



ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

## **Temporary, 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*, under *Mortgagee Actions* under Subpart C – *Servicing Responsibilities* of 24 CFR Part 203 Single Family Mortgage Insurance. This extension of the partial waiver of required face-to-face contact is being issued due to several reasons including, but not limited to, continued public health concerns around the spread of Coronavirus Disease 2019 (COVID-19). Pursuant to the section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), a National Emergency Concerning COVID 19 Pandemic was declared on March 13, 2020, beginning on March 1, 2020, and was last ordered to continue beyond March 1, 2022 (COVID-19 National Emergency). Absent a termination or extension of the National Emergency, it will continue through February 2023. Additionally, the Department of Health and Human Services (HHS) renewed their determination that a Public Health Emergency exists due to COVID-19 on October 13, 2022, for another ninety days (PHE Declaration).

In addition to continued concerns of COVID-19, Americans are now facing Respiratory Syncytial Virus (RSV) and increased rates of the seasonal flu. Due to this, many Americans remain concerned about, and avoid, in person contact. Moreover, the pandemic, inflation, and the job market have created a shortage of staff and resources, so servicers and their vendors are not operating at full capacity. Further, FHA notes that the use of technology during the pandemic has been successful in achieving the same goals as a face-to-face interaction thereby eliminating the need to take the risky step of returning to requiring in person contact. All these factors have also significantly increased the costs of complying with the requirement post pandemic, especially considering the success of substitute measures. Therefore, considering the existing COVID-19 National Emergency, the continuing PHE Declaration, general on-going public health concerns for many resulting from the combination of COVID-19 pandemic, RSV, seasonal flu, servicer constraints, costs, and safety concerns, HUD determines it is prudent to continue being cautious and to take steps that safeguard the health and safety of the public, federal workers, contractors and vendors.

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:

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- (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.
4. The partial waiver will be in effect until December 31, 2023.

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

FINDINGS

1. HUD's current servicing requirement for FHA-insured forward mortgages that a mortgagee must conduct a face-to-face interview with the borrower may raise safety concerns as the COVID-19 pandemic and spread of RSV and seasonal flu continue.
2. HUD recognizes that, beyond government recommendations, there is public concern about possible transmission of COVID-19, RSV, and seasonal flu from in-person contact, and that mortgagees and borrowers may be hesitant to meet in-person. This could hinder the servicing of FHA-insured loans.
3. HUD initially published a temporary partial waiver of this requirement on March 13, 2020, which through subsequent extensions continues through December 31, 2022. This continued partial waiver is necessary to continue to allow mortgagees and borrowers to proceed with 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 alternate methods, gather and convey required information, and determine the borrower's circumstances and appropriate repayment plans, as required by § 203.604, without a face-to-face interview. 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, retention of the face-to-face interview requirement for servicing FHA-insured mortgages during the COVID-19 pandemic and



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- spread of RSV and seasonal flu introduces risks of non-compliance by both mortgagees and borrowers that is further exacerbated by servicer staffing and resource constraints. Borrowers may delay contacting their mortgagee with changes to their financial situation, and mortgagees may delay compliance with FHA's servicing requirements. This could introduce increased risk of delinquency or default, as borrowers may not be provided with appropriate and timely loss mitigation options that would allow them to retain their home.
6. Without the partial waiver, retention of the face-to-face interview requirement during the COVID-19 pandemic, spread of RSV and seasonal flu, and period of servicer staffing and resource constraints could introduce increased risk to FHA's Mutual Mortgage Insurance Fund (MMIF).
  7. HUD has seen the alternative methods of contact provided for in this, and prior, waivers be successful since initially implemented. Servicers have been able to reach defaulted borrowers using these methods as or more successfully than through using face-to-face interviews.

### DETERMINATIONS

1. To assist in ensuring the continued availability of FHA servicing and early default intervention options, a partial waiver of the current face-to-face interview requirement must be granted.
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 reduce potential risk to the MMIF.
4. 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.
5. Pursuant to the authority contained in 24 CFR § 5.110, the above findings constitute good cause for granting the partial waiver of § 203.604.
6. This partial waiver does not violate any statutory requirements.

Issued December 19, 2022  
Washington, DC

<b>Julia Gordon</b>	Digitally signed by Julia Gordon Date: 2022.12.16 17:30:29 -05'00'
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Julia R. Gordon,  
Assistant Secretary for Housing –  
FHA Commissioner

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