



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

September 15, 2015

Mortgagee Letter 2015-20

To	All FHA-Approved Mortgagees, Single Family Servicing Managers
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Subject	Revision of Notice to Occupants of Pending Acquisition (NOPA)
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Purpose	The purpose of this Mortgagee Letter is to provide a revised Sample Notice to Occupants of Pending Acquisition (NOPA) and to eliminate references to occupancy rights under the Protecting Tenants at Foreclosure Act (PTFA), which has expired.
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Effective Date	Mortgagees must begin using the revised NOPA and its attachments, with additional changes as required by federal, state, or local law, no later than November 1, 2015.
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Affected Policy	The policies set forth in this Mortgagee Letter modify or supersede, where there is conflict, guidance provided in Mortgagee Letter 2012-6 (published on March 16, 2012).
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Revised Notice to Occupants of Pending Acquisition	<p>At least 60 calendar days, but not more than 90 calendar days before the mortgagee reasonably expects to acquire title to a property securing an FHA-insured mortgage, the mortgagee shall notify the mortgagor and each head of household occupying a unit of the property about the potential of the mortgagee conveying the property to HUD following foreclosure. The notice(s) shall:</p> <ul style="list-style-type: none">• provide a summary of the conditions under which continued occupancy may be permissible;• provide other information as specified in 24 CFR § 203.675(b); and• be sent via U.S. Postal Service or another mail service via certified mail or some other service that ensures receipt of the NOPA by occupants.
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This Mortgagee Letter includes the following:

- A sample of the Notice to Occupants of Pending Acquisition (NOPA)
- *Request for Occupied Conveyance* – [form HUD-9539](#) (NOPA Attachment 1)
- *Conditions for Continued Occupancy*(NOPA Attachment 3)
- *Temporary Nature of Continued Occupancy* (NOPA Attachment 4)

Mortgagees must make any additional changes to the revised sample NOPA that are required to be compliant with federal, state, or local laws. In addition, Mortgagees may use their company’s proprietary standard employment verification form for NOPA Attachment 2.

To access the above-referenced NOPA and Attachments 3 and 4, Mortgagees must visit HUD’s Single Family Mortgages Documents page at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/model_documents.

Notice to HUD and Subsequent Action

The mortgagee shall provide an electronic copy of each NOPA to HUD’s Mortgagee Compliance Manager (MCM) together with all documentation and information obtained regarding existing leases and tenancies. All NOPA notices, documentation and information shall be uploaded through HUD’s P260 Lender Portal at:

https://www.hudp260.com/Pages/Resources/hudtraining_mm3_lenders.aspx.

Contact information for the HUD MCM is available at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/mcm.

If the occupant responds to the NOPA and HUD approves an occupant’s request for occupied conveyance, the mortgagee shall convey the property occupied under HUD’s existing occupied conveyance procedures, included in 24 CFR § 203.670–681.

If HUD denies an occupant’s request for occupied conveyance, the mortgagee must determine if there is some other occupancy protection for the occupant under federal, state, or local law, and comply with all applicable requirements before taking possessory action.

Additional Time for Compliance with Applicable Law

Under 24 CFR § 203.356(b), mortgagees must exercise “reasonable diligence” in prosecuting foreclosure proceedings and in acquiring title to and possession of the foreclosed property. The additional time needed under applicable federal, state, or local laws to obtain possession of a property is taken into consideration when evaluating compliance with HUD’s reasonable diligence timeframe. Upon the expiration period associated with the applicable occupancy rights, mortgagees are expected to proceed promptly with possessory actions.

Rent Collection Mortgagees must attempt to collect rents payable under bona fide leases and tenancies providing post-foreclosure occupancy rights and, in the event of default, to take possessory action pursuant to the rental contract terms and applicable law.

Any rents received by a mortgagee during the term of the bona fide lease or tenancy must be reflected as a credit on line 115 of form HUD-27011, Single-Family Application for Insurance Benefits.

Preservation and Protection Costs due to Compliance with Applicable Law Additional routine preservation and protection costs, including lawn maintenance and inspections that are incurred as a result of an extended lease or tenancy under applicable law, will be reimbursed pursuant to applicable cost reimbursement policy and procedures, referenced in HUD Mortgagee Letter(s).

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 an OMB Control Number of 2502-0584. 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 Mortgagee Letter may be directed to HUD's National Servicing Center (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. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature Edward L. Golding
Principal Deputy Assistant Secretary for Housing

Attachments

Sample Notice to Occupants of Pending Acquisition

(To be prepared and sent via certified mail or with a signature confirmation service by the mortgagee to all property occupants)

NOTICE TO OCCUPANTS OF PENDING ACQUISITION

(Name) (Date)
(Street Address)
(Town or City)

(HUD/FHA Case No.)

AVISO IMPORTANTE PARA PERSONAS DE HABLA HISPANA.
ESTO ES UN AVISO MUY IMPORTANTE. SI NO ENTIENDE EL CONTENIDO, OBTENGA UNA TRADUCCIÓN INMEDIATAMENTE. SI USTED NO RESPONDE DENTRO DE VEINTE (20) DÍAS, PUEDE QUE TENGA QUE MUDARSE DE LA CASA O APARTAMENTO EN QUE VIVE.

Dear _____:

The mortgage for the property in which you are living is in foreclosure as a result of the property owner’s default. Within the next 60 to 90 days, title to the property is expected to be transferred to [NAME OF MORTGAGEE]. Sometime thereafter, ownership of the property will probably be transferred to the Secretary of Housing and Urban Development (HUD).

HUD generally requires that there be no one living in properties conveyed to the Secretary as a result of a foreclosure. As the Federal Housing Administration’s (FHA) single family program is a mortgage insurance program, it must sell all acquired properties and use the proceeds of sale to help replenish the FHA Mortgage Insurance Fund. It is not a rental program. There are other programs within HUD that assist in making rental housing available.

However, before [NAME OF MORTGAGEE] conveys the property to HUD, you may be entitled to remain in the property for some period of time, pursuant to federal, state, or local law. If applicable, a separate notice regarding occupancy rights will be provided to you when complete title to the property is transferred to (name of mortgagee).

Instructions: Mortgagees must insert here any language they deem necessary to inform occupants of the conditions under which they might be eligible to remain in the property pursuant to the federal, state, or local law, and/or for the mortgagee to request information from the occupant that would be needed for the mortgagee to determine whether the occupant qualifies.

If you are not entitled to remain in the property under federal, state, or local law, you may nevertheless be eligible to remain in the property upon conveyance to HUD, if certain conditions are met, as described in the document “Conditions for Continued Occupancy” which is attached to this letter (Attachment 3). To be considered for continued occupancy upon conveyance to HUD, you must submit a written request to HUD **within 20 days of the date at the top of this letter or the property must be vacated before the time HUD is scheduled to acquire it. Oral requests will not be accepted.**

Please use the enclosed, Form HUD-9539, Request for Occupied Conveyance (Attachment 1) in making your request, as it gives HUD information it needs to make its decision. You must send your request and the enclosed Request for Verification of Employment (Attachment 2) to [MCM Name], HUD's Mortgagee Compliance Manager (MCM), at the following address: [MCM's ADDRESS]. As the occupant requesting the occupied conveyance, you have sole responsibility for submission of a signed Verification of Employment form with your Occupied Conveyance request.

If you or a member of your household suffers from an illness or injury that would be aggravated by the process of moving from the property, please also provide supporting documentation of the illness or injury. This documentation must include a projection of the date that the individual could be moved without aggravating the illness or injury and a statement by a state-certified physician establishing the validity of your claim.

Please ensure that you include all required documentation with your request; **incomplete requests will be denied**. Additional information that you wish to include with your request may be written on additional pages that you attach to the *Request for Occupied Conveyance* form.

If HUD approves your request to remain in the property, you will be required to sign a month-to-month lease and pay rent at the prevailing fair market rate. If HUD does not become owner of this property, any decision it may make with respect to your continued occupancy will no longer apply.

Your right to continued occupancy of the property under HUD's Occupied Conveyance policies will only be temporary, depending on the circumstances, as described in the attached document, Temporary Nature of Continued Occupancy (Attachment 4).

For assistance in finding affordable housing, you may wish to contact one or more of HUD's approved housing counseling agencies. These agencies usually provide services at little or no cost. A counselor may be able to recommend other organizations that can also be of assistance. If you have access to the Internet, you may locate a local housing counseling agency by visiting the following webpage: <http://www.hud.gov/offices/hsg/sfh/hcc/hcs.cfm>. Alternatively, you may call the HUD Housing Counseling and Referral Line, weekdays between 9:00 am and 5:00 pm EST. The Referral Line telephone number is (800) 569-4287.

If you have any questions concerning this notice, please contact [NAME AND CONTACT INFORMATION OF MORTGAGEE].

Sincerely,

Signature
Title

Attachments

Attachment 1 (*Request for Occupied Conveyance* - [form HUD - 9539](#))

Attachment 2 (*Request for Verification of Employment*)

NOTE: Mortgagees may use their own standard employment verification forms.

Attachment 3 (*Conditions for Continued Occupancy*)

Attachment 4 (*Temporary Nature of Continued Occupancy*)

Attachment 3 (Conditions for Continued Occupancy)
(Attach to *Mortgagee's Notice to Occupants of Pending Acquisition*)

HUD's Occupied Conveyance Procedures
CONDITIONS FOR CONTINUED OCCUPANCY

Unless eviction is prohibited by state or local law, or by circumstances beyond the control of your lender, the following conditions must be met before HUD can approve the occupied conveyance of an acquired property. HUD will determine whether these conditions have been met at HUD's sole and absolute discretion, pursuant to authority provided in FHA occupied conveyance regulations at 24 CFR §§ 203.670-681 and additional guidance provided by the Department:

1. You agree to sign a month-to-month lease at fair market rent at the time HUD acquires the property and on a form prescribed by HUD (note: if you qualify for continued occupation based on Item 6.b. below, you will need to pay one month's rent in advance at the time the lease is executed);
2. Your total housing cost (rent plus utility costs) will not exceed 38 percent of your net income. However, a higher percentage may be permitted if you have been paying at least the required rental amount or there are other compensating factors, such as savings or family assistance;
3. You agree to allow access to the property, during normal business hours and with two days advance notice, by HUD staff or HUD representatives (including real estate brokers) so that the property can be inspected, repaired, or shown to prospective purchasers;
4. You disclose the complete and accurate Social Security Number assigned to you and to each member of your household; and
5. You submit your request and supporting documentation within 20 days as provided in the attached Notice to Occupant of Pending Acquisition; and
6. **At least one of the following two sets of conditions has been met:**
 - a. An individual residing in the property suffers from a permanent, temporary, or long-term illness or injury that would be aggravated by the process of moving from the property, **or**
 - b. HUD determines that it is in HUD's interest to accept your continued occupation based on criteria described in 24 CFR § 203.671, provided that the property is habitable as described in 24 CFR § 203.673, and that at the time your lender acquires title to the property, you will have lived in the property for at least 90 days.

Attachment 4 (*Temporary Nature of Continued Occupancy*)
(Attach to *Mortgagee's Notice to Occupants of Pending Acquisition*)

HUD's Occupied Conveyance Procedures
TEMPORARY NATURE OF CONTINUED OCCUPANCY

This is to advise you that occupancy of HUD-owned property is temporary in all cases and is subject to termination to facilitate preparing the property for sale and completing the sale. Temporary means that your lease arrangement with HUD is subject to termination at the convenience of the government upon 30 days' notice, or otherwise in accordance with applicable law. You should not view your occupancy of the property as a permanent or long-term arrangement. It is HUD's policy to ask you to vacate the property and, if necessary, take appropriate eviction action for the following causes:

1. Your failure to execute the lease;
2. Your failure to pay the required rent, including the initial payment at the time of execution of the lease;
3. Your failure to comply with the terms of the lease;
4. Your failure to allow access to the property upon request to accomplish necessary repairs, inspect the property, or allow real estate brokers to show the property to prospective purchasers;
5. Necessity to facilitate preparation of the property for sale and for completion of the sale;
or
6. Assignment of the property by HUD to a different use or program.