



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

September 17, 2004

MORTGAGEE LETTER 2004-37

TO: ALL APPROVED MORTGAGEES

SUBJECT: Underwriting and Servicing Policies to Assist Victims of Presidentially-Declared Major Disaster Areas

Flooding and destruction caused by Hurricane Ivan greatly affected portions of Florida and Alabama in September 2004. This Mortgagee Letter is being issued as a reminder to mortgagees of the availability of Federal Housing Administration (FHA) Single Family programs for victims of major disasters, including victims of Tropical Storm Bonnie and Hurricanes Charley and Frances.

When the President declares a disaster, the mortgagee must check with the Federal Emergency Management Agency (FEMA) to obtain the specific affected counties and corresponding declaration dates. This information can be found on the Internet at <http://www.fema.gov/disasters> or by calling the local FEMA office.

The procedures described in this letter are in effect whenever a disaster is Presidentially-Declared and remain in effect for one year from the date of the President's declaration. Any areas added to the declaration will also be eligible for disaster relief and the same provisions will apply.

I. MORTGAGE ORIGINATIONS

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:

- 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 the disaster 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.

- The borrower is eligible for 100 percent financing of the sales price and no downpayment is required. However, closing cost and prepaid expenses not paid by the seller must be paid by the borrower in cash or through premium pricing.
- Maximum mortgage amounts are the same as for Section 203(b). A list of the mortgage limits can be found on the following website:
<https://entp.hud.gov/idapp/html/hicostlook.cfm>
- The program is limited to one-unit detached homes or units in an approved condominium project. "Spot units" in condominiums are also eligible, subject to the instructions outlined in Mortgagee Letter 96-41. Two, three, and four unit properties may not be purchased under the Section 203(h) program. The mortgage insurance premium is associated with the type of property being purchased, e.g., if the mortgage will be on a one-unit detached property, there will be an upfront mortgage insurance premium of 1.5 percent as well as the annual premium which is collected monthly.
- The borrower's application for mortgage insurance must be submitted to the lender within one year of the President's declaration of the disaster.
- These mortgages are eligible for processing under the Direct Endorsement program.
- Adjustable rate mortgages (ARMS) may be used with the Section 203(h) program.

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) does not apply to properties in the disaster area. Damaged residences are eligible for Section 203(k) mortgage insurance regardless of the age of the property. The residences need only to have been completed and ready for occupancy for eligibility under Section 203(k). The percentage of financing, however, is determined by the type of mortgage being made, i.e., normal loan-to-value ratios apply to Section 203(k) mortgages made in these areas. The mortgage insurance premium is the same for all other Section 203(k) mortgages.

Construction/Permanent Mortgages

Lenders are encouraged to use the construction/permanent mortgage program in the areas affected. HUD Handbook 4155.1 REV-5 contains complete processing guidelines.

Underwriting

The Department recognizes that victims of a 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.

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 disaster.

Endorsement of Delinquent Mortgages

The Homeownership Centers (HOCs) 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. As a rule, this policy applies to cases where the loan closed before the disaster and the homeowner may have become delinquent in the mortgage payments because of temporary disruptions in employment.

II. MORTGAGE SERVICING

Chapter 14, Federal National Disasters, of HUD Handbook 4330.1 REV-5, *Administration of Insured Home Mortgages*, contains the provisions summarized below.

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.

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 arrearages. Subsequent to the foreclosure moratorium, lenders are encouraged to consider alternatives to foreclosure such as pre-

foreclosure sales and deeds in lieu of foreclosure if the homeowner is not in a position to "cure" the mortgage delinquency. Refer to Mortgagee Letter 00-5 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 58 percent, without requiring the lender to seek a variance approval from HUD's National Servicing and Loss Mitigation Center in Oklahoma City.

III. DEALING WITH PROPERTY DAMAGE

Mortgagees must follow standard procedures, including assuring that hazard insurance claims are filed and settled expeditiously. Mortgagees must release appropriate proceeds to the mortgagor and must not retain hazard insurance proceeds to make up an existing arrearage without the written consent of the mortgagor.

IV. PROVIDE TEMPORARY HOUSING AND SHELTER

HUD will work with FEMA to identify vacant public housing and HUD-owned properties that can be used as temporary housing for those forced from their homes.

V. THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) MORTGAGE ASSISTANCE PAYMENTS

Mortgagees must inform mortgagors regarding this program. The following text is an example of what such a notice should include "If a major disaster has occurred, the Federal Emergency Management Agency (FEMA) will publicize a toll-free telephone number in the disaster area. Call that number for information about FEMA's "mortgage assistance program". You may also visit FEMA's temporary Disaster Relief Office in the disaster area or call the permanent FEMA Disaster Relief Office that serves your area."

If you have any questions concerning this Mortgagee Letter, please contact the Homeownership Center in Atlanta at 888-696-4687.

Sincerely,

John C. Weicher
Assistant Secretary for Housing-
Federal Housing Commissioner