

CHAPTER 6. SCENARIO THREE REQUIREMENTS - The borrower did not respond to the Lender Assignment Packet but applies directly to HUD.

6-1Scenario Three Lender Requirements. If the borrower has not responded within 30 days after the date of the Lender Assignment Packet, the lender must:

A.Contact the borrower twice by telephone within the timeframe of 30 days after sending the Lender Assignment Packet (see paragraph 3-2C).

B.Send the Lender Follow-up Assignment Packet to the borrower. The Lender Follow-up Assignment Packet must include:

1.Lender Follow-up Assignment Packet Cover Letter (Appendix A, ASGN-5) with the date of default established, after all payments have been applied, and a telephone number to call HUD to apply for assignment

2.List of housing counseling agencies

3.Mortgage Assignment Program Application, form HUD-92207 with envelope pre-addressed to the borrower's local Field Office.

4.HUD Assignment Program Flyer (Appendix A, ASGN-11)

NOTE:Form HUD-92206 should not be included since the criteria are not evaluated by the lender for scenario Three.

C.Send a copy of Lender Follow-up Assignment Packet and cover letter (Appendix A, ASGN-5) to the Field Office. This notifies the Field Office that the borrower may apply directly to HUD for assignment within the next 15 days (see paragraph 6-3D2 for guidance if borrower does not apply to HUD).

D.After the Field Office receives the application or telephone call from the borrower, the Field Office will request from the lender, in writing, the following:

1.Servicing records (see paragraph 4-1)

2.Management review documentation (see paragraph 4-1)

3.Completed Background Data for HUD Assignment of Mortgage, form HUD-92206

4.Completed Date of Default Analysis, form HUD-92212

The lender must submit this information to the Field Office within 15 days of request.

6-2 Scenario Three HUD Field Office requirements

A.To apply to HUD, the borrower may submit Mortgage Assignment Program Application, form HUD-92207, or telephone the designated Field Office directly. The request must be made within 15 days of the date of the lender's letter (Appendix A, ASGN-5) (the lender should have sent a copy of this letter to the Field Office).

B.After receiving the request from the borrower, the Field Office must do the following within one day of receipt of the borrower's application:

1.Ensure the borrower applied within 15 days of the date on the Appendix A, ASGN-5. If the borrower applies to the Field Office after the 15 day time limit, the Field Office must send the lender the Letter to Lender Terminating Assignment Evaluation (Appendix A, ASGN-12) and a copy to the borrower (refer to paragraph 9-3 for guidance in considering a late application for a "good cause").

2.Enter the case in the Automated Assignment Processing Control System.

NOTE:If the borrower applied by telephone, the Field Office must provide an account number to the borrower during the telephone call.

3.Send the HUD Assignment Packet to the borrower. Refer to paragraph 3-8C for items to be included in the HUD Assignment Packet.

4.Call the lender to report the borrower's request and ask for form HUD-92206, form HUD-92212, bankruptcy plan, if applicable, (paragraph 4-1B1); servicing records and management review documentation (paragraph 4-1B2 and B3). Send Field Office Request for Documentation from Lender (Appendix A, ASGN-13) to the lender to confirm the telephone request. If the lender does not respond within 15 days, the Field Office must:

a.Send the lender the letter in Appendix A, ASGN-9 which returns the case for further servicing. Send a copy to borrower.

b.Close out the case in the Automated Assignment Processing System.

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

C. After receiving the servicing records and management review documentation from the lender, the Field Office should check them for completeness (see paragraph 6-2B4 above)

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1. If the Field Office determines the servicing records or management review documentation is incomplete, give the lender seven (7) days to submit the missing documentation. The Field Office may telephone the lender, but must also send Field Office Request for Additional Information from Borrower (Appendix A, ASGN-13).

2. 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 the letter in Appendix A, ASGN-9. Send a copy to the borrower.

D. The borrower has 30 days from the date of the HUD Assignment Packet to send the Field Office, at a minimum, form HUD-92068-F. If the borrower submits only form HUD-92068-F, the Field Office must send Request for Additional Information (Appendix A, ASGN-10). If the borrower fails to respond with additional documentation, evaluate the case using the information available (Proceed to paragraph 6-2E below).

If the borrower does not return a form HUD-92068-F, the Field Office must:

1. Send the lender the close out letter (Appendix A, ASGN-12). Send a copy to the borrower.

2. Close out the case in the Automated Assignment Processing System.

E. If the borrower submits, at a minimum, form HUD-92068-F to the Field Office within 30 days, the Field Office must begin to evaluate the case. The Field Office must perform the following activities:

1. Verify that the person(s) requesting the assignment is 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.

2. 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.

3. Check if the borrower owns two or more FHA-insured or secretary-held mortgages 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

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should be rejected. However, this criterion may be waived by the Field Office (see paragraph 2-4D). The Field Office must follow the guidelines in paragraph 7-2 for notifying the borrower and lender of the negative decision.

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

5. 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.

6. 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 payments contract correctly under the Section 235 program regulations and (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. Required or optional recertifications were completed.

5. The mortgage was insured subject to the recapture provisions found at 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 with the contract PRIOR TO processing the assignment request. Refer to paragraph 9-1 for guidance.

7.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.

8.Use the Request for Verification of Employment, form HUD-92004-G, to document the borrower's employment income.

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a.After obtaining the borrower's signature, mail the Request for Verification of Employment, form HUD-92004-G to the employer for completion with a return envelope. If the borrower is unemployed at the time of the assignment application, mail the form to the most recent employer.

b.If the borrower was employed by a different employer at the time of default, obtain a verification of employment from the previous employer as well.

c.If the employer does not return the Request for Verification of Employment form, or the Request for Verification of Employment form is delayed, continue to process the case. The borrower (or the borrower's employer) may provide alternative documentation of income. This may include, but is not limited to, tax records, paycheck stubs, or a letter from the borrower's employer.

9.Evaluate each of the eligibility criteria and conditions separately.

a.Refer to Chapter 2 for guidance to evaluate the criteria.

b.If the borrower applying for assignment assumed the mortgage, refer to paragraph 2-4E2k for guidance to evaluate assumptions.

10.Complete Analysis and Documentation of Assignment Eligibility Criteria, form HUD-92209 "Evaluation Decision" column.

11. Complete Analysis of Borrower's Income and Expense, form HUD-92208. Refer to paragraph 2-4F2e for instructions on this form.

F. If the Field Office determines that additional information is needed to evaluate the case, request it immediately. Send Field Office Request for Additional Information from Borrower (Appendix A, ASGN-10). When requesting additional information, the Field Office should follow these guidelines:

1. Suggest specific additional information the borrower must provide and indicate to which criterion it relates.

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.

3. Tax documents and paycheck stubs are appropriate documentation for income.

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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.

6-3 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.

D. Under Scenario Three, the lender may initiate foreclosure when:

1. The Field Office makes a negative decision and the borrower does not appeal. However, the lender may not begin foreclosure proceedings until instructed in writing to do so. The Field Office should use the Letter to Lender Terminating Assignment Evaluation (Appendix A, ASGN-12) to

notify the lender when to foreclose.

2.The Field Office does not contact the lender within 20 days of the date of the Lender Follow-up Assignment Packet.

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