

Payment of Insurance Benefits

Legal Opinion: GHM-0007

Index: 3.400

Subject: Payment of Insurance Benefits

October 30, 1991

Mark D. Grant, Esq.
Ice, Miller, Donadio & Ryan
One American Square
Indianapolis, Indiana 46282

Re: Payment of Insurance Benefits

Dear Mr. Grant:

This responds to your letter dated October 8, 1991 in which you requested confirmation from this office that, in connection with a claim for mortgage insurance benefits, if the mortgagor of the HUD-insured mortgage has not received a decision from a bankruptcy court, as of the date of default by the mortgagor, which reduces the mortgagor's liability under the mortgage to the value of the property, the Department would pay the insurance claim based upon the unpaid principal balance as of the default date. You have also requested an opinion as to the amount of insurance benefits that would be paid by the Department under the insurance contract in the event the mortgagor has received a decision from the bankruptcy court prior to the date of default that the mortgagor's liability under the mortgage is limited to the value of the property.

The amount of a claim which may be paid by HUD to a mortgagee under the mortgage insurance contract is generally provided for by section 207(g) of the National Housing Act, 12 U.S.C. 1713(g), as implemented by 24 C.F.R. 207.259. In summary, the Department pays to the mortgagee the unpaid principal amount of the mortgage, computed as of the date of default, to which certain amounts listed in 207.259(b)(1) and (2) are added or deducted.

As we discussed, if a claim for mortgage insurance benefits is filed with the Department and a bankruptcy court has not, as of the date of default, reduced the liability under the mortgage to the value of the property under section 506(a) of the Bankruptcy Code, 11 U.S.C. 506(a), the Department will make an insurance claim payment based on the amount of the unpaid principal balance as of the date of default under the mortgage. However, if, as of the date of default, the amount of the creditor's secured claim is reduced under section 506(a)

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or "crammed down" by the bankruptcy court, resulting in the reduction in the secured liability, the Department would pay the insurance claim based on the reduced amount of the secured

liability.

Very sincerely yours,

Harold A. Levy
Chief Attorney
Loan Management and Property
Disposition Section