



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

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

**January 3, 2011**

**MORTGAGEE LETTER 2011-01**

**TO: ALL HUD-APPROVED MORTGAGEES  
ALL HUD-APPROVED HOUSING COUNSELING AGENCIES**

**SUBJECT: Home Equity Conversion Mortgage Property Charge Loss Mitigation**

This Mortgagee Letter provides loss mitigation guidance for the resolution of Home Equity Conversion Mortgages (HECM) that are delinquent due to unpaid property charges and mortgages wherein due and payable requests were previously deferred by HUD.<sup>1</sup> The guidance in this Mortgagee Letter applies to all HECMs where the mortgagor is delinquent in paying property charges or the mortgagee has advanced corporate funds to satisfy an unpaid property charge on behalf of the mortgagor, or both.

**Background**

The HUD regulations contain specific requirements governing the payment of property charges by the mortgagor and the actions mortgagees may take when payments are not made by the mortgagor. Regulations at 24 CFR § 206.27(b)(2) states, in part, that “[t]he mortgagor shall maintain hazard insurance on the property in an amount acceptable to the Secretary and the mortgagee.” In addition, § 206.27(b)(6) states that “[t]he mortgagor must pay taxes, hazard insurance premiums, ground rents and assessments in a timely manner, except to the extent such property charges are paid by the mortgagee in accordance with § 206.205.” Section 206.205(c) states, in part, that, “[i]f a pattern of missed payments occurs, the mortgagee may establish procedures to pay the property charges from the mortgagor’s funds as if the mortgagor elected to have the mortgagee pay the property charges under this section.” Section 206.205(c) also provides that the mortgagee may make payments on behalf of the mortgagor from the mortgagor’s available funds (*i.e.*, mortgagor’s remaining principal limit). However, once the mortgagor’s available funds are exhausted, the mortgagee must advance its own corporate funds to protect HUD’s interest in the property, and the mortgagee should then seek reimbursement from the mortgagor.

When the mortgagor fails to pay a property charge as required by the provisions of the mortgage, the mortgage is deemed to be out of compliance with FHA requirements and FHA considers the mortgage to be delinquent. Mortgagees, however, must begin working with the mortgagor to bring the mortgage back into compliance at the earliest possible point. It is only after all applicable loss mitigation strategies have been exhausted that the mortgagee may submit a due and payable request to HUD. While it is HUD’s goal to avoid foreclosures as a result of unpaid property charges, mortgagors must comply with the terms of their mortgage, and mortgagees must comply with FHA requirements including the regulations as clarified in pertinent policy issuances.

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<sup>1</sup> During June 2007 through April 2009, HUD received and approved requests from lenders to defer foreclosing on mortgages when the mortgagor failed to pay taxes and hazard insurance premiums as required by the mortgage. Requests to defer foreclosure were not requests for the Secretary to approve due and payable requests as found in 24 CFR 206.125.

## **Reporting Delinquencies to HUD**

HUD's regulations at § 206.27(b)(2) and (b)(6) respectively require the mortgagor to maintain hazard insurance on the mortgaged property, and pay all pertinent property charges in a timely manner. When mortgagors fail to comply with the provisions of their mortgage and the mortgagee receives notification of the delinquency, paragraph 1-11 of HUD Handbook 4060.1 REV-2 requires mortgagees to report such delinquencies to HUD when requested.

HUD is updating the HECM Insurance Accounting Collection System (IACS) to allow for the collection and monitoring of delinquent loans. As of the date of this Mortgagee Letter, mortgagees shall report to HUD all loans in their respective portfolios that are delinquent, including any loan where the mortgagor is on a repayment plan or in a deferred status. To complete the initial reporting, mortgagees shall submit a Microsoft Excel file via email to: [HECMAdmin@hud.gov](mailto:HECMAdmin@hud.gov) by February 7, 2011. Mortgagees must follow the formatting instructions attached to this Mortgagee Letter for reporting delinquencies to HUD. Mortgagees should not construe reporting a delinquency to HUD to be the equivalent of requesting permission and approval from HUD to call a mortgage due and payable.

Mortgagees shall report future delinquencies involving property charges either by submitting a monthly Excel file to HUD five (5) calendar days prior to the end of the current month that delinquencies occur, or by manually updating IACS as delinquencies occur. Reports must include corporate advances for unpaid property charges and amounts repaid by the mortgagor.

## **Loss Mitigation Option**

When a mortgagee receives notice of a mortgagor's failure to pay property charges, the FHA considers the mortgage to be delinquent. Thus, the mortgage may not be assigned to HUD pursuant to the assignment option (*See* 24 CFR 206.107(a)(1)). Within thirty (30) days of the first missed property charge payment, the mortgagee must inform the mortgagor that an obligation of the mortgage has not been performed, and the mortgage is not in compliance with the FHA requirements. The mortgagee must also offer loss mitigation options to allow the mortgagor the opportunity to bring the mortgage into compliance.

Loss mitigation options available to mortgagors who have a delinquent mortgage due to unpaid property charges must include, but are not limited to:

- (1) Establishing a realistic repayment plan for the delinquent property charge(s);
- (2) Contacting a HUD-approved Housing Counseling Agency (HCA) to receive free assistance in finding some viable resolution to their delinquency, or identifying local resources available to provide funds or homestead exemptions; and
- (3) Refinancing the delinquent HECM to a new HECM if there is sufficient equity to satisfy the existing mortgage and outstanding property charges.

### *Repayment Schedule*

Mortgagees should use the table below to establish repayment due dates for payment plans. Mortgagors may repay corporate advances in full prior to the established repayment due date. Mortgagees may also use a repayment plan in conjunction with other loss mitigation options, especially when the sum of the corporate advances is in excess of \$5,000. If the mortgagor provides evidence to the mortgagee that they are unable to repay the arrearage within the allotted timeframe below, mortgagees may, at their discretion, extend the repayment term up to twenty-four (24) months regardless of the amount of the corporate advance. In no case, may any repayment plan extend past twenty-four (24) months.

Mortgagees are not permitted to charge a fee or interest for repayment plans.

<b>Corporate Amount Advanced</b>	<b>Repayment Schedule</b>
\$1 - \$500	up to 3 months
\$501 - \$1,000	up to 6 months
\$1,001 - \$5,000	up to 12 months
\$5,001 or more	up to 24 months

### *Issuance of Property Charge Delinquency Letter*

For HECM loans that are delinquent due to unpaid property charges, including any loans in which due and payable requests were previously deferred, mortgagees shall provide a Property Charge Delinquency Letter (Letter) to mortgagors. The Letter must:

- (1) provide a thirty (30) day period in which the mortgagor must respond and arrange to cure the delinquency;
- (2) encourage mortgagors to seek the assistance of an HCA; and
- (3) provide a list of all loss mitigation options available to mortgagors to cure the delinquency.

When referring mortgagors to an HCA, the mortgagee must also provide:

- (1) the contact information for person(s) at the mortgagee's office who the counselor may contact directly to make inquiries or discuss the mortgagor's loan and financial circumstances; and
- (2) the length of time the counselor has to identify a viable solution that may assist the borrower with curing the delinquency, or any alternative steps to address the unpaid property charges.

In order to prevent overburdening mortgagees and HCAs, HUD will allow a staggered approach to the mailing of Letters. Mortgagees shall have until April 29, 2011, to send all Letters to mortgagors with loans that are delinquent as of the date of this Mortgagee Letter. Thereafter, Letters must be sent as soon as the mortgagee receives notice of a missed payment for property charges.

Attached to this Mortgagee Letter is a model Letter that may be used by mortgagees. Mortgagees may vary the actual structure of the letter, but should include the substantive information included in the attached model Letter.

Mortgagees are not required to send a Letter to mortgagors who are currently on a repayment plan, and in compliance with the terms and conditions of their respective repayment plan. For existing repayment plans where the mortgagor has failed to comply with the terms of the repayment plan, the mortgagee should make an effort to renegotiate the plan's provisions prior to mailing a Letter to the mortgagor.

### **Requesting Due and Payable**

HUD regulations at 24 CFR § 206.125(a) require mortgagees to notify HUD whenever the mortgagee determines the mortgage is due and payable as the result of the mortgagor's failure to perform an obligation of the mortgage, *i.e.*, non-payment of property charges. Mortgagees shall submit due and payable requests to HUD's National Servicing Center if a mortgagor is unwilling to reimburse the mortgagee for property charges advanced on their behalf, or when all applicable loss mitigation options have been exhausted, and the mortgagor is unable to cure the delinquency. Due and payable requests may be submitted by email to [HECMServiceing@clstulsa.org](mailto:HECMServiceing@clstulsa.org), or mailed to:

U.S. Department of Housing and Urban Development  
National Servicing Center - C&L Service Corporation  
2488 East 81<sup>st</sup> Street, Suite 700  
Tulsa, OK 74137  
Toll Free: (877) 622-8525  
Local: (918) 935-2900  
Fax: (918) 935-2994

Mortgagees must include documentation of their efforts to resolve the delinquency as part of their due and payable request. Mortgagees are required to provide specific documentation that supports multiple and earnest attempts to contact the mortgagor in order to cure the delinquency.

HUD shall require mortgagees to continue loss mitigation efforts when the documentation provided by the mortgagee does not demonstrate an earnest attempt to collaborate with the mortgagor to cure the delinquency.

Mortgagees should inform the mortgagor that they have thirty (30) days to respond to the due and payable notice. As a reminder, informing the borrower of HUD's approval of a due and payable request starts the timeline for when mortgagees must initiate first legal action to foreclose. All due and payable notification letters sent to mortgagors must provide all available options to cure the delinquency and avoid foreclosure. The notification should also remind the mortgagor that if either a refinance of the current HECM, or repayment plan are not viable options, the mortgagor may choose to sell the property or execute a deed in lieu of foreclosure. Mortgagees should review HUD Handbook 4330.1, paragraph 13-33 for model language that may be included in the mortgagee's due and payable notice. HUD also encourages mortgagees to refer mortgagors to an HCA. Where the mortgagor fails to correct the delinquency and does not proceed to sell the property or execute a deed in lieu of foreclosure, the mortgagee must initiate foreclosure as required under 24 CFR § 206.125(d).

## Curing the Delinquency

When the mortgagor becomes current on all property charges and repays all corporate advances made by the mortgagee to cover property charges, the mortgagor will then be considered in compliance with the terms of the mortgage and if all other FHA requirements have been satisfied, the mortgagee may then request to assign the mortgage to the Department pursuant to 24 CFR § 206.107. Mortgagees shall follow existing procedures for submitting assignment requests, including documentation confirming the mortgage is in compliance with all FHA requirements.

In cases involving HECMs that are not in compliance with FHA requirements for reasons other than failure to pay property charges ( *i.e.* property does not serve as the mortgagor's principal residence, repairs are not completed, etc.) the mortgagee must follow current HUD requirements, and the mortgage may not be assigned to HUD pursuant to § 206.107.

As future delinquencies occur, mortgagees must comply with existing policy guidance and applicable timeframes as found in HUD's regulations, handbooks, mortgagee letters, and any subsequent policy guidance. Consistent with the purposes and intentions of the HECM program, mortgagees are encouraged to make every effort to assist mortgagors in correcting delinquencies and retaining their homes. Foreclosure is and must remain a method of last resort for the resolution of unpaid property charges. Mortgagees should be proactive and pursue early intervention to avoid future delinquencies.

If you should have any questions concerning this Mortgagee Letter, please call the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

/s/

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David H. Stevens  
Assistant Secretary for Housing-  
Federal Housing Commissioner

Attachments:

[HECM Delinquent Loan Data Reporting Procedures](#)  
[Model Property Charge Delinquency Letter](#)

**Paperwork Reduction Act:** The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0429. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection displays a currently valid OMB Control Number.