

CHAPTER 1. GENERAL

- 1-1 GOAL. The Congress has adopted a national housing goal expressed as "a decent home and a suitable living environment for every American family".
- A. HUD's Role. HUD is charged with implementing the programs enacted by Congress to achieve this goal.
- B. Housing's Role. The Office of Housing's role is to further program objectives by exercising effective management practices while protecting the interests of HUD with prudent fiscal management. For the most part, these programs are carried out through the private mortgage markets, with HUD-approved mortgagees originating and servicing individual mortgages.
- 1-2 HUD MONITORING. This Handbook provides procedural standards and guidelines that must be followed when servicing an FHA/HUD-insured mortgage regardless of the entity holding and/or servicing the mortgage.

The mortgagee's servicing operations will be monitored and, where necessary, corrective action will be required. Refusal to take the corrective action or continued noncompliance with HUD requirements will result in the Department taking appropriate action (i.e., including, but not necessarily limited to, an administrative and/or monetary sanction against that mortgagee (also, see Paragraphs 8-7F1 and 8-7G).

NOTE: Withdrawal of HUD approval may result in the mortgagee's debarment from doing business with any Federal government agency under government-wide debarment regulations (24 CFR 24).

- 1-3 SERVICING OBJECTIVES. All servicing policies are directed toward achieving the following basic objectives:
- A. implementing the national housing goal of "a decent home and a suitable living environment for every American family";
- B. protecting HUD's interest in the insured mortgage (i.e., minimizing the probability of an insured

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mortgage terminating in default and foreclosure, and by minimizing HUD's loss where claims cannot be avoided);

- C. encouraging private investment in HUD-insured home mortgages at the lowest effective cost to mortgagors; and
- D. assuring an adequate standard of fair dealing among all participants in a HUD-insured mortgage transaction.

1-4MORTGAGEE RESPONSIBILITY (24 CFR 203.500). HUD regulations identify what the Secretary considers to be acceptable standards and "prudent servicing" when mortgagees service HUD-insured mortgages. HUD expects approved mortgagees to develop and implement policies and practices consistent with those standards and to prudently service loans.

NOTE: Mortgagees are reminded that when making decisions as to whether a change should be made to an existing mortgage, they are expected to abide by the Fair Housing Act, the Equal Credit Opportunity Act, Executive Order 11063, and HUD regulations issued pursuant to these authorities, prohibit discrimination in all phases of mortgage lending, including discrimination in revisions to existing mortgages and in the treatment of mortgages on which payments may or may not be current. Prohibited basis of discrimination include: race, color, religion, sex, handicap, familial status, national origin, age and public assistance as a source of income.

A. Servicing Of Account. In accordance with 24 CFR 203.502, effective after January 10, 1994, all mortgagees who wish to service FHA-insured mortgages must be approved by the Secretary. The mortgagee shall remain fully responsible to the Secretary for proper servicing, and the actions of its servicer shall be considered to be the actions of the mortgagee. The servicer also shall be fully responsible to the Secretary for its actions as a servicer. HUD expects the holding mortgagee or investor to assure that adequate servicing facilities are available in the area where the property is located.

* B. Loss Mitigation. Mortgagees must consider the comparative effects of their various actions, and must take those actions which can reasonably be expected to generate the smallest financial loss to the Department. The Department recommends that mortgagees designate

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loss mitigation specialists or develop staff specifically to carry out such efforts.

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C. Quality Control Plan (24 CFR 202.12(j)). Each HUD-approved mortgagee must establish and maintain a formalized, written quality control plan for mortgage servicing on a system-wide

basis, including the servicing of its branch offices. Under this Quality Control Plan, a mortgagee must utilize a program of internal/external audit or provide for an independent review by the mortgagee's management/supervisory personnel who are knowledgeable and have no direct mortgage servicing responsibilities. The Quality Control Plan must be implemented and maintained in such a manner consistent with its needs to assist corporate management in determining the accuracy, validity and completeness of its mortgage servicing function. This plan must also enable corporate management to determine whether HUD's requirements (as stated in HUD Handbook 4060.1, Mortgagee Approval Handbook -- and the requirements of Mortgagee Letters 89-32 and 93-14) and the mortgagee's policies and procedures are being followed by its personnel. The plan must be comprehensive and include all servicing issues, including Equity Skimming violations. It should evidence a representative statistical sampling of all FHA-insured mortgages serviced. (Quality Control regarding acquisition of the property may be found in Chapter 9, Paragraph 9-2B.)

NOTE: Upon verbal or written request, a mortgagee must provide a copy of its quality control plan to HUD.

D. HUD Participation. Generally, HUD will not become involved in the servicing of any account except in response to a request from the mortgagee, the mortgagor, or a HUD-approved counseling agency. HUD staff, or the staff of a HUD-approved counseling agency acting with the consent of the mortgagor, may request information on individual accounts. Mortgagees are required to provide such information upon verbal or written request (24 CFR 203.508).

E. Retention Of Record. All servicing files must be retained for a minimum of the life of the mortgage plus three years. (See Paragraphs 10-17 and 10-34 for

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Section 235 mortgages and see Paragraph 9-16 for cases resulting in a claim filed with HUD.)

F. Transferring Of Files. Upon the transfer of servicing and/or the sale of a mortgage, all servicing records are to be transferred to the new servicer or mortgagee. (Also, see Paragraphs 10-17, 10-26 and 10-33 for Section 235 mortgages.)

NOTE: Missing records/documentation can be very costly to mortgagees, especially with respect to escrow accounts, MIP, Section 235 subsidy, and Claims for Insurance Benefits.

When a HUD-insured mortgage is purchased, HUD will hold the acquiring mortgagee responsible for obtaining the complete file including origination as well as servicing records (either on microfilm and/or paper copy) from the selling mortgagee or its servicer.

1. Microfilming Documents. At the discretion of the mortgagee, documentation may be microfilmed if the mortgagee systematically engages in the copying of the entire file with the exception of the original security instruments which were recorded (i.e., all other documents, notes, forms and records related to each specific case).

NOTE: The original Mortgage, Mortgage Note or Deed of Trust, and the Mortgage Insurance Certificate must be preserved for all HUD-insured mortgages.

The original security instruments are to be preserved for the following reasons:

a. jurisdictions differ in their requirements with respect to the practice of recording Mortgage Notes and/or Deeds of Trust, and it may be impossible in some areas to obtain a court certified copy of these origination documents at the time of conveyance of the property or assignment of the mortgage; and

b. to maintain consistent record keeping practices by mortgagees nationwide.

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Any mortgagee electing to store its documentation (other than security instruments) on microfilm will be held responsible for verifying that the microfilm is of sufficient quality to provide legible hard copies prior to the disposition of the original paper files.

2. Availability of Records. Upon verbal or written request, mortgagees shall make available to HUD staff legible hard copies of the microfilmed material within 24 hours of the request. This requirement includes all servicing information and related data as well as the entire loan origination file.

1-5 SERVICER'S RESPONSIBILITY (24 CFR 203.508). Servicers are not restricted to geographic areas when servicing insured mortgages. They must, however, establish adequate facilities to assure that mortgage loan information is promptly made available to mortgagors and HUD

staff when needed. The servicer's staff shall also be readily available to mortgagors for individual consultation.

Servicers must establish written procedures and controls to assure prompt response to inquiries, including procedures and controls to assure prompt response to inquiries from persons who, by reason related to their race, color, sex, religion, national origin, familial status or handicap, may be unable to take advantage of the normal means of communication provided by the servicer. One or more of the means of communication listed below is required.

A. Location And Staffing. The office must be sufficiently staffed with trained personnel competent in all aspects of mortgage servicing, including field collection and counseling activities, in order to adequately meet HUD requirements. Mortgagees are expected to be alert to the servicing problems associated with increasing inventory size and to take active steps to cope with those problems. Mortgagors must be served by non-discriminatory servicers and mortgagees must practice equal employment opportunity.

NOTE: Complete records on each case need not be maintained in these offices, but the staff must be able to secure such information and pass it on to the mortgagor without undue delay.

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B. Toll-free And/Or Collect-calling Telephone Service. Mortgagors must have access to a toll-free telephone number and/or a collect-calling service to an office that is sufficiently staffed to provide information and assistance in a timely manner. In addition, sufficient telephone lines must be installed to accommodate mortgagors. The maximum distance from which the mortgagee must accept collect calls is the distance from the mortgaged property to the mortgagee's nearest office which has the information needed.

C. End-of-Year Statement. Provide each mortgagor within 30 days after the end of each calendar year a statement of the interest paid and of the taxes disbursed from the escrow account during the preceding year. (With respect to Section 235 mortgages, see Paragraph 10-35.) At the mortgagor's request, the mortgagee shall furnish a statement of the escrow account sufficient to enable him/her to reconcile the account.

1-6 MORTGAGOR EDUCATION. To ensure to the extent possible that the mortgagor realizes what will be expected of him/her in complying with the terms and conditions of the mortgage, the mortgagee shall develop means of informing the mortgagor of his rights and responsibilities. At closing, the mortgagee shall make certain that the mortgagor has

been informed of his/her rights and responsibilities as well as those of the mortgagee and HUD in connection with the insured mortgage. A face-to-face meeting between the mortgagor and a mortgagee employee is required in most cases at or before closing. While a face-to-face discussion between the mortgagor and mortgagee servicing staff is desirable, a brochure may be used as an aid in this process. A mortgagor education should include, but not necessarily limited to, a discussion of the following:

A.current escrow requirements;

B.possible future changes in escrow requirements because of changes in property taxes and insurance premiums;

C.benefits of a prompt payment record and problems created by slow payment;

D.due date of mortgage payments and prepayment policy;

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E.the responsibilities and obligations of home ownership as opposed to tenancy;

F.responsibility for the maintenance and upkeep of the property;

G.the importance of notifying the mortgagee promptly of any circumstance that might prevent making timely payments; and

H.the kind of account information that will be made available routinely to the mortgagor, without request, and how additional information can be secured if needed. (This information should also include toll-free telephone numbers and/or numbers where collect calls will be accepted.)

1-7CHANGE OF SERVICER (24 CFR 203.502). Whenever servicing is transferred, the transferring servicer shall notify or arrange to notify the mortgagor in a mailing that reaches the mortgagor no later than 10 days before the due date of the first payment to the new servicer.

This notice shall include the name, address, and telephone number of the new servicer and include any special instructions for handling payments during the conversion period. The new servicer shall notify HUD within 15 days of the transfer of servicing. (See Paragraph 6-11B).

1-8DIFFERENCES IN MORTGAGORS (24 CFR 203.600). Mortgagees are expected to devise servicing techniques that enable them to deal effectively with differences in mortgagors. Many complex servicing problems arise from irregular employment, low income, and a general lack of financial

management experience. A flexible servicing program that recognizes differences in mortgagors' individual characteristics and circumstances can do much to minimize the adverse effects of these problems.

1-9 DELINQUENCY AND DEFAULT COUNSELING

A.Mortgagees must notify homeowners no later than 45 days after the delinquency occurs of the availability of homeownership counseling. (See Paragraph 7-7H.)

B.Mortgagees may obtain copies of the list of HUD-approved housing counseling agencies from HUD Field

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Offices. Request copies of the nationwide list from the Single Family Servicing Division in HUD Headquarters.

C.Mortgagees may provide the counseling agency list or a HUD toll-free telephone number to mortgagors with any collection letter as long as the list is provided no later than 45 days after the occurrence of the delinquency. In addition, mortgagees must include, with HUD Assignment Program Letters 1 and 3, a list of HUD Approved Housing Counseling Agencies or the HUD Nationwide toll-free telephone number (1-800-569-4287) by which the mortgagor may obtain a list of HUD Approved Housing Counseling Agencies.

NOTE:If there are no HUD-approved housing counseling agencies nearby, the homeowner whose mortgage is delinquent, then those agencies located in the adjoining city, county, or state shall be recommended by the mortgagee.

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