

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 207, 251, 252, 255, and 266**

[Docket No. FR-4203-F-02]

Electronic Payment of Multifamily Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule establishes that all annual multifamily mortgage insurance premium [MIP] collections in accordance with 24 CFR parts 207, 251, 252, 255, and 266 be made by the Automated Clearing House (ACH) program. The purpose of this rule is to improve the efficiency of the Multifamily Mortgage Insurance Program and reduce costs to HUD lenders. This rule does not affect the initial payment of MIPs.

EFFECTIVE DATE: February 9, 1998.

FOR FURTHER INFORMATION CONTACT: Samuel N. Conner, Acting Director, Multifamily Accounting and Servicing Division, Room 6208, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20024; telephone (202) 708-0223. Hearing-impaired or speech-impaired individuals may access the voice telephone number listed above by calling the Federal Information Relay Service during working hours at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**Background**

In August 1985, the Department of Housing and Urban Development (HUD) implemented the Automated Clearing House (ACH) program. The Multifamily Insurance Operations Branch entered into the program in 1992, with voluntary participation by mortgagees for payment of multifamily mortgage insurance premiums (MIPs).

The ACH program is designed to provide FHA approved lenders the opportunity to utilize their personal computers to authorize electronically the payment of MIPs, instead of sending checks through lockbox. Currently, approximately 90 percent of HUD's MIPs are being collected through the ACH program.

The mortgagees' terminal operators tie their personal computers into the collection agent's ACH system. The collection agent originates an ACH file of debit transactions based on bills.

Each evening, the collection agent originates an ACH file of debit transactions based on the data keyed by the mortgagees. When the debit transactions have been processed, the ACH will transmit the MIP data to HUD's Multifamily Information System. Through this ACH process, the debit amount is drawn electronically from the designated mortgagee's bank account that day.

After transmission, the insurance premium transactions are processed in the same manner as in the past.

The ACH transfer system uses the mortgagee number as part of the "log on" procedure. Any error in the mortgagee number results in the ACH transfer system rejecting the "log on" attempt. In addition, the ACH transfer system balances the dollar fields in each detail transaction to the amount entered, along with the item number. Where there is an error, the system produces an error message that describes the problem. The error must be corrected before the ACH transfer system will prepare the ACH entries.

The general Late Charge policy for the ACH program is the same as for MIPs sent to the Atlanta lockbox address. Late charges are levied if payment is received later than 15 days after due date. For the ACH program, the late charge amount is automatically calculated by the system.

ACH provides lenders with numerous tangible benefits that should reduce their servicing costs. The advantages of ACH are:

- (1) Control of payment timing—the use of ACH debits and credits can increase control of payment initiation and funds availability;
- (2) Banking costs are reduced—ACH transfer costs less than paper check and wire transfer;
- (3) Accounting reconciliation is reduced—payments are computerized and cash application is more automated than with manual systems;
- (4) On-line edits can reduce data errors created by manual recording; and
- (5) The chance of lost/late mail is eliminated.

Because ACH provides mortgage lenders as well as the Department with numerous tangible benefits that reduce servicing costs, the Department is proposing that ACH become the sole method for collecting annual MIPs. The Department feels that this rule does not have a significant economic impact on the smaller lending community since personal computing is so pervasive within the industry. The rule implements a program that will enhance operations and be cost beneficial for all mortgage lenders. Implementation of this process will be phased-in and

coordinated with lenders on an individual basis.

A proposed rule was published on July 2, 1997, at 62 FR 35716, and the public was afforded a 60-day comment period which closed on September 2, 1997. No public comments were received. Accordingly, this final rule adopts the proposed rule without change.

Other Matters*Environmental Review*

This amendment is excluded from the environmental review requirements of the National Environmental Policy Act (42 U.S.C. 4321-4347) and the other related Federal environmental laws and authorities, as set forth in 24 CFR part 50. In keeping with the exclusion provided for in 24 CFR 50.19(c)(1), this amendment would not "direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy." Accordingly, under 24 CFR 50.19(c)(2), this amendment is categorically excluded because it amends a previous document where the underlying document as a whole would not fall within the exclusion set forth in 24 CFR 50.19(c)(1), but the amendment by itself does.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)) has reviewed and approved this rule, and in so doing certifies that this rule does not have a significant economic impact on a substantial number of small entities. A survey of presently insured mortgagees indicates that nearly all mortgagees have computers that would allow them to submit electronic payments. The cost of the software package is approximately \$30.00.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, *Federalism*, has determined that the policies contained in this rule do not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the

rule is not subject to review under the order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers are 14.129, 14.155, and 14.188.

List of Subjects

24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 251

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 252

Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

24 CFR Part 255

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 266

Aged, Fair housing, Intergovernmental relations, Mortgage insurance, Low and moderate income housing, Reporting and recordkeeping requirements.

Accordingly, the Department amends parts 207, 251, 252, 255, and 266 of title 24 of the Code of Federal Regulations as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

1. The authority citation for part 207 continues to read as follows:

Authority: 12 U.S.C. 1701z-11(e), 1713, and 1715b; 42 U.S.C. 3535(d).

2. A new § 207.252e is added to subpart B to read as follows:

§ 207.252e Method of payment of mortgage insurance premiums.

In the cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected mortgagees, that mortgage insurance premiums be remitted electronically.

PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

3. The authority citation for part 251 continues to read as follows:

Authority: 12 U.S.C. 1515b, 1715z-9; 42 U.S.C. 3535(d).

4. A new § 251.6 is added to read as follows:

§ 251.6 Method of payment of mortgage insurance premiums.

In the cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected lenders, that mortgage insurance premiums be remitted electronically.

PART 252—COINSURANCE OF MORTGAGES COVERING NURSING HOMES, INTERMEDIATE CARE FACILITIES, AND BOARD AND CARE HOMES

5. The authority citation for part 252 continues to read as follows:

Authority: 12 U.S.C. 1515b, 1715z-9; 42 U.S.C. 3535(d).

6. A new § 252.6 is added to read as follows:

§ 252.6 Method of payment of mortgage insurance premiums.

The provisions of 24 CFR 251.6 shall apply to this part.

PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS

7. The authority citation for part 255 is revised to read as follows:

Authority: 12 U.S.C. 1515b, 1715z-9; 42 U.S.C. 3535(d).

8. A new § 255.6 is added to read as follows:

§ 255.6 Method of payment of mortgage insurance premiums.

The provisions of 24 CFR 251.6 shall apply to this part.

PART 266—HOUSING FINANCE AGENCY RISK-SHARING PROGRAM FOR INSURED AFFORDABLE MULTIFAMILY PROJECT LOANS

9. The authority citation for part 266 continues to read as follows:

Authority: 12 U.S.C. 1707 note; 42 U.S.C. 3535(d).

10. A new § 266.610 is added after § 266.608 and immediately before the undesignated center heading "INSURANCE ENDORSEMENT," to read as follows:

§ 266.610 Method of payment of mortgage insurance premiums.

In the cases that the Commissioner deems appropriate, the Commissioner may require, by means of instructions communicated to all affected mortgagees, that mortgage insurance premiums be remitted electronically.

Dated: December 24, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 98-441 Filed 1-7-98; 8:45 am]

BILLING CODE 4210-27-P