by the third Wednesday of the month via e-mail, a Word document or an ASCII file.	
We also ask that anyone who attends a seminar please be prepared to furnish the committee with a detailed article on its subject.	
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The tension between HAMP modifications and foreclosure sales has been alleviated to some degree as well. A mortgage cannot be foreclosed unless the borrower is ineligible for a HAMP modification or outreach efforts have been fruitless. In practice, this fact must be certified in order for a sale to be conducted. Moreover, the foreclosure process must be suspended during the trial modification period, assuming the borrower's income has been verified. As a result of this change, if a borrower is cooperating with his lender, he no longer has to worry about the consequence of foreclosure. Even if the homeowner is not granted a loan modification, foreclosure sales are stayed for thirty days following a non-approval notice. This gives a borrower time to respond to the determination and, perhaps, find another solution.

These changes reflect a commitment to making HAMP a success and an appreciation for the real concerns facing many homeowners. The new regulations embody compassion, professionalism and fairness. As long as all parties cooperate in this process, HAMP is built for success.

Mortgage Principal Reductions

HAMP has added an essential component that addresses the "underwater" residence. Homeowners across the nation have seen home values decline, and as a result, Americans are paying for homes that are worth far less than the loans we are repaying. HAMP has answered this concern by providing incentives for principal reductions.

Eligible borrowers can benefit from a reduction in their mortgage's principal if the mortgage exceeds 115% of the home's

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Trustee Matters



*Happy Thanksgiving
to you and all your loved ones.
May you have a very happy
and safe holiday season!
With heartfelt thanks,
Marilyn O. Marshall*

December's Notable Events

Hanukkah begins on December 1st.

All Staff Meeting on December 3rd.

Happy 11th Anniversary to **Jay Tribou** on December 6th!

National Pearl Harbor Remembrance Day on December 7th.

Happy Birthday to **Cheryl Jones** on December 12th!

Happy 5th Anniversary to **Keisha Hooks** on December 12th!

Cat Herders Day on December 15th.

National Chocolate-Covered Anything Day on December 16th.

Underdog Day on December 17th.

First Day of Winter on December 21st.

Humbug Day on December 21st.

Christmas Eve on December 24th (the office will be closed on Friday the 24th).

Christmas Day on December 25th.

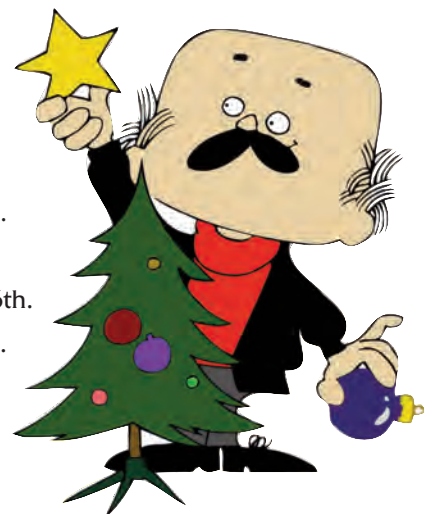
National Whiner's Day on December 26th.

Thank You Note Day on December 26th.

Kwanzaa December 26th – January 1st.

Happy Birthday to **Carlos Lagunas** on December 31st!

New Year's Eve on December 31st.






Case Administration Notice Of Final Mortgage Cure

Believe it or not, some version of the model plan has been with us for just about a decade now. The plan has varied from five to six pages but has always contained language regarding treatment of claims secured by real property.






Specifically, section B-2 (a)(b) requires the Trustee to serve notice once the pre-petition default has been cured. Once a month, following creditor disbursements, a program is run to find pre-petition mortgage arrears claims that have been paid in full. A notice of final mortgage cure is mailed to the creditors, debtors and debtor's attorneys, and a copy is also filed with the Bankruptcy Court. The notice has specific provisions that each party must follow in the event of a post-petition default:

The Creditor is required to:

-  Itemize all outstanding post-petition payment obligations as of the date of the notice.
-  File a statement of these obligations with the court within 60 days of the notice.
-  Serve a copy of the statement to the debtor, the Trustee and the debtor's attorney.

The debtor:

-  Can challenge the accuracy of the statement within 30 days by motion or notice.
-  Must serve a copy of their response to the creditor and the Trustee.
-  May propose a plan to repay the additional amounts owed.

The paralegals will add a docket note to the case once we receive a response from the creditor that post-petition obligations exist. If the case is in the final audit stage, then the auditor will not file the final report until the stated response times have expired. Occasionally, we get calls from debtors who don't understand what the notice is for, so you should explain to them that the notice was mailed because the final payment was made on the pre-petition default. The debtor should contact their attorney if they get anything from the creditor listed on the notice.

Rosalind Lanier, Case Analyst Claims

Wealth

"Wealth is the ability to fully experience life."

~ Henry David Thoreau

"There's no reason to be the richest man in the cemetery. You can't do any business from there."

~ Colonel Harlan Sanders




Information Services Holy, Moly... We're Using Windows PCs!

No, we're not switching your computer to a Windows machine. What we are doing though, is using Windows-based servers to run the new BSS TNG bankruptcy administration software. By using the Firefox web browser, we're still able to use our Mac PCs.



In the process of converting from CaseNET to BSS TNG, the Trustee looked at the possibility of switching from the Macintosh environment to the Windows environment. Although there were reasons to switch, it was determined that there was sufficient reason to remain with the Macintosh systems.

Among the reasons the Trustee decided to remain with the Mac environment were the following:

-  When configured similarly (i.e., processing power, memory, storage space, etc.) the cost differential between the two types of systems actually favored the Macintosh.
-  By remaining with the Mac environment, the investment in new software would be minimized. We will be able to continue using our current versions of software, such as Microsoft Word, Excel and PowerPoint, FileMaker Pro, Now Up-to-Date, 4-Sight Fax and Acrobat Pro, among many others. Upgrades and updates of this software, as needed, tend to be much less expensive than purchasing new copies of the same or similar software for all-new Windows-based systems.
-  And, of utmost importance is the virus protection afforded by the Macintosh environment. Whereas there are excellent virus detection and eradication software products available for both environments, the Macintosh is by far the less-targeted operating system for malicious viruses, worms, etc. (Just recently I was looking at the virus protection definitions provided by Symantec AntiVirus for Macintosh – our current anti-virus software – and found that it has over 75,000 virus definitions, of which only 55 are necessary to prevent viruses directly targeted at the Macintosh operating system. Pretty scary for Windows PC owners, but definitely less so for Macintosh owners!)

We're hoping that in the next two to three years we will be able to completely upgrade the computers within the office. For a preview of what to look forward to, check out the new Macintosh iMac computer with the three monitors that reside at the desk just outside of the Managing Attorney's office.

Dave Latz, Operations Coordinator

HAMP's New Rules

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value. Servicers must perform a cost/benefit evaluation to determine if a mortgage write down is appropriate. Lenders must compare the income it stands to earn under the proposed modification against the income it would earn if the home were foreclosed. If the proposed modification is financially more beneficial to the lender, then the servicer may extend the option to the borrower.

Ultimately, the principal is written down until the monthly housing payment is 31% of the borrower's gross income. If the borrower remains current for three years, the full amount of the reduction is forgiven. The HAMP program also offers incentives to lenders for the full or partial removal of subordinate liens.

Home Affordable Foreclosure Alternative

One of the policies behind HAMP was to keep homeowners from losing their residences to foreclosure. Realistically, it may not be possible for all borrowers to remain in their homes. Accordingly, the Obama Administration created the Home Affordable Foreclosure Alternative (HAFA) program for those individuals who have run out of options.

This program is scheduled to terminate on December 31, 2012, and is a perfect complement to HAMP because it gives options to a borrower who may not be suitable for a HAMP solution.¹ HAFA requires lenders to consider non-traditional methods for disposing of property. The Obama Administration's focus has always been to avoid the lengthy and costly foreclosure process, and HAFA urges the use of short sales and deeds in lieu of foreclosure as a last resort of eligible borrowers. Under HAFA, the borrower is released from future liability, and no cash contributions, deficiency judgments or promissory notes are permitted. HAFA also offers relocation assistance for a borrower who completes one of the foreclosure alternatives.

A borrower is eligible for HAFA if one of the following qualifications is present: 1) the homeowner is ineligible for a trial period plan; 2) the borrower cannot complete a trial period plan; 3) the borrower has missed two consecutive payments during a permanent modification, or 4) the borrower requests a short sale or deed in lieu. If the homeowner is HAFA-eligible, the lender has thirty days to evaluate the borrower's circumstances. Servicers must create guidelines for determining whether a borrower will be permitted to short sale his home. Servicers can consider market conditions, borrower's cooperation, the decline of the home's value, and the like.

If the lender agrees to permit a short sale, the lender will send the mortgagor a Short Sale Agreement. This agreement lists the lender's approved sales price, the promise to release the borrower if the home is sold, and the amount of the



mortgage payment the borrower must pay while the home is being marketed. The agreement also discloses information about post-closing relocation assistance and assures borrowers that the home will not be foreclosed if the homeowner remains in compliance with the agreement. If a lender consents to a deed in lieu of foreclosure, then it will provide a HAFA deed in lieu agreement.

Borrowers have two weeks to accept a servicer's offer to permit a short sale or to accept a deed in lieu of foreclosure. The borrower then has four months to sell his home, but that time period can be extended to twelve months if all parties agree. Once the borrower's

offer has been accepted, the borrower must give the lender the contract, the prospective buyer's pre-approval letter, and information on subordinate liens.² The servicer must approve or deny the sales offer within ten business days. If the offer is denied, the lender must give an explanation. This gives the borrower an opportunity to address the servicer's concerns or perhaps negotiate with the servicer.

If the borrower is able to dispose of his home, the HAFA program helps him move to more affordable housing. Relocation assistance payments have doubled to \$3,000 for a borrower who successfully navigates this process.

HAFA makes short sales and deeds in lieu more accessible. These once elusive options prevent foreclosures and save time and money. It's refreshing that borrowers who cannot afford to keep their homes now have alternatives available to them and can avoid the foreclosure experience.

Conclusion

HAMP and HAFA are our government's attempt at stabilizing the housing market. Although they may not be perfect programs, the information contained in this article can assist our clientele in saving their homes and, perhaps, avoiding bankruptcy. While attorneys may have personal feelings about the effectiveness of the programs, practitioners have a duty to educate clients and counsel them on its advantages. Moreover, HAMP and HAFA will never appear attractive to the public if eligible borrowers never try to take advantage of its solutions. Bankruptcy professionals must discuss all bankruptcy and non-bankruptcy solutions to your clients. Accordingly, HAMP and HAFA must be considered as viable options of which you and your client should be aware.

Additional information regarding HAMP may be obtained at the Trustee's office.

Keisha Hooks, Staff Attorney

¹ HAMP is scheduled to terminate on December 31, 2012, as well.

² Short sales and deeds in lieu can often be complicated by the existence of junior liens. HAFA addresses this problem by giving incentives for subordinate mortgagees who agree to release a borrower.

Financial Department The Suspense Account

As Receipts Specialist, my main focus, and concentration every day, is verifying receipts that were entered by our bank, Sun-Trust Bank. My most significant objective is to ensure that each receipt is posted to the correct bankruptcy case.

However at times we receive a receipt for a bankruptcy case that is not administered by Chapter 13 Trustee Marilyn O. Marshall, a receipt with insufficient information, or a receipt for a bankruptcy case that has been closed or closed complete. When this happens, the receipt is placed into our Suspense Account.

In an overview, this article presents information regarding receipts from a debtor or employer that are placed into our Suspense Account.

Listed below are the most common reasons we place a receipt in the Suspense Account, and the steps taken to later remove it from the Suspense Account. Our Controller reconciles the Suspense Account twice monthly, on the first and the fifteenth of the month, after which suspense checks are processed to clear the Suspense Account.

1. The receipt belongs to other Illinois Trustee, Tom Vaughn or Glenn Stearns.

Resolution: Funds are sent to Tom Vaughn (only if the receipt has an active Tom Vaughn case number), and to Glenn Stearns. The sender is contacted and notified that this receipt was sent to us in error, and a letter is issued directing them to send funds to the appropriate Trustee.

2. The receipt received is for a case that is Closed or Closed Complete.

Resolution: The funds are sent back to the sender. The sender can be either a debtor or an employer. The sender is contacted and notified that the case is Closed or Closed Complete. A letter is also sent with the funds giving them the same information. A docket is entered into CaseNET regarding this receipt.

3. The receipt was received on a case that already has a final report.

Resolution: The funds are sent back to the sender. The sender can be either a debtor or an employer. The sender is contacted and notified that a final report has been filed. A letter is also sent with funds giving them the same information. A docket is entered into CaseNET regarding this receipt.

4. The receipt belongs to one of our cases, however, it does not have two items that match the case information.

- The receipt has a name, but the address and the case number are missing, or the address is different than the one listed in CaseNET.
- The receipt has a case number, but no debtor name or address.

Resolution: The sender is contacted to obtain a written document giving us all the pertinent case information. The funds are then transferred to the bankruptcy case. A docket is entered into CaseNET regarding this receipt.

5. The receipt has an out of state address and possibly belongs to another Trustee outside of Illinois.

Resolution: The funds are sent back to sender along with a letter stating that the "Sender (name) is not assigned to our Trustee, in the Northern District of Illinois. Based upon your address, the payment may need to be directed to a different Trustee Office and address. Please contact the Trustee for this information."

In some cases, these suspense checks are returned, or stale dated (the check is not cashed within 90 days). If this occurs, a search is made on National Pacer to determine if this case belongs to a trustee outside the state of Illinois. If we find they have a case with another trustee, we contact this Trustee for debtor contact information so that we can obtain a correct address. The funds are then reissued to the sender.

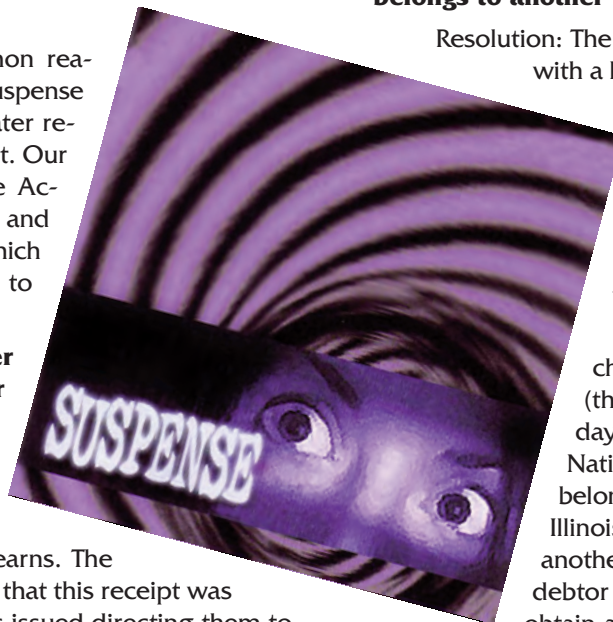
6. The remittance advice does not agree with the receipt check.

Resolution: We contact the sender to obtain the proper remittance information so it balances with the receipt check. The funds are then transferred to the appropriate bankruptcy case(s). A docket is entered into CaseNET regarding this receipt.

7. The receipt is received without a name, address or case number.

Resolution: This type of receipt is referred to the Financial Manager who searches for plan payments in the same amount. Every attempt is made to find a home for this receipt. If we do not find a case, this receipt remains in the Suspense Account for further research by the Financial Manager or the Controller.

Enrique Orejel, Receipts Specialist



Doing More By Doing Less

It may sound counterintuitive, but you can often find more time in your day to get things done by doing less. Multitasking may seem to be the best way to get through your to-do list, but it can sabotage your efforts. Researchers from the University of Michigan have found that when people multitask, they are diminishing their brain productivity by 20 to 40 percent. This occurs because your brain needs to spend some of its computing power on the switching process itself. Refocusing from one task to another decreases the brain's efficiency.



To combat this, try to establish some new habits for your workflow. Instead of checking email every few minutes, only check it every couple of hours. This lets you focus on answering emails all at once. You can also use a timer when working on an important task. Using a timer helps you regulate how much time you need to spend on a single task. While the timer is going, you should not work on any other project in order to devote enough concentrated time to the task at hand.

Finally, use a to-do list, but with a twist. Instead of simply making a list of things you need to get done, use it to write down things that are distracting you. By placing them on the list, you can give yourself permission to come back to it at a later time, instead of switching away from the job you are doing right now.

Internet Tidbit

If the holidays make you frazzled, visit Organized-Christmas.com this year. Here you will find a wealth of information to simplify the holidays. You can choose a holiday plan, print a free Christmas planner, get ideas for crafts and gifts, and even browse through great holiday recipes. You can also join the Rudolph Club, which holds a once-a-month meeting on the 25th of each month. You get simple assignments and easy tips to do each month to make the holiday season easier and less stressful come December.



Safety Tip

The number one thing that convicted burglars say scares them off is a television or radio playing inside the home. This is because they would rather break into a home that they know is unoccupied rather than not being sure. If you are going to be gone for the day or for an extended amount of time, turn on your radio or television before you head out.



Cut Your Cancer Risk

Over 1.5 million Americans will be diagnosed with cancer this year. While this statistic is cause for some concern, researchers say that hundreds of thousands of people can beat the odds with some simple strategies. Consider these top three ways to lower your risk.



1. Improve Your Nutrition

Excessive weight is one of the biggest risks for cancer. While it is possible to maintain good health with some excess pounds, researchers have found that extra weight in your abdominal area can increase your risk of cancer. This visceral fat is linked to high blood pressure, high cholesterol, and is an indicator of increased risk of death from not only cancer, but also heart and respiratory diseases. Increasing your intake of fruits, vegetables, beans, and whole-grains is the easiest way to get the proper balance of nutrition and to lower your risk of cancer. Try splitting your plate into thirds--two-thirds should be plant food and only one-third should be meat.

2. Keep Your Alcohol Consumption Down

Drinking alcohol increases your risk of several types of cancer, including breast, mouth, and esophagus cancer. While some moderate alcohol consumption (only one drink a day) has been shown to help protect against heart disease, the increased cancer risk should be weighed against this. It is best to talk to your doctor to evaluate what is right for you.

3. Put Down That Cigarette

Researchers agree that there is no safe level of cigarette smoking. Even one cigarette a week genetically alters the cells in the lining of your airways. This change increases your risk of lung cancer. And it also affects those around you. Secondhand smoke increases the risk for your loved ones as well, making this lifestyle change especially important.

Trivia Quiz: Poinsettias – The Answers:

- 1. Mexico.
- 2. Flor de la Noche
- 3. Buena, meaning the Holy Night flower.
- 4. Peach, pink, lemon, cream, and white.
- 5. 85 percent.
- 6. Ten feet tall.
- 7. The red leaves are often mistaken for petals.
- 8. True. The actual flower is small and yellow.
- 9. Buena, meaning the Holy Night flower.
- 10. False. Indirect sunlight for at least six hours a day is best.
- 11. The Star of Bethlehem.

Trivia Quiz: Poinsettias

The holiday season is just around the corner. You'll be sure to see lots of America's favorite holiday plant in stores soon. Test your poinsettia knowledge with this trivia quiz. *(The answers can be found on page 7.)*

1. The poinsettia plant is named after Dr. Joel R. Poinsett, a U.S. diplomat who served as an ambassador to which country in the 1820s?
2. In Mexico, what is the poinsettia called?
3. Poinsettia plants come in more than just red. Name some of its other colors.



4. True or false: Poinsettias should be placed in direct sunlight.
5. The shape of the center of the poinsettia represents what?
6. True or false: The red part of the poinsettia are actually leaves.
7. In nature, how tall does a poinsettia plant grow?
8. What percent of potted plant sales during the holiday season are poinsettias?
9. Which U.S. state ranks at the top in the production of poinsettias?
10. True or false: Poinsettias are poisonous.



**OFFICE OF THE
CHAPTER 13 TRUSTEE
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The Marshall Chronicles is now available in full color,
both in print and on-line at www.chicago13.com

Did You Know: Pawnbrokers Trivia

December 6th is National Pawnbrokers Day.

- 🍀 The word pawn comes from the Latin "platinum," meaning cloth or clothing. Years ago, the main asset people owned was their clothing, so they would borrow money by pawning their clothing.
- 🍀 The average loan granted for a pawned item is \$75.
- 🍀 More than 70 percent of all items pawned are reclaimed.
- 🍀 Florida has more pawnshops than any other state (over 1,300).



- 🍀 The universal symbol of pawnbroking is three gold balls. The image of the three balls came from the Medici family coat of arms. Since the Medicis were the richest merchants in Florence, they loaned more money than any other entity.
- 🍀 The song "Pop Goes the Weasel" refers to pawning. A weasel is a shoemaker's tool and to "pop" is to pawn. Thus, "that's the way the money goes...pop goes the weasel" refers to pawning this tool.
- 🍀 Saint Nicolas is the patron saint of pawnbrokers.

