



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

ASSISTANT SECRETARY FOR HOUSING –
FEDERAL HOUSING COMMISSIONER

Date: August 15, 2018

Mortgagee Letter 2018-05

To: All FHA-Approved Mortgagees
All Direct Endorsement Underwriters
All HUD Approved Housing Counselors
All HUD Approved Nonprofit Organizations
All Government Entity Participants

Subject

Updated Loss Mitigation for mortgagees servicing mortgage loans for borrowers with FHA-insured mortgages whose property and/or place of employment is located in the Presidentially-Declared Major Disaster Areas (PDMDAs) of Puerto Rico Hurricane Maria DR-4339 or Virgin Islands Hurricane Maria DR-4340 and Disaster Foreclosure Moratorium for certain FHA-insured mortgages secured by properties located in areas of Puerto Rico and the U.S. Virgin Islands that the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) has declared to be eligible for Individual Assistance (Affected Counties) as a result of Hurricane Maria (Puerto Rico Hurricane Maria DR-4339 and Virgin Islands Hurricane Maria DR-4340).

Purpose

As Puerto Rico and the U.S. Virgin Islands continue to recover from the devastation of Hurricane Maria, mortgage delinquencies remain significantly elevated and utilization rates for FHA loss mitigation options are lagging compared to other disaster-impacted areas. This Mortgagee Letter is intended to reduce foreclosures and minimize losses to the Insurance Fund by expanding certain loss mitigation assistance to borrowers in default.

This Mortgagee Letter amends the Loss Mitigation procedures for Disaster-Affected Borrowers referenced in ML 2018-01 and Section III.A.3.c.iv. of FHA Single Family Housing Policy Handbook 4000.1 for borrowers with FHA-insured mortgages whose property and/or employment is located in the Presidentially-Declared Major Disaster Areas (PDMDAs) of Puerto Rico Hurricane Maria DR-4339 or Virgin Islands Hurricane Maria DR-4340, and who have not previously received an FHA permanent Loss Mitigation option relative to the referenced PDMDAs herein.

Mortgagee Letter 2018-05, Continued

The Mortgagee Letter also provides a 30-day Disaster Foreclosure Moratorium for certain FHA-insured mortgages in Affected Counties in Puerto Rico and the U.S. Virgin Islands.

Effective Date Mortgagees may implement the amended Loss Mitigation procedures set forth in this Mortgagee Letter immediately but must implement these policies no later than September 15, 2018. Mortgagees may no longer offer the Loss Mitigation options in this Mortgagee Letter to borrowers on or after May 1, 2019, which is the Sunset Date for the Mortgagee Letter.

Since the Loss Mitigation options in this Mortgagee Letter only apply to the PDMDAs of Puerto Rico Hurricane Maria DR-4339 and Virgin Islands Hurricane Maria DR-4340, the changes are not being incorporated into Handbook 4000.1.

The 30-day Disaster Foreclosure Moratorium provided in this Mortgagee Letter is effective immediately and applies to the initiation of foreclosures and foreclosures already in process.

Public Feedback HUD welcomes feedback on the Loss Mitigation options in this Mortgagee Letter from interested parties for a period of 30 calendar days from the date of issuance of this Mortgagee Letter. To provide feedback on this document, please send it to the FHA Resource Center at answers@hud.gov. HUD will consider the feedback in determining the need for future updates.

Affected Programs This Loss Mitigation guidance applies to all FHA Title II forward mortgages of borrowers whose property and/or employment is located in the PDMDAs of Puerto Rico Hurricane Maria DR-4339 or Virgin Islands Hurricane Maria DR-4340, and who have not previously received an FHA permanent Loss Mitigation option relative to the PDMDAs referenced herein.

The criteria in Mortgagee Letter 2018-01 for the Disaster Standalone Partial Claim, including its position in the FHA disaster Loss Mitigation waterfall, is superseded in its entirety for Puerto Rico Hurricane Maria DR-4339 and Virgin Islands Hurricane Maria DR-4340.

Background This updated Mortgagee Letter is designed to provide greater alternatives to foreclosure for mortgagees to use with borrowers in the designated PDMDAs by rearranging the FHA disaster Loss Mitigation waterfall (i.e., moving the Standalone Partial Claim to the beginning of the waterfall above the Disaster Loan Modification option) so that borrowers may be considered earlier for Disaster Standalone Partial Claims. This change would provide an expedited

Mortgagee Letter 2018-05, Continued

permanent loss mitigation solution, which would: (1) allow borrowers to maintain their pre-disaster monthly mortgage payment of principal and interest; (2) does not change the interest rate and term of the FHA-insured Mortgage; and (3) secures repayment of the arrearages with a second note mortgage lien that is not repaid until the maturity of the FHA-insured Mortgage, the sale of the property, or the payoff or non-FHA refinancing of the FHA-insured Mortgage.

In addition, the previously communicated criteria for the Disaster Standalone Partial Claim is amended to expand eligibility.

Disaster Standalone Partial Claim

For the specified PDMDAs, the Mortgagee must evaluate Borrowers for a Disaster Standalone Partial Claim at the end of the Borrower's Forbearance now that the Disaster Standalone Partial Claim is the first permanent home retention option in FHA's disaster Loss Mitigation Waterfall. Mortgagees must also re-evaluate Borrowers under the new Disaster Standalone Partial Claim policy if they have not entered into a permanent Loss Mitigation Option since the disaster. Use of the Disaster Standalone Partial Claim in this Mortgagee Letter requires that each criterion below be met. The criteria are as follows:

1. The Mortgage was current *or* less than 60 days past due as of the date of the applicable Disaster Declaration;
2. The Mortgagee confirms that the Borrower's income (e.g., wages, social security, pension, annuity, etc.) is equal to or greater than it was prior to the Disaster;
3. The Borrower demonstrates the ability to resume total monthly mortgage payments of Principal, Interest, Taxes, and Insurance (PITI);
4. The dwelling is owner-occupied;
5. The total Principal and Interest (P&I) amount of a Borrower's monthly Mortgage Payment does not change;
6. The Mortgagee waives the Borrower's accumulated late fees; and
7. The Disaster Standalone Partial Claim is subject to the maximum statutory value of all Partial Claims¹ for an FHA-insured Mortgage.

¹ The statutory maximum value of all Partial Claims (i.e., *combined*) is 30 percent (30%) of the Unpaid Principal Balance of each FHA-insured Mortgage and any costs that are approved by the Secretary. For purposes of calculating the maximum Partial Claim value for each loss mitigation action, it is the lesser of: (1) the Unpaid Principal Balance as of the date of Default associated with the initial Partial Claim, if applicable, multiplied by 30 percent, less any previous Partial Claim(s) paid on the FHA-insured Mortgage; (2) if there are no previous Partial Claim(s), the Unpaid Principal Balance as of the date of the current Default multiplied by 30 percent; or (3) the total amount required to meet the

Mortgagee Letter 2018-05, Continued

Evaluation of Disaster-Affected Borrowers for other Loss Mitigation Home Retention Options

Borrowers who do not meet the criteria for a Disaster Standalone Partial Claim or a Disaster Loan Modification following Disaster forbearances *or* who have a continuous reduction in income or increase in living expenses must be considered for an FHA-HAMP option under the Loss Mitigation Option Priority Waterfall in Section III of the FHA Single Family Housing Policy Handbook 4000.1.

Disaster Foreclosure Moratorium for Certain FHA-Insured Mortgages in Affected Counties in Puerto Rico and the U.S. Virgin Islands

HUD is providing a 30-day foreclosure moratorium only for certain eligible FHA-insured mortgages secured by properties located in areas of Puerto Rico and the U.S. Virgin Islands that the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) has declared to be eligible for Individual Assistance (Affected Counties) as a result of Hurricane Maria. To be eligible for the moratorium, the lender must establish that: (1) the borrower has not defaulted after a Forbearance or other Loss Mitigation Option received after Hurricane Maria; (2) the borrower is either an owner-occupant of the mortgaged property or is developing and implementing a viable plan to repair or rebuild the damaged mortgage property and occupy the mortgaged property (See Model Document, Exhibit A, for use); and (3) the borrower is not currently in a permanent Loss Mitigation Option executed since Hurricane Maria.

Terms of the Mortgage Loan are Unaffected

Nothing in this Mortgagee Letter confers any right to a Borrower to any loss mitigation or any other action by HUD or the Mortgagee. Further, nothing in this Mortgagee Letter interferes with any right of the Mortgagee to enforce its private contractual rights under the terms of the Mortgage Loan. All private contractual rights and obligation remain unaffected by anything in this Mortgagee Letter. Where a Mortgagee chooses to enforce its contractual rights after expiration of any automatic foreclosure moratorium, the standard timeframes to initiate foreclosure and reasonable diligence in prosecuting foreclosure following expiration of a foreclosure moratorium will apply.

Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Numbers 2502-0429, 2502-0583 and 2502-0584. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

targeted PITI Mortgage payment. The Partial Claim amount may include arrearages, legal fees and foreclosure costs related to a canceled foreclosure action and principal deferment.

Mortgagee Letter 2018-05, Continued

Questions

Any questions regarding this Mortgagee Letter may be directed to the HUD National Servicing Center at 1-877- 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Relay Service at 1-800-877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Brian D. Montgomery
Assistant Secretary for Housing –
Federal Housing Commissioner

Borrower Certification for Properties Impacted by Hurricane Maria

I/We certify that our property located _____ was impacted by Hurricane Maria. The referenced property is our principal residence and I/we affirm the following:

- I/We have applied for applicable hazard and flood insurance recoveries related to damage of my/our mortgaged property damage, and I/we have also notified the Mortgagee (lender/servicer) of any expected or pending proceeds; and
- I/We are working with the Mortgagee to develop and implement a plan to repair or rebuild my/our home and resolve the FHA-insured mortgage loan delinquency;

I/We, the undersigned, certify under penalty of perjury that the information provided above is true and correct. **WARNING:** Anyone who knowingly submits a false claim, or makes false statements is subject to criminal and civil penalties, including confinement for up to 5 years, fines, and civil penalties. (18 U.S.C. §§ 287, 1001 and 31 U.S.C. § 3729)

Borrower's Name

Date

Co-Borrower's Name

Date