**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of December 21, 2017**



*December 21, 2017 Contents*

[Section 232 Documents – Current Date Extended, New Drafts FORTHCOMING](#_Toc501606637)

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[Environmental Review for Section 232 Asset Management Transactions](#_Toc501606640)

[Risk Notification](#_Toc501606641)

[Document Links Included In This Blast](#_Toc501606642)



**Section 232 Documents – Current Date Extended, New Drafts FORTHCOMING**

ORCF will soon be publishing the revised Section 232 documents for a second round of public comments.  This 30-day comment period will be announced in the Federal Register, so please be on the lookout for the announcement.  We encourage you to read, consider, and submit your comments.

Please also note that the current document collection has received OMB approval to extend its expiration date until March 31, 2018 (or until the collection is renewed, whichever occurs first). Even though the printed expiration date is June 30, 2017, they are remain in effect through the March 2018.

Additionally, please be aware that the draft documents published in the Federal Register, and posted on our website for public comment in May 2017, are not OMB-approved documents, and are **not** available for use in application submissions.

***Keywords:*** *Section 232 Documents*

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**ORCF Using Digital Signatures to Sign Firm Commitments**

The Office of Residential Care Facilities (ORCF) is now using digital signatures to sign Firm Commitments. Lenders will no longer receive a hard copy Firm Commitment. All other parts of the process will remain the same.

***Keywords:*** *Firm Commitments*

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**Non-Critical Repair Escrow** **(NCRE) Request Clarification**

Non-Critical Repair Escrow (NCRE) releases on all loans closed **on or after** July 20, 2015 will be conducted by ORCF’s closing team, as a post-closing item handled by the assigned ORCF Closer. NCRE submissions on these loans should be submitted via email to:  232NCRrequest@hud.gov.  If you submit these through the ORCF Portal, the requests will be returned as disapproved and you will be asked to resubmit to the 232NCRrequest@hud.gov mailbox. For loans closed **before** July 20, 2015, please submit NCRE releases through the ORCF Portal; these requests will be handled by the Asset Management assigned Account Executive. Eventually, all NCRE requests will be processed through the Portal but ORCF requests that the described process be followed until further notice.

***Keywords:*** *Non-Critical Repair Escrow*

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**Environmental Review for Section 232 Asset Management Transactions**

The Healthcare Regulatory Agreements for Borrower, Operator and Master Tenant require written approval from HUD prior to remodeling, adding to, subtracting from, reconstructing, or demolishing a portion of the mortgaged project. As previously stated in the Capital Improvements Application Checklist ([here](https://www.hud.gov/sites/documents/CapImpr_Chklst.docx)), **“remodeling”** is defined as repairs/improvements that constitute **“Substantial Rehabilitation”** (Please see Handbook 4232.1, Section II, Chapter 2.6.B).  When HUD’s approval is required for these activities, an environmental review pursuant to 24 CFR Part 50 is first necessary (Please see Handbook 4232.1, Section III, Chapter 3.4 on Request to Release or Modify Original Loan Collateral). This is consistent with language per 24 CFR Part 50.3(i)(4), which states a new Phase I ESA in accordance with ASTM E 1527-13 (or the most recent edition) is required if the activity being approved involves:

1. Significant ground disturbance (digging) or construction not contemplated in the original application.
2. A change in land use not contemplated by the original risk-based mitigation conducted on the site (i.e., from commercial to residential).
3. Site expansion or addition.
4. Any other activities that may result in contaminant exposure pathways or activities not contemplated in the original application.

Environmental reviews are not required when requesting a release from the Reserve for Replacements or Residual Receipts, unless the request is for funds to cover the expense of “remodeling” as described above.

Please note: this guidance applies to all ORCF projects, not just ones in Florida discussed in the November 17, 2017 Email Blast on emergency generator installations.

***Keywords:*** *Environmental Reviews*

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**Risk Notification**

Handbook 4232.1, Section III, Chapter 3.10 ([here](https://www.hud.gov/sites/documents/42321S3C3HSGH.PDF)), addresses situations in which the lender must promptly notify ORCF of the owner/operator’s plan to address risks identified in HUD-insured healthcare facilities. Such notifications are to address the risks by identifying mitigants and assessing any obstacles to implementing them. This includes consideration of projected timelines, identification of appropriate responsible persons, and consideration of required financial resources.

Several lenders are not proactively notifying the ORCF AE prior to requests for updates. Per Chapter 3.10, lenders are expected to take a proactive role in monitoring and reporting risk factors such as declining financial indicators, and owner/operator non-compliance with reporting requirements (Operating financials, Owner’s financials, Audited financials, adverse CMS ratings, Survey Issues, Delinquency/Default reports REAC responses, etc.).

Lenders should keep the following in mind when preparing their risk notification to ORCF.

1. Identify risk indicators promptly, and get ahead of your ORCF AE in communicating the problems.
2. An optional form, Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy, is available [(here)](https://www.hud.gov/sites/documents/93334_orcf.docx).
3. Although using this form is optional for lenders, they may find it a convenient tool for clearly and concisely conveying the relevant information, including improvement plans.
4. For lenders who choose to use the form, please do not combine or delete sections, or otherwise alter the document’s format; maintaining the format facilitates efficient review by ORCF staff. You need only complete those sections of the form that are relevant to the notification you are providing. Check only those relevant boxes on the first page of the form and use the hyperlink provided to skip to those sections to be completed.

Also, lenders should keep in mind that the lender-ORCF communication is ongoing. Thus, if the lender’s ongoing monitoring indicates that timelines and goals are not being met, the lender should follow up with the owner/operator for updated plans, and then promptly update your ORCF Account Executive.

***Keywords:*** *Risk Notification*

**Document Links Included In This Blast**

1. [Capital Improvements Application Checklist](https://www.hud.gov/sites/documents/CapImpr_Chklst.docx)
2. [Servicer’s Notification to HUD of Risks to Healthcare Project and Action Plan for Remedy](https://www.hud.gov/sites/documents/93334_orcf.docx)

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Past Lean 232 Updates are [available online](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/mail_blast_index).

Have questions about the Lean 232 Program? Please contact LeanThinking@hud.gov.

For more information on the Lean 232 Program, check out: <http://www.hud.gov/healthcare>.

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of November 13, 2017**



*November 13, 2017 Contents*

[Environmental Guidance In Response to Florida’s Emergency Generator Requirements](#_Toc498337900)

[Document Links Included In This Blast](#_Toc498337901)



**Environmental Guidance In Response to Florida’s Emergency Generator Requirements**

The Office of Residential Care Facilities (ORCF) is providing the following guidance pertaining to Florida’s Emergency Generator Rules (assisted living facilities ([here](http://www.flgov.com/wp-content/uploads/2017/09/EN_DEA.pdf)) and skilled nursing facilities ([here](https://www.ahca.myflorida.com/Executive/Communications/Press_Releases/pdf/59AER17.pdf))).  Although an Administrative Law Judge’s order ([here](https://www.doah.state.fl.us/ROS/2017/17005388.pdf)) has stated that the Emergency Generator Rules are invalid, the State of Florida’s Agency for Health Care Administration and Department of Elder Affairs have filed a Notice of Administrative Appeal ([here](https://edca.1dca.org/DCADocs/2017/4534/174534_24_10302017_08150176_i.pdf)).

Given the current circumstances at the Florida state level, ORCF is providing the following reminders regarding issues that may arise at facilities installing generators.

Consistent with ORCF’s Regulatory Agreements and the Section 232 Handbook (4232.1), installing aboveground storage tanks, generators and/or related components will generally not constitute “remodeling” or other modifications to the collateral securing a currently FHA-insured mortgage, and will therefore not trigger an environmental review.  However, ORCF offers the following to help borrowers and lenders ensure compliance with HUD Environmental Requirements related to installing storage tanks:

* **Aboveground Storage Tanks (ASTs)**: Projects adding ASTs must follow the Section 232 Handbook, Production Chapter 7.5.G.4 requirements.  Specifically, projects adding ASTs must:
	+ Obtain documentation confirming that the AST conforms to all applicable state and local permit requirements;
	+ Obtain and submit to HUD a permit, conformance letter or other form of assurance from a local authority that specifically addresses the safety of the AST:
		- **Projects with a permit, conformance letter or other assurance** may be asked to submit documentation of Acceptable Separation Distance (ASD) calculations between the tank and any buildings and outdoor areas of congregation;
		- **Projects unable to obtain a permit, conformance letter or other assurance** must submit documentation of Acceptable Separation Distance (ASD) calculations between the tank and any buildings and outdoor areas of congregation, and may need to complete remediation or mitigation acceptable to HUD.
* **Underground Storage Tanks (USTs):** The Office of Residential Care Facilities will perform an environmental review in accordance with 24 CFR Part 50 on projects contemplating the installation of an Underground Storage Tank (UST).

Lenders should immediately determine if any projects they service in Florida intend to install Underground Storage Tanks to comply with the emergency rule.  If so, they should contact their Account Executives to discuss the specific situation and to immediately begin the process for coordinating an Environmental Review (e.g. State Historic Preservation Office Letter and Phase I Report).

The circumstances in Florida regarding emergency generators are also very relevant in ORCF Production activities.  In that regard, and consistent with Section Handbook, Production, Chapter 7.2 B.1, Lenders with a submitted Florida ORCF application must evaluate their submission to assure compliance with any applicable Florida emergency generator requirements and must provide ORCF evidence of this compliance.  Lenders currently preparing applications must, before submission, confirm such compliance and include evidence of compliance in their application.  Facilities not in compliance with Florida’s law relating to emergency generators must include in the firm application – as critical repairs – any repairs needed to assure compliance.

***Keywords:***Generator, Environmental

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**Document Links Included In This Blast**

1. [58AER17-1 Procedures Regarding Emergency Environmental Control for Assisted Living Facilities](http://www.flgov.com/wp-content/uploads/2017/09/EN_DEA.pdf)
2. [59AER17-1 Nursing Home Emergency Power Plan](https://www.ahca.myflorida.com/Executive/Communications/Press_Releases/pdf/59AER17.pdf)
3. [Florida Administrative Law Judge Order](https://www.doah.state.fl.us/ROS/2017/17005388.pdf)
4. [Notice of Administrative Appeal](https://edca.1dca.org/DCADocs/2017/4534/174534_24_10302017_08150176_i.pdf)

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Past Lean 232 Updates are [available online](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care/mail_blast_index).

Have questions about the Lean 232 Program? Please contact LeanThinking@hud.gov.

For more information on the Lean 232 Program, check out: [https://www.hud.gov/federal\_housing\_administration/healthcare\_facilities/residential\_care](https://www.hud.gov/federal_housing_administration/healthcare_facilities/residential_care%20) .

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of October 25, 2017**



*October 25, 2017 Contents*

[Reminder Regarding Section 1616e Requirements for Board and Care Homes](#_Toc495933851)

[Calculating Fidelity Bond Coverage](#_Toc495933852)

[Reminder on Valuation of Medicaid Waivers](#_Toc495933853)

[Change in Legal Review Process – No Upfront (Part 1) Legal Reviews for Applications with Master Leases or Accounts Receivable (AR) Financing](#_Toc495933854)

[PAY.GOV – Payment of Section 232 Program Fees](#_Toc495933855)

[FROM THE CLOSING CORNER](#_Toc495933856)

[Important Reminder for Closing Documents Routed for ORCF Signature](#_Toc495933857)

[Reminder for New Construction Final Closings](#_Toc495933858)

[Document Links Included In This Blast](#_Toc495933859)



**Reminder Regarding Section 1616e Requirements for Board and Care Homes**

The Section 232 Handbook, Section II, Production, Chapter 2.2.D sets forth the programmatic requirements for insuring Board and Care Homes pursuant to Section 232.  Those requirements largely originate in the 232 statute itself.  Key among those are the statutory requirements that the state where the facility is located is in compliance with Section 1616e of the Social Security Act (known as the “Keys Amendment”), AND that the facility itself is regulated by the state pursuant to Section 1616e.  Note on this last point that the requirement is not only that the facility be regulated, but that it be regulated specifically pursuant to 1616e.

States report compliance with 1616e annually to the Social Security Administration, and, per the statute, the lender must verify that such certification of compliance has been provided.  The certification itself, however, does not necessarily address the other matter, namely, whether the particular facility type at issue is in fact within the state’s 1616e regulatory scope.  If the state’s certification does not make that clear, the lender must do sufficient investigation to present evidence establishing that this statutory requirement is fulfilled. The lender must resolve this issue clearly before submitting the application, or the application will be at risk of rejection for statutory non-compliance.

***Keywords:*** *Board and Care, Section 1616e*

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**Calculating Fidelity Bond Coverage**

The fidelity bond coverage requirement in Handbook 4232.1, Section II, Chapter 8.8.N, requires at least two months of “actual gross potential income.”  ORCF recognizes this quoted term is more commonly used for multi-family facilities and may cause confusion when calculating fidelity bond coverage for residential care facilities, given how rates per resident can vary with payor source and care level. Given these circumstances, the lender may use effective gross income as the closest available approximation of “actual gross potential income.”

***Keywords:*** *Fidelity Bond Insurance*

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**Reminder on Valuation of Medicaid Waivers**

As a reminder, Handbook 4232.1, Section II, Chapter 5.3.R.4 [here](https://www.hud.gov/sites/documents/42321S2C5HSGH.PDF) states, *In projecting all sources of income for the subject property, consideration should be given to foreseeable changes in competitive market conditions that will affect current occupancy, payer mix, and rate levels. Examples include changes in: the condition of state finances, state laws offering alternative forms of housing types, reimbursement structures, and competitors in the marketplace.*

States are increasingly relying on Medicaid Waivers to provide services in a variety of non-institutional settings, (such as ALFs, the NY Assisted Living Program and the Illinois Supportive Living Program). When a project is heavily reliant on this income source, it is important to ensure that this funding source remains stable.  Thus, for example, an operator's reliance on a Medicaid Waiver that expired and is being extended only briefly--pending CMS's decision on a longer-term waiver request--is problematic.  In such an instance, the long-term availability of the funding source is unclear.

Additional information on the status of State Medicaid Waivers can be found on Medicaid’s website [here.](https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/waivers_faceted.html)

***Keywords:*** *Valuation, State Risk*

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**Change in Legal Review Process – No Upfront (Part 1) Legal Reviews for Applications with Master Leases or Accounts Receivable (AR) Financing**

ORCF is no longer requiring upfront (Part 1) Legal reviews for applications with Master Leases or AR Financing, except for applications requiring a Corporate Credit Review.  Master Leases and AR Financing should be using standardized forms and following published guidance, therefore upfront review is not necessary.  Reviews of these items will be conducted as part of the Closing process, and any deviations from the standard forms or published guidance could cause delays to the Closing.  An OGC Closing Attorney assignment will be made when the project will be presented to Loan Committee.  The related contact information and instruction will be provided in the Firm Commitment email.

Note that the ORCF Underwriter MAY request an OGC review in situations where help is needed drafting uncommon special conditions, when there is a waiver that hasn’t been previously approved or when there is a legal issue that could impact a Loan Committee decision.

***Keywords:*** *Legal Review, Master Lease, AR Financing*

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**PAY.GOV – Payment of Section 232 Program Fees**

It has come to the attention of ORCF that Mortgagees may not be submitting Program Fees and Charges on the correct Pay.gov form. The correct form can be accessed ([here](https://www.pay.gov/public/form/start/64315063)).

Mortgagee Letter 2014-20 published on September 18, 2014 ([here](https://www.hud.gov/sites/documents/14-20ML.PDF)) mandated Pay.gov for the payment of Section 232 Program Fees and Charges.

***Keywords:*** *Pay.gov*

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**FROM THE CLOSING CORNER**

**Important Reminder for Closing Documents Routed for ORCF Signature**

When sending closing documents in for HUD signature, please ensure that the mailing label/instructions for the Note clearly identifies the assigned HUD OGC Attorney.  Include return prepaid shipping labels/packages, along with explicit return instructions for the Note to go to the HUD OGC Closing Attorney.  ***It is of utmost importance that the HUD signer sends the Note directly to the HUD OGC Attorney.***  Your attention to this matter is appreciated.

***Keywords:*** *Closing documents*

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**Reminder for New Construction Final Closings**

In order to complete the Final Closing Title Survey Review **all parties will need to adhere to the Title and Survey Requirements for Final Closings as outlined in Handbook 4232.1, Section II:**

* Chapter 9, 9.11.B for Title Evidence at Final Endorsement – **New Title Policy required.**
* Chapter 9, Section 9.11.I – Survey - **A current Survey and Surveyor’s Certification is required within 120 days of Final Closing**.

If you have any questions, please contact your assigned ORCF Closing Coordinator.

***Keywords:*** *New Construction Final Closing*

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**Document Links Included In This Blast**

1. [Handbook 4232.1, Section II, Chapter 5.3.R.4](https://www.hud.gov/sites/documents/42321S2C5HSGH.PDF)
2. [Medicaid State Waivers List Website](https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/index.html)
3. [Pay.gov - Healthcare Program Fees Form](https://www.pay.gov/public/form/start/64315063)
4. [Mortgagee Letter 2014-20 - Section 232 Program – Implementation of Pay.gov for Program Fees](https://www.hud.gov/sites/documents/14-20ML.PDF)

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HUD’s Lean 232 Program

Office of Residential Care Facilities (ORCF)

Update as of October 13, 2017



*October 13, 2017 Contents*

[Processing Reserve for Replacement (R4R) Requests Related to Florida’s Emergency Generator Rules](#_Toc495645716)



# processing reserve for replacement (R4R) requests related to florida’s emergency Generator rules

In response to the emergency generator rules imposed by the Governor of Florida on assisted living facilities ([here](http://www.flgov.com/wp-content/uploads/2017/09/EN_DEA.pdf)) and skilled nursing facilities ([here](https://www.ahca.myflorida.com/Executive/Communications/Press_Releases/pdf/59AER17.pdf)), the Office of Residential Care Facilities (ORCF) has conducted outreach with servicing lenders to ascertain the compliance status for its entire Florida portfolio. The September 28, 2017 Email Blast affirmed that generators and related components are an eligible reserve for replacement item.

Project borrowers are encouraged to contact their servicing lender to develop a plan for achieving compliance with these rules, ensuring all HUD requirements are met in the installation of a generator.

Servicing lenders should work with their ORCF Account Executive to communicate plans for making these improvements, including obtaining a cost estimate and a timeline for the proposed work, and determining how the borrower/operator plans to fund the improvements. If outside sources of funding are being contemplated, lenders should communicate this to their Account Executive as early in the process as possible.

The September 28, 2017 Email Blast affirmed that generators and related components are an eligible reserve for replacement item. The following guidance applies specifically to R4R requests for a Section 232-insured facility in Florida coming into compliance with these rules:

* All R4R release requests for generators, storage tanks and other related components pursuant to complying with this requirement are to be sent to 232R4RRequest@hud.gov, rather than the Portal.  This applies to lenders following the established delegated approval process
* A plan should be established for replenishment of the R4R account over time, if necessary
* If the request will bring the balance of the R4R account below the $1,000 per unit recommended minimum threshold, a waiver may be considered
* The existence or non-existence of a generator on the PCNA will not be a reason on its own to deny a request
* Pursuant to 3.2.2 H.3 of the handbook, advances may be considered for this type of work
* Pursuant to 3.2.2.H.4 of the handbook, requests shall be made no more than one year after the expenditure occurred; complying with the Florida requirement will not be a rationale for waiving this requirement
* Section 3.2.2.H.5 of the handbook has guidance on delegated approval (by lenders). Generators/tanks/component improvements (as long as they meet the requirements of this section) may be processed using the delegated approval process; in these cases, the details of the approved transaction are to be sent to the 232R4RRequest@hud.gov mailbox rather than through the Portal, per above.

***Keywords:***Generator

**Submitted:** J. Robitaille (10/11)

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of September 28, 2017**



*September 28, 2017 Contents*

[Installing Emergency Generators in Existing Section 232 Projects](#_Toc494289405)

[Document Links Included In This Blast](#_Toc494289406)



**Installing Emergency Generators in Existing Section 232 Projects**

In the wake of Hurricanes Harvey and Irma, the Office of Residential Care Facilities (ORCF) is informing all borrowers and operators of projects with Section 232 Insurance, that generators and related components (e.g. pads on which they sit, fuel storage tanks, and delivery lines) are an eligible reserve for replacement item.

ORCF anticipates that Section 232 projects in impacted areas may wish to install generators, if they do not already have one.  This may be in response to new requirements, such as in Florida, where the Governor has imposed an emergency rule ([here](http://www.flgov.com/2017/09/16/gov-scott-i-am-aggressively-fighting-to-keep-vulnerable-floridians-safe-during-emergencies/)) that requires all assisted living facilities and skilled nursing facilities to have generators with enough fuel to sustain operations and comfortable temperatures for at least 96 hours after a power outage.

Lenders are encouraged to immediately discuss this issue with owners of the Section 232 insured projects they service that were impacted by power outages, or that will be impacted by this new requirement.  Such discussions should include whether the project currently meets the new requirements, and if not, what the owner’s plan is to address and fund this requirement.

If improvements to the property are needed to comply with this Florida requirement, or to more effectively prepare for future emergencies, and there are adequate reserve for replacement (R4R) funds in escrow, HUD will not object to the use of R4R funds in this manner.   For situations where the cost of these improvements would bring the reserve for replacement account below the minimum recommended threshold of $1,000 per unit, servicing lenders should contact their Account Executive.  ORCF staff will also be proactively reaching out to servicing lenders to discuss any issues they encounter in their follow-up on this issue.

***Keywords:*** *Generator, Disaster Recovery*

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**Document Links Included In This Blast**

1. [Florida Emergency Action to Force ALF/Nursing Homes to Have Generators](http://www.flgov.com/2017/09/16/gov-scott-i-am-aggressively-fighting-to-keep-vulnerable-floridians-safe-during-emergencies/)

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of August 30, 2017**



*August 30, 2017 Contents*

[Lender Deficiency Responses](file:///C%3A%5CUsers%5CH13784%5CDesktop%5CAugEmailBlast083017.docx#_Toc491867285)

[Indentifying Controlling Participants in Previous Participation Reviews](file:///C%3A%5CUsers%5CH13784%5CDesktop%5CAugEmailBlast083017.docx#_Toc491867286)

[ORCF Presentation on Webinar – September 21, 2017, 2:00 p.m. Eastern, Focusing Primarily on Owner/Operator Compliance Issues](file:///C%3A%5CUsers%5CH13784%5CDesktop%5CAugEmailBlast083017.docx#_Toc491867287)

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[Updated Closer Checklist for Section 223(f) and 223(a)(7)](file:///C%3A%5CUsers%5CH13784%5CDesktop%5CAugEmailBlast083017.docx#_Toc491867294)

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**Lender Deficiency Responses**

In response to feedback received at the ORCF Lender Dialogue Sessions in June, HUD underwriters will now include in their Lender Deficiency List email a status update on the internal HUD review.

As a reminder, the lender response to the Lender Deficiency list must include a full written response to each of the listed items, any applicable supporting documentation AND an addendum to the Lender Narrative, signed by the Lender UW, incorporating responses to all deficiency items. As noted in HUD Handbook 4232.1, Section II Production, Chapter 1.4, the Lender Narrative provides a summary of the Lender’s analysis as it relates to each exhibit in the application. It is imperative that the final version of the Lender Narrative be a complete reflection of the transaction being presented to the Loan Committee.

***Keywords:*** *Application Processing, Lender Deficiency*

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**Indentifying Controlling Participants in Previous Participation Reviews**

Housing Notice 2016-15 “*Processing Guide for Previous Participation Reviews of Prospective MFH and Healthcare Programs’ Participants*” requires lenders to identify controlling participants when a triggering event, such as a Change in Operator or a TPA occurs.  An organizational chart must be submitted for each applicable Specified Capacity (Borrower, Operator, Management Agent) when a triggering event occurs; controlling participants can be identified on the organizational chart or on a separate list, but must be identified with each triggering event.  This lender-identification process will aid in ensuring that HUD receives an appropriate Consolidated Certification form (HUD 90013-ORCF through HUD 90018-ORCF) for each controlling participant associated with a triggering event.  Failure to identify controlling participants could result in a delay in the review of the asset management transaction.

***Keywords:*** *Previous Participation Reviews*

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**ORCF Presentation on Webinar – September 21, 2017, 2:00 p.m. Eastern, Focusing Primarily on Owner/Operator Compliance Issues**

ORCF will make a presentation on a webinar on September 21, 2017.  The webinar will run from 2:00 p.m. to approximately 3:00 p.m. Eastern.  The webinar is hosted by the American Health Care Association/National Center for Assisted Living and will be open to AHCA/NCAL members and nonmembers. There is no charge for participation.  In addition to providing a brief Section 232 program overview, presentation topics will include:

* Updated procedures for assuring that Section 232 facilities are in physically sound condition
* Requirements for changes in participants of residential care facilities that currently have FHA-insured financing
* Requirements for changes in collateral of an FHA-insured facility, including capital improvements (and environmental issues associated with those improvements), changes in the number of beds, granting of easements, sale of land or other security
* Requirements in connection with taking distributions from the facility's accounts
* Updated financial reporting and record keeping requirements, including updates on using the Healthcare Portal
* The need for, and how to obtain HUD approval for secondary loans on a facility

**Speakers:**

* John Hartung, Director, Policy and Risk Analysis Division, Office of Residential Care Facilities, HUD
* Tim Gruenes, Director, Asset Management and Lender Relations Division, Office of Residential Care Facilities, HUD
* Phillip Head, Program Analyst, Office of Residential Care Facilities, HUD
* Rita Dockery, Supervisory Account Executive, Office of Residential Care Facilities, HUD

**Event Date:** September 21, 2017 – 2:00 p.m. – 3:00 p.m. (EST)

**Registration Link:** [Here](https://educate.ahcancal.org/products/2017-hud-updates-on-residential-care-facilities-asset-management)

***Keywords:*** *Webinar*

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**FROM THE CLOSING CORNER**

**Reminders:**

**Incomplete Closing Packages**

The Closing Team is re-emphasizing ORCF’s Policy regarding incomplete closing packages; incomplete closing packages will go back to the closing queue.  Complete packages address all items on the Closer Checklist. Please see the updated 223(f) Closer Checklist ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-f.docx)) and 223(a)(7) Closer Checklist ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-a7.docx)).

**Response to Review Comments**

In order to expedite closings, responses to ORCF deficiency comments will be reviewed when all items have been addressed.  ORCF Closers will not review deficiency comments until a complete response (one response with all items addressed - no "piece-meal" or separate emails) is received.

**232 HUD Fee Payments**

Please ensure HUD fee payments for 232 loans are submitted to the Office of Healthcare Program:

* Form Name: **Healthcare Program Fees**
* Application Name: **Office of Healthcare Program Fees**

***Please do not submit HUD fee payments to the Office of Multifamily Programs.***

**Portfolio Closings and Closer Assignments**

When requesting a Closer Assignment where there are multiple projects to close at the same time, please include in your request, the number of the project in the portfolio (i.e. number three of 25 deals in the portfolio) as well as the name of the portfolio and/or the name and FHA numbers of projects involved.  This information will assist ORCF in workload management and will help in the assignment of a "Lead Closer" for the Portfolio.

**Updated Closer Checklist for Section 223(f) and 223(a)(7)**

The Closer Checklists have been updated.  Please use the checklists: 223(f) Closer Checklist ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-f.docx)) and 223(a)(7) Closer Checklist ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-a7.docx)) beginning September 1, 2017.

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**Document Links Included In This Blast**

1. [Updated Section 223(f) Closer Checklist](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-f.docx)
2. [Updated Section 223(a)(7) Closer Checklist](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-a7.docx)

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Past Lean 232 Updates are [available online](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/mail_blast_index).

Have questions about the Lean 232 Program? Please contact LeanThinking@hud.gov.

For more information on the Lean 232 Program, check out: <http://www.hud.gov/healthcare>.

Have your loan servicing colleagues joined our email list? The Email Blasts contain information relevant to them as well. You might suggest they [Join here](http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L).

We hope that you will want to continue receiving information from HUD. We safeguard our lists and do not rent, sell, or permit the use of our lists by others, at any time, for any reason. If you wish to be taken off this mail list, please [go here](http://portal.hud.gov/hudportal/HUD?src=/subscribe/signup&listname=Lean%20232%20Updates&list=LEAN-232-UPDATES-L).

**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of June 28, 2017**



*June 28, 2017 Contents*

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[Updated Lender’s Preconstruction Conference Agenda, and Lender’s Preconstruction Conference Duties](#_Toc485795985)

[Updated Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work; Project Capital Needs Assessment (PCNA) Statement of Work – Section 232/223(f); and Project Capital Needs Assessment (PCNA) Statement of Work – Limited Scope - Section 232/223(a)7;](#_Toc485795986)

[Clarification on Inspection Fees For 223(f) Applications Using the Optional Process for Delegated Administration of the Non-Critical Repair Escrow](#_Toc485795987)

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**Handbook 4232.1 REV-1 Scrivener and Minor Error Corrections**

Since the January 12, 2017 publication of Handbook 4232.1 REV-1, Scrivener and other minor errors have been identified and corrected.  These corrections are reflected in the handbook posted on the Handbook 4232.1 webpage.  For a list of Scrivener and other minor error corrections, please refer to Transmittal June 26, 2017 on the handbook website ([here](https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/42321)).

***Keywords:*** *Section 232 Handbook, Scrivener Errors*

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**232 Lender Training Presentation Slides Available Online**

On June 7, 2017, ORCF held a Lender Training Session in Seattle, WA.  The focus of the training was to provide guidance for newer Lender Underwriters about 232 application submissions, reviews and closings.  Presentation slides from the training may be found on the Section 232 Program Website ([here](https://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/presentations)).

***Keywords:*** Training, Presentations

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**Updated State Risk summary grid and further clarification on Risk Mitigation Steps**

In the February 29, 2016 Email Blast ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=FebEmailBlast022316.docx)), ORCF provided the industry with an Updated State Risk Summary Grid to provide suggestions on how to address and mitigate funding and regulatory risks.

Based on lessons learned since the initial publication, ORCF has updated state risk summary grid which can be found below and ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=UpdtStRiskGrd.pdf)).

Please note that the Risk Mitigation to Consider section is not intended to be all-inclusive.  Lenders may propose alternative risk mitigation with supporting rationale for why it would address the potential risk to the same or greater extent as the Risk Mitigation included in this grid.

This grid is not meant to limit the extent of the Lender’s inquiry; ORCF expects Lenders to address State budget and regulatory constraints, as appropriate.

**Updated State Risk Summary Grid**

(Print Version [here](http://portal.hud.gov/hudportal/documents/huddoc?id=UpdtStRiskGrd.pdf))

|  |  |  |
| --- | --- | --- |
| **State Risk Category** | **Facility Characteristics** | **Risk Mitigation to Consider** |
| Medicaid Waivers (1915(c)) & Medicaid State Plan Option (1915(i)) – Final Home and Community-Based Services (HCBS) Settings Rule - high Medicaid Census & combos including SNF beds | * Non-SNFs with very high Medicaid Census (e.g., >=80%)
* Combined SNF/ALFs that rely on Medicaid for non-SNF residents whose DSCR falls below 1.0 with a minimal decline in Medicaid Census or Rate

(NOTE: CMS will require combined SNF/ALF settings to undergo “heightened scrutiny”) | Indicate whether facility is at risk of being unable to comply with the HCBS Settings Rule.  * Refer to the Statewide Transition Plan ([here](http://medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/statewide-transition-plans.html)), CMS responses to or approval of the Plan, State requirements (either enacted or proposed) and/or State Medicaid Agency Input (including documentation of a setting survey or evidence of “heightened scrutiny” having been conducted) indicating the likelihood of compliance.
* If unable to determine from the above, discuss the facility's compliance with HCBS Settings requirements ([here](https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/home-and-community-based-services/home-and-community-based-services.html)).

If facility appears unable to comply, or will be out of compliance for a time, consider including one or more of the following in the underwriting to mitigate this risk:* Subject facility’s ability to operate without Medicaid Waiver residents, including a demonstrated market and capacity for serving a different resident mix, more private pay residents, etc.;
* Long-term operating and Debt Service Escrow in an amount that adequately mitigates risk of being out of compliance for a time, a demonstrated market for private pay and a demonstrated capacity to eventually come into compliance; and/or
* Project’s ability to convert to a viable alternative residential care facility type, that a market exists and Certificate of Need process would allow for such a conversion, and the operator has financial capacity to withstand such a transition if it is anticipated that coming into compliance will not be possible.
 |
| Medicaid Reimbursement Delays | SNFs that will not have AR Financing, but that are in a state with a history of reimbursement delays | Consider including one or more of the following in the underwriting to mitigate this risk:* Evidence of a recent history (e.g. last six months) of timely payments (e.g. payments made in 60 days);
* Accounts Receivable Financing will be required for the project as a condition for firm commitment;
* Long-Term Debt Service Escrow in an amount that adequately mitigates risk of future payment delays; or
* Project’s ability to handle delayed payments without AR Financing, as evidenced by available sources of liquidity compared with the project’s material accounts receivable aged over 120 days.
 |
| State Budgetary Risk (SNFs susceptible to possible future cuts) | Projects with SNF beds whose DSCR falls below 1.0 with: * a minimal decline in Medicaid Census or Rate (e.g. <= 5%),
* a moderate decline (e.g. <=10%) in Medicaid Census or Rate and very high reliance on Medicaid (e.g. >= 80%)
 | Consider and discuss the project state’s anticipated commitment to funding skilled nursing care through Medicaid, as evidenced by: recent rate increases, anticipated budget increases, etc.  If long-term funding is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:* Project’s ability to reduce its reliance on Medicaid (increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.);
* Long-Term Debt Service Escrow in an amount that adequately mitigates against the risk of future rate decreases; and/or
* Reduced Mortgage Amount.
 |
| State Budgetary Risk (SNFs susceptible to forthcoming cuts) | Projects with SNF beds in states with proposed cuts to Medicaid provider rates whose DSCR falls below 1.0 with: * a moderate decline in Medicaid Census or Rate (e.g. <= 10%), or
* high reliance on Medicaid (e.g. >= 70%)
 | Consider and discuss the project’s ability to withstand funding cuts, as evidenced by: outline of previous instances where the project, or project participants at a different facility, successfully implemented a strategy to respond to rate decreases, or a significant decline in occupancy; or documentation verifying prospective new sources of revenue, etc.  If the project’s ability to withstand these cuts is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:* Project’s ability to reduce its reliance on Medicaid (increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.);
* Long-Term Debt Service Escrow in an amount that adequately mitigates against the risk of pending and future rate decreases; and/or
* Reduced Mortgage Amount.
 |
| Rebalancing Initiatives - Money Follows the Person (individuals with mental illness) | Projects with a current or historical concentration of MI/DD residents\* (e.g., >=25%)  | Some states intend to focus their rebalancing efforts toward moving significant numbers of mentally ill individuals to home and community-based settings.  If Lender cannot provide evidence that the subject facility does not serve a significant MI/DD resident population, Lender should consider including one or more of the following in the underwriting to mitigate this risk:* Project state’s Medicaid funding for residents with mental illness is stable;
* Project’s ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve other types of residents), that a market exists for this alternative resident type and that the operator has the financial capacity to withstand the transition;
* Long-term operating and/or Debt Service Escrow in an amount that adequately addresses the risk of losing significant Census;
* Reduced Mortgage Amount; and/or
* Project’s ability to maintain healthy Debt Service Coverage with fewer beds.
 |
| Rebalancing Initiatives - Money Follows the Person (individuals with mental illness in ICFs) | Projects with ICF beds  | Several states intend to focus their rebalancing efforts toward moving significant numbers of mentally ill individuals out of Intermediate Care Facilities for intellectually or developmentally disabled (ID/DD) populations.  Consider and discuss the project state’s commitment to funding ICFs, including confirmation that ICFs of comparable size (by # of beds) are considered a viable option. Consider and discuss the project’s ability to sustain an Olmstead challenge, possibly resulting in a significant decrease in Census.If either of the above is uncertain, Lender should consider including one or more of the following in the underwriting to mitigate this risk:* Project’s ability to convert to a viable alternative residential care facility type, that a market exists and Certificate of Need process would allow for such a conversion, and the operator has financial capacity to withstand such a transition;
* Long-term operating and/or Debt Service Escrow in an amount that adequately addresses the risk of losing significant Census; and/or
* Reduced Mortgage Amount or significant reduction in Loan Term.
 |
| Rebalancing Initiatives -Money Follows the Person (Non-Elderly, Physically Disabled) | Projects with SNF beds whose DSCR falls below 1.0 with a moderate decline in Medicaid Census or Rate (e.g. <=20%) | Several states intend to focus their rebalancing efforts toward moving significant numbers of non-elderly, physically disabled individuals out of Skilled Nursing Facilities (SNFs).  If Lender cannot provide evidence that the subject facility does not serve a significant population of non-elderly with physical disabilities, then Lender should consider including one or more of the following in the underwriting to mitigate this risk:* Project’s ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve a larger population of frail elderly in need of skilled care), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition;
* Long-Term Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;
* Reduced Mortgage Amount; and/or
* Project’s ability to maintain healthy Debt Service Coverage with fewer beds.
 |
| Rebalancing Initiatives -Money Follows the Person (Elderly) | Projects with SNF beds whose DSCR falls below 1.0 with a moderate decline in Medicaid Census or Rate (e.g. <=15%) | Several states intend to focus their rebalancing efforts toward moving significant numbers of elderly individuals out of Skilled Nursing Facilities (SNFs).  Lender should consider including one or more of the following in the underwriting to mitigate this risk:1. Project’s ability to reduce its reliance on Medicaid (by diversifying its Census mix, increasing capacity for short term rehab & Medicare patients, marketing to private pay residents, etc.), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition;
2. Long-Term Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;
3. Reduced Mortgage Amount; and/or
4. Project’s ability to maintain healthy Debt Service Coverage with fewer beds.
 |
| Olmstead Cases & Settlement Agreements (SNFs) | Projects with SNF beds in States with Olmstead Settlement Agreements or pending litigation, specifically serving a disabled population (e.g., DC, IL) or serving a concentrated population of residents with MI/DD\* (e.g., >=25%) (e.g., LA, ME, NH, TX)  | Several states have Olmstead Settlement agreements or pending Olmstead litigation which could potentially impact residents of nursing facilities with physical disabilities, mental illness (MI) or developmental disabilities (DD). If Lender cannot provide evidence that community-based care is not appropriate for the residents served, Lender should consider including one or more of the following in the underwriting to mitigate this risk:1. Sufficient evidence that the project demonstrates the ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve a larger population of frail elderly in need of skilled care), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition;
2. Long-term operating and/or Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;
3. Reduced Mortgage Amount; and/or
4. Demonstrated ability to maintain healthy Debt Service Coverage with fewer beds.
 |
| Olmstead Cases & Settlement Agreements (individuals with mental illness) | Projects with a concentrated population of residents with MI/DD (e.g., >= 25%) in States with Olmstead Settlement Agreements or pending litigation (e.g., FL, IL, IN, KY, NY, NC, VA) | Several states have Olmstead Settlement agreements or pending Olmstead litigation which could potentially impact residents with mental illness (MI) or developmental disabilities (DD). If Lender cannot provide evidence that community-based care is not appropriate for the residents served, Lender should consider including one or more of the following in the underwriting to mitigate this risk:1. Sufficient evidence that the project demonstrates the ability to reduce its reliance on Medicaid (by diversifying its Census mix or demonstrating the ability to serve a larger population of frail elderly in need of skilled care), that a market exists for this shift in residents and that the operator has the financial capacity to withstand the transition;
2. Sufficient evidence that the project demonstrates the ability to convert to a viable alternative residential care facility type, that a market exists and Certificate of Need process would allow for such a conversion, and the operator has financial capacity to withstand such a transition;
3. Long-term operating and/or Debt Service Escrow in an amount that adequately mitigates the risk of declines in Census;
4. Reduced Mortgage Amount; or
5. Demonstrated ability to maintain healthy Debt Service Coverage with fewer beds.
 |

\*NOTE: For SNFs, the number of MI/DD residents can be derived using data from CMS Form 672 related to the Mental Status of residents.  Specifically, the number of residents with an intellectual and/or developmental disability and those residents with a documented psychiatric diagnosis as their *primary* diagnosis would be considered MI/DD residents.

***Keywords:*** *State Risk, State Risk Summary Grid*

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**Updated Lender’s Preconstruction Conference Agenda, and Lender’s Preconstruction Conference Duties**

The Lender’s PreConstruction Conference Agenda ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=Pre-con_Con_Agenda.docx)), and Lender’s PreConstruction Conference Duties ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=Pre-con_Duties.docx)), have been revised and are both dated May 16, 2017.

All references to Early Commencement of Construction have been removed to be consistent with the revisions in Handbook 4232.1 REV-1.  In addition, improvements and notes were added throughout the documents.

Remember, the Lender’s PreConstruction Conference Coordinator works with ORCF’s Construction Manager, Michael Peeler, to schedule and conduct the Conference.  The Conference is scheduled only after a date for Initial Closing has been set, or an Early Start has been approved, and shall be no earlier than one week prior to Closing and/or the start of construction.

All Conferences conducted after July 1, 2017, should use these two revised documents.

***Keywords:*** *PreConstruction Conference, ORCF’s Construction Manager*

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**Updated Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work; Project Capital Needs Assessment (PCNA) Statement of Work – Section 232/223(f); and Project Capital Needs Assessment (PCNA) Statement of Work – Limited Scope - Section 232/223(a)7;**

The Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work – New Construction, Substantial Rehabilitation, and 241(a) ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=LenArCsReSOW.docx));  Project Capital Needs Assessment (PCNA) Statement of Work – Section 232/223(f) ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=PCNA_SOW.docx)); and Project Capital Needs Assessment (PCNA) Statement of Work – Limited Scope - Section 232/223(a)7 ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=PCNA_SOW_223a7.docx)), have been revised and are all dated May 16, 2017.

References to compliance with Radon requirements found in HUD Handbook 4232.1 Rev.1, Section II – Production, Chapter 7 – Environmental Review, 7.8 Radon, have been added.

All Firm Commitment Applications submitted to HUD after July 1, 2017, should use these revised statements of work.

Any questions regarding Radon should be directed to Terry Bessette, ORCF Senior Appraiser, at Terry.L.Bessette@hud.gov.

***Keywords:*** *Radon, Statement of Work, PCNA*

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**Clarification on Inspection Fees For 223(f) Applications Using the Optional Process for Delegated Administration of the Non-Critical Repair Escrow**

Handbook 4232.1 REV-1, Section II, Chapter 2.9.G.3 ([here](https://portal.hud.gov/hudportal/documents/huddoc?id=42321s2c2HSGH.pdf)) states that if the Lender elects and is approved to follow the optional process for

delegated non-critical repair escrow administration, HUD will not charge an inspection fee. **As a clarification to the October 30, 2015 Email Blast, approved lenders will not need to pay the inspection fee and receive a refund from HUD.** Please follow the guidance in Section II, Chapter 2.9.K.3.

Please review Chapter 3 of the Asset Management portion of Handbook 4232.1 REV-1, Non-Critical Repair Escrow – Chapter 3.2.4.G, for further details.  The logistics of requesting Lender approval are posted on HUD.GOV:  Request for Optional Lender Delegated Review and Approval Process ([here](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/loan_servicing/NCR)).

***Keywords:*** *Inspection Fees, Non-Critical Repair Escrow Administration*

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**Section 232 and REAC Physical Inspection Compliance**

The Office of Residential Care Facilities (ORCF) recently changed its process for addressing Real Estate Assessment Center (REAC) physical inspections.  REAC physical inspections, combined with inspections performed by State and local regulatory entities where applicable, are an integral component of HUD’s monitoring of the physical plant on Section 232’s.   ORCF will continue to work in partnership with the servicing FHA Lender to address follow-up on REAC physical inspections.

ORCF now uses a centralized process for tracking follow-up on all non-passing REAC physical inspections (below 60) and has implemented a “Rapid Response Team” (RRT) to follow up with inspection scores below 31.

Inspections with a below 31 score:  For these properties, ORCF’s RRT will coordinate the follow-up related to this physical inspection.   As soon as possible after the report is released, a site visit by an ORCF RRT member will be scheduled; this visit will include owner representatives (including on-site staff) and the servicing FHA lender will also be notified (we strongly recommend participation by the FHA servicing lender).  The site visit and follow-up by the RRT will address the owner’s plan to mitigate all deficiencies in the REAC physical inspection report, as well as other financial, operational, compliance, and quality of care issues at the property.

Inspections with a score of 31 to 59:  For these properties, the HUD assigned Account Executive will follow-up with the borrower, working in cooperation with the servicing FHA lender.

On all inspections with a score that is below 60, a Notice of Violation (NOV) of the Regulatory Agreement will be issued by either HUD’s Departmental Enforcement Center (DEC) or by ORCF staff.  The NOV will detail required owner follow-up (including the timeline for such) as well as remedies that HUD may choose to employ in the event of continued owner non-compliance.

On all inspections with a score below 60, once the deficiencies in the REAC physical inspection report have been addressed, HUD will work with REAC to have the property re-inspected.

Please see the below links for further information related to REAC physical inspections, and if you have questions about how this relates to a particular FHA Insured Section 232 property, please contact the property’s Account Executive.

Resources for REAC Inspections:

* Information for the borrower to have before the inspection: [Preparing for REAC Inspection](http://portal.hud.gov/hudportal/documents/huddoc?id=Prep4REACInspecR2Oct2016.pdf)
* Information if the property needs to request a database adjustment after the inspection: [Technical Review and Database Adjustments (TRDBA)](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/products/pass/pass_guideandrule)

***Keywords:*** *Real Estate Assessment Center (REAC), Departmental Enforcement Center (DEC), Physical Inspections*

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**FROM THE CLOSING CORNER**

**Hard Copy Submission of ORCF Closer Packages to HUD Closing Attorney**

In the February 22, 2017 Email Blast, ORCF stated ORCF Closer Packages can be submitted to the Closer electronically.  ***However***, hard copy draft submissions should continue to be provided to the HUD Closing Attorney for legal review.

***Keywords:*** *Legal Review, ORCF Closer Packages*

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**Document Links Included In This Blast**

1. [Handbook 4232.1 REV-1 Webpage](https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/42321)
2. [Updated State Risk Grid](http://portal.hud.gov/hudportal/documents/huddoc?id=UpdtStRiskGrd.pdf)
3. [June 2017 Seattle, WA Lender Training](https://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/presentations)
4. [Lender’s PreConstruction Conference Agenda](http://portal.hud.gov/hudportal/documents/huddoc?id=Pre-con_Con_Agenda.docx)
5. [Lender PreConstruction Conference Duties](http://portal.hud.gov/hudportal/documents/huddoc?id=Pre-con_Duties.docx)
6. [Lender’s Architectural Reviewer and Cost Analyst’s Statement of Work - New Construction, Substantial Rehabilitation, and 241(a)](http://portal.hud.gov/hudportal/documents/huddoc?id=LenArCsReSOW.docx)
7. [Project Capital Needs Assessment (PCNA) Statement of Work – 223(f)](http://portal.hud.gov/hudportal/documents/huddoc?id=PCNA_SOW.docx)
8. [Project Capital Needs Assessment (PCNA) Statement of Work – 223(a)7](http://portal.hud.gov/hudportal/documents/huddoc?id=PCNA_SOW_223a7.docx)
9. [Preparing for REAC Inspection](http://portal.hud.gov/hudportal/documents/huddoc?id=Prep4REACInspecR2Oct2016.pdf)
10. [Technical Review and Database Adjustments (TRDBA)](http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/products/pass/pass_guideandrule)

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of May 25, 2017**



*May 25, 2017 Contents*

[Section 232 Documents Available For Public Review and Comment](file:///J%3A%5COHP%5C232%5CTiffani%20Tyer%5CHUD.gov%5CDocuments%20for%20uploads%5CMayEmailBlast052517.docx#_Toc483313215)

[Document Links Included In This Blast](file:///J%3A%5COHP%5C232%5CTiffani%20Tyer%5CHUD.gov%5CDocuments%20for%20uploads%5CMayEmailBlast052517.docx#_Toc483313216)



**Section 232 Documents Available For Public Review and Comment**

On May 19, 2017 a Federal Register Notice ([FR-6001-N-10](https://www.federalregister.gov/documents/2017/05/19/2017-10229/60-day-notice-of-proposed-information-collection-comprehensive-listing-of-transactional-documents)) was published to open a 60-day comment period on the revised collection of Section 232 documents.  Please read, consider, and submit your comments, if any.  In order to be considered, all comments **must** be submitted **as instructed in the Federal Register**. The comment period ends July 18, 2017.

Please also note that the current document collection has received OMB approval to extend its expiration date until December 31, 2017 (or until the collection is renewed, whichever occurs first); therefore, although their printed expiration date is June 30, 2017, they are still in effect through the remainder of 2017.

***Keywords:*** *Section 232 Documents*

[Back to top](file:///J%3A%5COHP%5C232%5CTiffani%20Tyer%5CHUD.gov%5CDocuments%20for%20uploads%5CMayEmailBlast052517.docx#_top)

**Document Links Included In This Blast**

1. [Federal Register Notice (FR-6001-N-10)](https://www.federalregister.gov/documents/2017/05/19/2017-10229/60-day-notice-of-proposed-information-collection-comprehensive-listing-of-transactional-documents)

[Back to top](file:///J%3A%5COHP%5C232%5CTiffani%20Tyer%5CHUD.gov%5CDocuments%20for%20uploads%5CMayEmailBlast052517.docx#_top)

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of April 26, 2017**



*April 26, 2017 Contents*

[Radon Testing Requirements](#_Toc480183151)

[Applying Handbook 4232.1 REV-1’s Debt Seasoning Provisions](#_Toc480183152)

[Previous Participation Review Reminders](#_Toc480183153)

[Mortgagee Listed as Loss Payee on Professional Liability Insurance](#_Toc480183154)

[Current ORCF Documents Available on ORCF Program Websites](#_Toc480183155)

[Document Links Included In This Blast](#_Toc480183156)



**Radon Testing Requirements**

All applications submitted after the effective date of Handbook 4232.1 REV-1 must comply with the handbook’s radon guidelines, found in Production, Chapter 7.8.  Here are a few items to keep in mind regarding Radon Testing:

* The radon report is required for all mortgage insurance applications, unless an exception applies (See Production, Chapter 7.8.B.3 for exceptions);
* For new construction, the Radon Report is required post-construction and prior to final closing;
* For new construction, Radon resistant construction is required for all radon zones;
* For new construction and substantial rehabilitation properties, all mitigation, including follow-up testing, must be completed prior to Final Closing;
* Radon Testing is also required for existing structures and new additions;
* Some 223(a)(7) projects may qualify under 24 CFR 50.19(b)(21) as categorical exclusions from environmental review.  In these cases, a radon report may not be required.

***Keywords:*** *Radon Testing, Environmental*

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**Applying Handbook 4232.1 REV-1’s Debt Seasoning Provisions**

Production Chapter 3.13.B of Handbook 4232.1 REV-1 ([here](https://portal.hud.gov/hudportal/documents/huddoc?id=42321s2c3HSGH.pdf)), lists categories of existing indebtedness that are eligible to be included in a Section 232/223(f) loan. Section 3.13.D in turn sets forth a debt seasoning requirement for any existing indebtedness that does *not* fit within the 3.13.B listed categories and also lists some exceptions to the debt seasoning requirement.  These very limited exceptions are based *in part* on a mathematical calculation.  It is thus very important that, if you are relying on an exception to the debt seasoning requirement, you clearly set forth in the lender narrative all components and *sub-components* of that calculation. Make specific reference to the exceptions in Handbook 4232.1 REV-1 and explain how each exception applies. The HUD reviewer must be able to readily discern which items of debt you are asserting are project-related and why.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Example: |  |  |  |  |
|  |  |  |  |  |
| **Data Points Needed to Demonstrate that a Project Qualifies for Debt Seasoning Exception Described in Handbook 3.13.D** |
|  |  |  |  |  |
| **FHA#** | **Name** | **# Beds** | **Type** | **Borrower in Project Since** |
| 123-45678 | Sample Community |                        35  | ALF | 2010 |
|  |  |  |  |  |
| **Requested Mortgage Amount** | **Appraised Value** | **LTV as Presented** |  |  |
|          7,000,000  |          10,000,000  | 70.0% |  |  |
|  |  |  |  |  |
| **Existing Debt** |
| **Project** | **Date of Project-Related Debt** | **Non-Project** | **Date of Non-Project-Related Debt** | **% of existing debt that is non-project** |
|          4,875,000  |  Over 2 yrs  |          1,864,200  | Oct-16 | 27.7% |
|  |  |  |  |  |
| **Normalized NOI** |  |
| **2014** | **2015** | **2016** | **T12** | **CAGR** |
|             799,955  |             817,903  |             855,636  |             881,121  | 3.3% |

***Keywords:*** *Existing Indebtedness, Eligible Debt*

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**Previous Participation Review Reminders**

Housing Notice H16-15 implements the revised Previous Participation Rule, 24 CFR Part 200.  Section C of the H16-15 lists the filing options for each program type.  The preferred filing method is an electronic submission via the Active Partners Performance System (APPS).  A paper filing option is available.  For ORCF projects, the paper filing option is via the Consolidated Certification Previous Participation Section.  Note that Form HUD-2530 is no longer accepted for ORCF projects.

Per H16-15, when completing the previous participation certification via the Consolidated Certifications, an organization chart must be attached to the consolidated certification.  This organization chart **must** include the name of each participant, their percentage of ownership of the relevant entity and Social Security Number or Tax ID number for the controlling participants.  Lenders should carefully review the organization chart requirements listed in H16-15, Section B.  Please note that this organization chart is required as an attachment to the Consolidated Certifications even though organizational charts are currently required as separate application exhibits.  Complete and correct Consolidated Certifications must be submitted in the application.

You are reminded that Controlling Participants for Previous Participation Review purposes may not be the same as the principals for Credit Purposes (HUD Handbook 4232.1, Chapter 6).

Training was conducted for Lenders and HUD Staff on November 7, 2016 via webcast.  The archived webcast is available to view ([here](https://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/presentations)).

***Keywords:*** *Previous Participation*

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**Mortgagee Listed as Loss Payee on Professional Liability Insurance**

As a reminder, HUD is not to be listed as loss payee on Professional Liability Insurance (please see Handbook 4232.1 REV-1, Section II, Chapter 14.1.B). Any existing policies, at renewal, need to replace HUD with the Mortgagee’s name. Any future policies need to list the Mortgagee.

***Keywords:*** *Professional Liability Insurance, PLI*

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**Current ORCF Documents Available on ORCF Program Websites**

For current ORCF document use, please always check and download the current ORCF documents available on HUDClips and ORCF program websites. This will ensure you are always using the most current documents.

***Keywords:*** *ORCF Documents*

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**Document Links Included In This Blast**

1. [Previous Participation Training Webcast](https://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/presentations)

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Past Lean 232 Updates are [available online](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/mail_blast_index).

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of February 22, 2017**



*February 22, 2017 Contents*

[Implementation of Insurance Chapter Revisions in Handbook 4232.1 REV-1, Healthcare Mortgage Insurance Program is Effective January 19, 2017](#_Toc474765797)

[Selection of Appraiser - Qualifications](#_Toc474765798)

[ORCF Production Division Workload Manager Updates](#_Toc474765799)

[FROM THE CLOSING CORNER](#_Toc474765800)

[Updated Lender Non-Critical Repair Escrow Request Checklist](#_Toc474765801)

[Clarification of Acceptable Format for Section 232 Closing/Settlement Statements -](#_Toc474765802)

[ORCF Draft Closing Documents are going Electronic!](#_Toc474765803)

[Document Links Included In This Blast](#_Toc474765804)



**Implementation of Insurance Chapter Revisions in Handbook 4232.1 REV-1, Healthcare Mortgage Insurance Program is Effective January 19, 2017**

On January 12, 2017, HUD published 4232.1 REV-1, effective January 19, 2017. The January 12th Email Blast article ([here](http://portal.hud.gov/hudportal/documents/huddoc?id=JanEmailBlast01122017.docx)) announcing the publication, although speaking generally to the applicability of REV-1, did not specifically address revisions to Chapter 14, Insurance Requirements. To clarify, ORCF intends to take the same approach to implementing the *revisions* in Chapter 14 as it did to implementing Chapter 14 itself when first published in 2014. (See June 26, 2014 Email Blast, [here](http://portal.hud.gov/hudportal/documents/huddoc?id=JunEmailBlast062614.doc).) Specifically:

* **Insurance** (including property and general liability insurance, but excluding professional liability insurance):
	+ New applications received on or after January 19, 2017 will be required to comply with the new insurance requirements set forth in Handbook 4232.1 REV-1, Section II, Production, Chapter 14;
	+ new applications submitted prior to that date have the option to comply with these requirements.
	+ Existing Section 232 projects will not be required to implement these new insurance requirement revisions; however, a Project may choose to implement the changes at the time of insurance renewal, provided that the new property and general liability insurance requirements are then met in their entirety.

***Keywords:*** *Insurance Requirements, Handbook 4232.1 REV-1*

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**Selection of Appraiser - Qualifications**

As a reminder, as stated in Handbook 4232.1 REV-1, Section II, Production, Chapter 5.2:  In order to qualify as the appraiser, an individual must:

(1) personally inspect the property being appraised on the date of valuation,

(2) perform the analysis,

(3) have the necessary knowledge and experience,

(4) sign the appraisal report certification as the appraiser, and

(5) be a Certified General Appraiser in the State in which the subject property is located.

We have recently seen cases where the lender has identified the wrong individual as the appraiser in their lender narrative, naming the chief appraiser, rather than the one who performed the inspection. We have seen other cases where no single person met all the requirements for qualification because the responsibilities were spread across a team. Teamwork on appraisals is allowed, as long as at least one person meets all five requirements stated above.

***Keywords:*** *Appraisers*

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**ORCF Production Division Workload Manager Updates**

Since the beginning of 2017, ORCF has had a few Workload Manager (WLM) changes in the Production Division. Please note the following WLM updates:

* Tom McMillan, in HUD’s Los Angeles office retired in January 2017.
* Rachel Coleman, in HUD’s Minneapolis office, was added as a Workload Manager.
* ORCF also added Terry Bessette, in HUD’s Providence office, as a new Workload Manager to lead a team for environmental reviews.

***Keywords:*** *Production, Workload Manager*

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**FROM THE CLOSING CORNER**

**Updated Lender Non-Critical Repair Escrow Request Checklist**

As a follow-up to the December 21, 2016 email blast, the Lender Non-Critical Repair Escrow Request Checklists found on the ORCF website - NCRE section [here](http://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/loan_servicing/NCR)  - have been updated to clarify that a current lien search is acceptable evidence of clear title for final draw/close-out requests.

***Keywords:*** *Non-Critical Repair Escrow; NCRE*

**Clarification of Acceptable Format for Section 232 Closing/Settlement Statements -**

It is ORCF’s current policy to only accept Closing/Settlement Statements in the format of the Sources and Uses page of Maximum Insurable Loan Calculation, form HUD-92264a-ORCF, as noted on the list of required closing exhibits on the [**223(a)(7) Closer Checklist**](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-a7.docx) **and** [**223(f) Closer Checklist**](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-f.docx).  *Please ensure all Closing/Settlement Statements are submitted in this format, with the addition of Lender-required escrows as Non-Eligible Costs and signature lines for Lender and Borrower.*  This required format applies to all Section 232 programs/closings.  Should you have any questions, please contact your assigned ORCF Closing Coordinator.

***Keywords:*** *Closing Statement; Settlement Statement*

**ORCF Draft Closing Documents are going Electronic!**

In the spirit of continuous improvement, the Closing Team is requesting electronic copies of draft closing documents.  Effective immediately, ORCF Closer Packages can be submitted to the Closer electronically.  Further details will be included in the cover email sent when Firm Commitments are issued.  If you have any questions, please contact your assigned ORCF Closer.

***Keywords:*** *ORCF Closer Package; ORCF Closer Draft Closing Package*

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**Document Links Included In This Blast**

1. [Section 232 Loan Servicing Website – Non-Critical Repair](https://portal.hud.gov/hudportal/HUD?src=/federal_housing_administration/healthcare_facilities/residential_care/loan_servicing/NCR)
2. [ORCF 223(a)(7) Closer Checklist](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-a7.docx)
3. [ORCF 223(f) Closer Checklist](http://portal.hud.gov/hudportal/documents/huddoc?id=Closer_Checklist-f.docx)

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of January 12, 2017**



*January 12, 2017 Contents*

[Handbook No. 4232.1 REV-1, Healthcare Mortgage Insurance Program, is Effective January 19, 2017](#_Toc471976257)

[232 Healthcare Portal](#_Toc471976258)

[Document Links Included In This Blast](#_Toc471976259)



**Handbook No. 4232.1 REV-1, Healthcare Mortgage Insurance Program, is Effective January 19, 2017**

HUD posted to its website an update to its Healthcare Mortgage Insurance Program Handbook, Handbook No.: 4232.1 REV-1, on December 6, 2016. The effective date for the revised handbook was to be January 5, 2017. However, on that date, HUD announced that the effective date was being delayed until further notice.

The new effective date for this handbook, available [here](https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/42321), is January 19, 2017.

The updated handbook provisions will apply to all new loan applications, as well as other transactional requests for existing Section 232 projects (e.g., change of participants, Reserve for Replacement requests, etc.), received on or after January 19, 2017. Additionally, the updated handbook provisions will apply to all projects in the Section 232 portfolio, and to all lender/underwriter approval requests received on or after January 19, 2017.

If you have any questions, please contact John Hartung, at (314) 418-5238

***Keywords:*** *Handbook 4232.1 REV-1*

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**232 Healthcare Portal**

Mortgagee Letter 2017–04 ([here](https://portal.hud.gov/hudportal/documents/huddoc?id=17-04ml.pdf)) issued on January 11, 2017 announced that the 232 Healthcare Portal is now available to process asset management transactions and notifications for all Section 232 insured projects. For information on training, please email hhcp@hud.gov .

***Keywords:*** *Healthcare Portal*

**Document Links Included In This Blast**

1. [Handbook 4232.1 REV-1](https://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/handbooks/hsgh/42321)
2. [Mortgagee Letter 2017–04](https://portal.hud.gov/hudportal/documents/huddoc?id=17-04ml.pdf)

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**HUD’s Lean 232 Program**

**Office of Residential Care Facilities (ORCF)**

**Update as of JANUARY 5, 2017**



*JANUARY 5, 2017 Contents*

[**Delay in effective date of Handbook No. 4232.1 REV-1, Healthcare Mortgage Insurance Program**](#_Toc471376726)



**Delay in effective date of handbook no. 4232.1 rev-1, healthcare mortgage insurance program**

HUD posted to its website an update to its Healthcare Mortgage Insurance Program Handbook, Handbook No.: 4232.1 REV-1 on December 6, 2016.  The effective date for the revised handbook was January 5, 2017.  **This effective date is being delayed until further notice.**  A new effective date will be announced at a future time.

**Questions**

If you have any questions, please contact John Hartung, at (314) 418-5238

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