

APPENDIX 7

Selected Mortgagee Letters

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

July 26, 1976

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

IN REPLY REFER TO

Mortgagee Letter 76-14

TO: ALL APPROVED MORTGAGEES

SUBJECT: Project Mortgage Insurance Claims, Revised Election
Filing Instruction

This Letter applies only to mortgages insured pursuant to Multifamily Sections of the National Housing Act. The written election decision of a mortgagee, to either assign a mortgage or acquire and convey title, is presently sent to the Director, Office of Loan Management, Department of Housing and Urban Development, Washington, D. C. 20410. It is our desire that local HUD Area and Insuring Offices receive simultaneous notification of this significant decision.

Effective immediately, in addition to the written notification to the Office of Loan Management, mortgagees shall provide a copy of each election notice to the appropriate HUD field office. This will represent a continuation of past practice by some mortgagees. Their courtesy copies have been helpful and we trust that extension of the procedure to all holders of insured project mortgages will not prove burdensome.

Sincerely,

James L. Young
Assistant Secretary for Housing
-Federal Housing Commissioner

1

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

July 14, 1978

OFFICE OF THE ASSISTANT SECRETARY FOR

HOUSING-FEDERAL HOUSING COMMISSIONER

IN REPLY REFER TO:

Mortgagee Letter 78-10

TO: ALL APPROVED MORTGAGEES

SUBJECT: Payment of Claims Loans Insured Under Section 241

Mortgage insurance benefits for loans insured under Section 241 of the National Housing Act are currently paid with debentures.

With respect to any claim for insurance benefits filed after July 15, 1978, where the project loan has received initial endorsement for insurance (or initial/final in insurance upon completion cases) on or after such date, HUD will, until further notice, pay such claims in the same manner, cash or debentures, as the claim would be paid on the insured first mortgage.

Lawrence B. Simons
Assistant Secretary for Housing
-Federal Housing Commissioner

2

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
December 23, 1980

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

IN REPLY REFER TO:

Mortgagee Letter 80-49

TO : ALL APPROVED MORTGAGEES

SUBJECT: Change in Method of Payment of Mortgage Insurance Premiums With HUD Debentures

The purpose of this letter is to advise approved mortgagees of the Department's change in policy regarding acceptance of debentures for payment of mortgage insurance premiums under the "averaging method." Existing instructions in Chapter 13 of HUD Handbook 4110.2, The Mortgagees' Guide, provide that mortgagees may determine the face amount of debentures to be submitted monthly for purchase in connection with mortgage insurance premiums paid by either of the two following methods: (a) the amount of the premiums paid for the month rounded to the nearest \$100, or (b) the monthly average of premiums paid by the mortgagee under the appropriate HUD insurance fund rounded to the nearest \$100. Because of frequent changes in ownership and servicing, it is no longer possible to accurately determine averages.

Effective on and after the date of this letter, HUD will not approve any further requests for the submission of debentures under the averaging

method. Approvals that are presently in existence will remain in effect until the date the current annual approval expires, but they will not be renewed or extended. In addition, HUD will not accept debentures from mortgagees (including "participating mortgagees") or servicers, unless they are the mortgagee or servicer on HUD's records on the premium due date.

The letter transmitting debentures to HUD and requesting that they be purchased to the extent of current premiums paid should include the following information: due date and amount of premium, by Section of the Act; payment information (check number and date paid); and name of holding mortgagee and servicer. The transmittal letter should also contain a list of the debentures submitted by fund and series showing the following information: registered name to which issued; debenture number; rate of interest; denomination and maturity date. Furnishing this information will expedite processing of the debentures to the Treasury Department, HUD's agent, for redemption.

Approved mortgagees are also reminded of the provisions of Mortgagee Letter 80-31, dated July 31, 1980 governing the reporting of sales of HUD-insured mortgages and loans. It is very important that these changes be reported to HUD accurately and timely, since they not only establish the basis for responsibility for payment of the premiums, they also establish the "eligibility" for the mortgagee who may submit debentures to the extent of current premiums paid.

3

APPENDIX 7
4350.4

2

In summary, debentures will be accepted only from mortgagees or servicers of record on HUD's books on the date the premium is due, and debentures submitted for purchase must be registered in the name of the mortgagee or servicer on the premium due date. Authority letters (detailed in Handbook 4110.2), as appropriate, are required for each submission. Operating in this manner -- based on actual premiums paid by the mortgagee or servicer -- is more in line with the original intent of the National Housing Act, i.e., to provide a means for early redemption of debentures to enhance the cash flow of mortgagees for making more loans available to prospective homeowners under HUD's mortgage insurance programs.

The Mortgagees' Guide will be amended accordingly and until it has been amended, the instructions in this letter will prevail. The cooperation of all approved mortgagees in connection with the above will be sincerely appreciated.

Lawrence B. Simons
Assistant Secretary for Housing
-Federal Housing Commissioner

4

APPENDIX 7

4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
December 22, 1981

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

IN REPLY REFER TO:

Mortgagee Letter 81-40

TO: ALL APPROVED MORTGAGEES

SUBJECT: Redemption of Debentures in Exchange for the Payment of
Mortgage Insurance Premiums

This Mortgagee Letter is intended to clarify the time limitation established for submission of debentures in exchange for the timely payment of mortgage insurance premiums (MIP). The Mortgagee's Guide, Handbook 4110.2, Chapter 13, paragraph 13-14 provides: "Debentures must be received by HUD in Headquarters within five calendar days following the due date of the premium regardless of whether it is a renewal or initial premium. Any debenture not received by HUD in Headquarters within five calendar days will be returned as unacceptable for purchase."

For the purpose of this procedure, if the fifth day falls on a Saturday, Sunday or holiday, HUD will accept such debentures on the next business day thereafter. For example, if the fifth calendar day following the due date of the premium is on a Friday, which also happens to be a holiday, HUD will accept the debentures, before close of business, the following Monday, which is the next business day.

For further information, contact John Stahl, Office of Finance and Accounting, Washington, D. C. 20410. Telephone (201) 755-5154.

Sincerely,

Philip D. Winn
Assistant Secretary for Housing
- Federal Housing Commissioner

5

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
August 4, 1982

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

IN REPLY REFER TO:

Mortgagee Letter 82-13

TO: ALL APPROVED MORTGAGEES

SUBJECT: Surplus Escrow Payments for Multifamily Project Mortgages

The purpose of this letter is to bring to the attention of all approved mortgagees the Department's requirements for handling surplus escrow payments for multifamily project mortgages.

HUD Regulations, 24 CFR 207.12, require that the Mortgage or Deed of Trust shall provide for equal monthly payments by the mortgagor to the mortgagee which will amortize the principal and interest on the loan. The estimated amount of all taxes, water rates, special assessments, and fire and hazard insurance premiums are also included in the monthly payments, and placed in escrow accounts until needed. The Regulations state that the mortgagee must make provision for adjustments in case the estimated amount for the escrowed items shall prove to be more or less than the actual amount paid by the mortgagor.

Any excess payments shall normally be handled in accordance with the standard Deed of Trust or Mortgage, which provides that surplus escrow accumulations shall be credited by the mortgagee to subsequent payments of the same nature to be made by the mortgagor. For example, a surplus in the tax escrow shall be credited to ensuing tax payments. However, if the mortgagee and mortgagor agree, a large surplus can be either paid to other required accruals, or placed in the replacement reserve account or residual receipts account. If the mortgage is in default, a surplus in any of the escrow accounts shall be applied to the balance then due. In addition, if the balance in a particular escrow is not sufficient to cover a payment due from that escrow, a surplus in another escrow account shall be applied to that deficiency. With HUD's approval, the excess monies may be placed in the project account for the general use of the project. In no case, however, shall the excess monies be returned directly to the mortgagor for distribution. Project funds can only be distributed in accordance with the terms of the Regulatory Agreement.

If you have any questions, please contact the Office of Multifamily Housing Management, Management Operations Division, (202) 755-5866.

Philip Abrams
General Deputy Assistant Secretary
- Deputy Federal Housing

Commissioner

6

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
January 12, 1983

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Letter For: All Approved Mortgagees

Subject: Assignment of Multifamily Mortgages

Your immediate attention is directed to a growing concern relative to the increasing number of multifamily mortgage assignment elections being received by the Department of Housing and Urban Development.

Both lenders and HUD have common financial interests in insured projects. High interest rates have the potential for creating negative spreads for the lender. At the same time, increasing assignments have contributed to Federal Budget problems through substantial outlays from the Insurance Funds. At a time when increasing budget deficits are at the forefront of the national attention, we urge your cooperation.

The Department recognizes that there is an incentive to assign low interest rate mortgages as soon as they become eligible for insurance benefits. This is of particular concern to us, since such elections might be prevented if the mortgagee, mortgagor, and HUD attempt to develop acceptable payment arrangements to cure the financial defaults.

Because of the problem of rapid assignments, please give HUD a reasonable amount of time to cure the problem before electing to assign a mortgage. In addition, we ask that you notify HUD of a delinquency of an insured mortgage immediately after the 15th day of the month in which the payment is due. Please direct the notification to the local HUD Area Office and/or Multifamily Service Office, Loan Management Branch Chief, and also to the Director of Multifamily Management Operations at HUD's Headquarters in Washington and ensure its arrival at those locations by the 20th day of the delinquency. Earlier notification will give the Department the crucial time needed to cure the default. In many cases, this will also give you and the mortgagor the time needed to plan an acceptable payment agreement.

7

APPENDIX 7
4350.4

2

When making notification, please provide the following:

1. FHA Project Number
2. Project Name and Address
3. Mortgagor billing Name, address, and phone number
4. Outstanding Mortgage Balance
5. Interest Rate
6. Number of installments past due

7. Amount delinquent
8. Reason for delinquency

The address of the Director of Multifamily Operations is:

The Department of Housing and Urban Development
Office of Multifamily Housing Management, HMH
Management Operations Division, HMHM
Attention: Delinquency Alert
451 7th Street, S.W.
Washington, D.C. 20410

Enclosed is a list of Loan Management Branch Chiefs.

The 15 day notification period has been discussed with members of the Mortgage Bankers Association of America, (Insured Project Committee-Servicing Subcommittee) with favorable response. Some of the large FHA Multifamily lenders have already agreed to the advance notification period. Together, we must strive to create a stronger economy and a healthier investment climate --- a climate which will ensure reasonable regulations for mortgagees and adequate safeguards for the taxpayer's investment. By working together now, we will both reap greater benefits in the future. Your cooperation is appreciated. If you have any questions please contact Patrick McInturff at 202-755-5547.

This letter has been approved by the Office of Management and Budget and assigned OMB approval No. 2502-0041.

Philip Abrams
Assistant Secretary for Housing
- Federal Housing Commissioner

Enclosure

		APPENDIX 7
HUD FIELD OFFICE CONTACTS		4350.4
NAME AND LOCATION OF SERVICING HUD OFFICE	NAME AND PHONE NO. OF HUD CONTACT	
Boston Area Office Bulfinch Building 15 New Chardon Street Boston, MA 02114	Ms. Laurie Langlois (617) 223-4182	
Hartford Area Office One Hartford Square West Suite 204 Hartford, CT 06106	Mr. Robert Donovan (203) 244-2317	
Manchester MF Service Office Norris Cotton Federal Bldg. 275 Chestnut St. Manchester, NH 03103	Mr. James Zachos (603) 666-7684	

Providence MF Service Office
Rm. 330-John O. Pastore
Federal Bldg.
Providence, RI 02903

Mr. Christano Neves
(401) 528-4835

Buffalo Area Office
Statler Bldg., Mezzanine
107 Delaware Avenue
Buffalo, NY 11202

Mr. Charles H. Meyer, Jr.
(716) 846-5710

Caribbean Area Office
Federico Deoptau Federal Bldg.
U.S. Court House, Room 428
Carlos E. Chardon Avenue
Hato Rey, Puerto Rico 00918

Mr. Ramon Moreno
(809) 753-4351

Newark Area Office
Gateway Bldg. No. 1
Raymond Plaza
Newark, NJ 07102

Mr. Ronald J. Santa
(201) 645-3230

New York Area Office
26 Federal Plaza
New York, NY 10278

Mr. Donald J. Foy
(212) 264-4975

Baltimore Area Office
Equitable Bldg.
10 N. Calvert St.
Baltimore, MD 21202

Mr. Kenneth Hannon
(301) 962-2144

Charleston MF Service Office
Kanawha Valley Bldg.
Capitol & Lee St.
Charleston, WV 25301

Acting: Ernest R Marsh
(304) 347-7064

APPENDIX 7

4350.4

page 2

NAME AND LOCATION OF
SERVICING HUD OFFICE

NAME AND PHONE NO.
OF HUD CONTACT

Philadelphia Area Office
625 Walnut Street
Philadelphia, PA 19106

Mr. Joseph Mallon
(215) 597-3409

Pittsburgh Area Office
Ft. Pitt Commons
455 Ft. Pitt Blvd.
Pittsburgh, PA 15219

Mr. Robert G. Speicher
(412) 644-3431

Richmond Area Office
701 E. Franklin St.
Richmond, VA 23219

Mr. William Henderson, Jr.
(804) 771-2001

Washington D.C. Area Office
Universal North Bldg.
1875 Connecticut Avenue
Washington, D.C. 20009

Ms. Juanita Burgess
(202) 673-5839

Atlanta Area Office
Richard B. Russell Fed. Bldg
75 Spring St., S.W.
Atlanta, CA 30303

Mr. William E. Beasley
(404) 221-4017

Birmingham Area Office
Daniel Bldg. 15 S. 20th St.
Birmingham, AL 35322

Mr. Claude J. Boone
(202) 254-1611

Columbia Area Office
Strom Thurmond Fed. Bldg.
1835-45 Assembly Street
Columbia, SC 29201

Ms. Arlena Espizito
(803) 765-5826

Greensboro Area Office
415 N. Edgeworth Street
Greensboro, NC 27401

Ms. Florene E. Mitchell
(919) 378-5673

Jacksonville Area Office
Peninsular Plaza, 661
Riverside Avenue
Jacksonville, FL 32202

Mr. Austin D. Hurt
(904) 791-2953

Jackson Area Office
U.S. Federal Bldg.
100 W. Capital St. Rm. 1016
Jackson, MS 39201

Mr. Thomas C. Smith, Jr.
(601) 960-4719

Knoxville Area Office
1 Northshire Bldg.
1111 Northshire Drive
Knoxville, TN 37919

Mr. William S. McClister
(615) 558-1477

page 3

NAME AND LOCATION OF
SERVICING HUD OFFICE

NAME AND PHONE NO.
OF HUD CONTACT

Louisville Area Office
539 River City Mall
P.O. Box 1044
Louisville, KY 40202

Ms. Imogene Isaacs
(502) 582-6467

Nashville MF Service Office
1 Commerce Place Suite 1600
Nashville, TN 37219

Mr. Charles T. Barnett
(615) 251-5069

Chicago Area Office One North Dearborn Chicago, IL 60602	Mr. Vernon A. Washington (312) 353-9174
Cincinnati MF Service Office 550 Main Street Cincinnati, OH 45202	Mr. William Setty (513) 684-2884
Cleveland MF Service Office 770 Rockwell Avenue 2nd Floor Cleveland, OH 44114	Mr. Garreth R. Dowlen (216) 522-4032
Columbus Area Office 200 N. High Street Columbus, OH 43215	Acting: Mr. Ferdinand Juluke (614) 469-5704
Detroit Area Office McNamara Fed. Bldg. 477 Michigan Avenue Detroit, MI 48226	Mr. Gary Levine (313) 226-4817
Grand Rapids Service Office 2922 Fuller Ave., N.E. Grand Rapids, MI 49505	Mr. William H. Deboer (616) 456-2214
Indianapolis Area Office 151 N. Delaware St. P.O. Box 7047 Indianapolis, IN 46207	Mr. Malcolm Stockwell (317) 269-2087
Milwaukee Area Office 744 N. Fourth Street Milwaukee, WI 53203	Ms. Marcelle Schoeneman (414) 291-1028
Minneapolis St. Paul Area Office 220 South Second Street Bridge Place Bldg. Minneapolis, MN 55803	Mr. Howard Goldman (612) 349-3095

NAME AND LOCATION OF
SERVICING HUD OFFICE

NAME AND PHONE NO.
OF HUD CONTACT

Springfield Valuation &
Endorsement Station
Lincoln Towers Plaza
524 So. Second Street,
Room 600
Springfield, IL 62701

Mr. Robert Walker

(217) 492-4174

Albuquerque Service Office
625 Truman Street, N.E.
Albuquerque, NM 87110

Mr. Allen S. Riddle
(505) 766-3249

Dallas Area Office
2001 Bryan Tower
4th Floor
Dallas, TX 75201

Mr. Edwin R. Burton
(214) 767-8394

Houston MF Service Office
Two Greenway Plaza East
Suite 200
Houston, TX 77046

Mr. R. Earle White
(713) 226-4352

Lubbock Service Office
Federal Building
1205 Texas Avenue
Lubbock, TX 79408

Mr. Harry Stokely, Jr.
(806) 762-7275

Little Rock Area Office
One Union North Plaza
Suite 1400
Little Rock, AR 72201

Mr. James E. Hicks
(501) 378-6148

Oklahoma City Area Office
Murrah Federal Building
200 N.W. 5th Street
Oklahoma City, OK 73102

Mr. James L. Cook
(405) 231-4582

New Orleans Area Office
1001 Howard Plaza Tower
New Orleans, LA 70113

Mr. Robert J. Villars
(504) 589-6635

San Antonio Area Office
Washington Square Bldg.
800 Dolorosa - P.O. Box 9163
San Antonio, TX 78285

Thomas F. Meadows, Jr.
(512) 229-6830

Shreveport Service Office
50 Fannin Street
New Federal Bldg., 6th Floor
Shreveport, LA 71101

William C. Bonner, Jr.
(318) 226-5405

NAME AND LOCATION OF
SERVICING HUD OFFICE

NAME AND PHONE NO.
OF HUD CONTACT

Tulsa Service Office
State Office Building
440 S. Houston Avenue
Tulsa, OK 74127

Mr. James Cooke
(405) 231-4582

Des Moines MF Service Station
210 Walnut Street
Room 259
Des Moines, IA 50309

Mr. Steven Robins

(515) 284-4770

Kansas City Area Office
Professional Building
1103 Grand Street
Kansas City, MO 64106

Mr. Vern Davis, Jr.

(816) 374-6125

St. Louis Area Office
270 N. Tucker Blvd.
St. Louis, MO 63101

Mr. George Demetre

(314) 425-4777

Omaha Area Office
Univac Building
7100 West Center Road
Omaha, NE 68106

Mr. George Vogel

(402) 229-9428

Denver Regional/Area Office
Executive Tower Building
1405 Curtis Street
Denver, CO 80202

Mr. Larry C. Sidebottom

(303) 837-4721

Honolulu Area Office
300 Ala Moana Blvd.
Honolulu, HI 94830

Mr. Mike Flores

(808) 546-2137

Los Angeles Area Office
2500 Wilshire Blvd.
Los Angeles, CA 90057

Mr. Malcolm Findley

(213) 688-5978

Phoenix Service Office
Arizona Bank Bldg.
101 N. First Avenue
Suite 1800
Phoenix, AZ 85002

Mr. George Stensland

(602) 261-4497

Sacramento MF Service Office
545 Downtown Plaza
P.O. Box 1978 - Suite 250
Sacramento, CA 95809

Ms. Elizabeth Downing

(916) 440-2334

NAME AND LOCATION OF
SERVICING HUD OFFICE

NAME AND PHONE NO.
OF HUD CONTACT

San Francisco Area Office
One Embarcadero Center
Suite 1600
San Francisco, CA 94111

Acting: William H. Harrison

(415) 556-6781

Anchorage Area Office
334 West Fifth Avenue
Anchorage, AK 99501

Acting: Pat Brown

(907) 271-4175

Portland Area Office
Cascade Building
520 S.W. Sixth Avenue
Portland, OR 97204

Mr. Albert E. Olson

(503) 221-2788

Seattle Area Office
403 Arcade Plaza Bldg.
1321 Second Avenue
Seattle, WA 98101

Mr. George M. Mathisen

(206) 442-0334

Tucson Service Office
33 N. Stone Avenue
Arizona Bank Bldg.
Suite 1400
Tucson, AZ 85701

Mr. Lawrence H. Peters

Comm: (602) 792-6779

Boise Service Office
419 N. Curtis Road
P.O. Box 32
Boise, ID 83705

Mr. Albert E. Olson

Comm: (503) 221-2788

Portland Area Office
Cascade Building
520 S.W. Sixth Avenue
Portland, OR 97204

Mr. Albert E. Olson

Comm: (503) 221-2788

Seattle Area Office
403 Arcade Plaza Bldg.
1321 Second Avenue
Seattle, WA 98101

Mr. George M. Mathisen

Comm: (206) 442-0334

Spokane Service Office
746 U.S. Courthouse
West 920 Riverside Avenue
Spokane, WA 99201

George M. Mathisen

Comm: (206) 442-0334

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
March 25, 1983

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 83-8

TO: ALL APPROVED MORTGAGEES

SUBJECT: Withholding of Interest on HUD Debentures

The Tax Equity and Fiscal Requirements Act of 1982 requires payers of interest to withhold ten (10) percent of each interest payment as a Federal income tax withholding unless the recipient is eligible for exemption. Recipients of interest on HUD debentures are paid directly by the Bureau of Public Debt, Treasury Department. Therefore, in accordance with the Act, the Bureau of Public Debt will withhold ten percent of each debenture interest payment unless an exemption certificate is filed with the Bureau.

For exemption, Form PD 5064, Certificate of Exemption From Withholding on Interest, must be filed with the Bureau no later than one full month prior to the interest payment date. The form may be obtained by writing to:

- (1) Any Federal Reserve Bank or Branch, or
- (2) Bureau of the Public Debt, Department F,
Washington, D.C. 20226

Inquiries relative to withholding of interest on HUD debentures should be made via calling the Bureau of Public Debt's public inquiry service, telephone (202) 287-4113. (This is not a toll-free number.)

Sincerely,

Philip Abrams
Assistant Secretary for Housing
- Federal Housing Commissioner

15

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 83-24

TO: ALL APPROVED MORTGAGEES

ATTENTION: Multifamily Mortgagees

SUBJECT: Requirements for Multifamily Insured Projects

1. Property Insurance Requirements
2. Increases in Replacement Reserve Deposits
3. Investment of Replacement Reserves and Residual Receipts
4. Distribution of Form [HUD-9807](#), Request for Termination of Multifamily Mortgage Insurance

1. Clarification of Property Insurance Requirements. 24 CFR 207.260(c) requires that all projects encumbered by FHA insured

mortgages must carry hazard insurance policies which meet the requirements of the Federal Housing Commissioner. Since those regulations also make mortgagees responsible for monitoring the adequacy of the coverage and for obtaining insurance when mortgagors fail to do so, several mortgage companies have asked the Department to clarify its insurance requirements for multifamily projects. That clarification follows.

Section 207.10 of the Regulations requires that multifamily projects carry a fire and extended coverage insurance policy in an amount that meets the coinsurance requirements of the insurer and is at least equal to 80 percent of the actual cash value of the project's insurable improvements and equipment. These insurance requirements apply as long as the mortgage is insured by HUD and regardless of the unpaid principal balance of the mortgage. To determine the amount of insurance required at project completion, mortgagees must use the estimate of insurable value shown on Form [HUD-92329](#), Property Insurance Schedule. In later years Form [HUD-92329](#)'s insurable value figures must be updated to reflect changes in construction costs that have occurred since project completion. After the first year of project operation, HUD will consider insurance coverage to be adequate if the insurance coverage met the insurer's coinsurance requirements at the time the policy was issued and:

- (a) the policy is endorsed with an agreed amount clause in which the insurer acknowledges the adequacy of the insurance coverage and agrees not to invoke any coinsurance penalty;
- (b) the insurer annually certifies that the insurance coverage meets its coinsurance requirements; or
- (c) the mortgagor/the insurance agent/the mortgagee annually correctly recomputes the project's insurable value by applying cost factors published in one of the nationally recognized building cost indices

and insurance coverage is increased to 80% (or any higher percentage required by the insurer's coinsurance clause) of the revised insurable value.

If the mortgagor refuses to pay any higher premiums associated with required increases in insurance coverage, the mortgagee must pay the additional premiums and bill the mortgagor for those premiums.

2. Increases in Monthly Deposits to the Reserve for Replacements. All projects subject to the replacement reserve provisions of the revised Section 8 New Construction or Substantial Rehabilitation regulations must increase their monthly deposits to the replacement reserve annually by the percentage amount of the annual adjustment approved for that project. The revised regulations apply to all older Section 8 projects whose owners

voluntarily opted to be bound by those regulations and, except as noted below, all insured and non-insured projects for which Agreements to Enter Into Housing Assistance Payments Contracts (AHAPs) were executed on or after November 5, 1979 for New Construction projects or February 20, 1980 for Substantial Rehabilitation projects. The replacement reserve requirements of the revised Section 8 regulations do not apply to previously HUD-owned projects sold pursuant to Section 886 (Subpart C), partially assisted projects, or Section 202/8 projects.

While HUD regulations do not require increases in deposits on other projects, regulatory agreements on insured and HUD-held projects do authorize HUD Field staff to approve changes in the amounts of the monthly deposits. When processing rental increases, HUD staff will analyze the adequacy of the deposits and suggest that owners increase the deposits if the increases are needed to meet replacement needs of the project.

Whenever deposits are increased pursuant to either of the two preceding paragraphs, the Field Office will send the mortgagee a Form HUD-9250, Reserve for Replacements Authorization. This Form will specify the amount and effective date of the new deposit.

3. Investment of Reserves for Replacements and Residual Receipts.

- a. Replacement Reserves. The revised Section 8 regulations require that projects subject to those regulations invest the Reserve for Replacements. While HUD regulations do not mandate that other projects invest their Replacement Reserves, HUD encourages owners to do so as prudent investment can offset inflationary increases in repair costs and enhance a project's financial condition. If an owner elects to invest the Replacement Reserve, the Mortgagee's Certificate (Form HUD-92434) provides that the mortgagee must permit the investment. Either the mortgagee or the mortgagor may effect the investment. Mortgagors subject to the revised Section 8 regulations must retain any investment earnings in the Reserve.

17

APPENDIX 7
4350.4

3

Mortgagors not subject to the revised Section 8 regulations must deposit investment earnings in either the project's operating account or the Reserve for Replacements; the choice rests with the mortgagor. Investment earnings may not be distributed directly to mortgagors without regard to surplus cash considerations.

- b. Residual Receipts. In the past only projects subject to Subpart F of the revised Section 8 regulations were required to invest Residual Receipts. While the Regulatory Agreements for other projects give HUD control over the use and investment of Residual Receipt funds, in the past HUD has elected to allow those mortgagors to choose to invest or not to invest these

funds. We are now changing our policy for these projects. Effective immediately, we are requiring that all projects' Residual Receipts be invested and that any earnings on the investment be credited to the Residual Receipts account. Residual Receipts may be invested only in the accounts or securities listed under Paragraph c below. While mortgagors relinquished control over Residual Receipts when they signed the project Regulatory Agreement, at the present time HUD will allow the mortgagors to select among the authorized forms of investment so long as the mortgagor exercises due care and attempts to maximize earnings to the extent consistent with the project's liquidity needs.

- c. Forms of Investment. Reserves for Replacement and Residual Receipts may be invested in Treasury securities, securities issued by a Federal agency or deposits which are insured by an agency of the Federal government. Acceptable forms of investments are listed in Paragraphs (1) through (4) below. Neither Residual Receipts nor Replacement Reserves may be invested in Repurchase Agreements (REPOS). Investments must be established so as to: (1) permit the mortgagee to convert the investment to cash at any time; and (2) provide that the investments will at all times be under the control of the mortgagee.

- (1) Direct Obligations of the Federal Government Backed by the Full Faith and Credit of the United States. These include U.S. Treasury Bills, Notes and Bonds.
- (2) Obligations of Federal Government Agencies. These include, for example, GNMA Mortgage-Backed Securities, GNMA Participation Bonds and Farm Credit Administration issues.
- (3) Demand and Savings Deposits. Demand and savings deposits at commercial banks, mutual savings banks, savings and loan associations and credit unions are permitted, provided that the entire deposit is insured by the Federal Deposit Insurance Corporation (FDIC), the National Credit Union

Share Insurance Fund (NCUSIF), or the Federal Savings and Loan Insurance Corporation (FSLIC).

- (4) Insured Money Market Deposit Accounts. Investment in money market accounts is permitted, provided that the account is insured by one of the Federal agencies identified in Subparagraph 3c(3) above.
- d. Choosing Among Available Forms of Investment. Except as noted below, the mortgagor has the right to determine which

of the investments discussed in Paragraph 3c will be used and a mortgagee may not restrict the mortgagor's choice. A mortgagor may authorize a lender to select the form of investment, if the lender is willing to accept that responsibility. If a mortgagor retains the authority to choose among authorized forms of investment, the mortgagee may require the mortgagor to provide written directions as to the type of investment desired. A mortgagee may refuse to honor mortgagor's request for a specific investment only if:

- (1) the mortgagee determines that the mortgagor's choice of investment will significantly increase the lender's cost of administering the reserve, and the mortgagee identifies another investment which offers liquidity, security and yield equal to or better than that proposed by the mortgagor; or
- (2) the proposed investment does not meet the criteria discussed in Paragraph 3.c. above.

- e. Mortgagee Fees. The mortgagee may charge a fee for administering invested residual receipts or replacement reserves if the fee is acceptable to the mortgagor. If there is an identity-of-interest between the mortgagee and either the mortgagor or its management agent, the mortgagor must assure that such fees do not exceed the amounts commonly charged when there is no identity-of-interest between the mortgagee and mortgagor. The mortgagor must disclose any such fees in the Replacement Reserve or Residual Receipts supporting schedules to the annual financial statement.

4. Distribution of Form [HUD-9807](#), Request for Termination of Multifamily Mortgage Insurance. [The](#) mortgagee is required to submit Form [HUD-9807](#) when the mortgage is prepaid or the mortgagor and mortgagee agree to terminate the mortgage insurance. Instructions printed on Form [HUD-9807](#) direct mortgagees to mail the form only to HUD Headquarters. To increase the accuracy of Field Office portfolio listings and address lists, we are now asking that mortgagees

19

APPENDIX 7
4350.4

mail all [HUD-9807](#) requests to both HUD Headquarters and the HUD Field Office having jurisdiction over the project in question. The Field Office's copy should be sent to the attention of the Housing Division Director.

Sincerely,

W. Calvert Brand
General Deputy
Assistant Secretary

20

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

March 27, 1985

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 85-4

TO: ALL HUD APPROVED MORTGAGEES

SUBJECT: Flood Insurance Requirements

The Flood Disaster Protection Act of 1973 requires that a property endorsed for EM mortgage insurance be covered by National Flood Insurance Program (NFIP) flood insurance if the property is located in an area of special flood hazard as designated on community maps issued by the Federal Emergency Management Agency (FEMA). These maps are termed "Flood Hazard Boundary Maps" or "Flood Insurance Rate Maps," depending upon the current level of community participation in the NFIP.

It has come to our attention that approved mortgagees may be unaware of: (1) the potential consequences to them if they fail to advise prospective homeowners of mapped flood hazards, or if they fail to require the prescribed NFIP flood insurance coverage; or (2) whose responsibility it is to determine whether a property is within a flood hazard area.

HUD instructions for property appraisals and the Residential Appraisal Report (Form HUD-92800-3) require identification of whether a property is in a FEMA-mapped flood hazard area. This should be indicated on the appraisal form by the appraiser who is hired by the mortgagee or by the fee appraiser assigned by HUD, and mortgagee submission of a Form HUD 92800-3 with positive indication of a property location in a flood hazard area will trigger a commitment requirement for flood insurance coverage (Specific Commitment Condition 13 on Form HUD-92800-5a). Under the Direct Endorsement program, the mortgagee must impose the flood insurance requirement. HUD identification of appraisers technically qualified to perform appraisals does not warrant that their determinations will be complete or error free, and mortgagees are responsible for checking negative indications of flood hazard areas.

Failure to advise prospective homeowners of mapped flood hazards or to require the prescribed NFIP flood insurance coverage can have the following consequences:

1. The mortgagee may be surcharged on its mortgage insurance claim if the default is due to flood damage or destruction and there is no flood insurance to cover the cost of repair

or replacement.

2. The mortgagee may lose its FHA approval.

21

APPENDIX 7
4350.4

2

3. The Flood Disaster Protection Act of 1973 may create a standard of conduct which, if broken, would give rise under state law to an action by a mortgagor against the mortgagee for negligence (Hofbauer v. Northwestern National Bank, 700 F. 2d 1197 (8th Cir. 1983)).
4. The property and the mortgagor may become ineligible for Federally-Administered Disaster Assistance Loans or Grants.

For any technical questions, contact D. Earl Jones at (202) 755-6700.

Sincerely,

Shirley McVay Wiseman
General Deputy Assistant Secretary
for Housing-Federal Housing Commissioner

22

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
November 8, 1985

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 85-25

TO: All Approved Mortgagees

SUBJECT: Implementing wire transfers of multifamily claims payable in
cash of \$5,000 or more

The Department of Housing and Urban Development and the Department of the Treasury are ready to use electronic funds transfers starting November 4, 1985, to pay multifamily claims payable in cash. If the claim is payable in cash, payments of \$5,000 or more will be made through the Treasury Financial Communication System (TFCS). This will improve the efficiency of Federal financial management and also benefit mortgagees.

The TFCS provides on-line access to the Federal Reserve

Communications System (FRCS) enabling payments to mortgagees to be made to financial institutions that have access to the FRCS. The payment can also be made to financial institutions that do not have access to the FRCS through correspondent financial institutions or Federal Banks.

The TFCS payment method will eliminate mail and processing time associated with payment by check. Instead of waiting for a check payment to arrive in the mail, payment will be received through the financial institution on the actual payment due date. This is a more secure and reliable method of making and receiving payment. Information about the invoice(s) being paid will still be received as each TFCS payment message, will contain invoice information and the account number at the financial institution.

In order to make payment by TFCS to mortgagees, the attached payment information form will be sent to mortgagees or their servicers with the Multifamily Insurance Benefits Claims Package. The form will also be sent on outstanding cases in which the package has already been sent. For the TFCS payment method to be used, the form must be completed and returned as instructed.

23

APPENDIX 7
4350.4

2

If you have any questions or need additional information regarding this matter, please feel free to contact Eugene Morroni on (202) 755-7523.

Thank you for your cooperation and support of FHA programs.

Sincerely,

Janet Hale
General Deputy Assistant
Secretary For Housing
- Federal Housing Commissioner

Attachment

24

APPENDIX 7
4350.4

OMB Number: 1510-0050
Expiration Date: 9/30/86

Payment Information Form
Treasury Financial Communications System

The information requested on this form concerning your financial

institution should be available through your company's Treasurer or financial institution.

If your financial institution has access to the Federal Reserve Communications System, please only complete items 1-9 and 14. If your financial institution does not have access to the Federal Reserve Communications System, please complete all items except item 7.

1. Name of Company: _____
2. Address: _____

3. Contact Person: _____
4. Phone Number: Area Code _____
5. Name of Financial Institution: _____
6. Address of Financial Institution: _____

7. Financial institution's 9-digit ABA identifying number for routing transfer of funds: _ _ _ _ _ (Complete only if your financial institution has access to the Federal Reserve Communications System).
8. Telegraphic abbreviation of financial institution: _____
9. Account number at your financial institution to be credited with the funds: _____
10. Name of the correspondent financial institution your financial institution receives electronic funds transfer messages through, if it does not have access to the Federal Reserve Communications System: _____

APPENDIX 7
4350.4

11. Address of Correspondent Financial Institution: _____

12. Correspondent financial institution 9-digit ABA identifying number for routing transfer of funds: _ _ _ _ _ .
13. Telegraphic abbreviation of correspondent financial institution: _____

14. Signature and title of person completing this form:

Signature	Title	Date
Comments: _____		

Mail to:

26

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

March 24, 1986

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 86-8

TO: ALL HUD APPROVED MORTGAGEES

SUBJECT: Insurance Requirements - Multifamily Housing Projects

Insurance premiums, including those for fire and hazard insurance required by HUD, are increasing at an alarming rate due to changes in the economics of the insurance industry. These changes are resulting in higher than normal premium increases and have created a problem in securing insurance for Multifamily housing Projects insured under all Sections of the National Housing Act, including co-insured projects. The rate increases are so high that, in several instances, insurance cannot be purchased even through the FAIR plans administered by the States.

HUD Regulations (24 CFR 207.10) require that the mortgage include a covenant binding the mortgagor to carry a standard insurance policy or policies against fire and other hazards in an amount that meets the coinsurance requirements of the insurer and is at least equal to 80 percent of the actual cash value of the insurable improvements and equipment. These insurance requirements apply as long as the mortgage is insured by HUD, and regardless of the unpaid principal balance of the mortgage. Mortgagee Letter 83-24, dated October 25, 1983, sets forth the method to determine the correct amount of insurance. That letter (and Section 207.260 of the Regulations) also requires all insured mortgagees to pay insurance premiums to keep such policies in force and bill project owners for premiums due if mortgagors refuse to pay higher premiums for increases in insurance coverage.

To address the problem cited above and ensure that mortgagees continue to meet HUD's requirements for fire and hazard insurance, we have advised our field offices to approve rent increases sufficient to cover the increased cost of insurance premiums.

Additionally, the Field Offices were directed to increase the Reserve Fund for Replacements deposits when lenders agree to increase deductibles. When Reserve Fund for Replacements deposits are increased, Regulatory Agreements will be amended to reflect the change. However, there may be some instances where other measures need to be taken by the mortgagee. These include (1) making advances to pay premiums until rents are increased sufficiently, and billing the owner for the advances; (2) establishing reasonable deductible amounts; (3) setting aside a portion of the Reserve Fund for Replacements, or transferring a portion of the residual receipts, if any, to the Reserve Fund for Replacements account as a "reserve" for deductibles; and (4) insuring quick response to the Field Office's

27

APPENDIX 7
4350.4

2

authorization to use Reserve Funds for Replacement Funds to pay premiums where the project owners and HUD have amended Regulatory Agreements to allow HUD to authorize mortgagees to automatically apply sums in the Reserve Fund for Replacements Account to payments due. If a part of the Reserve Fund for Replacements Account is set aside in a "reserve" for deductibles, the funds should be held in cash or should be invested only in a manner that it can be converted to cash with no penalty to project owners and in accordance with requirements otherwise applicable to the investment of Reserve for Replacements Funds.

HUD Regulations (24 CFR 207.260 (d)(3)) require all insured mortgagees to notify the Commissioner within 30 days of the cancellation of the insurance or of the refusal of the insurance company to renew the insurance. That Regulation also requires the mortgagee to notify HUD that diligent efforts to obtain coverage against fire and other hazards at reasonably competitive rates were unsuccessful and that efforts will be continued to obtain such coverage at competitive rates. Failure to notify the Commissioner may result in a reduction of a mortgage insurance claim should the property be damaged at the time of assignment. The notification letter and a copy of the notice of denial or refusal to insure from the insurance company or the State Insurance Commissioner should be sent to the Director, Office of Multifamily Housing Management, 451 7th Street, SW, Washington, DC 20410-8000. The Office of Multifamily Housing Management will acknowledge receipt of this letter and will notify the applicable Field Office. The notification must be accompanied by Notices of Denial or Refusal to Insure issued by the insurance companies contacted. If a claim for mortgage insurance benefits is made while the project is uninsured, a copy of this acknowledged notice must be submitted with the election to assign. If insurance coverage is subsequently obtained, notice shall be given to HUD at the above address.

Experience has shown that increases in insurance rates are cyclical and that eventually a more competitive market will return. In the meantime, we urge your cooperation in dealing with the present situation,

especially by notifying project owners when you find potentially hazardous situations, such as:

- (a) Stair or elevator blockages.
- (b) Inoperative or blocked entrance or exit doors.
- (c) Fire extinguishers in inoperable condition or missing.
- (d) Poorly maintained heating or cooling systems.
- (e) Inadequate electrical systems.
- (f) Flammable liquids stored on site or near sources of combustion.
- (g) Improperly marked electrical or water systems.
- (h) Wet floors near electrical boxes or connections.
- (i) Dirty laundry rooms.
- (j) Improper insulation of water/steam pipes.
- (k) Lack of sprinkler systems, standpipes, or fireproofing in boiler rooms or near other sources of heat.

28

APPENDIX 7
4350.4

3

For any technical questions, contact James J. Tahash at (202-426-3944).

Sincerely yours,

Silvio J. DeBartolomeis
Acting General Deputy Assistant Secretary
for Housing-Deputy Federal Housing Commissioner

29

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

SEP 18, 1986

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgage Letter #86-18

TO: ALL APPROVED MORTGAGEES AND MULTIFAMILY COINSURING LENDERS

SUBJECT: Single Family and Multifamily Production - Guidelines
Regarding Lapses of Insurance Authority and Credit Cap
Limits

A number of lapses have occurred in the Department's statutory authority to insure mortgages. In addition, on two occasions the Department determined that the FHA credit limitation had been reached. HUD must assure uniformity in the handling of insurance

applications when one or both of these events occur. To this end, the following procedures will be utilized:

Single Family Programs

A. Expiration of Insurance Authority

1. Effective start of business the day on which insurance authority expires, no conditional commitments may be issued or reissued and expired commitments may not be reopened and extended.
2. Firm commitment's may be issued pursuant to outstanding conditional commitments. Firm commitments may not be issued pursuant to outstanding Certificates of Reasonable Value (CRVs) issued by VA.
3. HUD may continue to amend outstanding conditional or firm commitments.
4. HUD may continue to endorse mortgages and issue insurance certificates, provided a firm commitment is outstanding. (Firm commitments may only be issued pursuant to outstanding conditional commitments.)
5. HUD will continue to issue cases numbers/appraisers' names and process single family applications up to conditional commitment, but the commitments will not be issued.
6. With regard to Direct Endorsement and Coinsurance cases, HUD will endorse for insurance those mortgages closed where the appraisal was reviewed and signed by the Direct Endorsement or Coinsurance Underwriter prior to the date on which insurance authority expired. (HUD views the signing of the appraisal by the Direct Endorsement

or Coinsurance Underwriter as the equivalent of the issuance of a conditional commitment for insurance authority purposes). For mortgages closed where the appraisal was signed by the underwriter on or after the date the insurance authority expired, HUD does not have the statutory authority to endorse the case for insurance until the insuring authority is extended. (Back dating the appraisal is prohibited and would result in an immediate Mortgagee Review Board action against the mortgagee involved and administrative action against the underwriter). For mortgages in the pre-closing status under Direct Endorsement, Firm Commitments cannot be issued after the insurance authority has expired.

B. Credit Cap Limitation Reached/Insurance Authority Expired

It must be noted that when the Department issues a case number under the single family programs, that case must be counted against the credit limitation. Consequently, when the credit limitation is reached, the Department cannot continue to issue case numbers and appraisers' names because those appraisals would place the Department in a position of having exceeded the credit limitation. Therefore, when the insurance authority has expired and the credit limitation is reached, the Department will, in addition to the procedures outlined in A, cease issuing case numbers and appraisers' names under the single family programs. When the credit limitation is raised by the Congress, the Department will resume this process.

C. Credit Cap Limitation Reached/Insurance Authority not Expired

When this situation occurs, the Department has the statutory authority to continue to process cases where a case number and appraisers name has been assigned. However, because the issuance of a case number and an appraisers name results in a case being counted against the credit limitation, HUD will cease issuing case numbers and appraisers' names effective upon notification, that the credit limitation is reached.

Multifamily Programs

The following procedures apply whenever a lapse in statutory insuring authority occurs (regardless of whether the credit cap has been reached) or the statutory credit cap is reached (regardless of whether statutory insuring authority has expired):

A. Full Insurance

1. Effective start of business the day insurance authority expires or upon notification that the Credit cap has been reached: (a) new firm commitments may not be issued; (b) expired firm commitments may not be reopened; and (c) outstanding firm commitments may not be amended to increase the interest rate or the mortgage amount.
2. HUD will continue to extend outstanding SAMA letters and conditional and firm commitments.
3. HUD will continue to issue new, amend outstanding and reopen expired SAMA letters and conditional commitments, but the following language must be added to such letters or commitments: "This SAMA, letter (or conditional commitment) is further conditioned upon the extension by Congress of the Secretary's authority to insure under this section of the National Housing Act and/or an increase by Congress in HUD's statutory credit cap."

4. HUD will continue to conduct initial and final closings on projects that have outstanding firm commitments issued before insurance authority lapsed or the credit cap was reached.

B. Coinsurance

1. For all multifamily coinsurance except as specified in 2. below, effective start of business the day insurance authority expires or upon notification that the credit cap has been reached:
 - a. new firm commitments may not be issued;
 - b. expired firm commitments may not be reopened;
 - C. outstanding firm commitments may not be amended to increase the interest rate or the mortgage amount.
2. For 223(f) coinsurance involving assistance under section 17 of the U.S. Housing Act of 1937 (i.e., the Housing Development Grant and Rental Rehabilitation programs), the limitations in la., b. and c. above apply effective start of business the day after insurance authority expires or upon notification that the credit cap has been reached.

3. Coinsuring lenders may continue to extend outstanding SAMA letters and conditional and firm commitments.
4. Coinsuring lenders may issue new, amend outstanding and reopen expired SAMA letters and conditional commitments, but the following language must be added to such commitments: "This SAMA letter (or conditional commitment) is further conditioned upon the extension by Congress of the Secretary's authority to coinsure under section 244 of the National Housing Act and to insure under either section 207 of the National Housing Act pursuant to section 223(f) or section 221 of the National Housing act, whichever is relevant; and/or upon an increase by Congress of HUD's statutory credit cap."
5. Coinsuring lenders may continue closing project mortgages that had firm commitments issued before insurance authority lapsed or the credit cap was reached, and present them for endorsement to the HUD field office with jurisdiction.

If you have a question(s), please contact the appropriate HUD Central Office staff person(s) listed below:

1. Morris Carter, (202) 426-7212, concerning single family insurance;

2. April LeClair, (202) 755-6223, concerning multifamily full insurance;
3. Vaughn Sanders, (202) 426-7113, concerning multifamily coinsurance.

Very sincerely yours,

James C. Nistler
Acting General Deputy
Assistant Secretary

33

APPENDIX 7
4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000
February 20, 1987

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 87-9

TO: All Approved Mortgagees

SUBJECT: Mortgage Prepayment Provisions for
HUD-Insured and Coinsured Multifamily Projects

This Mortgagee Letter supersedes Mortgagee Letter 87-4, * dated January 12, 1987, in its entirety. (The format of this letter is the same as that of Mortgagee Letter 87-4; note, however, that substantive or clarifying changes have been made to the following paragraph and Sections I-A(2), I-C(1), II-A and II-B.)

This letter clarifies HUD's position with respect to the inclusion of provisions prohibiting partial or full prepayments ("lock-outs") and prepayment penalties in fully-insured and coinsured project mortgages. The policies set forth below apply to all project mortgages endorsed for full insurance under Section 207, 213, 2203, 221(d)(3) or (d)(4), 223(f), 231, 232, 241 or 242 of the National Housing Act, or endorsed for coinsurance under Section 221(d) or 223(f) of the National Housing Act on or after the date of this letter, except those mortgages which are funded with the proceeds of State or local bonds sold prior to January 12, 1987.

I. Basic Policy

- A. Mortgages funded with the proceeds of tax-exempt or taxable bonds issued by State or local governmental bodies may include the following, so long as the conditions cited in Section II below are met:

- (1) a lock-out provision with a maximum term of ten years plus the construction period stated in the construction contract, if any; and

(2) a penalty provision applicable to prepayments made after the lock-out period, provided the penalty:

- would not exceed five percent during the first year following the lock-out period,
- would decline on a graduated basis (to the extent practicable, the decline in the penalty percentage should be the same each year), and

* Note: Mortgagee Letter 87-4 was not fully distributed.

-- would be no higher than one percent by the end of the fifth year following the lock-out period.

B. Mortgages funded with the proceeds of GNMA mortgage-backed securities or other bond obligations (as defined below) may include the following, so long as the conditions cited in Section II below are met:

- (1) a lock-out provision with a maximum term of ten years plus the construction period stated in the construction contract, if any; or
- (2) a prepayment penalty that would be no more than one percent at the end of the tenth year following the construction period stated in the construction contract (if the initial penalty is three percent or less and the penalty meets the other limits enumerated in paragraph C(2) below, the conditions of Section II need not be met); or
- (3) a combination lock-out/penalty provision with a lock-out period of less than ten years and a penalty that would be no more than one percent at the end of the tenth year following the construction period stated in the construction contract.

NOTE: For purposes of this Category B, "other bond obligation" refers to any agreement under which the insured mortgagee has obtained the mortgage funds from third party investors and has agreed in writing to repay such investors at a stated interest rate and in accordance with a fixed repayment schedule.

C. All other mortgages:

- (1) may not include any lock-out provisions other than

prepayment prohibitions required by HUD regulations (e.g., 24 CFR, Section 207.32a(e)(2), 231.12(a), or 255.503(i)); but

- (2) except for Section 241 mortgages of \$200,000 or less, may include a prepayment penalty provision, so long as the penalty:
 - would not apply to any prepayments which, in any calendar year, do not exceed 15 percent of the original mortgage amount,
 - would not exceed three percent during the first year of the mortgage term unless the conditions cited in Section II below are met, in which case, the initial penalty could be set as high as ten percent,

35

APPENDIX 7
4350.4

3

- would decline on a graduated basis (to the extent practicable, the decline in the penalty percentage should be the same each year), and
- would be no higher than one percent by the end of the tenth year following the construction period stated in the construction contract.

II. Conditions for Inclusion of Lock-outs and/or Penalties

We will allow lock-outs (Category A or B mortgages) or prepayment penalties that initially exceed three percent (Category A, B, or C mortgages) only when the conditions noted below are met.

A. For both full insurance and coinsurance cases, the following language, allowing HUD to override the lock-out and/or prepayment penalty provision in the event of a default in order to facilitate a refinancing or partial prepayment of the mortgage and avoid an insurance claim, must be included in the mortgage note:

Notwithstanding any prepayment prohibition imposed and/or penalty required by this Note with respect to prepayments made prior to _____, 19 __, enter first date on which prepayments may be made with a penalty of one percent or less the indebtedness may be prepaid in part or in full without the consent of the mortgagee and without prepayment penalty if HUD determines that prepayment will

avoid a mortgage insurance claim and is therefore in the best interest of the Federal Government.

HUD would consider exercising an override of a mortgagee's prepayment lock-out and/or penalty provision only if:

36

APPENDIX 7
4350.4

4

- (1) the project mortgagor has defaulted and HUD has received notice of such default, as required by 24 CFR Section 207.256 (full insurance cases) or Section 251-810 or 255.808 (coinsurance cases);
- (2) HUD determines that the project has been experiencing a net income deficiency, which has not been caused solely by management inadequacy or lack of owner interest, and which is of such a magnitude that the mortgagor is currently unable to make required debt service payments, pay all project operating expenses and fund all required HUD reserves;
- (3) HUD finds there is a reasonable likelihood that the mortgagor can arrange to refinance the defaulted loan at a lower interest rate or otherwise reduce the debt service payments through partial prepayment; and
- (4) HUD determines that refinancing the defaulted loan at a lower rate or partial prepayment is necessary to restore the project to a financially viable condition and to avoid an insurance claim.

B. For full insurance cases only, the mortgagee must certify at initial endorsement (final endorsement, in insurance upon completion cases) that, in the event of a default during the term of the prepayment lock-out and/or penalty (i.e., prior to the date on which prepayments may be made with a penalty of one percent or less), it will:

- (1) request a three-month extension of the deadline prescribed by 24 CFR Section 207.258 for filing a notice of its intention to file an insurance claim and its election to assign the mortgage;
- (2) if HUD grants the requested (or a shorter) extension of the notice filing deadline, assist the mortgagor in arranging a refinancing to cure the default and avert an insurance claim;

APPENDIX 7
4350.4

5

- (3) report to HUD at least monthly on any progress in arranging a refinancing;
- (4) otherwise cooperate with HUD in taking reasonable steps in accordance with prudent business practices to avoid an insurance claim; and
- (5) require any successors or assigns to certify in writing that they agree to be bound by these conditions for the remainder of the term of the prepayment lock-out and/or penalty.

The above certification must be incorporated by reference into the Mortgagee's Certificate.

In the event of a default, HUD would determine whether to grant the three-month (or shorter) extension of the election notice filing deadline based on its analysis of the project's financial condition and its assessment of the feasibility of arranging a successful refinancing. No further extension of the election notice filing deadline would be considered by HUD, unless an additional extension were specifically requested by the mortgagee.

III. For Further Information

Questions concerning this letter should be directed to the Insurance Division, (202)755-6223, or the Coinsurance Division, (202)426-7113, of the Office of Insured Multifamily Housing Development.

Sincerely yours,

Thomas T. Demery
Assistant Secretary

38

APPENDIX 7
4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

April 23, 1987

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

TO: ALL APPROVED MULTIFAMILY MORTGAGEES

SUBJECT: Operational Jurisdiction for Multifamily Projects

This listing of HUD Regional and Field Offices and FHA project identification numbers describes, in a general way, the geographical responsibilities for project servicing within the basic Departmental structure by summarizing operational jurisdiction for multifamily housing functions performed by each field office. While the FHA prefix associates projects with field offices, some of our field offices do not administer multifamily housing programs. In addition, projects with identical FHA prefixes are not all serviced by the same offices because of the split geographical distribution of servicing workload.

The proper association of a project with its servicing office is particularly important for your timely notification of mortgage delinquency to the Department. Therefore, we have prepared the attached listing which locates the field offices within their respective regional offices and highlights which offices have split geographical jurisdiction to provide an up-to-date description to multifamily mortgagees, lenders, and servicers when processing Hud-insured multifamily mortgages.

I hope the listing proves to be beneficial to all concerned.

Sincerely,

Thomas T. Demery
 Assistant Secretary for Housing
 - Federal Housing Commissioner

Attachment

REGIONAL AND FIELD OFFICES OF
 THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

PROJECT NUMBER CODE	FIELD OFFICE NAME	REGIONAL OFFICE NUMBER	*OPERATIONAL JURISDICTION FOR MULTIFAMILY PROJECTS
---------------------------	-------------------------	------------------------------	---

000	- Washington, DC	03	All multifamily housing functions are performed for all projects including those located in the following counties and independent cities listed below:
-----	------------------	----	---

Virginia: Alexandria Loudoun
 Arlington
 Manassas Fairfax
 Manassas Park

Falls Church
Prince William

Maryland: Montgomery
Prince Georges

012	-	New York, NY	02	All multifamily housing functions are performed for the following counties: Bronx Kings Nassau New York Westchester Queens Suffolk Richmond Rockland
013	-	Albany, NY	02	The New York, NY Office performs all multifamily housing functions in Albany for the following counties: Sullivan Orange Dutchess Putnam Ulster Buffalo, NY Office serves all other counties within Albany, NY
014	-	Buffalo, NY	02	All multifamily housing functions are performed for the following counties: Allegany Cataraugus Chautauqua Chemung Erie Genesee Livingston Monroe Niagara Ontario Orleans Schuyler Seneca Steuben Wayne Wyoming Yates
016	-	Providence, RI	01	
017	-	Hartford, CT	01	
022	-	Bangor, ME	01	All multifamily housing functions are performed by the Manchester, NH Office
023	-	Boston, MA	01	
024	-	Manchester, NH	01	
026	-	Burlington, VT	01	All multifamily housing functions are performed by the Manchester, NH Office
031	-	Newark, NJ	02	
032	-	Wilmington, DE	03	All multifamily housing functions are performed by the Philadelphia, PA Office

033 - Pittsburgh, PA 03
 034 - Philadelphia, PA 03

* When other than the field office listed has operational jurisdiction.

40

2

APPENDIX 7
 4350.4

PROJECT NUMBER CODE	FIELD OFFICE NAME	REGIONAL OFFICE NUMBER	*OPERATIONAL JURISDICTION FOR MULTIFAMILY PROJECTS
035 -	Camden, NJ	02	All multifamily housing functions are performed by the Newark, NJ Office
042 -	Cleveland, OH	05	
043 -	Columbus, OH	05	
044 -	Detroit, MI	05	
045 -	Charleston, WV	03	
046 -	Cincinnati, OH	05	
047 -	Grand Rapids, MI	05	
048 -	Detroit, MI	05	
051 -	Richmond, VA	03	All multifamily housing functions for Virginia are performed except for those areas listed for Washington, DC Office
052 -	Baltimore, MD	03	All multifamily housing functions for Maryland are performed except for those areas listed for Washington, DC Office
053 -	Greensboro, NC	04	
054 -	Columbia, SC	04	
056 -	San Juan, PR	02	
059 -	Shreveport, LA	06	All multifamily housing functions are performed by the New Orleans Office
061 -	Atlanta, GA	04	
062 -	Birmingham, AL	04	
063 -	Jacksonville, FL	04	
064 -	New Orleans, LA	06	
065 -	Jackson, MS	04	
066 -	Coral Gables, FL	04	All multifamily housing functions are performed by the Jacksonville,

			FL Office
067	- Tampa, FL	04	All multifamily housing functions are performed by the Jacksonville, FL Office
071	- Chicago, IL	05	
072	- Springfield, IL	05	All multifamily housing functions are performed by the Chicago, IL Office
073	- Indianapolis, IN	05	
074	- Des Moines, IA	07	
075	- Milwaukee, WI	05	
081	- Memphis, TN	04	All multifamily housing functions are performed by the Nashville, TN Office
082	- Little Rock, AR	06	
083	- Louisville, KY	04	
084	- Kansas City, KS	07	
085	- St. Louis, MO	07	

* When other than the field office listed has operational jurisdiction.

APPENDIX 7
4350.4

PROJECT NUMBER CODE	FIELD OFFICE NAME	REGIONAL OFFICE NUMBER	*OPERATIONAL JURISDICTION FOR MULTIFAMILY PROJECTS
086	- Nashville, TN	04	
087	- Knoxville, TN	04	
091	- Sioux Falls, SD	08	All multifamily housing functions are performed by the Denver, CO Office
092	- Minneapolis, MN	05	
093	- Helena, MT	08	All multifamily housing functions are performed by the Denver, CO Office
094	- Fargo, ND	08	All multifamily housing functions are performed by the Denver, CO Office
101	- Denver, CO	08	

102	- Topeka, KS	07	All multifamily housing functions are performed by the Kansas City, KS Office
103	- Omaha, NE	07	
105	- Salt Lake City, UT	08	All multifamily housing functions are performed by the Denver, CO Office
109	- Casper, WY	08	All multifamily housing functions are performed by the Denver, CO Office
112	- Dallas, TX	06	All multifamily housing functions are performed by the Ft. Worth, TX Office except for the 112 projects located in Collins, Dallas, and Rockwall counties.
113	- Fort Worth, TX	06	
114	- Houston, TX	06	
115	- San Antonio, TX	06	
116	- Albuquerque, NM	06	All multifamily housing functions are performed by the Ft. Worth, TX Office
117	- Oklahoma City, OK	06	
118	- Tulsa, OK	06	All multifamily housing functions are performed by the Oklahoma City, OK Office
121	- San Francisco, CA	09	All multifamily housing functions are performed for the counties below:
			Alameda
			Del Norte
			Humboldt
			Lake
			Marin
			Mendocino
			Monterey
			San Benito
			San Francisco
			Santa Cruz
			San Mateo
			Tulare
			Contra Costa
			Fresno
			Kings
			Madera
			Mariposa
			Merced
			Napa
			Solano
			Santa Clara
			Sonoma
			Stanislaus

* When other than the field office listed has operational jurisdiction.

PROJECT NUMBER CODE	FIELD OFFICE NAME	REGIONAL OFFICE NUMBER	*OPERATIONAL JURISDICTION FOR MULTIFAMILY PROJECTS
122	- Los Angeles, CA	09	
123	- Phoenix, AZ	09	
124	- Boise, ID	10	All multifamily housing functions are performed by the Portland, OR Office
125	- Las Vegas, NV	09	All multifamily housing functions are performed for all 125 projects in Nevada
126	- Portland, OR	10	All multifamily housing functions are performed for all projects including the counties located in the State of Washington listed below: Clark Klickitat Skamania
127	- Seattle, WA	10	
129	- San Diego, CA	09	All multifamily housing functions are performed for all 129, 122, and 143 projects located in Imperial, San Diego and Orange Counties
130	- Anchorage, AK	10	
131	- Houston, TX	06	
133	- Lubbock, TX	06	All multifamily housing functions are performed by the Ft. Worth, TX Office
136	- Sacramento, CA	09	All multifamily housing functions are performed for all projects located in the counties listed below: Alpine Modoc Siskiyou Amador Nevada Sutter Butte Placer Tehama Calaveras Plumas Trinity Colusa Sacramento Tuolumne El Dorado San Joaquin Yolo Glenn Shasta Yuba Lassen Sierra

139	- Phoenix, AZ	09	
140	- Honolulu, HI	09	
143	- Los Angeles, CA	09	
171	- Spokane, WA	10	All multifamily housing functions are performed by the Seattle, WA Office
176	- Anchorage, AK	10	

* When other than the field office listed has operational jurisdiction.

43

Appendix 7

4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

July 28, 1987

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 87-22

TO: ALL APPROVED MORTGAGEES

SUBJECT: Use of Project Reserve/Residual Receipt Accounts to Cure A
Potential Mortgage Default

Preserving the FHA Insurance fund is one of the prime objectives of this Department. In 1984, in order to prevent needless Claims on the insurance fund, HUD proposed that owners of multifamily projects with HUD-insured loans effect an amendment to the Regulatory Agreement to give HUD pre-authorization to use funds in a project's reserve for replacement to cure a delinquent mortgage payment.

Consistent with this policy of preventing avoidable claims, the Department hereby establishes the following new procedures:

1. Reserve for Replacements. Under the Regulatory Agreement, the mortgagor, with HUD's approval, may direct the disbursement of reserve funds for allowable purposes. In cases where the mortgagor and HUD have executed the Regulatory Agreement amendment referred to above, mortgagees shall accept telephone approval from the HUD Field Offices to use reserve funds to cure a default. (HUD Field Office staff have records indicating which mortgagors have executed the amendment.) HUD will promptly confirm the telephone approval in writing.
2. Residual Receipts. The Regulatory Agreement further provides that the residual receipts fund shall be under the control of the Commissioner, and may be used for "such purposes as he may determine." Consistent with the Department's new policy, the following new procedure is established concerning use of residual receipts. In cases where the mortgagee has not received payment from the mortgagor by the second to the last

business day of the month in which it is due, the mortgagee is hereby directed to automatically transfer funds from the residual receipts account (adhere funds are available) to cure the default. Where a mortgagee has taken this action, it should immediately inform the local HUD Office of its action.

3. Notice to Mortgagors. Pending the issuance of formal regulations to that effect, mortgagees are requested to send a copy of the Delinquency Alert prescribed by Mortgagee Letter 83-1, dated January 12, 1983, to the mortgagor, or his agent, in order to ensure that the mortgagor is aware that the mortgage is in default. This notification will prevent avoidable claims in

44

APPENDIX 7
4350.4

2

cases where the mortgagor has sufficient funds in the project account to make the mortgage payment, but payment in the proper amount has not been received due to being lost in the mail or other error.

All of these measures can materially assist in reducing the number of avoidable insurance claims where the problem which precipitated the default can be cured in a relatively short time. The Department appreciates your assistance in this matter.

If you have any questions concerning this letter, please contact the Office of Multifamily Housing Management, Planning and Procedures Division, at (202) 426-3944.

Sincerely yours,

Thomas T. Demery
Assistant Secretary

45

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

February 9, 1988

APPENDIX 7, 4350.4

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 88-3

TO: ALL APPROVED MORTGAGEES

SUBJECT: Prepayment of a HUD-Insured Mortgage by an Owner of
Low-Income Housing

Section 221 of the Housing and Community Development Act of 1987, which was signed into law on February 5, 1988, prohibits an owner of "eligible low-income housing" from prepaying, and prohibits a mortgagee from accepting prepayment of, a mortgage on such housing except in accordance with a plan of action approved by the Secretary of Housing and Urban Development. HUD is currently drafting regulations which will establish standards for the approval of such plans of action. Since Section 221 is now in effect, pending the issuance of HUD's regulations, mortgagees should not accept a prepayment from an owner of eligible low-income housing. The term "eligible low-income housing" includes housing financed by a mortgage:

- (a) that is :
 - (i) insured under the Section 221(d)(3) market rate program, if the project receives Rent Supplement or Section 8 assistance;
 - (ii) insured under the Section 221(d)(3) Below Market Interest Rate (BMIR) program;
 - (iii) insured or assisted under the Section 236 program; or
 - (iv) a Purchase Money Mortgage originated by HUD with respect to a project which, prior to HUD's acquisition, was insured under a program referred to in clauses (i), (ii) or (iii) above; and
- (b) that, under the terms of the mortgage or applicable regulations in effect before February 5, 1988, is or will within one year become eligible for prepayment without HUD's consent.

46

APPENDIX 7
4350.4

2

Any requests for prepayment of mortgages to which Section 221 of the Housing and Community Development Act of 1987 is or may be applicable should be forwarded to the Department of Housing and Urban Development, 451-7th Street, S.W., Washington, D.C. 20410-8000, Attention: Office of Multifamily Housing Management.

Sincerely,

Thomas T. Demery
Assistant Secretary

47

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

APR 28 1988

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING
- FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 88-13

TO: ALL APPROVED MORTGAGEES

SUBJECT: Sarabond Testing

HUD is currently beginning to survey certain insured multifamily projects (including Section 202) assisted under its programs to determine whether these properties were constructed with Sarabond, a Saran latex mortar additive manufactured and sold by Dow Chemical Company. Sarabond has been the subject of several private sector suits against Dow where building owners claim that it causes corrosion of metals embedded in the mortar and brick panels and may even precipitate major cracking in the building's structure. Charges linking Sarabond to serious damage in structures where it has been used are increasing. At this point in our investigation, we have no firm idea as to the extent of Sarabond use in projects financed under HUD programs nor the actual nature of any hazard it might represent.

We will be requesting project owners participating in our programs to test their buildings for indicators of the presence of Sarabond. These tests are only preliminary. Where results indicate its possible presence, further in-depth tests will be conducted to determine conclusively whether it was used. We will also, at that time, be assessing potential problems Sarabond may have caused in buildings where its use is discovered.

You may be the mortgagee for one or more of the buildings which will be tested. The Department felt that you should be aware that these tests are taking place. If circumstances warrant, we may contact you again with further information.

Sincerely yours,

Thomas T. Demery
Assistant Secretary

Note: If there are any questions, please contact Mr. Gains E. Hopkins,
Senior Attorney for Multifamily Housing Finance, (202) 755-7067)

May 31, 1988

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 88-19

TO: ALL APPROVED MORTGAGEES

SUBJECT: Employment of Individuals That Have Been Debarred, Suspended
or the Subject of a Limited Denial of Participation

The purpose of this Mortgagee Letter is to reemphasize the Department's policy concerning employment by approved mortgagees of individuals that have been suspended, debarred or the subject of a limited Denial of Participation under the provisions of HUD's regulations at 24 CFR Part 24.

Approved mortgagees may not employ any individual or entity whose duties involve, directly or indirectly, programs administered by HUD where the mortgagee knows or should have known that the individual or entity is debarred, suspended or the subject of a Limited Denial of Participation. The Department will affirmatively seek administrative sanctions, including withdrawal of HUD-FHA approval, against mortgagees that do not comply with this policy.

The Department expects all mortgagees to check the Consolidated List of Debarred, Suspended and Ineligible Contractors and Grantees as well as confirming eligibility with the applicant, when employing individuals in their HUD-FHA insured mortgage operations. This List is mailed by the Department to all mortgagees approved for the Direct Endorsement program. Mortgagees not approved for the Direct Endorsement program should contact the local HUD Field Office for specific information concerning suspended and debarred individuals and entities on this list. The imposition of a Limited Denial of Participation is an action that is taken by the local HUD Field Office. Mortgagees should check with the HUD office in their jurisdiction for information concerning individuals who may be subject to such action.

HUD places great reliance on all approved mortgagees to maintain effective quality control procedures with respect to their HUD-FHA insured mortgage operations. We view the exclusion of individuals who have been debarred, suspended or the subject of a Limited Denial of Participation from the HUD-FHA mortgage insurance programs as an important element in a mortgagee's quality controls. Your support and cooperation will assist us in reducing the risk that such individuals pose to the integrity of our programs.

Should you have further questions, you may contact Andrew Zirneklis, Office of Lender Activities and Land Sales Registration at (202) 755-6924.

Sincerely yours,

Thomas T. Demery
Assistant Secretary

July 11, 1988

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 88-22

TO: ALL APPROVED MORTGAGEES

SUBJECT: Annual Inspection of Insured Projects

BACKGROUND. Regulations for HUD mortgage insurance programs require mortgagees to annually inspect each insured project and to give HUD and the project owner a report on that inspection. The inspection and reporting requirement is also included in the Mortgagee Certificates that were signed at loan closing. While some of you have annually submitted effective reports, other mortgagees have either not reported or have made only cursory inspections and submitted reports that are of little use.

PURPOSE OF THIS LETTER. This letter:

1. Establishes standards that all mortgagees must comply with when conducting annual inspections and reporting the results of those inspections.
2. Puts all mortgagees on notice that the Department will aggressively monitor and enforce mortgagees' compliance with these annual inspection requirements. These reports are valuable as they enable our field staff to detect developing problems.

APPLICABILITY. This letter applies to fully insured multifamily mortgages. For coinsured multifamily mortgages, mortgagees must follow the narrative procedures in Chapter 6 of Handbook 4566.2, Management, Servicing and Disposition Requirements for Projects with 223(f) Coinsured Loans. Appendix 20 of that Handbook will be revised to substitute the attached Form-9822 for the Form HUD-9822 now shown there.

INSPECTION REQUIREMENTS

1. You must inspect each insured property at least once in each calendar year. Generally, you should schedule inspections so that each property is visited every 12-15 months. We suggest that you consult, by phone or in person, with the local HUD Field Office in developing your inspection schedule for each year. The Field Office's Housing Management staff can inform you of any repairs they have required and any on-site visits they have scheduled. You may wish to schedule your inspections around those activities.

2. You should ask the owner or management agent to accompany you on the inspection. If neither the owner/agent can do so, you should require the agent to arrange for the resident manager or maintenance supervisor to accompany you.
3. Before conducting your inspection, you should:
 - a. Ask the HUD Field Office if there are any outstanding maintenance problems or repair schedules you should check on.
 - b. Check your files to determine if:
 - 1) Past inspections or recent correspondence reported maintenance problems.
 - 2) Recent insurance loss drafts or replacement reserve withdrawals should have been used to make repairs.
 - 3) Responses were made to previous inspections, where necessary.
 - 4) During the inspection, you must:
 - a) Walk through the project's grounds, common areas, office and maintenance work areas.
 - b) Determine if any maintenance or repairs required by you or HUD have been acceptably completed or are underway and progressing on schedule.
 - c) Inspect at least two vacant units - preferably ones that have not been cleaned or repaired and ones that are considered ready for occupancy. These units should be randomly selected from the list of vacancies.
 - d) Ask the project representative accompanying you about:
 1. Major Physical Improvements or Repairs. Have any been completed recently? Are any planned or needed? What funds were or will be used to pay for the repairs/improvements?

2. Maintenance Systems and Procedures. How does management process work orders? Has a preventive maintenance schedule been established and is it being followed? Is there a schedule for inspecting and decorating units? Is tenant damage to units excessive?
3. Cause of Any Maintenance Problems at the Project.
 - e) Assess the condition of the items listed in Part B of form HUD-9822, Physical Inspection Report. (A copy of the report is attached to this Letter.)
 - f) Either provide a narrative which will provide HUD with a general feel for the condition of the project or provide pictures that will provide the same information.
- 5) At the end of the inspection, verbally summarize for project management the observations and conclusions you will include in your report.

REPORTING REQUIREMENTS

1. Within 30 days after the inspection, you must send the HUD Field Office and the project owner a written report on your inspection. The report must be prepared on Form HUD-9822, Physical Inspection Report. The cost estimates box on the form is not to be filled in by the mortgagee. This box will be used by HUD to estimate cost projections.
2. In the Comments Section (Part E) of the Report, you must discuss the topics listed below. All comments should be cross-referenced to a particular line item in Parts B, C or D of the Report.
 - a. Any maintenance needs noted in Part B of the Report. If the maintenance is urgently needed, you should suggest a target completion date.
 - b. Any problems noted in Part C of the Report.
 - c. Mortgagees opinion as to reasons for any below average or unsatisfactory rating given in Part D of the Report.

3. The cover letter transmitting the report must require the owner to:
 - a. Give you a written statement as to how and when the project will correct any deficiencies noted in the mortgagee's report.
 - b. Send the HUD Field Office a copy of his/her response.
 - c. Complete actions (a) and (b) within 30 days of the date of your transmittal letter.
4. If a response is not received within the prescribed time period, follow-up action should be undertaken i.e., written request to mortgagor to comply with previous letter with a carbon copy to the Field Office.

Forms Distribution. You may obtain a supply of Form HUD-9822, Physical Inspection Report, from any HUD Field Office.

Effective Date. This Mortgagee Letter applies to all inspections made on or after September 11, 1988.

If you have any questions regarding this Mortgagee Letter, please contact James J. Tahash at (202)426-3944.

Sincerely yours,

Thomas T. Demery
Assistant Secretary

Attachment

August 26, 1988

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING
- FEDERAL HOUSING COMMISSIONER

ALL APPROVED MORTGAGEES

SUBJECT: FHA Debentures

As of August 26, 1988, the Department of Housing and Urban Development (HUD) will begin processing Federal Housing Administration (FHA) Debentures through the Federal Reserve Bank in Philadelphia (FRBP) rather than through the Department of the Treasury (Treasury). The FRBP will process all debenture related transactions except special redemption purchases. These transactions will be initially processed by HUD before being forwarded to FRBP.

All inquiries involving FHA Debentures, including special redemption purchases, shall be directed to the FRBP.

The address of the FRBP is:
Federal Reserve Bank
Securities Division
P.O. Box 90
Philadelphia, PA 19105-0090
(215) 574-6189

The FRBP address for couriers is:
Federal Reserve Bank
Securities Division
100 N. Sixth Street
Philadelphia, PA 19105

HUD is seeking legislative authority to convert to a book-entry system and will implement such a system once the necessary legislation is enacted.

Sincerely yours,

Thomas T. Demery
Assistant Secretary for Housing
- Federal Housing Commissioner, H

54

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT APPENDIX 7
WASHINGTON, D.C. 20410-8000 4350.4

March 28, 1989

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 89-12

TO: ALL APPROVED MORTGAGEES

ATTENTION: Multifamily Mortgagees

SUBJECT: Investment of Replacement Reserves and Residual
Receipts in Tax-Exempt Securities

HUD encourages, and in many programs requires, owners to invest Replacement Reserve and Residual Receipts funds in order to offset inflationary increases in repairs and replacement costs and to enhance a project's financial condition.

Mortgagee Letter 83-24 permitted the investment of Replacement Reserves and Residual Receipts funds only in Treasury securities, securities issued by a Federal agency, or deposits which are insured by an agency of the Federal government. While HUD encourages and often requires the investment of these funds, provisions in the Tax Reform Act of 1986 may prohibit mortgagors from offsetting taxable interest earnings on these accounts with passive losses from a project. Thus, there may be a disincentive to invest in taxable securities/accounts.

For this reason, we have reevaluated Mortgagee Letter 83-24 and have attempted to identify a tax-exempt security or securities which could be used as an investment of Replacement Reserve and Residual Receipts funds. We have sought to identify secure, liquid instruments, for which the return of principal and payment of interest are assured, to the maximum possible extent.

Effective immediately, in addition to the investments currently permitted in Mortgagee Letter 83-24, HUD will permit the purchase of the following tax-exempt securities:

1. AAA rated GNMA collateralized tax-exempt bonds.
2. AAA rated prerefunded bonds. These are bonds that originally may have been issued as general obligation or revenue bonds but are now secured, until the call date or maturity, by an "escrow fund" consisting entirely of direct U.S. government obligations that are sufficient for paying the bondholders.

NOTES OF CAUTION

1. In order to assure that required amounts have been paid into the Replacement Reserves and Residual Receipts accounts, the actual costs (which in many cases may not be the face value) of these and other approved securities, must be shown on the project books. In addition, details of these transactions should be disclosed in the footnotes to the Annual Financial Statement.
2. When HUD approves disbursements from Replacement Reserves or Residual Receipts funds and the funds are invested in these and/or other permitted securities, mortgagees must, to the extent that reserves are available, assure that securities are sold in an amount which results in proceeds sufficient to cover the disbursement.

3. Since the sale or redemption of these securities, as well as others already permitted, may result in cash proceeds of less than the amount invested, Chapter 4, Section 10, paragraphs 1(c)(3) of Handbook 4350.1, SUPP 1 "Insured Project Servicing Handbook" applies.
4. It is incumbent upon owners and managers, when making decisions on the purchase of these and other approved securities, to carefully consider the potential losses which may arise from sale or redemption of the securities.
5. Since HUD is limiting the purchase of these securities to those that are AAA rated, HUD will not permit, as an operating cost, fees for a Financial Advisor to assist in selecting such securities for investment.

Questions on the above may be addressed to your local HUD office or the office of Multifamily Housing Management, Planning and Procedures Division, phone (202) 426-3944. This is not a toll free number.

Sincerely yours,

General Deputy Assistant Secretary
for Housing

56

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

APPENDIX 7
4350.4

December 26, 1989

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 89-32

TO: ALL APPROVED MORTGAGEES

SUBJECT: Quality Control Plan for Approved Mortgagees

The purpose of this letter is to advise all approved mortgagees of a significant change in the Department's requirements for maintaining a Quality Control Plan for the origination and servicing of HUD-FHA insured mortgages.

One of the principal HUD-FHA objectives has been to improve the quality of loan origination and servicing by approved mortgagees. In keeping with this objective, the Department requires approved mortgagees to have a written Quality Control Plan for loan origination and servicing. This requirement is contained in HUD-FHA regulations 24 CFR Section 203.2(j). To date, the Department has not required a specific Quality Control Plan to be implemented by mortgagees. However, guidelines for quality control procedures were provided in HUD

Handbook 4060.1, Mortgagee Approval Handbook. These guidelines have remained essentially unchanged since 1980.

Effective immediately, the Department has established minimum requirements for an acceptable Quality Control Plan for mortgagees for loan origination and servicing. The new requirements are set forth in the enclosure to this Mortgagee Letter. All approved mortgagees must take immediate action to ensure that their existing Quality Control Plan meets the HUD-FHA requirements. Failure to comply with these requirements is grounds for an administrative sanction by the Mortgagee Review Board including the withdrawal of HUD-FHA mortgage approval.

We believe that the new requirements will benefit approved mortgagees and the Department in improving the quality of HUD-FHA insured mortgages and reducing the risk to the Department's insurance funds. These new requirements are based on the Department's extensive experience in carrying out its monitoring activities with respect to mortgagees. They are representative of quality control measures currently used by a large segment of the mortgage lending industry and should not impose an undue burden on any mortgagee doing HUD-FHA business. We will revise HUD Handbook 4060.1 in the near future to incorporate these requirements.

If you have any further questions concerning this letter, please contact the office of Lender Activities and Land Sales Registration at (202) 755-6924.

Sincerely,

C. Austin Fitts
Assistant Secretary for Housing
- Federal Housing Commissioner

Enclosure

57

APPENDIX 7
4350.4

QUALITY CONTROL PLAN FOR LOAN ORIGINATION AND SERVICING

REQUIREMENT. As a condition of HUD-FHA approval, mortgagees must have implemented a plan for quality control in the origination and if servicing HUD-FHA insured mortgages, a plan for quality control in servicing HUD-FHA insured mortgages. The Quality Control Plan must meet the requirements set forth herein. It must be a prescribed function of the mortgagee's operations and assure that the mortgagee maintains compliance with HUD-FHA requirements and its own policies and procedures. It must be sufficient in scope to enable the mortgagee to evaluate the accuracy, validity and completeness of its loan origination and servicing operations. It must provide for independent evaluation of the significant information gathered for use in the mortgage credit decision making and loan servicing process for all loans originated or serviced by the mortgagee. The Quality Control Plan must enable the mortgagee to initiate immediate corrective action where discrepancies are found.

- a. Policy and Objectives. Approved mortgagees must establish a formalized quality control plan which utilizes a program of internal or external audit or provides for an independent review by the mortgagee's management/supervisory personnel who are knowledgeable and have no direct loan processing, underwriting or servicing responsibilities. The quality control plan must provide for periodic reports which will identify for senior management areas of deficiency including, for example, errors and omissions, unacceptable patterns or trends, as well as fraud and intentional violations of regulations. Senior management must initiate prompt and effective corrective measures to eliminate the deficiencies. All employees involved in loan origination and servicing must be familiar with and understand the mortgagee's policies and procedures regarding quality control.

The primary objectives of the quality control plan are to:

- 1) Assure compliance with HUD-FHA requirements.
- 2) Assure that the mortgagee's policies and standards are known and adhered to by its personnel.
- 3) Assure that the mortgagee's procedures are revised in a timely manner to accurately reflect changes in HUD requirements; keep its personnel informed of the changes; and assure that employees are held accountable for performance failures or errors.
- 4) Assure that prompt and effective corrective measures are taken and documented when deficiencies in loan origination, underwriting or servicing are identified and to inform its personnel when deficiencies are found.

- 5) Assure that procedures exist for expanding the scope of quality control reviews where fraudulent activity or patterns of deficiencies are identified.
- b. Scope. The quality control plan must provide for a review of not less than ten percent of all HUD-FHA insured mortgages originated by the mortgagee on a monthly basis including its branches, loan correspondents and authorized agents. A representative sample of mortgages that is sufficient in number being serviced by the mortgagee, or its servicing agent, must also be reviewed to assure that HUD-FHA mortgage servicing policies and requirements are being met. For each branch office that originates or services HUD-FHA insured mortgages, an on-site branch office review should take place at least once every year. The Quality Control Plan must also provide for a review of the mortgagee's files and records to determine compliance with HUD's Affirmative Fair Housing Marketing Regulations.

Quality control reviews must include:

- 1) Selection of loans on a random basis including loans from all branch offices, authorized agents, loan correspondents and servicing agents.
 - 2) Assurance that all loan officers, underwriters, appraisers and servicers will have loans subjected to reviews.
 - 3) Analysis of all loans which go into default with six or fewer payments made by the mortgagor.
 - 4) Procedures for expanding the scope of the review where a pattern of deficiencies or fraudulent activity is disclosed.
- c. Initiate Corrective Action. The quality control plan must require written notification to the mortgagee's senior management, at least quarterly, of deficiencies cited as a result of the reviews. Senior management must promptly initiate action to correct all deficiencies. The actions taken by management must be formally documented by citing each deficiency, identifying the cause of the deficiency, and providing management's response or actions taken. Management should assure that documentation is promptly distributed to all loan origination, underwriting and servicing personnel. Employees should be provided with corrective instructions where patterns of deficiencies are identified in processing, underwriting or servicing.
- d. Notification to HUD of significant Discrepancies. Approved mortgagees are required to report any violation of law or regulation, false statements or program abuses by the mortgagee, its employees or any other party to the transaction to the HUD Regional office, the HUD Area office or to the HUD Regional office of Inspector General (refer to HUD Handbook 4000.2 REV-1).

- e. Required Elements of the Quality Control Plan.
- 1) General
- The quality control plan must:
- a) Assure that each office of the mortgagee including, if applicable, its approved Loan Correspondent(s), Authorized Agent(s), service centers and branches maintain copies of all HUD issuances, including regulations, handbooks, mortgagee letters, circular letters, etc., which are relevant to the mortgagee's HUD-FHA origination and servicing activities. These documents must be accessible to all employees, periodically reviewed with appropriate staff, and kept current.
 - b) Assure that all loans submitted by the mortgagee to HUD-FHA

for mortgage insurance endorsement are processed by employees of the mortgagee, its approved Loan Correspondent(s) or Authorized Agent(s).

- c) Assure that HUD-FHA Mortgage Insurance Premiums (MIP's) are remitted within 15 days from the date of loan closing and that late charges and interest penalties are promptly submitted.
- d) Assure that sales of HUD-FHA insured mortgages by the mortgagee or transfers of loan servicing are properly reported to HUD on Form HUD 92080, Mortgage Record Change and that the purchaser be advised of any loans subject to a HUD audit or investigation.
- e) Assure that the termination of HUD-FHA mortgage insurance of a mortgage is properly reported to HUD on Form HUD 2344, Lender's Request for Termination of Home Mortgage Insurance and that an assumption of a mortgage is properly reported on Form HUD 92080, Mortgage Record Change.
- f) Assure that escrow funds received from mortgagors are not excessive and are not used for any purposes other than that for which they are received.
- g) Assure that the mortgagee does not employ for HUD origination, underwriting or servicing any individual who is debarred, suspended or subject to a Limited Denial of Participation (LDP).

60

APPENDIX 7
4350.4

4

- h) Assure that the mortgagee is in compliance with the provisions of the Real Estate Settlement Procedures Act (RESPA), including distribution to mortgagors of the Special Information Booklet and good faith estimates which bear a reasonable relationship to actual costs, and, disclosure of business relationships with a particular provider of services.
 - i) Assure that the mortgagee keeps records of quality control findings and actions taken.
- 2) Loan Origination
- a. General requirements:
 - 1) The quality control plan must provide for the review of loans rejected by the mortgagee. These loans cannot be included in the ten percent review requirement.
 - 2) The quality control plan must provide for the written reverification of the mortgagor's employment, deposits,

gift letter or other sources of funds and re-ordering of a new credit report from another credit source. The report must be a Residential Mortgage Credit Report (RMCR).

- 3) Direct Endorsement lenders must perform field reviews on not less than ten percent of the appraisals performed by their own staff appraisers.
- 4) Quality control reviews should be performed within 90 days of closing of the loan.

b. Specific requirements:

The plan must provide for a review of the origination and underwriting function in order to:

- 1) Determine whether each loan file contains all required loan processing, underwriting and legal documents.
- 2) Determine whether a face-to-face interview was performed with the mortgagor prior to the signing of the fully completed loan application Form HUD 92900 and submission of the loan for underwriting.
- 3) Determine whether relevant loan documents were signed in blank by the mortgagor or employee(s) of the mortgagee; and that all corrections were initialed by the mortgagor or employee(s) of the mortgagee.

- 4) Determine whether verifications of employment, verifications of deposit and the credit report were handled by any interested third party or the mortgagor.
- 5) Determine whether credit report(s) were ordered from an authorized credit bureau or agency and if more than one credit report was ordered; determine whether all credit reports were submitted with the loan package to HUD-FHA.
- 6) Determine whether the preliminary loan application lists each outstanding liability and each asset of the mortgagor that was used to qualify for the mortgage.
- 7) Determine whether any outstanding judgements shown on the credit report were shown on the Form HUD 92900 with an accompanying explanation and documentation. Explanations are not acceptable where there is a delinquency or judgement involving a debt to the Federal Government.

- 8) Determine whether the loan file contains pertinent documentation if the mortgagor's source of funds for the required minimum investment was other than deposits in a savings institution and whether the source of funds was verified.
- 9) Determine whether the loan file contains a financial statement and a business credit report if the mortgagor is self-employed.
- 10) Determine whether any gift letter reflects intention of repayment of funds, the relationship of donor to mortgagor and whether the funds were deposited.
- 11) Determine whether the HUD-1 settlement statement was accurately prepared and certified to properly. This involves comparison of the HUD-1 with other relevant loan documents to determine whether the mortgagor made the required minimum investment and whether any seller's credit resulted in an over-insured mortgage.
- 12) Determine whether the loan was current at the time it was submitted to HUD-FHA for mortgage insurance endorsement.
- 13) Determine whether the mortgagor transferred the property at the time of closing or soon after closing indicating the possible use of a "strawbuyer" in the transaction.

62

APPENDIX 7
4350.4

6

- 14) Determine whether there was written reverification of the mortgagor's employment, deposits, gift letter or other source of funds and a new credit report re-ordered.
- 15) Determine whether all conflicting information or discrepancies were resolved and properly documented in writing prior to submission of the loan to HUD-FHA for mortgage insurance endorsement. This involves comparison of the preliminary loan application and original verifications of employment, verifications of deposit, credit report and other relevant loan documents with the final loan application Form HUD 92900 and all reverification documents.
- 16) Determine whether a field review of the appraisal was performed.
- 17) Determine the accuracy and completeness of underwriting conclusions and mortgagee documentation.

3) Loan Servicing

a. General requirements:

- 1) The quality control plan must provide for the selection of loans on a random basis that are in sufficient numbers and represent the universe of HUD-FHA insured mortgages serviced by the mortgagee or its agents.
- 2) The quality control plan must provide that all loan servicing staff, including managers, will have their loans subject to review.
- 3) The quality control plan must provide for an analysis of loans for general compliance with HUD-FHA servicing requirements, and special requirements such as assignment processing, Section 235 mortgages, forbearance, claims without conveyance, deficiency judgements and foreclosure.
- 4) The quality control plan must provide for analysis of escrow administration.
- 5) The quality control plan must provide for an analysis of operating procedures for collection and recordation of payment receipts; escrow bills; disbursements from escrow; and claim submissions.
- 6) The quality control plan must provide for the analysis of loans in foreclosure to determine compliance with HUD-FHA fiscal requirements and procedures such as extension requests, property preservation and requirements and inspections.

b. Specific requirements:

The plan must provide for a review of the loan servicing function in order to:

- 1) Determine that the mortgagee promptly establishes loan servicing records after loan closing and that the servicing records contain the information necessary for the mortgagee to properly service the mortgage in compliance with HUD Handbook 4330.1, HUD regulations, Mortgagee Letters and instructions for the submission of claims.
- 2) Determine that mortgagors have been notified when the mortgagee acquires servicing from another mortgagee and that loan servicing records are promptly established immediately upon transfer of a loan to the mortgagee's loan servicing portfolio.

- 3) Determine through review of individual loan servicing records that the amount of fees and charges imposed on the mortgagor do not exceed those permitted by HUD-FHA and the mortgage provisions. Among these are:
 - a) Late charges and partial mortgage payments properly assessed;
 - b) Annual analysis of escrow account including appropriate adjustments, and disbursements made promptly as the items for which the escrow was established become due and payable;
 - c) Fee or penalty not charged for prepayment or reinstatement of mortgage;
 - d) Attorney's fee collected only for the initiation of foreclosure proceedings; and
 - e) Assumption fees
- 4) Determine that requests from mortgagors concerning their individual mortgage accounts are promptly responded to.
- 5) Determine that mortgagor escrow accounts are not commingled with the mortgagee's operating accounts.
- 6) Determine that Section 235 recertifications are performed annually and assistance payments are accurately computed using the proper formula and that the income used for computing the assistance payments is compared to the income included in the mortgagor's income verification.

- 7) Determine that a claim for insurance benefits, form HUD-27011, submitted to HUD-FHA for payment, was properly calculated and the claim amount fully supported.
- 8) Determine that all defaulted loans with six payments or less are promptly identified and analyses performed in order to identify any origination or underwriting deficiencies once the defaulted loan has been identified.
- 9) Determine that mortgagors are provided every reasonable opportunity to remedy a delinquency or default including forbearance and recasting prior to a determination regarding foreclosure proceedings.
- 10) Determine that deeds-in-lieu are pursued where appropriate and that deficiency judgements are taken where required.

- 11) Determine that adequate collection activities and accurate documentation of collection efforts, including documentation of the referral of the mortgagor to a HUD-approved counseling agency is maintained.
- 12) Determine that a face-to-face interview with the mortgagor is attempted before three full mortgage installments become delinquent. If the face-to-face interview was not conducted, documentation must be provided of the permissible exception allowed by HUD.
- 13) Determine that an acceptable method of forbearance relief is provided to the mortgagor prior to initiation of foreclosure proceedings; review individual forbearance agreements and supporting financial data submitted or disclosed by the mortgagor to assure that they are reasonable.
- 14) Determine that property inspections to protect and preserve the property are performed when the mortgagor fails to make a mortgage payment and no contact is possible within 45 days of the due date, or if the mortgage is in foreclosure and the property is vacant.
- 15) Determine that HUD-FHA reporting requirements under the Single Family Default Monitoring System are complied with. This includes the accurate and timely submission of both monthly and quarterly reports.

- 16) Determine that mortgagors are notified of the availability of mortgage foreclosure relief under the home mortgage assignment program and that HUD-FHA requirements for processing assignment applications are complied with.
- 17) Determine that foreclosure proceedings are initiated and completed on a timely basis and in accordance with HUD-FHA requirements.
- 18) Determine that there are sufficient controls to assure that all aspects of the claims for insurance benefits are accurately prepared and on a timely basis to minimize the loss to HUD.
- 19) Determine that HUD pamphlet HUD-426 is mailed to all mortgagors no later than the second month of delinquency.
- 20) Determine that mortgagor information is reported regularly to credit reporting bureaus.

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

January 11, 1990

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING
- FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 90-2

TO: ALI APPROVED MORTGAGEES

SUBJECT: Prepayment of HUD-Insured Mortgage by an Owner of
Low-Income Housing

The recent passage of the Housing and Urban Development Reform Act of 1989 made important changes in the restrictions applicable to the prepayment of HUD mortgages financing lower income housing.

Section 201 of the Act amends Title II of the HCD Act of 1987 to extend its expiration date from February 5, 1990 to September 30, 1990. The present regulations and procedures for processing prepayment requests remain in effect covering mortgages insured, held or assisted under Section 221(6)(3), 221(d)(5) and 236 of the National Housing Act.

In addition, Section 202 of the Act amends Title II of the HCD Act of 1987 to include prohibition of voluntary termination of mortgage insurance at the request of the mortgagor and the mortgagee. Effective immediately the mortgage insurance contract on mortgages covered under Title II of the HCD Act of 1987 may be terminated only in accordance with a plan of action approved by the Secretary under Title II. Likewise, with respect to any mortgage whose prepayment is subject to Section 250(a) of the National Housing Act, Section 202 provides that HUD may approve the voluntary termination of mortgage insurance only after making the determinations set forth in Section 250(a).

Any questions concerning requests for prepayment of mortgages or termination of mortgage insurance should continue to be directed to the Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410-8000, Attention: Office of Multifamily Housing Management

Sincerely yours,

C. Austin Fitts
Assistant Secretary

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

February 21, 1990

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 90-5

TO: ALL APPROVED MORTGAGEES

SUBJECT: Standards for Audits of All HUD-Approved
Nonsupervised Mortgagees and Loan Correspondents

HUD's regulations at Section 203.4(b)(4) require nonsupervised mortgagees (and loan correspondents by authority of Section 2035(b)) to submit an annual audit report as a condition of continued HUD-FHA approval. The substance and format for these audit reports is set forth in HUD Handbook IG 4000.3 REV-2, Audit Guide for Use by Independent Public Accountants in Audits of HUD-Approved Nonsupervised Mortgagees, Loan Correspondents, and Coinsuring Mortgagees (Audit Guide), dated January 1987. It has come to the Department's attention that many of the audit reports prepared by independent public accountants (IPA's) and submitted by mortgagees are not in compliance with the provisions of the Audit Guide.

The Audit Guide requires IPA's to comply with generally accepted governmental auditing standards as established in the Standards for Audit of Governmental Organizations, Programs, Activities, and Functions (Government Auditing Standards), published by the Comptroller General of the United States. The Government Auditing Standards incorporate standards issued by the American Institute of Certified Public Accountants (AICPA), and add a number of supplemental standards to the AICPA Standards in order to meet the special needs for public accountability in the use of government assistance.

For HUD's purpose, the IPA's must prepare a written supplemental evaluation of internal accounting controls and compliance testing as detailed in Appendix 1 of Audit Guide. The report on compliance testing is mandated by HUD's regulations at Section 203.4(b)(4)(ii).

Many of the substandard audit reports fail to show that compliance tests and internal control reviews were performed. Positive and negative assurances in the IPA's supplemental report are often missing, along with a statement that the examination was performed in accordance with government accounting standards. A more detailed explanation of these specific problem areas is contained in an attachment to this Mortgagee Letter.

An example of an acceptable audit report can be found in Appendix 2 of the Audit Guide. Required audits of HUD-approved mortgagees should be sent to:

U. S. Department of Housing and Urban Development
Office of Lender Activities and Land Sales
Registration
451-7th Street, SW, Room 9146
Washington, DC 20410

Effective immediately, HUD will only accept audit reports which meet the substance and format requirements of the Audit Guide. Audits received that do not meet HUD Handbook IG 4000.3 requirements will be rejected. Mortgagees are advised that grounds for administrative actions under the jurisdiction of the Mortgagee Review Board include the failure of a mortgagee to submit the required annual audit of its financial condition, an evaluation of internal accounting controls and compliance testing prepared in accordance with HUD instructions. The audit requirement has been approved by the Office of Management and Budget and assigned approval number 2502-0005.

If you have any further questions concerning this letter, please contact the Office of Lender Activities and Land Sales Registration at (202) 755-6924.

Sincerely

C. Austin Fitts
Assistant Secretary for Housing
- Federal Housing Commissioner

Attachment

Compliance Testing

The compliance tests identified in Appendix 1 of HUD Handbook IG 4000.3 are intended to guide the IPA in reviewing the mortgagee's books and records and fulfilling the audit requirements of this guide. The IPA's supplemental report regarding tests of compliance shall also contain positive and

negative assurances. A positive assurance consists of a statement by the IPA that the tested items were in compliance with applicable laws and regulations. A negative assurance is a statement that nothing came to the IPA's attention as a result of specified procedures that caused the IPA to believe that the untested items were not in compliance with applicable laws and regulations.

The report on compliance testing shall include all material instances of noncompliance and all instances or indications of illegal acts along with the IPA's recommendations and observations warranting the attention of both the mortgagee and HUD officials. The views and comments of mortgagee officials shall be included for each item. Comments shall also be made as to the status of the corrective action taken or to be taken by the mortgagee on these items.

It is expected that errors or exceptions which the IPA judges to be significant or that represent a pattern of noncompliance with HUD regulations or instructions will be reported. Minor procedural noncompliances that are not illegal need not be disclosed. The IPA shall attempt to identify the condition, criteria, effect, and cause of each weakness to permit timely and proper corrective action.

In instances of fraudulent reports or statements to HUD and defalcations related to FHA-insured mortgages or Section 235 subsidy payments, the IPA shall advise the mortgagee of the possible irregularity and obtain documented assurance prior to issuance of the audit report, that the mortgagee has fully disclosed the particulars of the possible irregularity to HUD's Assistant Inspector General for Audit or other appropriate HUD officials. If the mortgagee does not make such notification, the IPA must do so.

A nonsupervised mortgagee or loan correspondent that originates 100 or fewer HUD-insured single family mortgages annually may choose to submit a Management Letter and Management Letter Response as an alternative to the compliance tests. All coinsuring mortgagees must have the compliance tests performed, regardless of the number of mortgages originated.

Evaluating the significance of departures from compliance with HUD regulations or guidelines requires the exercise of professional judgment by the IPA. The compliance tests are not intended to limit that judgment.

shall include an evaluation of internal accounting control. Both AICPA standards and generally accepted government auditing standards specify the need for a proper study and evaluation of internal accounting control as part of the audit.

The study and evaluation establish a basis for determining the extent to which auditing procedures are to be restricted and are intermediate steps in forming an opinion on the financial statements. The report shall identify as a minimum: (1) the auditee's significant internal accounting controls; (2) the controls identified that were evaluated; (3) the controls identified that were not evaluated; and (4) the material weaknesses identified as a result of the evaluation. The IPA must attempt to identify the condition, criteria, effect and cause to provide sufficient information to permit timely and proper corrective action.

If circumstances exist which justify not making a study and evaluation of internal accounting control, the report must explain why they were not made. This standard does not require any additional audit effort other than that required as part of a normal financial and compliance audit conducted in accordance with generally accepted governmental auditing standards as set forth by the Comptroller General.

71

APPENDIX 7
4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
WASHINGTON, D.C. 20410-0001

April 16, 1990

Mortgagee Letter 90-12

TO ALL HUD MORTGAGEES:

SUBJECT: Reform Act of 1989

As most of you are aware by now President Bush signed the HUD Reform Act of 1989 into law on December 15, 1989. This legislation is the culmination of a major effort on the part of the Bush Administration and Congress to restore taxpayer confidence in HUD programs, and represents the beginning of a new era for HUD employees, agents, and private industry participants. There will be no more "business as usual."

Embodied within this legislation are provisions affecting mortgagees. Mortgagees are key players and critically important partners in the Department's programs. I feel very strongly that the mortgage industry will respond positively to the directives contained in the attached Mortgagee Letter that addresses

stricter HUD program enforcement and quality assurance methods. Now that the legislation has been signed into law we can work together as partners to ensure that no abuses of the public trust take place in this area.

With regard to your monitoring and oversight responsibilities, I ask you to increase your diligence in conducting quality physical inspections and monitoring the financial conditions of the properties insured by the Department. We must assure that the tenants are the recipients of well-maintained housing. All mortgagees must take steps to tighten monitoring of their own servicing as well as the mortgage servicing of contractors.

I can assure you of my personal commitment, and that of the Department, to work with you in maintaining decent, safe and sanitary conditions for the people living in HUD-assisted housing. I know I can count on you in this effort.

Very sincerely yours,

Jack Kemp

72

APPENDIX 7
4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

April 16, 1990

OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING
- FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 90-12

MEMORANDUM TO: All Approved Mortgagees

ATTENTION: Multifamily Mortgagees

SUBJECT: Emphasis on Enforcement of Servicing Requirements

HUD's regulations place obligations upon the Mortgagee to service the multifamily insured mortgage in accordance with HUD's requirements. It has come to the attention of the Department that some mortgagees have not been following these requirements. In addition, the Department is specifically aware that some multifamily mortgagees have failed to perform the annual inspection of each insured housing project which is required under 24 CFR Section 207.260(a), the Mortgagee Certificate, and Mortgagee Letter 88-22 (dated July 11, 1988).

This letter is to emphasize to all multifamily mortgagees that the servicing requirements for multifamily insured mortgages will be aggressively enforced by the Department. In that regard,

mortgagees should be alerted that the Department of Housing and Urban Development Reform Act of 1989 (Act), establishes civil money penalties for "knowing and material" violations of HUD/FHA requirements. Under the Act, HUD will determine the amount of the penalty, up to \$5000 for each violation. Each mortgagee may be penalized up to \$1,000,000 per year. In the case of a continuing violation, as determined by HUD, each day constitutes a separate violation. The Act also statutorily authorizes the Mortgagee Review Board (Board) to impose sanctions upon mortgagees that fail to follow HUD/FHA requirements.

We wish to specifically stress to multifamily mortgagees the importance of meeting all of the Department's multifamily insured mortgage servicing requirements, especially the annual inspection requirements. The Department is preparing proposed rules setting forth standards and procedures for implementing the civil money penalties authorized under the Act. Mortgagees are on notice that the Department will impose administrative penalties for knowing and material violations of HUD requirements, including violations of HUD/FHA servicing requirements for multifamily mortgages, that are committed on or after the effective date of the regulations.

73

APPENDIX 7
4350.4

2

Mortgagees violating HUD requirements are subject to the imposition of sanctions by the Mortgagee Review Board under existing regulations (24 C.F.R. Part 25) as well as under the Act.

Sincerely yours,

C. Austin Fitts
Assistant Secretary for Housing,
Federal Housing Commissioner

74

APPENDIX 7
4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

April 26, 1990

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 90-13

TO: ALL APPROVED MORTGAGEES

SUBJECT: OMB's Guidance on Government-wide
New Restrictions on Lobbying

You are hereby notified of the requirement to comply immediately with the new restrictions on lobbying called for by Section 319 (referred to as the Byrd Amendment) of Public Law 101-121. OMB's Interim Final Common Rule, published for comment on February 26, 1990 is enclosed. December 23, 1989 was the effective date of this new restriction. The Byrd amendment prohibits all applicants and recipients of Federal contracts, grants, loans, and cooperative agreements from using Federally appropriated funds for lobbying. It also requires disclosure of lobbying with other than Federally appropriated funds by each person who receives or requests financial assistance in the form of a contract, grant, loan, cooperative agreement or commitment for loan insurance or loan guaranty that exceeds the minimum dollar thresholds.

APPLICABILITY: The Byrd Amendment is applicable to applicants and recipients and subcontractors of contracts, grants, or cooperative agreements exceeding \$100,000, as well as to loans or commitments to insure loans exceeding \$150,000. This includes all multifamily and coinsurance programs pursuant to Title II of the National Housing Act. For single family programs, the purchase of a personal residence is excluded from these requirements unless the mortgage amount exceeds \$150,000. It must be emphasized that even if the loan or grant amounts are not large enough to trigger the certification and disclosure requirements, the prohibitions against the use of Federally appropriated funds for influencing or attempting to influence the actions of Federal officials apply.

REQUIRED REPORTING: The OMB regulations require a certification that Federally appropriated funds are/ will/ have not been used in violation of Section 319 and that disclosure will be made of payments for lobbying with other than Federally appropriated funds. This certification is to be submitted by applicants as part of the application process for the "covered Federal actions" described above. Civil penalties from \$10,000 to \$100,000 can be assessed for noncompliance.

Copies of the standard certification language are attached. There are two versions; one is called a "certification" and is for contracts, grants, loans and cooperative agreements. The other is called a "statement" and is for loan guarantees and loan insurance. There is also a standard disclosure form, Standard Form - LLL "Disclosure Form to Report Lobbying", which is also attached, that must be used to disclose lobbying with other than Federally appropriated funds at the time of application filing.

Please note that the certification/statement and disclosure form must be submitted with each application, if required above. If it is not filed at the time of the application, it must be submitted before the applicant receives Federal assistance. This might occur where an application was submitted prior to December 23, 1989, but is not approved until after that date. In addition, at the end of each quarter a disclosure form shall be filed when an event requires disclosure or when previously filed disclosure information is inaccurate. It is up to the applicant to determine whether it is to be submitted.

In mortgage insurance programs, the applicant is the mortgagee. However, the sponsor/mortgagor is a subrecipient and is also covered. In multifamily, submissions must be made with the following:

- 1) Mortgage insurance application, at any stage - HUD-92013 92013-Hosp, 92013-NHICF or HUD-93201, as appropriate;
- 2) Cost Certification forms - HUD-92330 or FHA-2205A; and
- 3) Request for Final Endorsement of Credit Instrument - Form FHA-2023.

For single family insurance, each application that involves a mortgage amount that exceeds \$150,000 must be accompanied by the disclosure form. These forms must be signed by the mortgagee and all mortgagors and must be submitted with the application for firm commitment for all HUD processed cases; it must be included as part of the closing package for all Direct Endorsement cases submitted for insurance. You are reminded that this certification by the lender and mortgagor is only required for applications that involve mortgage amounts that exceed \$150,000. Generally, these applications will involve only 3 and 4 unit properties in high cost areas and most one-to-four unit applications in Hawaii.

HUD Headquarters contacts: Any questions may be addressed to the appropriate Headquarters program office as follows:

single Family Programs - Morris Carter, (202) 755-6700

Single Family Property Disposition - Jackie Campbell

(202) 755-5740

Multifamily Housing Management - James Tahash, (202) 426-3944

Multifamily Housing Development - Jane Luton, (202) 755-6223

Elderly & Assisted Housing - Larry Goldberger, (202) 755-5720

A Notice to Field Offices and a Coinsuring Lender Letter on this matter have also been sent.

of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ date of _____, 19 ____.

By _____
(signature)

(typed or printed name)

(title, if any)

Covered Action: _____
(type and identity of program, project or activity)

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure

or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ date of _____, 19 ____.

By _____
(signature)

(typed or printed name)

(title, if any)

Covered Action: _____
(type and identity of program, project or activity)

101

APPENDIX 7
4350.4

Statement for Loan Guarantees and Loan Insurance

The undersigned states, to the best of his or her knowledge and belief, that:

If any funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this commitment providing for the United States to insure or guarantee a loan, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Submission of this statement is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required statement shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ date of _____, 19 ____.

By _____
(signature)

(typed or printed name)

(title, if any)

Covered Action: _____
(type and identity of program, project or activity)

101

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410
May 22, 1990

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 90-16

TO: ALL APPROVED MORTGAGEES

SUBJECT: Flood Insurance Requirements for FHA Insured Loans

Because of the recent natural disasters we have received an increased number of questions about HUD's requirements for flood insurance. In addition, the Federal Emergency Management Agency (FEMA) has distributed several publications to clarify its procedures and requirements, including new "GUIDELINES" which were published in the Federal Register of July 1, 1989 at pages 29666 through 29695, and we want to bring HUD policy into conformance with that of FEMA.

By this Mortgagee Letter, we intend to clarify our instructions concerning flood insurance requirements for existing and proposed 1 to 4 family units as follows:

1. Flood Insurance is required for any building improvement which contributes to the mortgage value of the property when that improvement is in a "Special Flood Hazard Area" (SFHA). This requirement does not include unimproved land. For both existing and proposed properties, it is the responsibility of the Mortgagee and Mortgagor to establish the facts necessary to make this determination. When the building improvements are located outside of the SFHA, flood insurance is not required. Mortgagees must comply with FEMA instructions concerning a building which is in an area mapped as an SFHA, but which is above the base flood elevation. The attached information provided by FEMA shows some of the conditions which may arise, and whether flood insurance is required. Please note that in a number of cases, a Letter of Map Amendment (LOMA) or a Letter of Map Revision (LOMR) may be required. A LOMA amends the currently effective FEMA map and establishes that a

property is not located in an SFHA. A LOMR is an official amendment to the currently effective FEMA map. It is used to change information on the map. A LOMR is usually followed by a physical map revision.

2. When processing a new subdivision for approval, if all or a part of the subdivision is in an SFHA, the HUD office must follow the requirements under Executive Order 11988, and the affected building sites in the subdivision must be raised to be above the base flood elevation. For improved areas, EO 11988 does not apply. The subdivision or improved area must conform to the local government's flood plain management ordinance. A LOMR will be required for any affected building site to be acceptable for mortgage insurance, and no flood insurance is required.
3. For the acceptance of subdivisions with VA CRVs/MCRVs in accordance with Mortgagee Letters 89-1 and 89-9 which are in SFHA's, the HUD office does not need to follow the EO 11988 procedure. The subdivision must conform to the local government's floodplain management program. Individual homes must be built above the base flood elevation. A LOMR will be required and no flood insurance is required.
4. For all proposed construction, prior to insuring a mortgage for a home in an SFHA, a LOMR or LOMA must be obtained from FEMA indicating that the building improvements are no longer in the SFHA.

Each case binder relating to a property affected by an SFHA should contain a copy of the LOMA, or LOMR, or the property must have flood insurance.

These criteria represent the minimum requirements of the Department. Lenders are free to consider requiring flood insurance in participating communities on the basis of their own business judgement, even if the building that is the security for a loan is located outside of an SFHA. HUD does not expect that this revision will expose the Department or individuals purchasing homes with FHA insured mortgages to any additional risk. Mortgagees are advised, and they should advise mortgagors, that property in any flood hazard area may be damaged by flood and that flood insurance on properties in those areas is encouraged as low cost protection against serious loss which is not covered by homeowners insurance. In flood zones which are not SFHA's (Zones B,C, and X) a homeowner may now be able to purchase a "preferred risk" policy.

Very sincerely yours,

C. Austin Fitts
Assistant Secretary for Housing
- Federal Housing Commissioner

Attachment

103

APPENDIX 7
4350.4

[Click Here for Graphic](#)

104

APPENDIX 7
4350.4

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

August 24, 1990

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING - FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 90-32

TO: ALL APPROVED MORTGAGEES

SUBJECT: Payment of Multifamily Claims by Issuance of
Debentures

HUD's regulations at 24 CFR Section 207.259(a), as incorporated by reference into other program regulations, provide that, under many of HUD's multifamily insurance programs, the Commissioner may settle insurance claims in cash, debentures, or a combination of both, as determined at the time of payment. Until now, HUD has, through the issuance of Mortgagee Letters, announced in advance its intention as to the method of payment.

Effective immediately, with respect to both current and future loans insured under the programs listed below, FHA will determine the method of payment at the time of the payment, and thus will no longer announce in advance its intention as to the method of payment. The determination will be based on a comparison of the applicable debenture interest rate with the Treasury borrowing rate, and may also take into account administrative factors. If HUD has paid a partial settlement in cash prior to the date of this Mortgagee Letter, or makes a partial settlement in cash

thereafter, the final settlement will also be made in cash.

This letter is applicable only to those Multifamily insurance programs under which the Commissioner has the option to determine the method of payment. Those programs are as follows:

Program	Regulation
Section 207	207.259(a)
Section 213	213.251
Section 232	232.251
Section 234	234.751
Section 241	241.261 (Supplemental Loans endorsed prior to July 15, 1978)
Section 242	242.251 (Except as provided in 242.260)

105

APPENDIX 7
4350.4

2

Section 608	210.251
Section 803	225.265
Section 810	227.251
Title X	205.251
Title XI	224.251

This Mortgagee Letter does not apply to mortgages with respect to which HUD enters into, or has entered into, a Debentures Lock agreement.

Very sincerely yours,

Arthur J. Hill
Acting Assistant Secretary
for Housing-Federal Housing
Commissioner

106

APPENDIX 7
4350.4

U.S. Department of Housing and Urban Development
Office of Housing

Special Attention of:

Notice H 91-3 (HUD)

All Regional Administrators;
Directors, Office of Regional Housing;
Managers, Categories A, B and C Offices;
Field Office Housing Management Division
Directors, Categories A and B Offices;
Loan Management Branch Chiefs; and
Assisted Housing Management Branch Chiefs

Issued: 1/15/91

Expires: 1/31/92

Cross References:
Handbook 4350.1, Chapter 6
Mortgagee Letter 88-22

Subject: Field Office Control and Monitoring of Mortgagee
Physical Inspections of HUD-Insured Projects

In his memorandum dated April 16, 1990, Secretary Kemp stated that he was committed to taking whatever steps were necessary to ensure that both the quality of housing and quality of life for residents in our insured and assisted housing projects are upgraded to Departmental standards. The first step towards achieving this goal will be to undertake a comprehensive program of inspections of these projects that will reflect the views of the residents and will focus on improvement of physical conditions, correcting management problems, and addressing serious social problems.

Regulations for HUD mortgage insurance programs require mortgagees to annually inspect each insured project and to give HUD and the project owner a report on that inspection. Detailed mortgagee inspections can be an effective and useful management tool to assist in detecting and preventing conditions that can be detrimental to tenant welfare and project conditions, as well as to stop duplication of effort between mortgagees and HUD, reduce costs associated with HUD-conducted inspections, and relieve staff resources for other servicing activities.

While mortgagees generally conduct their inspections, prepare the related inspection reports, and send them to the local HUD Field Offices, unfortunately, some Field Offices have not established a tracking system to control the receipt of the reports, monitor compliance, or follow up on noted project deficiencies.

Mortgagee Letter 88-22 established standards that all mortgagees must comply with when conducting annual inspections and when reporting the results of these inspections, and to put all mortgagees on notice that the Department will aggressively monitor and enforce mortgagees' compliance with these annual inspection requirements.

In those instances where a Field Office feels that a mortgagee's report cannot be relied on because of the absence of specific information, it becomes the responsibility of the Field Office to require mortgagee compliance.

Based on the foregoing, Field Offices should immediately establish and implement an effective system for tracking the receipt and review of mortgagee inspection reports, as well as follow-up efforts on related project deficiencies. The Field Offices should evaluate mortgagee compliance with Mortgagee Letter 88-22 relative to the adequacy of the physical inspections by performing quality reviews of the mortgagee inspection process.

Each Field Office is directed to provide the Office of Multifamily Housing Management, Attention: James J. Tahash, Director, Planning and Procedures Division, with a written report by April 15, 1991 containing the following information:

1. The total number of projects within your jurisdiction where mortgagees should have provided you with physical inspection reports for the calendar year 1990, to date.
2. The number of projects within your jurisdiction where the mortgagee has provided your office with an acceptable physical inspection report for the calendar year 1990, to date.
3. The number of projects within your jurisdiction where the mortgagee has provided your office with a physical inspection report for the calendar year 1990, to date, but where the report was unacceptable.
4. The number of projects within your jurisdiction where the mortgagee has not provided your office with the required physical inspection report for the calendar year 1990, to date.

Also, please provide a brief statement as to the steps your office proposes to take during fiscal year 1991 to ensure 100 percent compliance by all mortgagees in their submission of timely and quality annual physical inspection reports.

Arthur J. Hill
Acting Assistant Secretary for
Housing-Federal Housing Commissioner

108

APPENDIX 7
4350.4

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

March 20, 1991

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 91-17

TO: ALL APPROVED MORTGAGEES

SUBJECT: Mortgagee Responsibilities Pending Assignment of
Multifamily Mortgages

We have been made aware that some mortgagees may not be taking appropriate actions to protect the Secretary's interest during the period from election to assign until the assignment is perfected.

All mortgagees are hereby reminded that, upon election to assign and pending recordation, the mortgagee is required to take necessary actions to protect the Secretary's interest. This includes seeking and assuming mortgagee-in-possession status in case of abandonment, waste of assets or equity skimming. Mortgagees must also continue to bill for and accept all payments until the mortgage is assigned in the Secretary's name.

If the mortgagor should file a petition under the Bankruptcy Code, we request that you take whatever actions are necessary to protect your interest as first lienholder and to preserve the security. Those actions would include filing the appropriate documents to assure that your interest is adequately protected. Please note that project rents are part of the loan security and are denoted as cash collateral under the Code. Therefore, you should obtain an Order recognizing your entitlement to the rents under the assignment of rents clause and restricting use of the rents in accordance with the rules governing cash collateral. You should also be alert to the fact that the mortgagor may not use project assets to pay attorney fees for legal service in connection with any aspect of the bankruptcy action without HUD approval.

This applies to elections due to a default and those made in accordance with Section 221(g)(4).

If you have questions regarding this memorandum, please telephone Kenneth F. Hannon at (202) 708-0547.

Sincerely,

Arthur J. Hill
Acting Assistant Secretary
for Housing-Federal Housing
Commissioner

109

APPENDIX 7
4350.4

U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

June 18, 1991

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 91 - 29

MEMORANDUM FOR: All HUD-APPROVED MORTGAGEES

SUBJECT: Auction of Section 221(g)(4) Multifamily Mortgages

The Department has received approval from the Office of Management and Budget to collect the information required to auction Section 221(g)(4) mortgages. Section 221(g)(4) of the National Housing Act provides that mortgagees with mortgages insured pursuant to a commitment issued under Section 221 prior to November 30, 1983, may assign to HUD any such mortgage in the twenty-first year following the date of final endorsement, provided that the mortgage is not in default. Section 336 of the Cranston-Gonzalez National Affordable Housing Act and Section 2201 of the Omnibus Budget Reconciliation Act of 1990 provide that, when a mortgagee elects to assign a mortgage to HUD under Section 221(g)(4), the Secretary shall, in lieu of accepting the assignment, arrange an auction sale of the mortgage and pay the purchaser monthly interest enhancement payments.

HUD will arrange auction sales for all Section 221(g)(4) mortgages for which a notice of election to assign was submitted after December 5, 1990. Mortgagees who submitted notices on or before December 5, 1990, and for which no assignment was recorded, may choose to participate in the first auction or to proceed to assignment. All mortgagees who have submitted notices of election to assign are being notified that they should submit the information on the attached Project Data Summary Sheet format for each mortgage to be included in the first auction. It is not necessary to use the attached form as long as the requested information is provided. In accordance with the statute, an auction will be held between two and six months after HUD receives the requested information.

In the future, all mortgagees who elect to assign a mortgage under Section 221(g)(4) should submit their elections to:

Audrey Hinton, Acting Director,
Office of Multifamily Housing Preservation
and Property Disposition
U.S. Dept. of Housing and Urban Development
451 - Seventh Street, SW
Washington, DC 20410

110

APPENDIX 7
4350.4

2

The election should be accompanied by a certified statement

that the mortgage was current as of the twentieth anniversary date, a copy of the Deed of Trust Note, including the endorsement panel, and the information requested on the Project Data Summary Sheet format. About three times each year, the Department will schedule a Project Mortgage Auction. For each auction, it will publish an Announcement which will contain the date and procedures for the auction and will describe the mortgages offered for sale. A copy of the Announcement will be sent to every HUD-approved mortgagee.

From 60 days after the date of the election to assign until sale of the mortgage (or recordation of assignment in the event there is no sale), HUD will pay the selling mortgagee a stipend of the difference between the note rate on the mortgage and the debenture rate on the date of the election to assign applied to the declining principal balance.

Until the sale of the mortgage has been completed, the mortgagee of record will continue to be responsible for protecting the Secretary's interest in the mortgage. The mortgagee must continue to maintain all escrow accounts, pay taxes and insurance, and bill for, and accept, all payments from the mortgagor.

Very sincerely yours,

Arthur J. Hill
Assistant Secretary for
Housing-Federal Housing Commissioner

Attachment

111

APPENDIX 7
4350.4

FORMAT FOR
PROJECT SUMMARY DATA SHEET
Part A - General Information

1. Project Name _____
2. Project Address _____
3. FHA Project Number _____
4. HUD Field Office with jurisdiction over Project _____

5. Mortgagee _____
Address _____
(Contact person and phone number) _____

6. Servicer _____
Address _____
(Contact person and phone number _____

7. Management Agent _____
Address _____
(Contact person and phone number _____

PART B - MORTGAGE INFORMATION

1. Section of National Housing Act:
 Section 221(d)(3) BMIR _____
 Section 221(d)(3) MR _____
 Section 221(d)(4) _____
2. Original Mortgage Amount: \$ _____
3. Mortgage Balance (on the date of the election to assign) as
of _____-_____-_____: \$ _____
4. Interest Rate: _____%
5. Monthly Payment to P & I: \$ _____
6. Start of Amortization: _____-_____
7. Mortgage Maturity Date: _____-_____
8. Date of Final Endorsement: _____-_____
9. Annual Servicing Fee:
 \$ _____
 _____ % of principal balance

PART C - MORTGAGOR INFORMATION

1. Mortgagor Entity:

Name of Entity _____
Name of Principal _____
Title _____
Address _____

2. Type of Owner: Check all that apply

Nonprofit _____ Individual _____
Limited Dividend _____ Partnership _____
Profit-motivated _____ Corporation _____
Cooperative _____ Other _____

114

U. S. Department of Housing and Urban Development
Washington, D,C. 20410-8000
July 3, 1991

APPENDIX 7
4350.4

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 91-30

ALL APPROVED MORTGAGEES

SUBJECT: Debenture Interest Rates

Notice has been published in the Federal Register that the debenture interest rate will be 8-1/2 percent for the next six-month period. The rate applies to all home and project mortgages and loans under the National Housing Act, as amended, except Section 221(g)(4), committed or endorsed on or after July 1, 1991.

Debentures bear interest at the rate in effect at the date of commitment or endorsement for insurance, whichever is higher. Rates applicable to mortgages committed or endorsed in prior periods are as follows:

Effective interest rate	on or after	prior to
-------------------------	-------------	----------

9 1/2	.....	Jan. 1, 1980	July 1, 1980.
9 7/8	.....	July 1, 1980	Jan. 1, 1981.
11 3/4	.....	Jan. 1, 1981	July 1, 1981.
12 7/8	.....	July 1, 1981	Jan. 1, 1982.
12 3/4	.....	Jan. 1, 1982	Jan. 1, 1983.
10-1/4	.....	Jan. 1, 1983	July 1, 1983.
10 3/8	.....	July 1, 1983	Jan. 1, 1984.
11 1/2	.....	Jan. 1, 1984	July 1, 1984.
13 3/8	.....	July 1, 1984	Jan. 1, 1985.
11 5/8	.....	Jan. 1, 1985	July 1, 1985.
11 1/8	.....	July 1, 1985	Jan. 1, 1986.
10 1/4	.....	Jan. 1, 1986	July 1, 1986.
8 1/4	.....	July 1, 1986	Jan. 1, 1987.
8	.....	Jan. 1, 1987	July 1, 1987.
9	.....	July 1, 1987	Jan. 1, 1988.
9 1/8	.....	Jan. 1, 1988	July 1, 1988.
9 3/8	.....	July 1, 1988	Jan. 1, 1989.
9 1/4	.....	Jan. 1, 1989	July 1, 1989.
9	.....	July 1, 1989	Jan. 1, 1990
8 1/8	.....	Jan. 1, 1990	July 1, 1990
9	.....	July 1, 1990	Jan. 1, 1991
8 3/4	.....	Jan. 1, 1991	July 1, 1991
8 1/2	.....	July 1, 1991	

APPENDIX 7
4350.4

2

Notice has also been published in the Federal Register that the debenture interest rate will be 8-1/8 percent for mortgages assigned to HUD under the provisions of Section 221(g)(4) for the six-month period beginning July 1, 1991.

Claims for insurance benefits that are settled in cash in lieu of debentures will include an interest allowance, comparable to the interest at the debenture rate, on the amount of the settlement.

If you have any questions, please call Fred McLaughlin at (202) 708-4325.

Sincerely yours,

Arthur J. Hill
Assistant Secretary for
Housing-Federal Housing Commissioner

July 22, 1991

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

MORTGAGEE LETTER

LETTER NO. 91-31

SUBJECT: Delinquent Federal Debt

In lieu of the requirements promulgated by the Office of Management and Budget many lenders appear to be treating delinquent Federal debt the same as delinquent private debt in determining a loan applicant's credit worthiness. Private sector lenders have been submitting applications for mortgage insurance, after making a determination that the size of debt delinquency does not warrant rejection, without making any distinction as to whether or not the debt is owed to the Federal Government.

HUD's grant, direct, insured and guaranteed loan programs must comply with the provisions of the Office of Management and Budget (OMB) Circular A-129, "MANAGING FEDERAL CREDIT PROGRAMS," issued November 25, 1988. This Circular prescribes policies and procedures for managing Federal credit programs and for collecting loans and other receivables. It states in part that we shall:

Suspend processing applications for Federal direct loans or require a private lender to suspend processing of loan guarantee applications when an applicant is found to be delinquent on a Federal debt. The applicant must provide evidence that the delinquency has been resolved. Otherwise, the credit granting agency must request validation from the Federal agency owed the debt that the debt is no longer delinquent.

Therefore, HUD will not process applications for mortgage insurance if an applicant (Borrower, sponsor, mortgagor, general contractor, including all principals of the entities listed) has delinquent Federal debts. Examples of Federal debts are direct loans, HUD-insured loans, student loans, Small Business Administration loans, or judgment liens against property for a debt owed the Federal Government, etc.

117

APPENDIX 7
4350.4

2

The Department expects a lender to prescreen proposed applications by verifying the information presented in an application against information contained in the applicant's credit report(s). The lender must closely review credit reports,

financial statements and make reasonable inquiries to determine if an applicant is in default on any Federal debt. This procedure applies to both individuals and commercial organizations. Any applicant with a prior Federal default or claim must submit to the lender an explanation of the extenuating circumstances surrounding the delinquent Federal debt.

The lender must include as part of the required application exhibits submitted to HUD:

- A. The applicant's detailed explanation of how it incurred the delinquent Federal debt.
- B. A letterhead advice from the affected agency, signed by an officer, stating that the delinquent debt is current or satisfactory arrangements for repayment have been made.
- C. The lender's reason(s) for recommendation of the applicant, which may be included in the work sheets and remarks sections of the processing documents or a covering letter with the submission.

HUD will review the submission to assure that only applicants who have resolved or made satisfactory arrangements to repay their Federal debt are considered for additional awards or guarantees while applicants who have unresolved delinquent Federal debt will not be accepted for processing.

Very sincerely yours,

Arthur J. Hill
Assistant Secretary
Housing-Federal Housing Commissioner

118

U. S. Department of Housing and Urban Development APPENDIX 7
Washington, D.C. 20410-8000 4350.4

July 23, 1991

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgage Letter 91-34

TO: ALL APPROVED MORTGAGEES

SUBJECT: Change in Maximum Interest Rates

The Housing and Urban Recovery Act of 1983 established Negotiated Interest Rates for all single-family and multifamily programs, except for Section 235 and Section 232 (loans to finance purchase and installation of fire safety equipment). However, Section 429(e)(2) of the Housing and Community Development Act of

1987 (Public Law 100-242, approved February 5, 1988) amended the National Housing Act to provide that interest on fire safety equipment loans under Section 232(i) of the Act will be "at such rate as may be agreed upon by the mortgagor and the mortgagee." Accordingly, these loans, like most other National Housing Act-authorized insured loans, now have their interest rates determined by negotiation. Accordingly, this announcement of a change in interest rate ceilings for FHA-insured mortgages is limited to the Section 235 Program.

HUD regulations have been changed to increase the maximum rate of interest on Section 235 loans from 9.00 to 9.50 percent.

In Mortgagee Letter 84-21 on the Section 235 Program, it states that reprocessing will be required by HUD on any case in which a mortgagee wishes to close at an interest rate higher than the rate shown on the firm commitment. To avoid unnecessary processing, HUD will only accept requests for reprocessing where a clear final inspection has been obtained. Mortgagees must submit this information with their request to have their case reprocessed at the higher rate.

This change is effective June 17, 1991.

Sincerely,

Arthur J. Hill
Assistant Secretary for
Housing-Federal Housing
Commissioner

119

APPENDIX 7
4350.4

U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

August 12, 1991

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 91-37

TO: ALL APPROVED MORTGAGEES

SUBJECT: Civil Money Penalties Against Mortgagees -- Implementation
of the HUD Reform Act

The purpose of this Mortgagee Letter is to provide information to all approved mortgagees on the new regulations implementing Section 107 of the HUD Reform Act of 1989 concerning civil money penalties. A copy of the regulations is enclosed. These regulations became effective on June 21, 1991.

Background

The HUD Reform Act of 1989 was signed into law on December 15, 1989. Section 107 of the Reform Act authorizes the Department to impose civil money penalties on mortgagees that violate the Department's requirements. The Final Rule implementing Section 107 was published in the Federal Register on May 22, 1991 and will appear in the Code of Federal Regulations at 24 CFR Part 30.

The regulations provide that the Department may impose a civil money penalty whenever an approved mortgagee knowingly and materially violates relevant program statutes, regulations or handbook requirements. The Reform Act and the implementing regulations provide for increased program enforcement efforts on the part of the Department. A civil money penalty may be imposed in addition to other administrative sanctions or any other civil or criminal penalty.

Examples of violations for which civil money penalties may be imposed

A civil money penalty may be imposed by the Department against a mortgagee for knowing and material program violations that include:

- o Transfer of an insured mortgage to a mortgagee not approved by the Department.
- o Using escrow funds for any purpose other than that for which they were received.

120

APPENDIX 7
4350.4

2

- o Falsely certifying to the Department or submitting to the Department a false certification by another person.
- o Failure to comply with mortgage servicing requirements.
- o Submitting false information to the Department in connection with any insured mortgage transaction.
- o Hiring or employing an individual such as an officer, director, principal or employee whose duties involve programs administered by the Department, while that individual is under suspension, debarment or a Limited Denial of Participation (LDP) by the Department.
- o Failing to comply with any agreement, certification or condition set forth, or applicable to, the application of a mortgagee for approval by the Department.

- o Failure by a nonsupervised mortgagee to segregate escrow funds received from mortgagors and to deposit such funds in a special account with a federally insured depository institution.
- o Hiring or retaining an agent whose duties involve programs administered by the Department while such agent is under suspension, debarment or a Limited Denial of Participation (LDP) by the Department.
- o Failure to remit, or timely remit mortgage insurance premiums, late charges or interest penalties.
- o Failure to timely submit documents that are complete and accurate in connection with a conveyance of property or a claim for insurance benefits.

121

APPENDIX 7
4350.4

3

- o Failure to comply with the provisions of the Real Estate Settlement Procedures Act (RESPA).

Amount of Penalty

The maximum amounts of penalties, as determined by the Department, may not exceed \$5,000 for each violation by a mortgagee, except that the maximum penalty for all violations by any mortgagee during any one-year period will not exceed \$1 million. Each violation constitutes a separate violation with respect to each mortgage, subject to the maximum penalty of \$1 million.

Although the Final Rule became effective on June 21, 1991, the Department may impose civil money penalties for violations occurring anytime after the date of enactment of the HUD Reform Act, which was December 15, 1989.

Factors in determining amount of penalty

In determining the amount of a penalty, the Department will consider the gravity of the offense, any history of prior offenses (including those before enactment of the Reform Act), ability to pay the penalty, injury to the public, benefits received, deterrence of future violations, and the degree of the violator's culpability.

Housing Civil Penalties Panel (HCPP) and Mortgagee Review Board

There is established within the Federal Housing Administration the Housing Civil Penalties Panel (HCPP). The HCPP is responsible for reviewing recommendations for, and proposing the imposition of civil money penalties against mortgagees. The HCPP is composed of the following members, or their designees: Assistant Secretary for Housing-Federal

Housing Commissioner, Chairman; Deputy Assistant Secretary for Operations; Deputy Assistant Secretary for Multifamily Housing Programs; and the Deputy Assistant Secretary for Single Family Housing. The HCPP also includes the Assistant Secretary for Fair Housing and Equal Opportunity, or designee (in cases involving violations of the Department's nondiscrimination requirements). A designee of the General Counsel serves in a non-voting advisory capacity to the HCPP.

The Department's Mortgagee Review Board is also authorized to impose civil money penalties against mortgagees. This authority is in addition to the Board's other functions as described in 24 CFR Part 25.

The HCPP and the Mortgagee Review Board will consider all facts and responses by mortgagees in determining whether to propose a civil money penalty.

122

APPENDIX 7
4350.4

4

Notice of intent to seek a civil money penalty

When the Department intends to seek a civil money penalty, it will issue a written notice to the mortgagee. This notice will inform the mortgagee that the Department is considering the imposition of a civil money penalty, state the specific violations that have been alleged, state the amount of the civil money penalty that will be recommended, and provide an opportunity for the mortgagee to submit a written response within 30 days of receipt of the notice. The failure to respond to this notice will result in the matter being considered by the HCPP or the Mortgagee Review Board without any further notice.

Settlements

A mortgagee may at any time enter into a Settlement Agreement with the Department before or after a matter is referred to the HCPP or Mortgagee Review Board for consideration of civil money penalties.

Opportunity for a Hearing

A civil money penalty is effective after a mortgagee has been given an opportunity for a hearing before an Administrative Law Judge. If a hearing is not requested, the Administrative Law Judge will issue a default judgment. Unless a mortgagee shows that extraordinary circumstances prevented the hearing request, the imposition of the civil money penalty becomes a final and unappealable determination by the HCPP or the Mortgagee Review Board.

Mortgagees are important partners in the Department's programs. I ask you to increase your diligence in conducting your lending and loan servicing activities and take steps to tighten your monitoring and quality control responsibilities.

If you have any questions concerning this Mortgagee Letter, please contact William Heyman, Director, Office of Lender Activities and Land Sales Registration at (202) 708-1824.

Sincerely,

Arthur J. Hill
Assistant Secretary for
Housing-Federal Housing Commissioner

Enclosure

123

APPENDIX 7
4350/4

U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

September 6, 1991

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mortgagee Letter 91- 42

TO: ALL APPROVED MORTGAGEES

SUBJECT: Availability of Flood Insurance Brochures

The Federal insurance Administration recently developed a new brochure, titled, Nothing Could Dampen the Joy of Home Ownership. Or Could it? (CSC number 593-8005, L-186, 4/91). This brochure was created in response to requests from lenders for a hand-out that they could give to borrowers to help explain the mandatory flood insurance purchase requirements and the benefits of flood insurance.

Supplies of the brochure are available free of charge at the following address:

National Flood Insurance Program
PO Box 499
Lanham, MD 20706-0499
Attention: Public Affairs Office

I encourage you to order a supply of these brochures immediately to provide to your loan applicants.

Very sincerely yours,

Arthur J. Hill
Assistant Secretary for Housing
- Federal Housing Commissioner

124

