

CHAPTER 14. FEDERAL NATIONAL DISASTERS

14-1 GENERAL.

- A. The Robert T. Stafford Disaster Relief And Emergency Assistance Act. Under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the President has the authority to declare a National disaster for any area which has been affected by a hurricane, flood, tornado, earthquake, typhoon, etc.
- B. The President Declares An Area A National Disaster. Whenever the President declares an area a national disaster due to the severity and magnitude of the damage, mortgagees must immediately implement the procedures set forth in this Chapter. The relief measures discussed in this Chapter are intended to:
 - 1. Mitigate the hardships faced by mortgagors with FHA-insured mortgages in areas affected by the disaster.
 - 2. Allow mortgagees time to obtain the hazard insurance benefits that are available.
 - 3. Reduce the impact of the disaster on claims submitted for FHA insurance benefits.

14-2 MORATORIUM ON FORECLOSURES.

All the National Disaster Areas identified by the Federal Emergency Management Agency (FEMA) will be subject to a moratorium on foreclosures following the disaster. The property has to be directly affected by the disaster to be included in the moratorium. All mortgagors affected by the moratorium on foreclosures should be seriously considered for the recommended servicing actions enumerated in Paragraph 14-3 below.

- A. Effective Date Of The Moratorium. The moratorium is effective as of the date the President declares an area a National disaster, and expires ninety (90) days, from that date unless extended by HUD.

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- B. Foreclosures Affected By The Moratorium. The moratorium applies to the initiation of foreclosures and the suspension of all foreclosures already in process for the duration of the 90-day period.

C.Moratorium Affects Initiation Of Foreclosure. In those cases where the moratorium causes the initiation of foreclosure to occur past the normal deadline of twelve months after the date of default, the Department will grant an extension of up to 90 days for the mortgagee to initiate foreclosure. Extensions must be requested in writing from the HUD Field Office with jurisdiction over the properties.

14-3SERVICING ACTIONS. In addition to the above moratorium on foreclosures, HUD strongly recommends that, where the National disaster directly affected the condition of the property and/or the mortgagor's financial viability, the cases be given the utmost consideration by mortgagees for forbearance. Refer to Chapter 8, "HUD-Approved Relief provisions", for additional details. The Department recommends exploration of one or more of the following, depending on the circumstances of each case.

A.Special Forbearance. Special (written) forbearance may be entered into for a period up to 18 months, and mortgagors with no other property subject to an FHA-insured mortgage are eligible without HUD's advance approval.

B.Refinancing. Refinancing, reamortization or recasting the mortgage may be appropriate, especially where repairs to the property are necessary and secondary financing may be sought to complete the repairs. Under certain conditions, HUD approval is not required for recasting. For further instructions, see paragraph 3-2.

C.Waiving Late Charges. Mortgagees should also consider waiving any late payment charges if the mortgagor's payment is late because he or she incurred added expenses or loss of income as a result of the disaster, or if he or she needs additional time to receive a pending insurance settlement.

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D.Suspension Of Reporting Delinquencies. Mortgagees should temporarily suspend reporting delinquencies to credit bureaus if they are aware that the mortgagor's delinquency is attributable to hardships he or she incurred as the result of the disaster.

E.Acceptance Of Deeds-in-lieu Of Foreclosure. If a viable forbearance plan cannot be reached, mortgagees may accept deeds-in-lieu of foreclosure after the moratorium, if they are offered and the applicable criteria are met.

14-4DEALING WITH PROPERTY DAMAGE. Mortgagees are expected to follow existing procedures pertaining to damaged properties unless instructed by HUD to do otherwise. No action should be taken (including the

initiation or completion of foreclosure proceedings, after expiration of the foreclosure moratorium), if it will jeopardize the full recovery of a hazard insurance settlement. The following actions must be taken:

A.Hazard Insurance Claims. Mortgagees should take affirmative steps to ensure that hazard insurance claims are filed and settled as expeditiously as possible, and that the affected properties undergo full repair.

B.Insurance Proceeds Payable Jointly. In damage cases, insurance proceeds are payable jointly to the mortgagee and the mortgagor and are frequently mailed to the mortgagee.

C.providing Mortgagor With Insurance Proceeds. The mortgagee should expedite turning over proceeds to the mortgagor, in accordance with existing inspection and verification procedures.

NOTE:Mortgagees should not retain proceeds to make up an existing arrearage without the written consent of the mortgagor. (See Chapter 9, paragraph 9-10-E; also, refer to Instructions for Single Family Application for Insurance Benefits, page 8.)

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D.Mortgage Delinquency Preceding The Disaster Date. Property damage caused by a National disaster and its aftermath, whether or not a given mortgage delinquency preceded the disaster date, should predispose the mortgagee to consider forbearing on the loan in order to:

1.allow the mortgagor additional time to stabilize his or her financial situation

2.allow the mortgagor to arrange with the insurance carrier for repair and restoration of the premises.

E.Preventing Undue Hardship. The goal should be a formal relief provision that will cure the delinquency as soon as possible without imposing an undue hardship on the mortgagor.

F.List Of FHA-Approved Fee Appraisers. The HUD Field Office with jurisdiction over the areas affected by the National disaster will have available a complete list of FHA-approved fee appraisers who can be called upon to perform inspections as the repair work progresses on damaged properties.

NOTE:The Loan Management Branch Chief should be contacted to obtain a copy of the list.

G.Premises Totally Destroyed. If the premises has been totally destroyed, the mortgagee should compare the unpaid principal balance with the anticipated insurance proceeds and any other circumstances affecting the case, for example, local laws barring reconstruction of the destroyed property.

NOTE:Any questions regarding the most appropriate course of action to be taken, should be directed to the Property Disposition Branch Chief in the HUD Field Office with jurisdiction over the property.

14-5PROCESSING ASSIGNMENT APPLICATIONS. Mortgagees are encouraged to send the HUD Exhibit Letters pertaining to the assignment program, via Certified Mail-Return Receipt

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Requested, as well as by first class mail, to mortgagors in the identified disaster areas. Also, mortgagors affected by the disaster should generally be granted "good cause" deadline extensions by mortgagees for responding to these letters.

14-6MORTGAGE ASSISTANCE PAYMENTS. FEMA implements a temporary mortgage and rental payments assistance program under Section 408(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288). 44 CFR (Code of Federal Regulations) 206.101(g) sets forth the provisions of the program. The program provides financial assistance to eligible individuals who have lost their jobs and/or businesses due to a national disaster.

A.FEMA's Program Guidance For Mortgagees. Appendix 64 provides a verbatim retyped copy of FEMA's April 1, 1991, program guidance for mortgagees. This publication sets forth all information regarding the mortgage assistance payments program.

B.HUD Assignment Letter No. 1. To inform mortgagors about FEMA's mortgage assistance payments program, HUD Assignment Letter No. 1 - Mortgagee's First Notice was modified. Appendix 26A contains the modification. This letter must only be sent for this purpose.