

Housing and Economic Reform Act (HERA)

FHA Multifamily Program Changes

FREQUENTLY ASKED QUESTIONS

Mortgage Insurance Premiums

Q1. Does HERA prohibit HUD from increasing the MIP on multifamily loans?

A. Only temporarily. HUD is prohibited from increasing the MIP until at least October 1, 2009 unless it is demonstrated that increased premiums are necessary to prevent the programs from requiring an appropriation of credit subsidy.

Q2. When will we know if HUD plans to increase the MIP after October 1, 2009?

A. The President's budget proposal, which is normally released in early February, would be the first indication that the MIP might be increased on October 1, 2009. Congress would still have an opportunity to reject the MIP increase, as it has done over the past few years, but it would require Congressional action to remove it from the budget since it would be part of the baseline.

Low Income Housing Tax Credits

Q1. HERA provides a number of changes to the FHA insurance program requirements to facilitate the use of FHA programs with tax credits. When will these be implemented?

A. The legislation is not self-implementing and therefore the process changes (subsidy layering, cost certification and the escrowing of tax credit equity) may require amendments to existing regulations to implement; however, arguably, all of these could be accomplished through the issuance of a mortgagee letter. MBA has been in contact with HUD and encouraged implementation, as soon as possible, through issuance of a mortgagee letter.

Q2. What about streamlining of the asset management requirements?

A. HERA specifically exempts tax credit-assisted properties from REAC inspections performed by the mortgagee. This change will require an amendment to existing regulations since HUD's regulations now specify that mortgagees must periodically inspect all FHA-insured properties. Early indications from HUD are that they will not accept inspections performed by the tax credit allocating agencies but will perform and pay for REAC inspections themselves. While HERA encourages HUD to accept other allocating agencies' compliance monitoring, HUD must first determine that the allocating agency's monitoring activities "are sufficient to ensure compliance with any requirements established by the Secretary. " Again, early indications are that most HUD compliance monitoring will continue to be performed by HUD.

Q3. Doesn't the new law require HUD to streamline the processing of all of their tax credit-assisted applications?

A. Yes, HUD must streamline the process by appointing designated chief underwriters who will review applications and make determinations regarding feasibility. This is in lieu of the current process whereby a number of HUD employees in different disciplines review each application.

Q4. Are all multifamily mortgagees allowed to submit applications under this new pilot program?

A. No, HERA states that the mortgagee must have been expressly approved by the Secretary before being allowed to submit an application under this new approach. It is anticipated that all MAP-approved lenders will be eligible.

Q5. When will this new process be implemented?

A. The new law requires that HUD issue instructions for implementing the pilot program not later than 180 days after enactment. That will require HUD to issue instructions by early February. HUD is reviewing this provision and is determining whether their recently issued mortgagee letter, which streamlines the processing of tax credit-assisted applications, can be expanded to address the HERA requirements.

Other Provisions Affecting Multifamily

Q1. Does the new bill provide additional funding for FHA's activities?

A. HERA authorizes the appropriation of \$25 million in negative credit subsidy generated by the FHA programs for fiscal years 2009 through 2013. However, those funds must be appropriated by Congress in an appropriations bill. MBA is working with Congress to include those funds in the HUD appropriations bill now pending in Congress. If appropriated, the funds must be used for "improving technology, processes, program performance, eliminating fraud, and for providing appropriate staffing" for the insurance programs. There is no distinction made between the single family and multifamily insurance programs in HERA.

Q2. Does HERA affect processing of applications under the Section 202 program?

A. The bill requires delegated processing of new Section 202 projects where non-HUD funds are also part of the project. Delegation can only be to state housing finance agencies, which must be specifically approved by HUD. This should free up some of the time of current HUD field staff to process multifamily applications.