

Partial Waiver of 24 CFR § 203.604
Servicing Responsibilities, Contact with the Mortgagor

Pursuant to § 7(q) of the Department of Housing and Urban Development Act (codified at 42 U.S.C. § 3535(q)) and the waiver authority contained in 24 CFR § 5.110, I hereby partially waive the requirements of 24 CFR § 203.604, as provided in more detail below. This partial waiver is limited to § 203.604 Contact with the Mortgagor.

This extension of the partial waiver of required face-to-face contact is being issued because HUD is in the process of considering public comment to finalize rulemaking proposed to amend the current requirements of § 203.604. HUD understands that mortgagees would need to invest significant effort in staffing, contracting, and updating internal processes and borrower communications to resume the contact requirements found in the current § 203.604. HUD does not believe it is in the best interest of its Single Family Mortgage program to require mortgagees to make the described efforts for the interim period while HUD is determining how it intends to finalize the rulemaking proposed in July 2023. For additional information on HUD's proposal to revise the requirements in § 203.604, see Modernization of Engagement with Mortgagors in Default, 88 FR 49392 (July 31, 2023), available at <https://www.federalregister.gov/documents/2023/07/31/2023-16128/modernization-of-engagement-with-mortgagors-in-default>.

Therefore, considering servicer constraints, costs, and resource concerns coupled with the efficacy of the alternative methods of engagement with borrowers and HUD's forthcoming finalization of its rulemaking that proposed to revise § 203.604, HUD has determined that it is appropriate to temporarily continue the current partial waiver to allow servicers and borrowers to continue to engage using alternative communication methods provided the mortgagee complies with the following:

1. The mortgagee must establish contact with the borrower using alternative methods, e.g., phone interviews, e-mail, video calling services (e.g., Skype, Zoom, WebEx, Microsoft Teams, Facetime, GoToMeeting), other conferencing technology, etc., to meet the requirements of § 203.604 to determine the borrower's circumstances and to determine an appropriate repayment plan, as well as to: www.hud.gov espanol.hud.gov.

- i. Inform the borrower that HUD will make information regarding the status and payment history of the borrower's loan available to local credit bureaus and prospective creditors;
 - ii. Inform the borrower of other available assistance, if any; and
 - iii. Inform the borrower of the names and addresses of HUD officials to whom further communications may be addressed.
2. The mortgagee must document their contact with the borrower, following the same protocol that is currently required, noting the alternative methods of contact used in lieu of face-to-face contact.
3. The partial waiver does not apply to 24 CFR § 203.604(e)(1) Face-to-Face requirements are still in place for the Section 248 insurance program.

In support of the partial waiver, I make the following Findings and Determinations:

FINDINGS

1. HUD is in the process of updating its current servicing rule for FHA-insured forward mortgages that requires a mortgagee to conduct a face-to-face interview with the borrower. The updates include expanding the requirement to engage with all borrowers after a default and modernizing the methods by which the borrower outreach and the loss mitigation consultation may be held.
2. On July 31, 2023, HUD published proposed rule Modernization of Engagement With Mortgagors in Default in the Federal Register (88 FR 49392) and is in the process of reviewing the public comments received and finalizing the rule and associated implementation guidance.
3. HUD initially published a partial waiver of requirements in § 203.604 on March 13, 2020, and subsequently extended the partial waiver through May 31, 2024. This continued partial waiver remains necessary to continue to allow mortgagees and borrowers to efficiently and effectively conduct important conversations as part of early default intervention under FHA's default servicing requirements.
4. HUD has experienced that mortgagees have been able to successfully establish contact with borrowers through alternative methods, gather and convey required information, and determine the borrower's circumstances and appropriate repayment plans, as required by

§ 203.604 without an in person face-to-face interview. Under the partial waiver, the required substantive conversations with borrowers in default are being met, although they are being conducted using methods other than a face-to-face meeting. Mortgagees are reminded that they continue to be required to comply with FHA's robust requirements on contacting the borrower found in HUD's Single Family Housing Policy Handbook and regulations, including, but not limited to, 24 CFR § 203.604, contact with the mortgagor.

5. Without the partial waiver, the mandatory compliance with the in person face-to-face interview requirement would resume until the described rulemaking process is complete. This would cause a significant burden on mortgagees and industry partners as they ramp up efforts in terms of staffing, contracting, and updating internal processes and borrower communications, as would be necessary to resume in person contact. Moreover, HUD believes it is not reasonable to require this ramp up only for the temporary period before the final rule and implementation guidance go into effect.
6. Furthermore, requiring a temporary return to the in-person face-to-face interview requirement could result in an increase in non-compliance with FHA requirements by mortgagees as well as borrowers who do not wish to communicate in person, and such risk of non-compliance is further exacerbated by servicer staffing and resource constraints.
7. Without the partial waiver, the difficulties in resuming the in-person face-to-face interview procedures could cause additional delays in engaging with borrowers meaningfully on loss mitigation and may impact the efficacy of loss mitigation options, thereby increasing the potential risk to FHA's Mutual Mortgage Insurance Fund (MMIF).
8. HUD has seen the alternative methods of contact provided for in this waiver be successful since initially implementing the partial waiver of § 203.604. Servicers have been able to reach defaulted borrowers using the alternative communication methods as or more successfully than through using in person face-to-face interviews.

DETERMINATIONS

1. To assist in ensuring the continued efficacy of FHA servicing and early default intervention options, it is appropriate to grant a partial waiver of the current face-to-face interview requirement.

2. The granting of this partial waiver is consistent with the Department's objectives to assist borrowers with loss mitigation home retention options.
3. The granting of this partial waiver will ensure that the Department does not cause unnecessary burdens on industry partners to resume implementation of in-person face to face interviews for a temporary period before the final rule and implementation guidance are published and effective.
4. The granting of this partial waiver for a limited period will reduce potential risk to the MMIF.
5. All other requirements and guidance concerning FHA servicing in 24 CFR Part 203 remain unchanged, except for the temporary, partial waiver of § 203.604 to allow mortgagees to use alternative methods for communicating with borrowers in order to meet the goals of § 203.604.
6. Pursuant to the authority contained in 24 CFR § 5.110, the above findings constitute good cause for granting the partial waiver of § 203.604.
7. This partial waiver does not violate any statutory requirements.
8. This partial waiver will remain in effect until January 1, 2025, unless a final rule amending the provisions of § 203.604 becomes effective.

Issued: April 4, 2024
Washington, D.C.

DocuSigned by:
Julia Gordon
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Julia R. Gordon,
Assistant Secretary for Housing –
FHA Commissioner