

CHAPTER 5. SCENARIO TWO REQUIREMENTS - The lender either does not have sufficient information to make a positive recommendation or does not think the borrower qualifies for the assignment program.

5-1 Scenario Two Lender Requirements. After evaluating the borrower's case, the lender must:

A. Send Status Letter #2 (Appendix A, ASGN-4) (with date of default established after all payments have been applied), a list of housing counseling agencies, and a copy of form HUD-92206 completed (by the lender) to the borrower.

B. Send a copy of Status Letter #2 (Appendix A, ASGN-4) and the Assignment Review Packet, lender servicing records, and management review documentation to the HUD Field Office. The exact information to be sent is discussed in paragraph 4-1.

5-2 Scenario Two HUD Field Office requirements

A. Upon receiving the Assignment Review Packet, servicing records, and management review documentation, the Field Office must:

1. Enter the case in the Automated Assignment Processing System.

2. Verify that the person(s) requesting the assignment is (are) the mortgagor of record. HUD will process assignment requests only from mortgagors of record or from a person who has a possible legal claim to the title of the property, such as the child or spouse of a deceased borrower (see paragraph 2-3). If the borrower is not the mortgagor of record or other acceptable party according to paragraph 2-3, the case must be rejected. Follow guidelines in paragraph 7-2 for notifying the borrower and lender of the negative decision.

3. Check to make sure the mortgage is FHA insured using the A43 system. Refer to paragraph 9-6 for guidance. If the mortgage does not meet the guidelines, send Letter to Lender-Mortgage is Not FHA Insured, Appendix A, ASGN-7. Refer to procedures in paragraph 9-6C.

4. Check if the borrower owns two or more FHA-insured or Secretary-held mortgages by using the A43 system (see paragraph 9-6) and the SFMNS. If the borrower owns two or more FHA-insured or secretary-held mortgages, the case should be rejected, unless this criterion is waived by the Field Office (see paragraph 2-4D).

The Field Office must follow the guidelines in Chapter 7 for notifying the borrower and lender of the decision.

5. Determine if the borrower has filed for bankruptcy. Refer to paragraph 9-8 for bankruptcy processing guidelines.

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6. Check the Assignment Review Packet, servicing records, and management review documentation for completeness.

a. The Assignment Review Packet, servicing records, and management review documentation must include all documents specified in paragraph 4-1B.

b. If the Field Office determines the Assignment Review Packet, servicing records, or management review documentation is incomplete it must give the lender seven (7) days to submit the missing documentation. The Field Office should request the documents by telephone by sending Field Office Letter to Lender-Request for Missing Documentation (Appendix A, ASGN-8).

c. If the lender does not respond within seven (7) days, the Field Office may return the case to the lender for further servicing by sending Appendix A, ASGN-9 and a copy to the borrower. Close out the case in the Automated Assignment Processing System.

7. Check the calculation of the date of default for accuracy by reviewing the most recent Date of Default Analysis, form HUD-92212 prepared by the lender. Paragraph 9-5 provides guidance relating to calculating the date of default.

8. Review Mortgages Insured Under Section 235

a. When processing assignment requests on mortgages insured under Section 235, the Loan Specialist must determine if the lender handled the assistance contract correctly under the Section 235 program regulations (see Chapter 10 of Handbook 4330.1 (REV-5), Administration of Insured Home Mortgages).

b. The Loan Specialist must determine whether:

1. The assistance payments contract is still in force.

2. Suspension or termination of the contract, if applicable, was handled in accordance with the regulations.

3.The distribution of the mortgage payment
between
HUD and the borrower was properly calculated.

4.The required or optional recertifications were
completed.

5.The mortgage was insured subject to the
recapture
provisions found in 24 CFR 235.12.

c.If the lender improperly administered the Section 235
contract, the Field Office must return the case to the

lender to resolve the problems PRIOR TO

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processing the assignment request. Refer to paragraph
9-1 for guidance.

9.Obtain a copy of the lender's creditworthiness review if the
borrower applying for assignment assumed the mortgage and
creditworthiness review documents were not provided in the
Assignment Review Packet. Refer to paragraph 2-4E2k for
guidance in evaluating assumptions.

10.Check the evidence of income provided in the Assignment
Review Packet. If none is present, and the lender cannot
provide it, request the necessary information from the
borrower.

a.Check for written verification of the borrower's
income
from the borrower's employer at or immediately
preceding the date of default.

b.Check for verification of future income possibilities
use form HUD-92004-G.

c.Alternative documentation of the borrower's income may
be provided. Alternative documentation includes, but
is not limited to, tax records, paycheck stubs, or a
letter from the borrower's employer.

11.Review form HUD-92068-F, Request for Financial Information.

12.Review any credit reports provided. If none were provided,
the Field Office must request a credit report. Credit
reports may be used to assure accuracy of borrower
information at any time during processing. Credit reports
should not be ordered until after the Field Office receives

and reviews the borrower's form HUD-92068-F, Request for Financial Information.

13.Review Background Data for HUD Assignment of Mortgage, form HUD-92206.

14.Check Analysis of Borrower's Income and Expense, form HUD-92208.

15.Complete the Assignment Request Case History Sheet, form HUD 92219 for the case file.

B.The Field Office should evaluate each criterion as instructed in Chapter 2, using the information provided in the Assignment Review Packet and servicing records plus any additional information requested from the lender that the lender obtained from the borrower. If the Field Office determines that additional information from the borrower is required to evaluate the case, it should request it immediately using the Field Office Request for Additional Information from Borrower (Appendix A, ASGN-10). When requesting additional information, the Field Office must follow these guidelines:

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2.Avoid demands for irrelevant information such as any lump sum the borrower may have which could be applied to the delinquency. If the Field Office receives a lump sum payment BEFORE accepting an assignment, the office should send the payment to the lender for application to the borrower's account. If the lump sum brings the account to less than 3 full delinquent payments, the lender must notify the Field Office immediately. The Field Office will discontinue processing and return the case to the lender by sending Letter Returning Case to Lender (Appendix A, ASGN-20). Field Office must enter the reason for returning the case in the "Other" block.

3.Avoid demands for tax documents unless there is no other available evidence of the borrower's income. Paycheck stubs are appropriate documentation for income.

4.If possible, only contact the borrower once with a comprehensive list of required additional documentation.

5.Give the borrower 30 days to submit the requested information. If the borrower does not submit the requested information within 30 days, evaluate the case using the information available.

C.The Field Office must complete Analysis and Documentation of

Assignment Eligibility Criteria, form HUD-92209 "Evaluation Decision" column, after reviewing all information submitted by the lender and borrower.

However, if the Field Office did not request additional information from the borrower and concurs with the evaluation submitted by the lender on the form HUD-92206, the Field Office does not need to complete the entire form HUD-92209. In these cases, the Field Office may simply note in the "Comments" section on form HUD-92209 that it "concurs with the lender's evaluation and no additional information was necessary."

5-3 Assignment Decision

A.The borrower must meet all criteria to be accepted for assignment. However, criteria three and four may be waived under certain conditions. Refer to Chapter 2 for guidance on waiving these criteria.

B.After making a decision, the Field Office must follow the instructions in Chapter 7 for notifying the borrower and lender.

C.Refer to paragraph 9-8 for procedures to accept or reject assignment of a mortgage during bankruptcy.