



# Section 184 Servicing Training DAY 2

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Heidi J. Frechette

Deputy Assistant Secretary  
for Native American  
Programs



Krisa M. Johnson  
Director,  
Office of Loan Guarantee

# Office of Loan Guarantee Team Members



**Jake Coury**



**Roy Schaeffer**



**Andrika Wagstaff**



**Mansoor Deen**



**Brian Cook**



**Kevin Hickey**



Jeffery Glass

Deputy Director,  
Office of Loan Guarantee



Office of Public & Indian Housing

# Servicing Non-Performing Loans

## Loss Mitigation:

- Loan Modification -
  - Must result in a fully amortizing fixed rate loan.
  - Allows the loan to be reinstated
  - Results in payments the borrower can afford
  - 3-month trial repayment plan required

# Servicing Non-Performing Loans

## Loss Mitigation:

- Short Sale (PFS) -
  - For borrowers without the ability to reinstate the loan
  - Lenders may consider short term reduction/suspension of payments during Marketing
  - Sale of property may also require approval by the Tribe, BIA or DHHL



# Servicing Non-Performing Loans

## Loss Mitigation:

### Short Sale (PFS) -

- Only available within 120 days from default
- Requires executed agreement
- Market value must be established
- Prior HUD approval is necessary net to HUD drops below 85% of unpaid principal balance at the time of foreclosure.



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# Servicing Non-Performing Loans

## Loss Mitigation:

- Foreclosure -
  - No first notice or filing for Foreclosure prior to 120 days from default
  - Servicer must start Foreclosure within 6 months of default, unless extensions apply
  - Lenders must assign all Section 184A loans to HUD
  - Lenders have the option to assign trust land properties.



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# Servicing Non-Performing Loans

## Loss Mitigation:

- Foreclosure -
  - Section 184 and Section 184A loans are currently subject to a foreclosure and eviction moratorium as described in the DLL-2020-04.



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# Servicing Non-Performing Loans

## Loss Mitigation:

- Loan Assumption -
  - 184 loans assumable by Qualified Eligible borrower
  - Servicers must submit loan processing and underwriting documents
  - Requires HUD approval
  - Maximum fees \$500
  - Section 184A and trust land properties require additional approval



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# Servicing Non-Performing Loans

## Loss Mitigation:

- Deed-in-Lieu of Foreclosure -
  - Use if appropriate to minimize HUD's losses
  - HUD approval required
  - Must be completed within 6 months of default
- Good and Marketable Title -
  - Must be conveyed to the Secretary
  - Subordinate liens may bar acceptance



# Servicing Non-Performing Loans

## Foreclosure Sale -

- Claims without Conveyance of Title CWCOT-
  - Lender must estimate Foreclosure sale date
  - Prepare HUD-91022; *Mortgagee Notice of Foreclosure Sale, Part A*, within 45 days of sale
    - Appraisal for Adjusted Fair Market Value (AFMV)



# Servicing Non-Performing Loans

## Foreclosure Sale -

- CWCOT- continued
  - Confirm actual sale date
  - Submit HUD-91022 and appraisal at least 30 days before actual sale.
  - HUD to provide AFMV 5 days before sale
  - Foreclosure sale bidding



# Servicing Non-Performing Loans

Time Requirement:

*Reasonable Diligence Timeframe (RDT)*

First Legal Actions To Initiate Foreclosure And Reasonable Diligence Timeframes (Effective 1/1/2016)

<https://www.hud.gov/sites/documents/16-03ML.PDF>



## Servicing Non-Performing Loans

Assignment of the Section 184 or 184A loan to HUD:

- Lenders must provide all available Loss Mitigation options to all borrowers
- Loans should be assigned within 180 days, if the borrower is not performing on an approved Loss Mitigation plan or prohibited due to bankruptcy
- HUD anticipates minimal P&P expenses



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# Auto-Extensions

## Automatic Extensions to HUD's Initiation of Foreclosure Timeline

Extension	Description
Bankruptcy	Mortgagees are allowed an automatic 90-Day extension from the date of the applicable release of stay or bankruptcy discharge date.
Presidentially-Declared Major Disaster Areas	Mortgagees are allowed an automatic 90-Day extension from the date the foreclosure moratorium expires.
Loss Mitigation	Mortgagees are allowed an automatic 90-Day extension from the first legal action initiating foreclosure if they have evaluated and approved a Borrower for loss mitigation before the expiration of that first legal timeframe and need additional time to send and receive back the executed documents or to initiate foreclosure.
Special Forbearance	Mortgagees are allowed an automatic 90-Day extension from the failure of a Special Forbearance (SFB) – Unemployment or completion of a SFB to review for additional loss mitigation options or to initiate foreclosure.

*ONAP will be issuing COVID-19 National Emergency guidelines for PDMDA.*



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# Auto-Extensions

## Automatic Extensions to HUD's Initiation of Foreclosure Timeline

Extension	Description
Pre-Foreclosure Sale (PFS or short sale)	Mortgagees are allowed an automatic 90-Day extension from the expiration of the PFS marketing period to pursue a deed-in-lieu (DIL) of foreclosure or to initiate foreclosure if a qualified offer is not obtained.
State Law Prohibition	Mortgagees are allowed an automatic 90-Day extension from the expiration of the time during which the foreclosure is prohibited or delayed due to state law prohibitions.
Trial Payment Plans	Mortgagees are allowed an automatic 90-Day extension from the date the trial payment plan fails.



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# Auto-Extensions

## Automatic Extensions to HUD's Initiation of Foreclosure Timeline

Extension	Description
Trial Payment Plans	Mortgagees are allowed an automatic 90-Day extension from the date the trial payment plan fails.
Servicemembers Civil Relief Act (SCRA)	Mortgagees are allowed an automatic 90-Day extension from the date the SCRA foreclosure moratorium expires.
Loss Mitigation Denial	Mortgagees are allowed an automatic 90-Day extension, from the date the borrower has been denied loss mitigation, to comply with the appeals process required by federal regulation.
Federal Regulation	Mortgagees are allowed up to a 90-Day extension after the expiration of the time during which foreclosure is prohibited by federal regulation.



# Extension Requests

- Extension for delays beyond the lenders control
- Lender must keep an audit trail and chronology to support any delay
- Automatic extensions apply and must be fully documented



# Inspections

- Initial property inspection
- Occupancy inspections
- Initial vacant inspection
- Continued vacant inspections



## Inspections

All inspections must be performed in accordance with HUD's requirements. This includes:

- Before and after photographs; all photographs must be time stamped and dated
- All copies of paid invoices or receipts or other documentation supporting all property preservation expenses claimed by the lender; and
- A chronology of the lender's property P&P actions.



# Property Preservation

## Property Preservation Fee Schedule:

<https://www.hud.gov/sites/documents/16-02ML.PDF>



# Property Preservation

## Key Requirements:

- Secure windows and doors
- Protect plumbing and other operating systems from freezing
- Debris removal interior and exterior



## Property Preservation

Expenses over the Allowable costs:

- The lender must request approval for over-allowable costs from HUD
- HUD Form 50002 *Request to Exceed Cost and Protection Limits for Preservation* must be submitted with all supporting documentation:
- The Maximum Property Preservation Allowance is \$5,000



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# Property Preservation HUD Form 50002

## Request to Exceed Cost and Protection Limits for Preservation

U.S. Department of Housing and  
Urban Development  
Office of Housing  
Federal Housing Commissioner

OMB Approval No. 2502-0429  
Exp. 09/30/2020

Department of HUD

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Mortgagee Name and Address

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dear \_\_\_\_\_:

SUBJECT: Request for Variance from Preservation and Protection Schedule

FHA Case No.: \_\_\_\_\_

Date of Vacancy: \_\_\_\_\_

Mtgee Loan No.: \_\_\_\_\_

Date of Foreclosure Sale: \_\_\_\_\_

Mortgagor's Name: \_\_\_\_\_

Date Deed Recorded: \_\_\_\_\_

Property Address: \_\_\_\_\_

Expected Conveyance Date: \_\_\_\_\_

Zip Code: \_\_\_\_\_

Permission is requested to perform the following services (all applicable estimates and required documentation are attached):

<u>Service</u>	<u>Cost</u>	<u>Remarks</u>
_____	\$ _____	_____
_____	\$ _____	_____
_____	\$ _____	_____
<b>(1) TOTAL</b>	<b>\$ _____</b>	_____

Preservation and Protection Costs Expended to Date (excluding inspections):

<u>Service</u>	<u>Cost</u>
_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____
<b>(2) TOTAL</b>	<b>\$ _____</b>

(NOTE: Expenses listed in item  
(2) must be consistent with HUD  
P&P limits and/or guidance and  
are subject to further verification.)

Submitted By: \_\_\_\_\_ Title: \_\_\_\_\_

Signature: \_\_\_\_\_ Phone: \_\_\_\_\_

[ ] Please fax your response to Fax No.: (\_\_\_\_) \_\_\_\_\_



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# Property Preservation

## HUD Form 50002

Check appropriate box

**REQUEST TO EXCEED COST LIMIT APPROVED:**

For the subject case, HUD authorizes additional expenditures for:

- debris removal up to a maximum of
- boarding up to a maximum of
- winterization up to a maximum of
- other: \_\_\_\_\_

\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_  
\$ \_\_\_\_\_

- (3) Total Additional Expenditures Approved Not to Exceed: \$ \_\_\_\_\_  
 (4) Total Authorization Not to Exceed [item (2) + item (3)]: \$ \_\_\_\_\_

**REQUEST TO EXCEED COST LIMIT DENIED: (include reason/explanation for denial)**

Date Mortgagee's Request Received: \_\_\_\_\_

Date Response Provided to Mortgagee: \_\_\_\_\_

Date of Approval/Denial: \_\_\_\_\_

Approved By: \_\_\_\_\_

Public reporting burden for this collection of information is estimated to average .25 minutes per response, including the time for reviewing instructions, searching existing data sources, gather and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information is required in order to administer the Mortgage Insurance Program (24 CFR Part 203). This information is required to request permission to exceed cost limits when preservation and protection efforts cannot be performed in a specific jurisdiction for the costs prescribed. If HUD did not collect this information, it would prevent timely preservation and protection efforts, increased losses to HUD's Insurance Fund and would prolong the conveyances of properties to HUD. While no assurances of confidentiality are pledged to respondents, HUD generally discloses this data only in response to a Freedom of Information request.



# Property Preservation Appeals

- The lender may submit an appeal of an initial over-allowable decision to the attention of the Office of Loan Guarantee Deputy Director.
- The decision on the second appeal is final and no further appeals will be accepted.



# Conveyance Property Condition

- Delivery of the property to HUD
- Conveyance of Damaged Properties
- Conveyance of Fire Damaged Properties
- Hazard Insurance Recovery
- Evidence of vandalism or theft
- HUD Acceptance of Responsibility
- Damage discovered during HUD's first inspection
- Property Damage and Restoration



## More Information

- [Section 184 Lenders](#)
- HUD/Office of Native American Programs  
451 7<sup>th</sup> Street, SW Room 4108  
Washington, DC 20410
- Toll Free: 1-800-561-5913 ONAP Hotline



Questions?