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HECM Servicing Frequently Asked Questions (FAQs)

1. Will HUD approve an extension to execute a Deed in Lieu of foreclosure on a property? New 6/30/2010

24CFR206.125(a)(2) states that the mortgagee shall require the mortgagor to (i) pay the mortgage balance, including any accrued interest and MIP, in full; (ii) sell the property for at least 95% of the appraised value; or (iii) provide the mortgagee with a deed in lieu of foreclosure whenever the mortgage is due and payable. The mortgagor shall have 30 days in which to comply with the preceding sentence, or correct the matter which resulted in the mortgage coming due and payable, before a foreclosure proceeding is begun.

HUD may grant a 30 day extension to obtain the signature of the borrower or the authorized party on the deed in lieu. The extension must be requested within any HUD approved timeframes or extensions. No extension will be granted if the initial six month timeframe or any applicable extension has expired.

The extension must be submitted through HUD's EVARS system. The "Reason for the Request" will be "Other". A statement requesting additional time to delay foreclosure in order to obtain the signature on the deed in lieu document must be entered in the "Basis for Extension Request" box. Evidence to confirm the mortgagee can obtain a clear and marketable title to the property must be included with the extension request.

2. When is it appropriate to proceed with foreclosure instead of honoring a request for deed in lieu of foreclosure? New 6/30/2010

Servicers should assess the expediency of deed in lieu versus foreclosure and proceed with whichever option will result in the shortest timeframe and the least expense.

3. Will HUD accept assignment on loans that have forced placed insurance? Revised 6/30/2010

No. If the borrower does not maintain hazard insurance on their property, thus causing the servicer to acquire insurance on their behalf (force placed insurance), that is a failure to perform an obligation under the mortgage. Regulations prohibit assignment of the loan to HUD when the borrower has failed to abide by the covenants of the mortgage and maintain hazard insurance on their property.

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Force placed insurance works as a master policy that insures the lender rather than the borrower's property. These policies are generally not transferrable and are not renewable by HUD.

4. Multiple defaults: If a HECM has been called due & payable for reasons other than death, then the mortgagor(s) pass(es) away does the status change? Revised 6/30/2010

If after receiving due and payable approval for reasons other than death, but before foreclosure has been initiated, it is determined that the last surviving mortgagor passed away, the servicer should allow time for the estate to sell the property. If the estate does not demonstrate interest in selling the property or paying off the loan within any time remaining under the legally required notification letters (i.e. the repayment notice and notice of intent to foreclose) the foreclosure should continue.

In accordance with Mortgagee Letter 2003-22, servicers are required to notify the Department of the death of the last surviving mortgagor (see 24CFR 206.125(a)). This Notice must occur as soon as possible following the death, but no later than 60 days from the date of the mortgagor's death.

5. What closing costs will HUD allow to be deducted from HECM sales proceeds for either mortgagor or mortgagee sales? Revised 6/30/2010

HUD does not dictate what closing costs may be deducted from HECM sales proceeds, but rather controls only what the mortgagee may be reimbursed through the claim process. It is the mortgagee's business decision to allow closing costs for which they may not be reimbursed.

There has been some confusion regarding how Mortgagee Letter 2006-04 applies to sale of properties with HECM loans. ML 2006-04 rescinded paragraph 5-2 of handbook HUD 4000.2, Rev-3, in which specific items were designated as allowable closing costs, and allowed mortgagees to "charge and collect from mortgagors those customary and reasonable costs necessary to close the mortgage." Although there was mention of HECM in that ML, the guidance was strictly applicable to loan origination. It addressed closing costs that could be collected from the borrower in relation to obtaining an FHA loan to purchase a home and also what costs lenders could charge to HECM borrowers for origination. References to seller's contributions applied only to forward mortgages for which FHA insured loans were being used to purchase a home.

That ML notwithstanding, HUD will reimburse mortgagees for reasonable and customary seller's costs, per jurisdiction, that have been deducted from the sales proceeds at settlement for sales of properties with HECM loans.

Allowable settlement costs include, but are not limited to:

1. Sales commission consistent with the prevailing rate but, not to exceed 6%;

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2. Real estate taxes prorated to the date of closing;
3. Local/state transfer tax stamps and other closing costs customarily paid by the seller including the seller's costs for a title search and owner's title insurance;
4. Any charges required by state law or local ordinance to be paid by the seller, such as, but not limited to, attorney fees, probate fees, representative fees (i.e., personal representative for an estate).

Likewise, HUD will reimburse the mortgagee for costs that are customarily paid by the seller on the buyer's behalf in that jurisdiction. Those costs must be itemized on the HUD-1 at closing and may not exceed actual costs. It is the mortgagee's responsibility to obtain satisfactory documentation to that effect and submit it to HUD with the claim if they request reimbursement for these items. Lump sum contributions will not be considered.

Unacceptable closing costs, which will not be reimbursed by HUD regardless of local customary allowances, include, but are not limited to:

1. Repair reimbursements or allowances;
2. Home Warranty fees;
3. Tax service fees;
4. Discount points or loan fees for non FHA-financing;
5. Wire transfer fees;
6. Courier or messenger fees;
7. Any items identified only by the term "miscellaneous" or "other".

Claim Filing

All allowable settlement costs not claimed elsewhere in specified item numbers on the Form HUD-27011 are entered in Part D, item 408, with a clear explanation that the cost is customary for the jurisdiction. Documentation of customarily paid charges must be submitted to HUD with the claim package.

6. **Repair riders allow up to 1 year for mortgagors to complete repairs after closing; however some repair riders indicate a date of less than 1 year for repairs to be completed. If the borrower is unable to complete or refuses to complete the repairs required by the Repair Rider, can the servicing lender request an extension to allow additional time for the repairs to be completed? Revised 9/24/2009**

HUD handbook 4330.1 Rev. 5, Section 13-11, states that the repair rider is not to exceed 12 months from closing. If the repair rider specifies an earlier date the HUD may grant extensions on a case-by-case basis; however the timeframe to complete the repairs may not exceed 12 months from closing. Repairs that have exceeded the 12 month timeframe will not be considered for extensions. The servicing lender is required to submit the following for consideration of an extension of time.

The request must be submitted through HUD's EVARS system at <https://evars.morrisgriffin.com/index.cfm>. The extensions will be granted in 90-

day increments and any subsequent extensions will be determined on a case-by-case basis.

Please submit the extension in EVARS using the following criteria.

- The date the repair rider expires should be entered in the "Date of Notice" field.
- In the "Reason for Request" field, select "Other"
- The "Reason for Extension" should be "Failed to Maintain Property".
- Provide a brief overview of reason repairs have not been completed in the "Basis for Extension Request".

The items listed below must be included as an attachment to the extension request in EVARS.

- Repair Rider indicating required repairs
- Documentation from the borrower and or the contractor stating why the repairs have not been completed

7. Under normal conditions, if a mortgagor fails to pay taxes and/or insurance, the servicer would adjust an existing payment plan to allow the servicer to be reimbursed for any advances made. Under Mortgagee Letter 2006-06 servicers can't make "forced" changes to a line of credit (LOC) or payment plan changes in Texas after 03/01/06, without the borrower's approval. Is that correct? Revised 5/21/2009

That is correct. The Texas Constitution prohibits lenders from unilaterally amending the terms of the document administering the extension of credit. Therefore, "forced" changes to the payment plan cannot be made without the approval of the borrower. Payments for taxes and/or insurance made on or after March 1, 2006 from an existing Line of Credit are not considered a payment plan change.

8. Will HUD approve a third extension to allow more time for the estate to sell the property? Revised 2/19/2009

It has been the policy of the National Servicing Center (NSC) to grant third extensions only when a sale is pending on the property. Due to the current market and economic conditions, HUD will temporarily consider third extensions on HECM loans where there is not a sale pending. These requests will be reviewed on a case-by-case basis to determine if it is in the best interest of HUD to grant additional time for the property to be sold. Because of the nature of the third extensions, additional documentation will be required to justify the approval of additional time. Please see the list below for required documentation.

- Documentation of attempts to sell the property since it was placed in a due and payable status.
- Current Listing Agreement.
- Market statistics showing home sales in area property is located.
- Personal Representative Letter from court or status of probate.
- Loan approval from lender, if an heir of the estate is purchasing the property by paying the loan balance in full.
- Any additional documentation that may assist with the approval.

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The approval of third extensions is a temporary resolution to the current market conditions and may be discontinued by HUD NSC at any time.

9. Will HUD consider allowing the mortgagee to sell an acquired property for an amount less than the appraised value? New 1/22/2009

Upon acquisition of a property by foreclosure or a deed in lieu of foreclosure, the mortgagee shall sell the property for an amount not less than the appraised value unless written permission is obtained from The Secretary (24CFR 206.125(g)).

Due to the current economic conditions, HUD will review requests to accept an amount that is less than the appraised value on a case-by-case basis and determine if the sale is in the best interest of all parties involved. Please see below for the items required for review.

- Cover Letter
- Signed sales contract with a specified closing date
- Estimated HUD-1 or Net to Lender Sheet
- Current appraisal completed by a HUD Roster Appraiser, no older than 6 months.
- Length of time on market
- Listing prices
- Offers to Date
- Market Statistics

The complete package must be sent to HUD's Loan Servicing Contractor C&L Service Corp/Morris Griffin Corp (CLS-MGC) for review.

10. When is a mortgagee required to obtain appraisals? New 1/22/2009

Regulations at 24CFR 206.125(b) state the mortgagee shall obtain an appraisal of the property no later than 30 days after the mortgagor is notified that the mortgage is due and payable, or no later than 30 days after the mortgagee becomes aware of the mortgagor's death, or upon the mortgagor's request in connection with a pending sale. The property shall be appraised no later than 15 days before a foreclosure sale.

11. What are servicers expected to do when mortgagors have completed Trust documents on a HECM loan after closing?

Once the servicer has either discovered or been advised of the Trust, they are expected to have their legal division review the documents. If there has been a violation of the covenants of the mortgage due to the Trust, the servicer should take whatever steps are necessary to rectify the violation. The mortgagor may change the terms of the Trust, or revoke it, to cure the default.

If all attempts to rectify the violation fail, the servicer may request permission from HUD to call the loan due and payable. HUD will evaluate the circumstances for declaring the mortgage due and payable and will respond in writing to the servicer within 30 days of receipt of the request either approving or denying the

request. Until the reason for the default is cured and the loan removed from a due and payable status, the loan is not eligible for the assignment option.

12. Is there any provision for a servicer to be reimbursed more than 100% of maximum claim amount?

Regulations at 24CFR 206.129(b) prohibit payment of more than 100% of maximum claim amount for any reason.

13. Which default(s) can be cured? Can due and payable approval be rescinded if the reason for default has been cured?

At the discretion of the servicer, any default, other than death of the last mortgagor, can be cured and the mortgage reinstated. However, the Code of Federal Regulations provides flexibility to help deter repeated defaults. 24CFR 206.125(a)(3) states "The mortgagee may refuse reinstatement by the mortgagor if: (i) The mortgagee has accepted reinstatement of the mortgage within the past two years immediately preceding the current notification to the mortgagor that the mortgage is due and payable."

14. How does repair set-aside affect assignment?

Repairs required as a condition of endorsement must be completed within the previously mentioned 12 months. Failure of the mortgagor to complete required repairs is a violation of the mortgage covenants and would trigger a servicer to first suspend payments under the payment plan and ultimately to request permission from HUD to call the loan due and payable. Loans that are in "due and payable" status cannot be assigned to the Department.

Reminder: If a servicer requests approval to assign a mortgage that shows funds still set aside for repairs, HUD's contractor will ask the servicer to confirm the repairs are complete and the funds have been appropriately disbursed. If there are excess funds after the repairs are complete, they should either be forwarded to the mortgagor or applied to the principal balance of the mortgage.

15. Does the 6-month timeframe for initiation of foreclosure begin with notification of date of death for the last mortgagor or the actual date of death?

Regulations at 24CFR 206.125(d)(1) require servicers to commence foreclosure within 6 months of the mortgagor's actual date of death.

Mortgagee Letter 2005-30 provides Reasonable Diligence Requirements and Effective Dates. This guidance includes a listing, by state, of the first legal action necessary, as well as the typical security instrument used to initiate foreclosure. These are important factors for servicers to consider.

16. Is the servicer required to notify HUD of the borrower's date of death?

The mortgagee is required to notify HUD when a mortgagor dies and the property is not the principal residence of at least one surviving mortgagor. Notice must be

sent to HUD as soon as possible following the death, but no later than 60 days from the date of the mortgagor's death. (See Mortgagee Letter 2003-22)

The Department expects mortgagees to exercise prudent servicing and reasonable diligence to ensure that occupancy is verified on an annual basis. HUD Handbook 4330.1, Rev-5, Section 13-22, "Mortgagor's Occupancy and Maintenance of the Property" states that the mortgagee must provide a written certification for the mortgagor's signature, to the mortgagor annually. Although written certification may be useful in determining the mortgagor's occupancy status, other supplemental measures may be needed to effectively determine date of death to meet the six (6) month requirement for first legal action. Mortgagees may consider subscribing to one of several commercial resources that offer a monthly match of loan files against a Social Security database of death records. Notification of the date of death applies to the "interest due date" on any subsequent claim submission (as also explained in Mortgagee Letter 2003-22).

17. How do I contact HUD for assistance on a HECM?

HUD employs the services of a loan servicing contractor for the majority of its HECM related functions. The current contractor is:

C&L Service Corporation/Morris-Griffin Corporation (CLS-MGC)
2488 E. 81st St., Suite 700
Tulsa, OK 74137
Phone: (866) 377-8667 Fax: (918) 551-5393
Email: HECMservicing@cls-mgc.com

Should assistance be required of HUD staff however, please feel free to email HECMservicing@hud.gov or contact:

Jane Anderson – (918) 292-8961
Lisa Simms – (918) 292-8956
Dianne Laub – (918) 292-8952
Jessica Thomas – (918) 292-8950
Sally Bene' – (918) 292-8957