

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

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

January 16, 1997

MORTGAGEE LETTER 97-02

TO: ALL APPROVED MORTGAGEES

SUBJECT: Single Family Loan Production and Servicing - Special Program, Underwriting, and Servicing Policies to Assist Victims of Presidentially - Declared Major Disaster Areas

This Mortgagee Letter is to advise you of actions taken by the Department to assist victims of winter storms and blizzards in South Dakota and North Dakota.

The President's declaration of a major disaster area for South Dakota was signed on January 10, 1997 and includes all 66 counties.

The President's declaration of a major disaster area for North Dakota was signed on January 12, 1997 and includes all 53 counties.

The procedures described below are in effect immediately and will remain in effect for one year from the date of the President's declaration. Any counties added to the declaration will also be eligible for disaster relief and the same procedures will apply.

MORTGAGE ORIGINATIONS

- I. MORTGAGE INSURANCE FOR DISASTER VICTIMS. HUD has a special mortgage insurance program under Section 203(h) of the National Housing Act to assist disaster victims. Under this program, individuals or families whose residences were destroyed or damaged to such an extent that reconstruction or replacement is necessary, are eligible for 100 percent financing. The requirements for the program are as follows:
- o The borrower's previous residence must have been in the disaster area and must have been destroyed or damaged to such an extent that reconstruction or replacement is necessary. The borrower must provide conclusive evidence of the above. Documentation showing a permanent residence in the affected area before flooding includes a valid driver's license, a voter registration card, utility bills, etc. Documentation regarding destruction of the residence may include an insurance report, an inspection report by an independent fee inspector or government agency, or conclusive photographic evidence showing the destruction or damage. The borrower may have been the owner of the property or a renter of the property affected.

- o The borrower is eligible for 100 percent financing. No downpayment is required. However, prepaid expenses must be paid by the borrower in cash or paid through premium pricing (as described in Mortgagee Letter 94-7).
- o The mortgage insurance premium is the same as for Section 203(b) mortgages. The upfront premium may be financed into the mortgage amount and the borrower will also be charged the annual premium.
- o Maximum mortgage amounts are the same as for Section 203(b).
- o The program is limited to one-unit detached homes only. Two, three, and four unit properties may not be purchased under the Section 203(h) program, nor are condominium units eligible.
- o The borrower's application for mortgage insurance must be submitted to the lender within one year of the President's declaration of the disaster.
- o These mortgages are eligible for processing under the Direct Endorsement program.
- o Adjustable rate mortgages (ARMs) may be used with Section 203(h).

II. SECTION 203(k) REHABILITATION MORTGAGES. The requirement for a dwelling to be completed more than one year preceding the date of the application for mortgage insurance under Section 203(k) is hereby waived and will not apply to properties in the disaster area. Damaged residences will be eligible for Section 203(k) mortgage insurance regardless of the age of the property. The residence need only to have been completed and ready for occupancy for eligibility under Section 203(k).

III. CONSTRUCTION/PERMANENT MORTGAGES. Lenders are encouraged to use the construction/permanent mortgage program in the areas affected. Mortgagee Letter 92-25 contains complete processing guidelines.

IV. UNDERWRITING. The Department recognizes that victims of the disaster may have to incur debts to replace personal property. Victims of the disaster will be allowed to have a total fixed payment to gross income ratio of 43 percent without compensating factors. The 43 percent ratio can also be exceeded with appropriate compensating factors. This provision will apply to all FHA-insured mortgages regardless of the insurance program.

Disaster victims with Secretary-held mortgages are eligible for new FHA-insured mortgages provided the borrower was current with the forbearance agreement at the time of the disaster and all payments for the preceding twelve months were made within the month due.

V. SUBMISSION OF CLOSED LOANS. For lenders located in the areas affected, the Department is extending the time for submission of closed loans for insurance endorsement from 60 days to 90 days after

the date of closing. This will provide lenders additional time to locate and reconstruct loan packages where documents may have been destroyed by the storm.

- VI. ENDORSEMENT OF DELINQUENT MORTGAGES. The HUD Offices located in the affected areas have been granted authority, on a case-by-case basis, to endorse mortgages that are delinquent, provided the delinquency is due to disaster-related circumstances. Documentation requirements will be established by the individual HUD Offices. As a rule, this policy applies to cases where the loan closed before the disaster and the homeowner may have become delinquent in his payments because of temporary disruptions in employment.

MORTGAGE SERVICING

Moratorium on Foreclosures, Servicing Actions, Property Damage, and FEMA's Mortgage Assistance Payments.

Chapter 14, FEDERAL NATIONAL DISASTERS, of HUD Handbook 4330.1 REV-5 , Administration of Insured Home Mortgages, contains the provisions summarized below.

- I. MORATORIUM ON FORECLOSURES. A moratorium on foreclosures on property directly affected by the disasters is in effect for a ninety (90) day period from the date the President declared a disaster to have existed. The moratorium applies to the initiation of foreclosures AND foreclosures already in process.
- II. SERVICING ACTIONS. In addition to the moratorium, HUD "strongly recommends" servicing actions for homeowners whose properties were directly affected by the disaster. This includes such actions as special forbearance, mortgage modification, refinancing, and waiver of late charges. HUD also offers a partial claim program to help address problems of unresolved arrearage. Subsequent to the foreclosure moratorium, lenders are encouraged to consider alternatives to foreclosure such as preforeclosure sales and deeds in lieu if the homeowner is not in a position to "cure" the mortgage delinquency. Refer to Mortgagee Letter 96-61 for FHA program requirements and incentive payments associated with the above referenced servicing approaches. Further, for loans on properties affected by these disasters, the maximum pre-foreclosure sales period is extended an additional two months, and the minimum appraised as-is value of the property is reduced to 65 percent, without requiring the lender to seek a variance approval from the HUD Field Office.
- III. DEALING WITH PROPERTY DAMAGE. Mortgagees must follow standard procedures, including assuring that hazard insurance claims are filed and settled expeditiously, and expediting turning proceeds over to the mortgagor.

DO NOT retain hazard insurance proceeds to make up an existing arrearage without the written consent of the mortgagor.

- IV. FEMA'S MORTGAGE ASSISTANCE PAYMENTS. Mortgagees must inform

mortgagors regarding this program. Appendix 26A of HUD Handbook 4330.1 REV-5 contains recommended language for this purpose.

If you have any questions regarding these issues, please contact your local HUD Office.

Sincerely yours,

Nicolas P. Retsinas
Assistant Secretary for Housing-
Federal Housing Commissioner

Attachments

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Section 203(h)

Purpose

Provides mortgage insurance for a person to purchase a principal residence after being displaced by a disaster. The residence to be purchased need not be located in the same area as the disaster.

Eligibility Requirements

- o Borrower must meet standard FHA credit qualifications.
- o Borrower's previous residence must have been destroyed or damaged to such an extent that reconstruction or replacement is necessary. The borrower may be the owner of the property or a renter of the property destroyed.
- o Borrower is eligible for 100% financing. No downpayment is required. The upfront mortgage insurance premium can be financed into the mortgage and the borrower will pay an annual premium.
- o Borrower must purchase a one family unit; two, three, and four unit properties may not be purchased under this program.
- o Adjustable rate mortgages can be used with this program.
- o Mortgage limits are the same as for Section 203(b).
- o The borrower's application for mortgage insurance must be submitted within one year of the President's declaration.

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Section 203(k)

Purpose

Provides mortgage insurance for a person to purchase or refinance a principal residence and to accomplish rehabilitation and/or improvement of an existing one-to-four unit dwelling.

Eligibility Requirements

- o Borrower must meet standard FHA credit qualifications.
- o Mortgage insurance premium is paid monthly. There is no upfront mortgage insurance premium.
- o Borrower can purchase a one-to-four unit property that was completed for at least one year. The number of units on the site must be acceptable according to the provisions of local zoning requirements.
- o Homes that have been demolished, or will be razed as part of the rehabilitation work, are eligible provided the existing foundation system is not affected and will still be used. The complete foundation system must remain in place.
- o Mortgage limits are the same as for Section 203(b).

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Construction Permanent Loans

Purpose: Assist builders in obtaining construction financing by allowing borrowers to be approved prior to start of construction.

Mortgage Amount: Determined the same as any other loan with mortgage based on the lesser of sales price or appraised value. Appraisal would be done from plans and specifications with a requirement for completion inspection. Builder must supply a HOW warranty policy in order for the Borrower to obtain a loan to value in excess of 90%.

Closing: The loan would close in the name of the borrower prior to start of construction.

Disbursement of Funds: Responsibility of the lender. Interest, commitment fees, inspection fees, hazard insurance and other financing charges incurred during the construction period shall be the responsibility of the builder.

Amortization: Begin not later than the first day of the month following 60 days from the date of final inspection or certificate of occupancy.

Payment of Mortgage Insurance: Within 15 days of the date of closing.

Endorsement: Request for endorsement submitted by within 60 days from

the date of final inspection or certificate of occupancy.

Documents: Loan closed using standard FHA documentation with the addition of a Construction Rider to the Note and a Construction Loan Agreement. The construction documents must contain a provision that the construction terms cease to be effective and the FHA terms become effective at the time of final inspection or certificate of occupancy.

Escrows for taxes and Insurance: Established at the time of loan closing or at the time of final inspection or certificate of occupancy (lender option).

Builders: FHA approved builders only.

Instructions: Mortgagee Letter 92-25 ; program available nationwide.