

Coinsurance--Interest Rate Reduction

Legal Opinion: GHM-0047

Index: 3.181, 3.182
Subject: Coinsurance--Interest Rate Reduction

October 15, 1992

Virginia Dill McCarty, Esq.
Landman & Beatty
1070 Market Tower
10 West Market Street
Indianapolis, Indiana 46204-2963

Dear Ms. McCarty:

This responds to your July 6, 1992 letter in which you refer to a letter dated October 16, 1991 from this office to Paul A. Renno, Esq., and indicate that you wish to know whether the policy statements expressed in such letter remain in effect today. (A copy of said letter to Mr. Renno is enclosed for your reference.) More specifically, you ask whether a coinsuring lender may approve a reduction in a coinsured mortgage interest rate, which reduction does not result in a mortgage amount change, without HUD review or approval, or execution of a modification agreement by the Federal Housing Commissioner. In connection with this inquiry, on September 10, 1992, you faxed a letter to Frances MacFarlane, of my staff, which letter indicated that the question posed in your July 6, 1992 letter was asked only with reference to coinsured mortgages which are not in default at the time of the interest rate reduction.

This is to state that the policy statements expressed in this office's letter to Mr. Renno remain in effect today and apply to all section 221(d), section 223(f) and section 232 coinsured loans that are not in default at the time of the interest rate reduction. Accordingly, a coinsuring lender may approve, without the Department's review, approval or execution of a modification agreement, a reduction in the interest rate on a coinsured mortgage, if the coinsured loan is not in default, and if the reduction does not result in a change in the mortgage amount.

We do note that this office does not opine as to issues involving the Government National Mortgage Association ("GNMA"). Accordingly, the policy statements expressed herein, as well as in the letter to Mr. Renno, do not give approval on behalf of, nor speak to any applicable requirements of, GNMA with respect to any coinsured loan. In the event you are interested in reducing a coinsured mortgage interest rate where GNMA mortgage-backed securities are involved, and you have questions regarding GNMA's requirements in connection therewith, we refer you to

Richard F. Lasner, Assistant General Counsel, Finance, at
(202) 708-3260.

Finally, in your letter of September 10, 1992 to Ms. MacFarlane, you indicated that you are also interested in receiving any subsequent opinion that the Department might issue as to the procedure required to reduce a mortgage interest rate on a mortgage in default at the time of the reduction. Within the Multifamily Mortgage Division, Donald A. Franck, Chief Attorney of the Loan Management and Property Disposition Section, at (202) 708-4167, is presently looking at that issue. We have advised him of your interest in the issue, and asked him to send you a copy of any opinion issued on the matter when it is completed.

Please contact Ms. MacFarlane, of my staff, at (202) 708-4107 with any questions you may have on this matter.

Very sincerely yours,

Mel Belin
Chief Attorney
Loan Origination and
Eligibility Section

Enclosure