



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

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

May 31, 2013

**MORTGAGEE LETTER 2013-19**

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**To** **All Approved Mortgagees**

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**Subject** **Partial Claim Documentation and Delivery Requirements**

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**Purpose** The purpose of this Mortgagee Letter is to:

- Remind mortgagees of the procedures for preparing partial claim documents, calculating claim amounts and submitting partial claim documents to HUD, and
- Describe the penalties for a mortgagee's noncompliance with HUD's partial claim regulations at 24 CFR § 203.371.

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**Effective Date** This Mortgage Letter is effective 60 days from the publication date.

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**Affected Policy** The policies set forth in this Mortgagee Letter modify or supersede, where there is conflict, Mortgagee Letter 2012-22, 2009-23, Mortgagee Letter 2008-21, and Mortgagee Letter 2003-19 (Sections H, Q, and R).

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**Background on Documentation of Partial Claims** The proper recordation and submission of a mortgagee's documentation for partial claims is essential. Currently, FHA has a high volume of missing partial claim documents due to mortgagees' failures to comply with HUD's procedures for recording and submitting security instruments.

Procedures for preparing partial claim documents, calculating correct claim amounts, and delivering documents to HUD's loan servicing contractor are reiterated in this Mortgagee Letter. Failure to provide proper documentation may result in such penalties as the mortgagee reimbursing HUD the full amount of the partial claim, in addition to the partial claim incentive fee.

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**Required Documentation for Partial Claims** A promissory note must be executed in the name of the Secretary, and a partial claim mortgage must be obtained and recorded. The partial claim note and mortgage must include:

- The provisions of HUD's model partial claim note (Attachment 1) and partial claim mortgage (Attachment 2), and
- Any amendments as required by state laws.

While HUD provides a model partial claim mortgage and note, mortgagees are encouraged to review these documents, make modifications as needed to comply with applicable state and local requirements, and have their counsel review these documents for legal sufficiency.

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**Legal Fees and Foreclosure Costs for Partial Claims**

Legal fees and foreclosure costs actually incurred as of the date of the foreclosure cancellation can be included in the partial claim amount. However, in no case will FHA reimburse attorney's fees in excess of the HUD schedule of standard attorney fees attached to Mortgagee Letter 2005-30. Likewise, any amounts claimed for an incomplete foreclosure must be for work actually performed.

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**Calculation of FHA-HAMP Partial Claim Amount**

The maximum partial claim amount under FHA-HAMP is 30 percent (30%) of the outstanding principal balance as of the date of default. The 30% maximum partial claim that is allowed for a borrower or set of borrowers is described in ML 2012-22. An FHA streamlined refinance or change in FHA case numbers does not reset this 30% maximum.

The partial claim documentation received by HUD should always support the amount claimed by the mortgagee, and no corrective partial claims should be necessary. Partial claim documents received by HUD that do not fully support the amount claimed by the mortgagee will be considered incomplete and, unless corrected, will not satisfy the 6-month deadline for mortgagees to provide complete partial claim documents to HUD's servicing contractor in accordance with the "Delivery of Partial Claim Documents" provisions below.

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**Execution of Partial Claim Documents**

If a partial claim is accompanied by a modification, before final execution of a promissory note and partial claim mortgage associated with a partial claim, the mortgagor must successfully complete the Trial Payment Plan, as referenced in Mortgagee Letter 2012-22. If a standalone partial claim is being used pursuant to Mortgagee Letter 2012-22, a Trial Payment must also be successfully completed prior to executing the final documents.

HUD must receive a partial claim submission within 60 days of the execution date of the promissory note and partial claim mortgage in order for the mortgagee to be eligible to receive a partial claim incentive fee of \$500.

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**Reconciliation of Partial Claim Proceeds to Promissory Note Amounts**

Mortgagees are responsible for ensuring the accuracy of the promissory note and partial claim mortgage prior to filing claims. There should be no discrepancies because mortgagees file the claims after the execution of these documents. Mortgagees are also responsible for reconciling the partial claim proceeds received from HUD with the promissory note amount.

In the event the mortgagee miscalculated the partial claim amount, resulting in an overpayment to the mortgagee, the overpaid amount must be remitted immediately to HUD's loan servicing contractor as a payment to reduce the balance of the borrower's debt to HUD. In the event the mortgagee claimed less than the actual note amount, the mortgagee will absorb the cost of the miscalculation. No corrective partial claims will be accepted.

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**Delivery of Partial Claim Documents**

Mortgagees are responsible for delivering the original promissory note and recorded mortgage to HUD's loan servicing contractor no later than six (6) months from the execution date of the partial claim note and security instruments. The following is the contact information for HUD's loan servicing contractor:

DEVAL, LLC  
 1255 Corporate Drive , Suite 300  
 Irving, TX 75038  
 Toll Free: 877-622-8525  
 Direct Phone: 469-647-4450  
 Local Fax: 469-647-4451

Mortgagees should use a cover letter, listing the FHA Case Numbers of the documents being delivered. HUD's loan servicing contractor will return a copy of the cover letter acknowledging receipt of the documents or noting any discrepancies.

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**Requests for Extensions of Time for Delivery of Documents**

Mortgagees are to periodically check on the status of all unreturned, recorded documents. When recorded documents cannot be forwarded to HUD timely due to delays in the Land Records Office, mortgagees must request an extension of time from HUD's National Servicing Center (NSC). The NSC may grant extensions of time when document delivery is delayed by events beyond the mortgagee's control. Only extreme circumstances will be considered valid reasons for delays.

Extension requests must be submitted through HUD's Extensions and Variances Automated Requests System (EVARS). Mortgagees should check Box 7, "Unable to submit recorded partial claim mortgage within 6 months of execution § 203.371," and the mortgagee must enter the number of days needed to meet HUD's delivery requirements.

Under the section “Basis for Extension Request,” the mortgagee must indicate the reason for the delay.

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**Mortgagee  
Reimbursement  
of Full Claim  
Amount**

Pursuant to 24 CFR § 203.371(d), if the mortgagee does not provide HUD with the original promissory note and security instruments related to the partial claim within the prescribed deadlines, the mortgagee will be required to reimburse the **full** claim amount, including the incentive fee.

The full claim amount is the amount of the insurance benefits consisting of the arrearage, principal deferment if necessary, and any HUD-allowed costs related to the default.

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**Enforcement  
Timeline**

Subsequent to the effective date of this mortgagee letter, HUD will begin issuing demand letters for the full reimbursement of all amounts associated with overdue partial claim documents.

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**Information  
Collection**

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 Numbers 2502-0429 and 2502-0589. 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.

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**Questions**

Questions regarding this Mortgagee Letter may be directed to HUD’s NSC at (877) 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339.

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**Signature**

Carol J. Galante  
Assistant Secretary for Housing-Federal Housing Commissioner

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