



ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

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

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Mortgagee Letter 2012-23

To **All FHA-Approved Mortgagees**

Subject **Guidance for FHA-Approved Mortgagees Originating and Servicing Mortgages in Presidentially-Declared Major Disaster Areas**

Purpose This Mortgagee Letter (“ML”) provides general guidance to FHA-approved mortgagees with loans in any Presidentially-Declared Major Disaster Areas (“Disaster Areas”). Further specific guidance for individual disasters may be communicated as necessary.

I. Help for Disaster Victims A moratorium on foreclosures on properties located in Disaster Areas is in effect for a ninety (90) day period from the date of the Disaster Area declaration. The moratorium applies to the initiation of foreclosures AND foreclosures already in process. For additional guidance, see ML 05-33.

Mortgagees should also direct affected borrowers with additional questions to FHA’s “Disaster Relief Options for FHA Homeowners” page, which may be accessed via the following link:
http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/q_aho0121.

II. Servicing Actions In addition to the moratorium, servicers should consider affected mortgagors for the full range of loss mitigation options such as special forbearance, mortgage modification, partial claim, FHA HAMP or other refinance options, and waiver of late charges to assist FHA homeowners affected by the disaster. After the expiration of the foreclosure moratorium, lenders are encouraged to consider alternatives to foreclosure such as pre-foreclosure sales and deeds in lieu of foreclosure if the homeowner is not in a position to “cure” the mortgage delinquency. Refer to ML 00-5 for FHA program requirements and incentive payments associated with the above referenced servicing approaches.

As outlined in ML 12-19, mortgagees must follow standard hazard and flood procedures, including assuring that hazard insurance claims are filed and settled expeditiously. Mortgagees must release homeowners' hazard insurance proceeds to the mortgagor, as appropriate, and must not retain hazard insurance proceeds to make up an existing arrearage without the written consent of the mortgagor.

III. Inspection and Repair Escrow Requirements for Pending Loans

The following table shows inspection and repair escrow requirements that apply to loans on properties that have not yet closed:

Pending Loan Closure	
If ...	Then ...
The loan is not closed,	Inspect the property to determine if damage exists. Provide on-site inspection with interior/exterior photos.
No damage exists,	Close loan and document inspection
Damage exists but is below \$5,000 and property is habitable,	Complete repairs and close loan or establish repair escrow and close loan.
Damage exists and is above \$5,000 or property is not habitable,	Do not close loan. Repairs must be complete prior to closing.
When...	Then...
Repairs above \$5,000 are completed and inspected with interior/exterior photos,	Document inspection and close loan.

IV. Inspection and Repair Escrow Requirements for Pending Endorsements

The following table shows inspection and escrow requirements that apply to loans on properties that have closed but are not yet endorsed:

Loans Pending Endorsement	
If...	Then...
The loan is closed but not yet endorsed,	Inspect the property to determine if damage exists. Provide drive-by inspection with exterior photos.
No damage exists,	Endorse loan and document inspection.
Damage exists but is below \$5,000 and property is habitable,	Complete repairs and endorse loan or establish repair escrow and endorse loan.
Damage exists and is above \$5,000 or property is not habitable,	Do not endorse loan.
When...	Then...
Repairs above \$5,000 are completed and inspected with interior/exterior photos,	Document inspection and endorse loan.

V. Inspection Criteria, Damage Thresholds and Repair Requirements

All properties with pending loans or endorsements in Disaster Areas must have a damage inspection report that identifies and quantifies dwelling damage. The damage inspection report must be completed by an FHA Roster Appraiser even if the inspection shows no damage to the property and the report must be dated after the Incident Period (as defined on FEMA's website located at <http://www.fema.gov/disasters>). FHA does not require a specific form for a damage inspection report.

For loans that have not yet closed, FHA requires:

- An on-site inspection with interior/exterior photos;
- A statement as to dwelling habitability; and
- A statement as to whether sustained damage is
 - below \$5,000; or
 - above \$5,000.

For closed but not endorsed loans, FHA requires:

- A drive-by inspection with exterior photos;
- A statement as to dwelling habitability; and
- A statement as to whether sustained damage is
 - below \$5,000; or
 - above \$5,000.

**Inspection
Criteria,
Damage
Thresholds and
Repair
Requirements
(Cont.)**

For damage less than \$5,000, the appraiser must provide the lender with a damage inspection report that includes an itemized repair estimate with costs. If the damage inspection report provided by the appraiser reveals damage in excess of \$5,000, the lender must obtain an itemized estimate from a qualified third-party, such as a licensed contractor or insurance company.

In recognizing that utilities may not yet be restored in affected areas, FHA does not require the appraiser to ensure utilities are on at the time of this inspection.

Damage inspections should be completed by the original appraiser. However, if the original appraiser is not available, another FHA Roster Appraiser in good standing and having geographic competence in the affected market may be used. If the lender uses a different appraiser to inspect the property, the appraiser performing the damage inspection must be provided with a complete copy of the original appraisal.

All damages must be repaired by licensed contractors or per local jurisdictional requirements. All damages, regardless of amount, must be repaired and the property restored to pre-loss condition with appropriate and applicable documentation.

**VI. Pre-Closing
Appraisal
Validity in
Disaster Areas**

For loans that are not closed prior to the Incident Period in Disaster Areas where a damage inspection report reveals property damage, the appraisal validity period is extended from 120 days to a maximum of one year from the effective date of the original appraisal.

In no instance will an appraisal be acceptable for loan closing that has an effective date beyond one year. Loans with appraisals having effective dates in excess of one year will require a new appraisal.

Guidance contained in this ML is applicable only to Disaster Areas and does not change existing guidance found in ML 09-30 *Appraisal Validity Periods*. Please follow the link below to view this ML.

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/2009ml.cfm>

**VII. Final
Repair
Inspection and
Reporting
Requirements**

When repairs are complete on properties where loans have not closed, a final on-site inspection with interior/exterior photos is required by an FHA Roster Appraiser. The Fannie Mae form 1004D Appraisal Update and/or Completion Report must be used to determine if there has been a change in the value of the property and to confirm that repairs are complete. An appraisal update may only be performed by the original appraiser.

For loans that have not yet closed, FHA requires form 1004D Parts A and B be completed by the original appraiser. If the market value has declined since the effective date of the original appraisal, a new appraisal is required that supports the loan amount prior to closing.

For closed loans that are not yet endorsed, FHA requires form 1004D Part B only. This form can be completed by any FHA Roster Appraiser in good standing.

The use of this form does not extend the appraisal validity period of the original appraisal beyond one year as noted in section VI of this ML. Please follow the link below to view ML 09-51 *Adoption of the Appraisal Update and/or Completion Report (Fannie Mae Form 1004D/Freddie Mac Form 442/March 2005)*

<http://www.hud.gov/offices/adm/hudclips/letters/mortgagee/2009ml.cfm>

**VIII.
Endorsement
Instructions in
FHAC**

The appraisal validity period extension applies only to properties located in Disaster Areas with sustained damage. Lenders must indicate that the property is located in a Disaster Area and has sustained damage when insuring the loan in FHAC.

**IX. Streamline
Refinances**

The guidance in information blocks III through VIII of this ML do not apply to streamline refinance loans where FHA does not require an appraisal. Therefore, streamline refinances that do not require an appraisal are allowed to proceed to closing and/or endorsement without any additional requirements.

**X. Section
203(h)
Mortgage
Insurance for
Disaster
Victims**

HUD has a special mortgage insurance program under Section 203(h) of the National Housing Act to assist disaster victims. Under this program, individuals or families whose residences were destroyed or damaged to such an extent that reconstruction or replacement is necessary are eligible for 100 percent financing. The previous residence must have been in the disaster area and the borrower may have been the owner of the property or a renter of the property affected. For further guidance on the Section 203(h) program, see HUD Handbook 4155.1 6.A.6.

**XI. Section
203(k)
Rehabilitation
Mortgages**

The requirement for a dwelling to be completed more than one year preceding the date of the application for mortgage insurance under Section 203(k) does not apply to properties in the disaster area. Damaged residences are eligible for Section 203(k) mortgage insurance regardless of the age of the property. The residences need only to have been completed and ready for occupancy for

eligibility under Section 203(k). The percentage of financing, however, is determined by the type of mortgage being made, i.e., normal loan-to-value ratios apply to Section 203(k) mortgages made in these areas. The mortgage insurance premium is the same for all other Section 203(k) mortgages. For further information on FHA's 203(k) program visit HUD's 203(k) website at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/203k/203kmenu.

XII. Properties located within the Coastal Barrier Resource System

In accordance with the Coastal Barrier Resource Act a property is not eligible for FHA mortgage insurance if the improvements are or are proposed to be located within the Coastal Barrier Resource System. For further information see ML 10-43.

Information Collection Requirements

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 2502-0059. 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.

Questions

Any questions regarding this ML may be directed to the FHA Resource Center at (800) 225-5342. Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this ML, please visit www.hud.gov/answers.

Signature

Carol J. Galante
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