



FHA INFO 2024-34

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### Reimbursement of Attorney's Fees in Judicial Foreclosure Actions where there is an FHA Subordinate Lien

Today, the Federal Housing Administration (FHA) published the following Frequently Asked Question (FAQ) to address inquiries received from stakeholders regarding reimbursement of attorney's fees for judicial foreclosures in states where non-judicial foreclosure is the preferred method of foreclosure, but a mortgagee determines to proceed judicially due to the presence of an FHA subordinate lien:

**Q. If the mortgagee proceeds with judicial foreclosure due to the presence of a federal lien, such as a Secretary-held lien, in a state where non-judicial foreclosure is the preferred method as listed in Appendix 5.0 of the [Single Family Housing Policy Handbook 4000.1](#) (Handbook 4000.1), will the mortgagee be reimbursed for attorney's fees that exceed the amount provided under the preferred method of foreclosure?**

A. Yes. If the mortgagee proceeds with a judicial foreclosure due to the presence of a subordinate federal lien, such as a Secretary-held lien, in a state where non-judicial foreclosure is the preferred method as listed in Appendix 5.0 of the [Single Family Housing Policy Handbook 4000.1](#) (Handbook 4000.1), HUD will consider judicial foreclosure to be the preferred method of foreclosure notwithstanding Appendix 5.0 of Handbook 4000.1. Therefore, HUD will reimburse attorney's fees where the mortgagee submits a breakdown for reasonable and customary attorney's fees that exceed the amount provided under the non-judicial foreclosure based on the Fannie Mae Allowable Foreclosure Attorney Fees Exhibit, as required under [Allowable Foreclosure Attorney Fees and Fees Associated with Bankruptcy Clearance, Possessory Actions, and Completion of a DIL \(III.A.2.t.ii.\(F\)\)](#) and [For Amounts Exceeding the Maximum Fee and Not Provided for in HUD Schedule \(IV.A.2.a.ii\(K\)\(1\)\(b\)\)](#).

FHA has been assessing feedback received from various stakeholders as it continues evaluating its policy regarding subordinate federal liens and the nonjudicial foreclosure process.

Stakeholders are encouraged to review the FAQ and contact the FHA Resource Center if there are additional questions.

**Need Support? Contact the FHA Resource Center.**

- Visit our knowledge base to obtain answers to frequently asked questions 24/7 at [www.hud.gov/answers](http://www.hud.gov/answers).
- E-mail [answers@hud.gov](mailto:answers@hud.gov). Emails and phone messages will be responded to during normal hours of operation, 8:00 AM to 8:00 PM (Eastern), Monday through Friday on all non-Federal holidays.
- Call 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number by calling the Federal Relay Service at 1-800-877-8339.

**About FHA INFO**

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