



U.S. Department of Housing and Urban Development

National Servicing Center
2 West 2nd Street, Suite 400
Tulsa, OK 741103
1(800) 594-9057 (918) 292-8800
Fax (918) 292-8988
<http://www.hud.gov>

HECM Servicing FAQs

1. 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 & payable status, the loan is not eligible for the assignment option.

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

Regulations at 24CFR206.129(b) prohibit payment of more than 100% of maximum claim amount for any reason.

3. 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, is that correct?

That is correct. The amendment to the Texas Constitution prohibits lenders from unilaterally amending the terms of the document administering the extension of credit. Therefore, "forced" changes cannot be made.

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?

If the last surviving mortgagor on the mortgage passes away after the loan has become due & payable, but before foreclosure has been initiated, the servicer should allow the estate time to sell the property. If the estate does not demonstrate interest in selling the property or paying off the loan within a reasonable time after death of the last

surviving mortgagor, 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. 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.”

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 date is less than 1 year, can the lender use up to 1 year timeframe to work with the mortgagor to complete the repairs?

Yes. 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 servicer may allow additional time, up to 12 months.

7. 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.

8. 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.

9. 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).

10. Is HUD approval required on short sales when the sale is for the full, appraised value, but is less than the debt owed?

There are two scenarios for short sales, the first involves a sale by the mortgagor, or their estate, and the other is the sale of an acquired property by the servicer or investor.

In instances when the property is being sold by the mortgagor or their estate, whether or not the mortgage is due and payable, the regulations are specific: mortgagors, or their estates, may sell the property for the lesser of the mortgage balance or the current appraised value. If the mortgage is due and payable at the time the contract of sale is executed, the mortgagor may sell the property for the lesser of the full mortgage debt or 95% of the current appraised value. Reasonable and customary closing costs may be paid from the sales proceeds. Servicers must obtain documentation for closings costs that appear excessive or abnormal and retain in their file for use in any subsequent post claim audits.

Following foreclosure, the asset may not be sold for an amount less than the current appraised value unless written permission is obtained from the Secretary.

HUD's Claims Division will require either the short sale approval document, when the short sale is after foreclosure, or the signed HUD-1 to verify the closing costs are acceptable when the mortgagor or their estate was the seller.

11. Can HUD provide servicers a reference list of “allowable closing costs” for a HECM short sale?

HUD issued Mortgage Letter 2006-04, “Revised Borrower’s Closing Costs Guidelines” indicating that mortgagees may charge and collect from mortgagors those customary and reasonable costs necessary to close the mortgage for originations. These same standards apply to short sales on properties with HECM loans, whether or not the mortgagor or the investor does the short sale. The guidelines contained within this mortgagee letter are part of FHA’s efforts to align its business process with industry practices and is effective for all mortgages with FHA-insurance.

As stated above, when servicers identify closing costs that appear excessive, or out of the ordinary, they must obtain documentation for the cost and that it is a reasonable and customary expense for the jurisdiction. That documentation does not need to be submitted with the claim, but is retained in the servicer’s file in the event a post claim audit is performed.

12. 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 Services/Morris-Griffin Corp.
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 HECMhelp@hud.gov or contact:

Jane Anderson – (918) 292-8961
Lisa Simms – (918) 292-8956
Dianne Laub – (918) 292-8952
Felicia Jones – (918) 292-8958
Sally Bene’ – (918) 292-8957