

CHAPTER 3. CORRECTION OF DEFECTS IN
EXISTING HOMES: SECTION 518(b)

3-1. GENERAL. This Chapter outlines processing procedure for claims under Section 518(b) of the National Housing Act as amended.

Section 518(b) authorizes assistance to owners of existing one-, two-, three-, and four-family dwellings when such housing is determined, in accordance with criteria contained herein, to require correction of structural or other major defects which so seriously affect the use and livability as to create a serious danger to the life or safety of the inhabitants. The revised statute is more restrictive than the original, and all defects must clearly meet the statutory requirements.

3-2. ELIGIBILITY REQUIREMENTS. In order to be eligible for assistance, a claim must meet all of the following requirements:

- a. Mortgage. The mortgage shall have been insured under Section 235 of the National Housing Act.
- b. Dwelling. The dwelling may consist of a one-, two-, three-, or four-family unit and shall have been more than one year old on the date the conditional commitment was issued.
- c. Application. The application for assistance must have been submitted within one year after insurance of the mortgage as evidenced by the date of insurance endorsement.
- d. Extent of Defect. The defect must be a structural or other major defect which so seriously affects the use and livability of the property as to create a serious danger to the life or safety of the inhabitants. To meet this test, the defect must not be speculative or of limited likelihood of becoming an actual danger. A defect which has become a serious danger to the life or safety of the inhabitants, but which was not so at the time of the original appraisal inspection, is not eligible. For those claims involving reimbursement for repairs previously made, the defect must have been such that a judgment can be made that it constituted a serious danger to life or safety at the time of the original appraisal inspection.
- e. Determination of Existing Defect. The defect must be determined by HUD-FHA to have existed on the date the conditional commitment cover the property was issued and must be one that a proper appraisal inspection of the property could reasonably have been expected to reveal.

3-3. DEFECTIVE CONDITIONS ELIGIBLE FOR 518(b) ASSISTANCE

- a. The file must be retrieved and reviewed by the Field Office upon receipt of a claim which appears eligible on its face. Examination of the conditional commitment conditions may determine if the defective condition, or its possibility was taken into consideration during the initial appraisal inspection of the property. If a specific repair requirement was made, or a certificate of condition was required, and the condition meets the eligibility criteria, the condition is deemed to have been recognized. If the corrective steps taken as a result of repair requirements were insufficient to eliminate the condition, or the work was improperly performed, the condition will be eligible for correction providing all other basic statutory criteria are met. Where no repair requirements were shown on the conditional commitment, the office must make a judgment as to whether the defect was in existence on the date of the appraisal inspection.
- b. To determine whether a defect is one that a proper appraisal inspection could reasonably be expected to disclose, one test is whether the appraiser, operating in accordance with the outstanding instructions available at the time of the appraisal inspection, should have observed the defect or anticipated the probability of a defect due to observable conditions. Additionally, however, other circumstances may arise under which a claim may be eligible.

3-4. ELIGIBLE DEFECTS. The following defects are eligible for correction. This is not a complete list but can be used as a guideline for determining other eligible items. To be eligible, defects must meet the statutory requirements found in Paragraph 3-2. d and e above.

- a. Seriously defective plumbing, heating or electrical systems.
- b. A structural failure in framing members, floors, or foundations visibly evident in an accessible area.
- c. A worn-out roof.
- d. Drainage problems, such as surface water in the crawl space or running against the house.
- e. Rotted siding, porches, steps, deteriorated brickwork or other seriously deteriorated exterior surfaces which affect the structural integrity of the dwelling.

-
- f. Cracking, scaling, peeling and loose lead-based paint on interior surfaces and those exterior surfaces, such as

stairs, porches, windows and doors readily accessible to children under seven years of age. (Defects under this item will be repaired in accordance with 24 CFR, Parts 35.16 and 35.18. All such surfaces which require treatment shall be thoroughly washed, sanded, scraped or wire brushed and repainted with two coats of a suitable nonlead-based paint, or where infeasible to control or correct the cracking, scaling, peeling, or loosening of the lead-based paint and the film integrity of the treated surfaces cannot be maintained, the paint on these surfaces shall be removed or covered with materials such as hardboard, plywood, dry-wall, plaster, or other suitable material.) Where at the homeowner's option additional painting work, such as complete painting of the interior or the exterior of the house or any room found to have the eligible defect was performed or is to be undertaken, which exceeds the treatment necessary to treat defective paint conditions under 24 CFR, Part 35, compensation to the homeowner will be limited to that portion of the expense attributable to treatment of the defective paint conditions.

3-5. DEFECTS FOUND THROUGH CODE ENFORCEMENT. Defects found through a code inspection are eligible only if they meet all statutory requirements found in Paragraph 3-2. d and e. If a code inspection is made, the homeowner is responsible for the repair of defects that do not meet Section 518(b) eligibility requirements.

3-6. DEFECTS NOT ELIGIBLE. The following defects are not eligible except when they are an incidental part of an eligible defect. This is not a complete list, but will serve as a guideline to determine other items that are not eligible.

- a. Decorative and cosmetic work of any kind.
- b. Carpeting.
- c. Cracks in plaster or drywall, unless caused by structural failure.
- d. Defects, such as burns, gouges, loosened hardware or doors.
- e. Inoperative refrigerators, range, hot water tank, dishwasher, disposal, exhaust fan, window or central air conditioner or other such mechanical equipment.
- f. Broken glass and broken counterweight cords in windows.

8/81

Page 3-3

-
- g. Damages to personal property and damages suffered on account of personal injury.
 - h. Rotted window sills and door frames, unless they

constitute a threat to the life or safety of the occupants.

- i. Defective light fixtures and outlets, when the electrical system is otherwise sound.
 - j. Minor cracked or broken floor tiles.
 - k. Cracks in foundation not seriously affecting the structure.
 - l. Roof leaks when the roof appears acceptable.
 - m. Plumbing leaks, if the basic system is sound.
 - n. Termite damage, unless it seriously affects the structural integrity of the building.
 - o. Rotted out gutters and downspouts, except where gutters are an integral part of the roof structure. (Box gutters.)
 - p. Defects in detached garages or other outbuildings, unless there is serious risk of imminent collapse in which case demolition only is eligible.
- 3-7. HEADQUARTERS REVIEW. Any claim or combination of claims determined to be eligible for assistance in an estimated amount of \$5,000 or more must be submitted to the Director, Single Family Development Division, Washington, D.C., for review and approval prior to notification to claimant of eligibility of the claim. The complete file must be submitted with a request for approval together with any explanatory information necessary to clearly establish the basis for approval of the claim.
- 3-8. PREVAILING WAGE REQUIREMENTS. Contracts entered into by the homeowner or by HUD are not bound by the labor standards provision required by the Davis-Bacon Act, irrespective of the cost.
- 3-9. CLAIMS INVOLVING APPRAISALS MADE BY VETERANS ADMINISTRATION OR FARMERS HOME ADMINISTRATION. Claims involving appraisals made by the Veterans Administration or Farmers Home Administration shall be processed in the normal manner. Upon completion of the processing and approval of the Form HUD 92875, the Complaint Officer shall route a copy of the approved Form HUD 92875, to the agency which made the inspection or appraisal for its information. A log shall be maintained by the Complaint Officer of all such instances for future corrective action if found to be necessary.

8/81

Page 3-4

*3-10. PROCEDURES FOR PROCESSING CLAIMS FOR ASSISTANCE.

Processing of applications for assistance is the responsibility of the designated Complaint Officer who shall process claims in accordance with the following instructions:

- a. Procedure to Follow Where Defects Have Not Yet Been Corrected.
 - (1) Upon receipt of request for assistance (whether by phone, personal visit or letter), the Complaint Officer (C.O.) shall acknowledge receipt by issuing Format Letter CLA-1 (Figure 3-A).
 - (a) The C.O. shall furnish the homeowner with copies of Form HUD-92556 SFA, Request for Financial Assistance (Figure 3-I), a certification that the defect existed at the time of purchase, and a copy of the Section 518(b) fact sheet (Figure 3-M).
 - (b) If the initial request for assistance is a Form HUD 92556 SFA with the certification, the C.O. shall acknowledge receipt by issuing Form Letter CLA-2 (Figure 3AA).
 - (c) The C.O. shall prepare a Case History Card, Form HUD 92557, and establish a claim file.
 - (2) The homeowner shall complete Form HUD-92556 SFA to the extent feasible and shall return it to the C.O., together with the required certification.
 - (3) Upon receipt of Form HUD-92556 SFA, the C.O. shall determine whether the request for assistance meets the eligibility requirements for assistance as listed in Paragraphs 3-2a through 3-2e. If the claim does not on its face meet the criteria for eligibility, the owner shall be so notified using Format Letter CLB (Figure 3-B).
 - (4) If review of the Form HUD-92556 SFA indicates that the owner's claim may be compensable, or if the owner responds to Format Letter CLB with a request for further action, the C.O. shall order the case binder from Central Files or from the Field Office files if it has not yet been transferred to Central Files (see Figure 3-J).

8/81

Page 3-5

-
- (3-10) (a) Upon receipt of the case binder, the C.O. shall prepare Form HUD-92875, Eligibility Determination for Assistance under Section 518(b)

(see Figure 3-C) and shall route the claim file and case binder to Chief, Valuation Branch for further action.

- (b) If the case binder is not received within 30 days, the claim shall be processed without benefit of the case binder.
- (5) The Chief, Valuation Branch (Field Offices), or designee, is responsible for determining the validity of a claim.
- (a) Only those claims which meet all the eligibility criteria set forth herein shall be found eligible.
 - (b) The files shall be reviewed, and an appointment shall be scheduled with the homeowner to inspect the items in the claim.
 - (c) The inspection of the property shall not be limited to the specific items in the homeowner's claim, but shall encompass all eligible defects.
- (6) If the appraiser has cause to believe that an eligible defect existed at the time of original appraisal, though he or she is unable to positively verify the fact, the homeowner shall be given the benefit of doubt.
- (7) The property shall be inspected and the defects eligible for correction identified. Specifications to complete the repairs shall be written and an estimate of the cost to repair shall be made. (This cost estimate shall be the upper limit for work contracted for by the homeowner.) The Chief Appraiser shall utilize whatever additional technical assistance necessary to prepare cost estimates. This may include assistance from both the Architectural and Engineering Branch and Cost Branch.
- (8) Recommendations as to eligible repairs, repair specifications, and cost examination of the repairs shall be forwarded to the Director, Housing Division/Service Office Supervisor on Form HUD-92875 together with a completed Format Letter CL-DD (Figure 3D-1).

-
- (3-10) The Director, Housing Division/Service Office Supervisor shall review the Chief Appraiser's recommendations and take whatever additional actions are necessary.

- (9) The Director, Housing Division/Service Office Supervisor shall review Form HUD 92875, indicate approval and sign Format Letter CL-DD. The CL-DD Letter advises the homeowner of the repairs which are eligible for reimbursement, sets forth the repair specifications, and establishes a cost estimate which is the maximum amount HUD shall reimburse for the eligible repairs. The case binder, claim file and CL-DD Letter are then repaired to the C.O.
- (a) If the estimate of repairs is \$5,000 or more, the case binder and the claim file are sent to the Director, Single Family Development Division, Washington, D.C., for review as described in Paragraph 3-7 above. Format Letter CL-DD shall be included in the review package.
- (b) If the repair estimate is under \$5,000, the C.O. shall mail the CL-DD Letter to the homeowner. Format Letter FF (Figure 3-E), which is a statement by the homeowner that the repairs have been completed satisfactorily, shall be mailed with the CL-DD Letter, along with a copy of HUD's policy with respect to minority contractors (Figure 3-L), and the contractor's Certification of Repairs Completed (Figure 3-K).
- (10) In the event the homeowner requests a reconsideration due to an inability to obtain a contractor within the maximum limit established by HUD-FHA, two alternate-solutions are available.
- (a) The Director, Housing Division/Service Office Supervisor may approve an increase of the maximum repair limit in an amount not to exceed ten percent of the original estimate if it is determined that the circumstances warrant such action.
- (b) If the bid obtained by the homeowner exceeds the HUD-FHA estimate by more than ten percent, the homeowner shall be required to obtain and submit two additional bids. The bids shall be reviewed by the technical staff and one approved if feasible and within reason. Additional bids may

8/81

Page 3-7

(3-10) be required if those submitted are unrealistic and inappropriate. (In instances of this type, a field review of the defects and review of the entire processing is indicated with corrections made as appropriate.)

(11) Upon receipt of the bill and the homeowner's

statement (Format Letter FF), the C.O. shall prepare standard voucher, Form SF 1034.

- (a) The original and two copies of the voucher, properly certified, together with the contractor's bill (vendor's invoice), shall be forwarded to the Office of Finance and Accounting, Attention: Diversified Payments Division, for payment to the contractor. The voucher must be marked "Structural Defect - Section 518(b)."
 - (b) The Office of Finance and Accounting shall make payment directly to the payee shown on the voucher. Where evidence is presented that the bill has already been paid by the homeowner, payment may be made to the homeowner.
 - (c) The documentation required to support vouchers should be retained by the C.O. in the Field Office.
- (12) The C.O. shall systematically spot check completed repairs prior to authorizing payment to assure that HUD-FHA specifications are being met and that repairs are completed in a workmanlike manner. Either the Architectural and Engineering Branch or the Valuation Branch can be utilized to accomplish this inspection. A minimum of ten percent of all claims under \$5,000 and all claims over \$5,000 must receive this review inspection. Records shall be maintained by both the Section performing the inspection and by the Complaint Officer on all inspections performed. Administrative action shall be initiated against any contractor whose work is not satisfactory and who refuses to correct deficiencies. See paragraph 1-15c.
- (13) Where a homeowner claims that a contractor cannot be obtained to perform the repair work, the C.O. shall provide the homeowner with a copy of Format Letter GG (Figure 3F), which requires the homeowner to certify reasons why he/she is unable to contract for repairs. Upon receipt of the certification and if the reason(s)

-
- (3-10) is plausible on its face, the C.O. shall arrange for the repairs in accordance with Paragraph 3-10a above with the following modification:
- (a) If the estimated cost of the repairs is \$2,000 or more and the homeowner cannot contract for the repairs, the C.O. shall forward to the designated Section 518(b) Contracting Officer the Form HUD-

92875, together with a memorandum requesting the Contracting Officer to obtain bids and enter into a contract to have the authorized repairs made. This shall be accomplished in accordance with applicable Federal Procurement Regulations, Title 41, Chapter 1 and 2, HUD Procurement Regulations, Title 41, Chapter 24 and HUD's Procurement Policies and Procedures Handbook and also the Small Purchases in HUD Handbook 2210.10. The Contracting Officer shall forward a copy of the contract to the Complaint Officer.

- (b) If the estimated cost of repairs is under \$2,000, the Complaint Officer shall utilize the standard Voucher Form SF 1034 for payment. Copies of the specifications shall be sent to three contractors from the Contracting Officer's Bidder List, with a requirement for five-day response time. The lowest bid shall usually be accepted. Bids need not be obtained for amounts under \$500.

b. Repairs Completed by the Homeowner Prior to HUD Inspections. If the homeowner completes repairs prior to HUD inspection, the procedure shall be as follows:

- (1) The homeowner shall be asked to submit Form HUD-92556 SFA together with a statement describing the conditions that required correction, justification for making repairs and any documentary evidence, such as contractor estimates or bills to support the claim. Documentary evidence, however, is not essential in determining the validity of the claim.
- (2) Upon receipt of Form HUD-92556 SFA and any supporting documentation, the C.O. shall determine whether the request for assistance meets basic criteria in Paragraphs 3-2 a through e. If supporting documentation was not included with the form, processing shall not be delayed on that account.

-
- (3-10) (3) If review of the Form HUD-92556 SFA indicates that the owner's claim may be compensable, or if the owner responds to Format Letter CLB with a request for further action, the C.O. shall then order the case binder from Central Files or from the Field Office files if it has not yet been transferred to Central Files. Upon receipt of the case binder, the C.O. shall prepare Form HUD-92875, Eligibility Determination for Assistance Under Section 518(b) (Figure 3-C), and shall route the claim file and case binder to the Chief, Valuation Branch for further action. If the case binder is not received within 30 days, the claim shall be processed without benefit of

the case binder.

- (4) The Chief, Valuation Branch or designee, shall determine the validity of the claim in accordance with applicable criteria. The completed repairs shall be inspected to determine the need for the repairs made and whether the cost incurred is reasonable.
 - (a) If the applicant has documentary evidence of costs incurred for prior repairs and has not previously submitted it to HUD, the homeowner shall be requested to provide such documentation at this time and/or submit a copy of the HUD Office.
 - (b) The inspector's recommendation shall be entered on Form HUD-92875 and shall be reviewed in accordance with 3-10a above. Since the work has already been completed, a great deal of judgment shall enter into the recommendation. Repair or replacement of items recited in Paragraph 3-6 above shall not be eligible. Total replacement of major systems, such as plumbing, heating or electrical, shall not be approved unless it can be judged that in all likelihood the entire system was beyond economic repair. For example, to justify the replacement of an entire heating system, it must be judged that the elements of the old system were beyond repair.
 - (c) Where a homeowner chooses to replace an otherwise functioning system when only a part of the system has failed, only the cost of that part of the system judged to have required replacement as of the date of the commitment shall be compensable.

8/81

Page 3-10

-
- (3-10)
 - (d) When the homeowner has obtained a loan to make repairs eligible for payment under Section 518(b), the amount which constitutes the unpaid principal, interest and financing charges should be obtained from the finance company and be submitted to the Office of Finance and Accounting in accordance with 3-10 b(5) below, for payment directly to the finance company.
 - (e) The homeowner shall be reimbursed for all costs actually paid and found to be reimbursable, notwithstanding the fact that the work could have been done at a lower cost.
 - (f) Where the homeowner personally completed the

repairs, reimbursement for labor in an amount equal to the cost of materials in the claim may be approved.

- (5) The C.O. shall transmit a properly prepared and certified voucher to the Office of Finance and Accounting, Attention: Diversified Payments Division. In preparing the voucher for payment, the C.O. shall include all applicable finance charges.

c. Miscellaneous Situations.

- (1) Insurance Proceeds. Where it is determined that the homeowner's certification that insurance benefits have been received, or will be received, the 518(b) payment shall be for any difference between the insurance payment and the total cost of eligible repairs.
 - (a) If the insurance payment shall be made subsequent to the contractor's billing, the homeowner shall enter into an agreement to endorse the insurance payment to HUD (Figure 3-G).
 - (b) The insurance company should be notified by a copy of the agreement that HUD has assumed any and all rights of the homeowner and that any payment due should be made to HUD.
 - (c) These payments shall be forwarded by Certified Mail to OFA, Attention: Diversified Payments Division, with a memorandum indicating the FHA Case Number and a statement that the remittance represents reimbursement of monies under Section 518(b).

8/81

Page 3-11

-
- (3-10) (2) Loan Assumptions. In all assumptions, where the home is sold but the claim has not been processed, the new homeowner succeeds to the rights of the original purchaser.
 - (3) Sale of Property. In instances where a homeowner files a claim under Section 518(b) and then sells the home before HUD completes processing of the claim, the original homeowner is eligible for compensation for only those repairs actually made.
 - (4) Foreclosure. In instances where the mortgage has been foreclosed, compensation under Section 518(b) may not be made. The foreclosure action extinguishes the mortgage instrument and, while the homeowner may have a right to redeem the

property, the homeowner does not have a legal right to reinstate the mortgage.

(5) Certifications. Where a defect is found which is covered by a certification from a contractor, tradesman, or mortgagee (plumbing, heating, roofing, electrical, termite certification, or other repairs), an attempt shall be made to obtain payment or repair from the certifying company before the Field Office authorizes repairs.

(a) The company involved should be given ten days to respond after which a meeting with company officials should be held to review the condition and to decide if any false statement was involved in the certification. If a negative response is given by the company or certifier, continuation of processing of the 518(b) claim should begin immediately.

(b) In the event there is evidence that any statement of condition contained in the certification was false, the case and supporting documentation should be referred to the Regional Inspector General for investigation in accordance with outstanding procedures.

(c) If there is no evidence of a false statement, the facts may be submitted to the Area Counsel for an initial determination of whether the facts would nevertheless support an action for recovery of the costs of repairs. If it is found that a claim against the certifying company is supportable, demand for payment should be made by the Director, Housing Division/Service Office Supervisor and, if

8/81

Page 3-12

(3-10) payment is not received within 30 days, the facts and a recommendation shall be transmitted to the Regional Counsel for concurrence and forwarded to the General Counsel.

(6) Temporary Relocation of Family. If the repairs required to the property in order to correct the defect involve work on the house which requires moving the family while such work is being performed, the Field Office is authorized to reimburse the family for temporary living quarters while such repairs are being made. This expenditure is not to exceed the amount available to a Government family in

travel status within the Continental United States.

- (7) Defect Not Repairable. If the Field Office determines the defect in the house is such that it is not feasible to expend the amount required to repair it, consideration may be given to assisting the homeowner in disposing of the house by the acceptance of a deed and acquiring another house.
- (a) The cost of repair versus the cost of acquisition is the basic criterion to be used when deciding whether to repair a property or to accept a deed under the Section 518(b) program. The total cost of acquisition includes the balance of the outstanding mortgage, amount of mortgage amortized, legal fees, refunding of downpayment, moving expenses, major improvement and cost of demolition of the dwelling. The estimated sales price of the vacant lot is deducted from the above total indicating an estimate of the amount of funds to be expended in order to accept a deed.
- (b) In instances such as those discussed in this paragraph 3-10c(7), the entire file, along with the recommendations of the Director, Housing Division/ Service Officer Supervisor, shall be forwarded to the Director, Single Family Development Division, Washington, D.C., for technical review.
- (c) After the Director, Single Family Development Division has advised the Field Office of technical approval, the mortgagee shall be advised by the Field Office to submit all fiscal documents and title evidence.

8/81

Page 3-13

-
- (3-10)
1. The file with all pertinent title documents is then submitted to the Assistant General Counsel, Home Mortgage Branch, Office of General Counsel, for final approval of the transfer.
 2. This is to be done on all cases where an arrangement with the homeowner is made whereby HUD acquires title to the property and accepts a deed. If a deed is accepted, the Field Office Property Disposition Branch shall be informed by a memorandum.
 3. HUD will pay or reimburse the owner for relocation expenses, reimburse the owner the amount of the downpayment plus amortization of the mortgage balance to date and reimburse the owner

for major improvements to the property. The terms of the Uniform Relocation Handbook 1371.1 are not applicable to the 518(b) program.

- (g) Miscellaneous Situations not covered by these instructions should be referred, by memorandum or telephone, to the Director, Single Family Development Division, Washington, D.C.
- d. Disputes. Disputes with Field Office decisions may arise over any facet of 518(b) interpretation and implementation. Such disputes may involve homeowners, contractors, sellers or mortgagees.
 - (1) When a dispute arises and the Director, Housing Division/Service Office Supervisor concurs with the decision of the Technical Staff, the Complaint Officer shall prepare a cover memorandum to the Director, Single Family Development Division, Washington, D.C., for the Director, Housing Division/Service Office Supervisor's signature. The memorandum will briefly cite Field Office findings and the reasons the problem remains unresolved.
 - (2) The memorandum together with the files and any documentation submitted by the disputant will be reviewed by Headquarters and a final decision will be rendered.
- e. Establishment of Time Frames.
 - (1) Response by the homeowner to notification that defects are eligible.

8/81

Page 3-14

-
- (3-10)
 - (a) If the homeowner does not contact the Field Office within 90 days from the issuance of the CL-DD-1 Letter, a copy of the CL-DD-2 Letter shall be completed and sent by certified mail, Return Receipt Requested.
 - (b) Should no response to the Letter CL-DD-2 be received within the 30-day period prescribed thereon, file may be closed, but file binders and all documentation are to be retained by the Field Office.
 - (c) Upon termination of benefits, the homeowner must be advised with Format Letter CL-DD-3.

- (2) Response by the homeowner to other Section 518(b) communications.
- (a) The homeowner should submit an appeal within 30 days of the date recorded on the Field Office rejection of the claim.
 - (b) When additional data is required of a homeowner to facilitate processing of the claim, it should be submitted within the 30 days of the date recorded on the request for the data.
 - (c) Where an appeal or additional requested data is not received within this time frame, the case may be closed. The date postmarked, or the date stamped in by the receiving clerk when hand delivered, may be used in establishing compliance with the time frame.
 - (d) Information about the 30-day limitation and the extension must be included in future letters to homeowners. Homeowners to whom letters have already been sent need not be advised of this policy and should not be held to this time frame unless the Field Office has occasion to send another letter to the same homeowner.
 - (e) Should an extension be requested prior to the end of the 30-day period, with valid reasons offered, the Director, Housing Division/Service Office Supervisor may grant such extension as deemed appropriate. The Director, Housing Division/Service Office Supervisor shall state, in writing, the reasons for denying any such request.

8/81

Page 3-15

-
- 3-11. APPLICABILITY TO SALES OF SECRETARY-HELD PROPERTIES. The provisions outlined in this Handbook shall apply to properties sold by the Secretary provided the claim meets the applicable criteria in Paragraph 3-2 above. However, corrective action must first be exhausted under the one-year warranty provisions which apply to such properties. Claims involving properties sold by the Secretary under the Property Disposition program shall be referred to the Property Disposition Branch in Field Offices for review and, where applicable, enforcement of repair contract warranty provisions prior to implementing the claim procedures of this Handbook. *
- 3-12. MAINTENANCE OF RECORDS. The Complaint Officer is responsible for maintaining complete records of 518(b) claims. (Figure 3-H). *

a. Records must include readily extractable information on the following:

- (1) Volume and dollar amount of claims received to date and quarterly.
- (2) Number of claims in process (by case number).
- (3) Number of claims (by case number) received but not yet in process.
- (4) Number and dollar amount of claims paid and files closed.
- (5) Number of claims found ineligible.

*

- (6) A record of any false or misleading claims, certifications, inspections or statements by anyone within, or doing business with the Department with respect to any phase of Section 518(b). (All such evidence shall, of course, be brought to the attention of the Regional Inspector General for investigation through channels.)
- (7) Number of claims under \$2,000 involving the procedures prescribed in Paragraph 3-10a.
- (8) Number of claims over \$2,000 involving the procedures prescribed in Paragraph 3-10a. *

8/81

Page 3-16

* b. A complete record must be kept on every claim filed, whether found to be eligible or not. Every letter or written communication of any kind concerning a claim under this Section must be available in the Field Office Complaint Officer's file during the period required by HUD's approved records disposition schedule.

- (1) A permanent record must also be maintained on all claims where a finding of ineligibility is made based on a telephone inquiry from a homeowner. Such instances may include statutory ineligibility such as age of property, date of insurance, and Section of Act.
- (2) The permanent record shall include name of homeowner, address of dwelling, date and time of telephone inquiry, brief description of complaint, and reason for the finding of ineligibility. If a verbal response is not acceptable to the homeowner, an application can be filed and the claim processed in the usual manner.

3-13. SHORTCOMINGS. It is incumbent upon the Complaint Officer

to bring to the attention of the Chief Appraiser, the Chief Architect or others, as appropriate, any shortcomings of procedures or personnel in connection with the processing of 518(b) claims, and failing to effect corrective action, to apprise superiors of problems being experienced.

- 3-14. PROMPT PROCESSING. A prompt and courteous response is to be given all requests for assistance under Section 518(b). The eligibility determination is also to be made promptly so that the homeowner can contact a contractor and begin the repair of all eligible defects in a timely manner. *

CHAPTER 3, FIGURE 3-A

FORMAT LETTER CLA-1

(Address to Homeowner)

Dear

Subject: FHA Case No.:

*This will acknowledge receipt of your recent letter in which you listed the problem(s) and/or expenses you have experienced since occupying your home.

The enclosed fact sheet identifies the type of defects which may qualify under the Section 518(b) program. If you feel the defects in your home may qualify, you should complete the enclosed form and certification and return it to the HUD-FHA Field Office immediately.*

Sincerely,

Enclosure

CHAPTER 3, FIGURE 3-AA

FORMAT LETTER CLA-2

(Address to Homeowner)

Dear

Subject: FHA Case No.

We have received your recent letter and application for assistance in which you outline the problem(s) and/or expenses you have experienced since occupying your home.

We have requested the return of the file on your home from our Central Files in Washington, D.C. As soon as the file is obtained

and our review is completed, you will hear from us again.

Sincerely,

8/81

Page 3-19

CHAPTER 3, FIGURE 3-B

FORMAT LETTER CLB

(Address to Homeowner)

Dear

This is in reply to your request for assistance under Section 518(b). We have carefully reviewed your request and we must regretfully advise that your claim for assistance cannot be approved because it does not meet the following criterion (criteria) established by law as (a) requirement(s) for eligibility.

(Recite specific criteria and how claim does not fulfill requirements.)

If you believe that your claim has not been fairly reviewed in view of the requirements of the law, you may request a reconsideration by writing to me and explaining why you believe the rejection of your claim was in error.

Sincerely,

8/81

Page 3-20

CHAPTER 3, FIGURE 3D-1

FORMAT LETTER CL-DD

(Address to Homeowner)

Dear

Subject: FHA Case No.

Processing has been completed of your request for financial assistance under Section 518(b) to cover the cost of repairs to your home. To be eligible, it was necessary to establish that the defects existed at the time HUD commitment was issued and that other eligibility criteria were met.

The following items are eligible for repair: (see specifications enclosed).

You are authorized to have a competent, reputable contractor complete the eligible repairs. HUD/FHA will pay to you or on your behalf up to the sum of \$_____ for the correction of the above items. You should contract for these repairs as soon as possible and in no event later than 90 days from the date of this letter. This office is to be notified when the contract has been signed.

It is the policy of the Department of Housing and Urban Development to promote the use of minority contractors in programs such as Section 518(b). You should consider a minority contractor in completing the repairs on your home.

You should also be aware that the prevailing wage requirements of the Davis-Bacon Act are not applicable to repairs made under the Section 518(b) program. This means that the government does not require your contractor to pay his/her employees' established trade wages.

When you receive a bill from the contractor, which must not exceed the amount approved by HUD, you should forward it to this office along with a statement that the work has been completed and is acceptable for payment. The contractor must include a certification on the bill or statement that the work meets the applicable City Codes or Ordinances and must itemize the work done for which payment is claimed. *

8/81

Page 3-22

CHAPTER 3, FIGURE 3D-1

The following items were determined to be ineligible for assistance under Section 518(b) since they did not meet required criteria:

The items did not meet the following criteria:

If we can assist or guide you in any way, or if you question our determination of ineligibility or the amount allowable for repair of the property, please contact (Complaint Officer) at telephone _____.

Sincerely,

Enclosures

8/81

Page 3-23

CHAPTER 3, FIGURE 3D-2

FORMAT LETTER CL-DD-2

(Address to Homeowner)

Dear

Subject: FHA Case No.

Processing of your request for financial assistance under Section 518(b) to cover the cost of repairs on your home has been completed, and you were so advised by the enclosed letter dated _____.

If you have been unable to contract for repair of the eligible defects named in our letter or if you have encountered other difficulties, you should contact this office immediately for assistance.

Fiscal policy requires that repairs be completed and payment made at the earliest possible date. Therefore, if we have no response to this letter within thirty days, we must conclude that you do not desire to utilize this program in repairing your home, and your entitlement will be terminated.

Sincerely,

Enclosure

8/81

Page 3-24

CHAPTER 3, FIGURE 3D-3

FORMAT LETTER CL-DD-3

(Address to Homeowner)

Dear

Subject: FHA Case No

You were advised in our letter of _____ that in the absence of a response within 30 days, your claim file would be closed. To date we have received no reply to that letter.

You are hereby notified that your claim file has now been closed and all entitlements under Section 518(b) of the Housing and Community Development Act of 1974 have been terminated.

Sincerely,

8/81

Page 3-25

CHAPTER 3, FIGURE 3-E

FORMAT LETTER FF

Date _____

To: HUD/FHA

The repairs authorized to be made on my property by HUD/FHA under Section 518(b) have been completed in a satisfactory manner.

Signed

Homeowner _____

Address _____

Case No. _____

8/81

Page 3-26

CHAPTER 3, FIGURE 3-F

FORMAT LETTER GG

Date _____

To: HUD/FHA

I certify that I am unable to contract for authorized repairs under Section 518(b) for the following reasons:

I, therefore, request that HUD/FHA negotiate for the needed repairs.

Signed _____ (Homeowner(s))

Address _____

CHAPTER 3, FIGURE 3-G

INSURANCE REIMBURSEMENT AGREEMENT

FHA Case No. _____

* This Agreement is made in duplicate on this _____ day of _____, 19____, by _____ referred to as the Homeowner(s), and the Department of Housing and Urban Development/Federal Housing Administration (referred to as HUD/FHA).

WITNESS

The Homeowner has submitted a Request for Financial Assistance Under Section 518(b) to cover the cost of repairs to his/her home, and

The Homeowner expects to receive payment as a result of insurance to cover all or a portion of the repairs,

THEREFORE, the Homeowner agrees to endorse the insurance payment to HUD/FHA in return for HUD/FHA financial assistance under Section 518(b).

(Homeowner)

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT/FEDERAL HOUSING
ADMINISTRATION

*

(Homeowner)

By _____

CHAPTER 3, FIGURE 3-I

SAMPLE MEMORANDUM

FILES BRANCH, OFFICE OF GENERAL SERVICES

ATTENTION: 518(b)

DIRECTOR, XYZ FIELD OFFICE

REQUEST FOR INSURED CASE BINDERS - 518(b)

The following case binders are requested in order to respond to complaints filed under Section 518(b):

Instruction:

Memorandum should be typed or carefully printed in triplicate, as shown above, with two copies going to the Office of General Services and one copy being retained in the Field Office. A copy will be returned with the case binders to identify those binders which were not available at first request. The endorsement date of each case should be included in your request, if available, with numerical sequencing of case numbers preferred.

8/81

Page 3-30

CHAPTER 3, FIGURE 3-J

SAMPLE CONTRACTOR'S CERTIFICATION

I certify that I have completed all repairs as specified in the letter to _____ dated _____ from the Department of Housing and Urban Development. The payment due is \$_____ for completion of the contract and does not exceed the amount set forth in the aforementioned letter. HUD may rely on this certification in order to make payment to me for these repairs.

Signature

* Check box if you are a minority contractor.

Section 1010 of Title 18, U.S.C., provides: "Whoever, for the purpose of...influencing such Department... makes, passes, utters, or publishes any statement, knowing the same to be false...shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

8/81

Page 3-31

CHAPTER 3, FIGURE 3-K

HUD's Policy with Respect to Minority Contractors

It is the policy of the Department of Housing and Urban Development to promote the utilization of minority contractors in programs such as Section 518(b). With your cooperation in this effort, you will be

helping the Government in one of its important objectives--to assist minority contractors by furthering their participation in the economic benefits of the private enterprise system. You are, therefore, urged to consider a minority contractor in completing the repairs on your home. If you are unaware of minority contractors in your area, telephone the Fair Housing and Equal Opportunity Director in your local HUD Office. *

8/81

Page 3-32

CHAPTER 3, FIGURE 3-L

FACT SHEET

Section 518(b)

* Section 518(b) of the National Housing Act, as amended, *
authorizes the Secretary of HUD to correct, or to reimburse
owners for the correction of structural or other major defects
in some homes if the mortgages were insured by HUD under Section
235 of the National Housing Act.

Correction of such defects in your home may be eligible for
Section 518 assistance if all of the following requirements can
be met:

- (a) The dwelling must have been more than one year old at the time you purchased it.
- (b) The dwelling must consist of not more than four living units.
- (c) The defect must be one which so affects the use and livability of the property as to create a serious danger to life or safety
- (d) The defect must have existed at time of the original appraisal and be one which a proper inspection by the HUD appraiser would have normally revealed. The existence of a defect at this time does not necessarily mean that you have an eligible claim.
- (e) The mortgage, financing the purchase of the dwelling, must have been insured under Section 235 of the National Housing Act.
- (f) A claim must be filed with HUD not later than one year after the insurance of the mortgage.

In all instances, you will be required to certify that the defect for which you are claiming assistance did, in fact, exist at the time you purchased the property using HUD-insured financing. If you have assumed a HUD mortgage, you may still be eligible. The official application and certification form is attached.

If you are seeking reimbursement for the cost of repairs previously paid for by you, you may also be required to furnish further information concerning these repairs. This information may be in the form of paid receipts, cancelled checks, work contracts, or statements from contractors involved.

CHAPTER 3, FIGURE 3-L

2 Section 518(b) (Cont.)

The following are examples of defects which may be eligible for assistance if such defects existed at the time of the original HUD appraisal of the property and if you can demonstrate they seriously affected use and livability of the property and seriously endangered life or safety:

- (a) Defective plumbing, heating, or electrical systems.
- (b) A structural failure in framing members, floors, or foundations visibly evident in an accessible area.
- (c) A worn-out roof.
- (d) Drainage problems such as surface water in the crawl space or running against the house.
- (e) Rotted siding, porches, steps, deteriorated brickwork, or other seriously deteriorated exterior surfaces which affect the structural integrity of the dwelling.
- (f) Defective paint conditions which, as defined, in HUD Regulations (24 CFR, Part 35), constitute a health hazard; cracking, scaling, peeling and loose lead-based paint on interior surfaces and those exterior surfaces, such as stairs, porches, windows and doors readily accessible to children under seven years of age. Copies of these regulations will be available upon request from this office.

Items which are not eligible include:

- (a) Decorative and cosmetic work of any kind.
- (b) Carpeting.
- (c) Cracks in plaster or drywall, unless caused by structural failure.

- (d) Defects such as burns, gouges, loosened hardware or doors.
- (e) Inoperative refrigerator, range, hot water tank, dishwasher, disposal, exhaust fan, window or central air conditioner or other such mechanical equipment.
- (f) Broken glass and broken counterweight cords in windows. Inoperable windows are not eligible.

8/81

Page 3-34

CHAPTER 3, FIGURE 3-L

3 Section 518(b) (Cont.)

- (g) Damages to personal property and damages suffered on account of personal injury.
- (h) Rotted window sills and door frames unless they constitute a threat to the life or safety of the occupants.
- (i) Defective light fixtures and outlets when the electrical system is otherwise sound.
- (j) Minor cracked or broken floor tiles.
- (k) Cracks in foundation not seriously affecting the structure.
- (l) Roof leaks when the roof appears acceptable.
- (m) Plumbing leaks if the basic system is sound.
- (n) Termite damage unless it seriously affects the structural integrity of the building.
- (o) Rotted out gutters and downspouts except where gutters are an integral part of the roof structure.
- (p) Defects in detached garages or other outbuildings unless there is a serious risk of imminent collapse, in which case demolition only may be eligible.

Even if there is something wrong with your house, you must continue to make your mortgage payments. If you cannot make the full payment for any reason, you should let your lender know before the payment is due. Often an arrangement can be worked out to help you. If your lender will not offer you assistance, contact the nearest HUD office. They may be able to help.

If a serious defect was in existence when you purchased the property as described above, and you can demonstrate it so affects use and livability as to seriously endanger life or safety, you should make application to your local office. The existence of serious defects listed above at the present time does not necessarily mean your claim

is eligible for assistance. All of the statutory requirements for granting assistance must be present before payment will be authorized. Decisions rendered by HUD relative to Section 518 eligibility are final and are not subject to judicial review.

CHAPTER 3, FIGURE 3M

Chapter II - Office of Assistant Secretary for Housing

Subpart L--Correction of
Structural Defects in Homes
Covered by Mortgage Insurance
Under Section 203, 221 or 235

Authority: Sec. 518 (b) and
(c), 78 Stat. 783, 84 Stat.
1771, 88 Stat. 678, 12 U.S.C.
1735c.

200.517 Purpose.

The purpose of this subpart is to specify the terms and conditions under which the Secretary will consider affording assistance to mortgagors under Sections 518(b) and 518(d) of the National Housing Act.

40 FR 8948, Mar 4, 1975, as amended at 41 FR 42185, Sept. 27, 1976

200.520 Application for assistance.

An application for assistance in the correction of defects, in a form satisfactory to the Secretary, shall be filed by or on behalf of an eligible mortgagor with the Area or Insuring Office Director having jurisdiction over the area in which the property is located.

(a) In the case of a dwelling covered by a mortgage insured under Section 235 of the National Housing Act, the application shall be filed not later than one year after the insurance of the mortgage.

(b) In the case of a dwelling

(a) The person applying for assistance is the owner and mortgagor of a one or two family dwelling covered by a mortgage insured under Section 235 of the National Housing Act pursuant to a mortgage insurance commitment issued when such dwelling was more than 1 year old; or, in the case of a dwelling located in an older, declining urban area, the applicant is the owner and mortgagor of a one, two, three or four family dwelling covered by a mortgage insured under Section 203 or 221 of the National Housing Act on or after August 1, 1968, but prior to August 3, 1976, pursuant to a mortgage insurance commitment issued when such dwelling was more than 1 year old.

(b) One or more structural or other defects existed in such dwelling on the date of the issuance of the mortgage insurance commitment which: (1) So seriously affect use and livability as to create a serious danger to the life or safety of the inhabitants of such dwelling, and (2) were of such a nature that a proper inspection could reasonably be expected to have disclosed them; and

(c) The application for assistance was filed in accordance with the provisions of this subpart.

41 FR 42185, Sept. 27, 1976

200.527 Consideration for assistance.

located in an older declining urban area and covered by a mortgage insured under Section 203 or 221 of the National Housing act on or after August 1, 1968, but prior to January 1, 1973, the application shall be filed not later than December 3, 1976.

(c) In the case of a dwelling located in an older declining urban area and covered by a mortgage insured under Section 203 or 221 of the National Housing Act on or after January 1, 1973, but prior to August 3, 1976, the application shall be filed no later than August 3, 1977.

41 FR 42185, Sept. 27, 1976

200.522 Eligibility for consideration.

The Secretary will consider a mortgagor eligible for assistance under this subpart if the Secretary finds that each of the following requirements is fulfilled:

8/81

Page 3-36

Upon a finding by the Secretary that a mortgagor is eligible to be considered for assistance under this subpart, the Secretary will, in his sole discretion, determine whether to afford assistance hereunder by direct expenditures to correct defects as defined in 200.522(b), compensation of a mortgagor who has made such expenditures himself, or a combination of both direct expenditures and compensation of the mortgagor. The Secretary, in determining the form of assistance and when it will be afforded, will consider:

CHAPTER 3, Figure 3M

(a) Whether the defects so seriously affect use and livability as to create a serious danger to the life or safety of the inhabitants;

(b) The availability of funds from which the Secretary is authorized to make expenditures hereunder; and

(c) Such other matters as he deems material.

36 FR 24467, Dec. 22, 1971, as amended at 38 FR 25994, Sept. 17, 1973; 40 FR 8948, Mar. 4, 1975

200.533 Right and finality of determination.

All decisions of the Secretary with respect to assistance under this sub-

part are final and conclusive and not
subject to judicial review.

SOURCE OF MATERIAL -

24 CFR-1980

Page 3-37

8/81
