

CHAPTER 8. ASSIGNMENTS

8-1 PURPOSE. This chapter explains the procedures for the lender to follow in assigning a mortgage to HUD. Procedures for processing demand assignments by the local HUD Office are also included. Refer to HUD Handbook 4330.1 for standard assignment procedures. This chapter supersedes that handbook only as noted below.

8-2 ASSIGNMENT INSURANCE OPTION. If the lender has chosen the assignment insurance option at closing,

A.The mortgage may be assigned to HUD if:

1)The outstanding balance, including all payments made to or on behalf of the borrower, MIP and accrued interest, is equal to or greater than 98% of the maximum claim amount as reflected on Form HUD 59100, Mortgage Insurance Certificate, or

2)The borrower has requested a payment, either from a line of credit or from a change in the payment plan, which, when added to the outstanding balance, would equal or exceed 98% of the maximum claim amount.

B.If the lender chooses to assign the mortgage to HUD, the following conditions must be met:

1)The lender must be current in making the required payments to the borrower, and

2)The lender must be current in making payments of MIP (including interest and late charges if any) and must continue making monthly payments until the assignment is recorded, and

3) The mortgage cannot be due and payable due to:

a.The death of the borrower (with no surviving borrower maintaining the property as a principal residence), or

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(8-2B.)

b.The borrower has sold the property (conveyed title) and no other borrower retains title in fee simple, under a

lease for not less than 99 years which is renewable or under a lease having a remaining term of 50 years beyond the 100th birthday of the youngest borrower.

4)The lender has not notified the local HUD Office of any event that might cause the mortgage to be due and payable. See HUD Handbook 4330.1.

5)The lender's request to declare the mortgage due and payable has not been denied by the local HUD Office.

C.When the lender notifies HUD of its intention to assign the mortgage, it must provide the borrower with a notice informing the borrower that the mortgage will be assigned to HUD and,

1)Provide to the borrower an anticipated date of assignment and instruct the borrower to make any request for unscheduled or line of credit payments after that date to HUD;

2)State that HUD will continue to withhold an amount from the payments to the borrower in order to pay for taxes, if the lender had been making these payments;

3)State that HUD will not withhold for payments for hazard insurance and that the borrower must maintain the insurance. The lender must disburse to the borrower any funds withheld, but not spent on hazard insurance.

8-3NOTICE TO LOCAL HUD OFFICE OF INTENT TO ASSIGN. The lender must notify the local HUD Office having jurisdiction over the property when the lender is preparing to assign the property to HUD and file a claim for insurance benefits. The local HUD Office must be notified at least 30 days, but not more than 60 days, prior to the anticipated date of recording the assignment to HUD. When the lender notifies HUD of its intent to assign the mortgage, it must submit:

A.The borrower's name, address, and FHA case number;

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B.The borrower's checking or savings account number, name of financial institution, and any other necessary EFT information, if applicable;

C.The borrower's current payment plan, including the payment plan change that may have caused the assignment and any unscheduled payment to be made by HUD within five days;

D.The required withholding for taxes, if applicable, type and amount of any funds set aside, and any other responsibilities previously performed by the lender;

E.A copy of the notice to the borrower concerning the assignment of the mortgage to HUD and including the anticipated date of recording the assignment;

F.A payment history for the mortgage which shows all payments made by the lender throughout the loan. This information will be used to support the lender's claim for insurance benefits;

G.Evidence of the lender's most recent determination that the property is the principal residence of at least one borrower;

H.The title package on the property for the local HUD Office to review.

8-4PAYMENTS BEFORE MORTGAGE IS VOLUNTARILY ASSIGNED. The borrower may request a line of credit or unscheduled payment after the lender has notified HUD of its intent to assign the mortgage.

A.If the borrower requests a line of credit payment, the lender may make the payment before the assignment is recorded if the outstanding balance after the payment is made, including any interest that will accrue and any payments made to or on behalf of the borrower (MIP, taxes and insurance, etc.) that will be added before the mortgage is assigned to HUD, does not exceed the maximum claim amount. Otherwise, the borrower should be referred to the local HUD Office to receive payment.

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(8-4)

B.If the borrower requests an unscheduled payment, which would require a recalculation of payments, or requests a change in the payment plan, the lender may make a payment change and disburse funds (not to exceed the maximum claim amount) if the mortgage assignment has not been recorded. The lender should immediately submit the borrower's new payment plan to the local HUD Office. Otherwise, the borrower should be referred to the local HUD Office to receive payment.

The lender cannot receive mortgage insurance benefits in excess of the maximum claim amount. Therefore, any payments made after notifying HUD of the intent to assign the mortgage that cause the outstanding balance to exceed the maximum claim amount are non-reimbursable.

C.If the borrower requests either a line of credit or unscheduled payment that would cause the outstanding balance to equal or

exceed 98% of the maximum claim amount, either before the lender has notified HUD of its intent to assign the mortgage or after, but before the assignment has been recorded, and the lender has notified the local HUD Office of such an action by following the procedures in Paragraph 8-3, the local HUD Office must:

1) Verify the payment plan or line of credit request form (used by the lender) submitted by the lender, that indicates the requested amount from the borrower, by checking the borrower's net principal limit against the outstanding balance shown the system record on HUD's automated MIP remittance system (see Chapter 7).

2) If the payment can be made under the borrower's net principal limit, the local HUD Office should countersign the payment plan or line of credit request form and send a facsimile of the form to the Insurance Operations Division in Headquarters.

3) Continue the processing of the assignment so that HUD can begin making payments to the borrower under the mortgage.

The payment can then be made by HUD to the borrower in the required time, before the assignment has been recorded. If the borrower has made the request to HUD after the assignment has been recorded, HUD will be the lender of record and will not need to make emergency payments (see Chapter 9 for HUD servicing procedures).

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8-5 DEMAND ASSIGNMENT OF THE MORTGAGE. If the lender fails to make the required payments under the first mortgage,

A. The local HUD Office, having been notified by the borrower that a payment was not received, will contact the lender to determine the reason for non-payment.

B. If the local HUD Office determines that the lender cannot make the required payment, then the local HUD Office must request that the Office of Mortgage Insurance Accounting and Servicing (MIAS) in Headquarters initiate payments. The local HUD Office should send a memorandum to MIAS designating the case as a Home Equity Conversion Mortgage and containing the following information:

- 1) FHA case number.
- 2) The borrower's name and address.

3) The name of the financial institution and account number for the borrower's checking or savings account, and other

information necessary to continue making payments to borrowers who have chosen EFT.

4) A copy of the borrower's current payment plan, indicating the required payments and due dates, any funds set aside and the borrower's current principal limit.

5) The amount of the monthly withholding for taxes, if any.

A copy of this memorandum must be sent to the Director, Single Family Servicing Division, in Headquarters.

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C. After the payment is made, the local HUD Office must issue a written demand to the lender stating that:

1) If the lender plans to resume making payments under the mortgage, the lender must reimburse HUD for the amount of the total payment with interest from the date of the payment to the date reimbursement is received by HUD. An amount and date of payment and a per diem interest rate must be specified by the local HUD Office in the demand letter. Interest will be set at a rate in conformance with the Treasury Fiscal Requirements Manual.

2) If the lender can not reimburse HUD or resume making payments under the mortgage, the lender must assign the mortgage to HUD within 30 days.

a. If the lender chooses to assign the mortgage to HUD, it must simultaneously file the assignment and submit the title package to the local HUD Office.

b. The local HUD Office, after reviewing the title package, will issue a title approval letter. The lender must submit a claim for insurance benefits no later than 15 days after the receipt of the title approval letter (see Paragraph 8-6 of this chapter).

3) If the lender fails to reimburse HUD or assign the mortgage within 30 days of the demand, the contract of insurance will be terminated.

4) If the insurance contract is terminated as a result of the lender's failure to comply with the demand, HUD will not pay a claim to the lender and the borrower's liability to the lender under the first mortgage shall be limited to payments actually made to the borrower and on the borrower's behalf,

inclusive of MIP, taxes and insurance. Any interest that has accrued will be excluded from liability under the first mortgage, and no future interest will accrue. Furthermore, the first mortgage will not be paid until the second mortgage is due and payable.

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(8-5C.)

5) If the insurance contract is terminated, the local HUD Office must forward a dated copy of the demand notice sent to the mortgagee to MIAS, in Headquarters, and identify the copy as a notice for a Home Equity Conversion Mortgage.

If the servicer of the mortgage is different than the holder, the local HUD Office should send the notice in Section C. of this paragraph to both the holder and the servicer of the mortgage.

8-6 ASSIGNMENT CLAIMS. Refer to HUD instructions for filing claims for insurance benefits for HECMs, which can be obtained from the local HUD Office when obtaining copies of the Form HUD 27011.

A. Lenders that have chosen the assignment insurance option may file a claim for insurance benefits after the mortgage has been voluntarily assigned to HUD.

1) The claim must be filed no later than 15 days after the recording of the assignment.

2) The claim will equal the entire outstanding balance, less adjustments permitted by the regulations, up to the maximum claim amount.

3) The lender must also complete and submit with the claim a certification that states that the title package has been sent to the local HUD Office.

B. If the mortgage has been assigned to HUD by demand, the lender is not entitled to file a claim for the entire outstanding balance on the mortgage.

1) The claim amount will only reimburse the lender for payments made to or on behalf of the borrower, excluding accrued interest.

2) HUD will deduct an amount from the payment to the lender as reimbursement for administrative expenses incurred by assuming the lender's obligations, including late charges paid to the borrower due to the lender's failure to make payment, along with other adjustments permitted by the

regulations.

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8-6)

C.The claim amount can not exceed the maximum claim amount for the mortgage.

D.If the lender meets the time requirements for voluntarily assigning the mortgage and for filing a claim, the claim payment will include interest and might exceed the maximum claim amount. HUD will pay interest from the date the mortgage was assigned to the date when payment of the claim is made.

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