

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4691-N-01]

Notice of FHA Accelerated Claim Disposition Demonstration

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

ACTION: Notice.

SUMMARY: This notice announces HUD's proposal to establish the Accelerated Claim Disposition (ACD) Demonstration. Under the ACD Demonstration, HUD would pay accelerated claims on certain defaulted FHA-insured mortgages. HUD intends to select approximately five to nine mortgagees to participate in the ACD Demonstration. The demonstration will have a limited initial duration and will initially include mortgage loans secured by properties located within the jurisdiction of HUD's Philadelphia, Pennsylvania and Atlanta, Georgia Homeownership Centers (HOCs). At the conclusion of the demonstration, HUD will assess its success and determine whether to implement the ACD process, on a permanent basis, throughout the country.

DATES: Comments Due Date: April 8, 2002.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Malone, Director (Acting), Office of Asset Sales, Room 6266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; telephone: (202) 708-2625 (this is not a toll-free telephone number). Hearing- and speech-impaired persons may access this telephone number via TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Background

Title VI of the Fiscal Year 1999 Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act (Pub.L. 105-276, approved October 21, 1998) (referred to as the "FY 1999 HUD Appropriations Act") made significant reforms to the claims and property disposition processes for the HUD-Federal Housing Administration (FHA) single family mortgage insurance programs. Section 601 of the FY 1999 HUD Appropriations Act amended section 204 of the National Housing Act (12 U.S.C. 1710) to make more effective the methods for paying insurance claims and disposing of HUD-acquired single family mortgages and properties.

Among other changes, section 601 amended section 204(a)(1)(A) of the National Housing Act to authorize the Secretary of HUD to pay accelerated claims upon assignment on certain defaulted FHA-insured mortgage loans. To be eligible for payment of an accelerated claim, the statute generally requires that the mortgage be in default for "not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default." Further, the mortgagee must assign to HUD: (1) All rights and interests arising under the mortgage; (2) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction; (3) title evidence satisfactory to HUD; and (4) such records relating to the mortgage transaction as HUD may require.

B. The Accelerated Claim Disposition (ACD) Demonstration

Before implementing the new accelerated claim payment process authorized by amended section 204 on a nationwide basis, HUD has decided to initially conduct a demonstration involving a finite group of defaulted mortgages. This demonstration—to be known as the Accelerated Claim Disposition (ACD) Demonstration—will allow HUD to assess the success of the new accelerated claim payment process and to address any programmatic concerns before authorizing its use throughout the country. The purpose of this notice is to announce HUD's intent to establish the ACD Demonstration, and to solicit public comments on this proposal. After reviewing all of the public comments on this notice, HUD will issue a follow-up **Federal Register** notice, which will formally establish the ACD Demonstration. All public comments will be considered in the development of the final notice.

II. Duration and Scope; Eligibility Requirements

A. Duration

The ACD Demonstration will have a limited initial duration commencing on the effective date of the final notice establishing the demonstration. HUD, however, may extend the duration of the demonstration in order to accurately assess its effectiveness. HUD will announce any such extension through **Federal Register** notice.

B. Geographic Scope

The demonstration will initially include mortgages secured by properties located within the jurisdiction of HUD's Philadelphia, Pennsylvania and Atlanta, Georgia Homeownership Centers (HOCs). HUD has four HOCs that are located in Atlanta, Georgia; Denver, Colorado; Philadelphia, Pennsylvania; and Santa Ana, California. Each HOC insures single family FHA mortgages and oversees the selling of HUD homes in a specified group of states.

The Philadelphia HOC serves the states of Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia. The Atlanta HOC serves the states of Alabama, Florida, Georgia, Kentucky, Illinois, Indiana, Mississippi, North Carolina, South Carolina, and Tennessee, as well as the Caribbean.

HUD may decide at a future date to expand the scope of the ACD Demonstration to include one or more additional HOCs.

C. Participating Mortgagees

Mortgagee participation in the ACD Demonstration is voluntary. HUD is currently undertaking efforts to identify mortgagees who may be suitable candidates for participation in the ACD Demonstration. In addition, HUD invites mortgagees who meet the criteria described below to contact HUD at the address provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice to explore the possibility of participation in the demonstration. From among the pool of interested candidates who meet the criteria described below, HUD intends to select approximately 5-9 mortgagees to participate in the ACD Demonstration. HUD, however, may decide to select a smaller or larger number of participating mortgagees. Eligible mortgagees who are not invited to participate in the demonstration may be selected by HUD to serve as a "control group" and provide comparative data for purposes

of evaluating the success of the ACD Demonstration. HUD's final **Federal Register** notice establishing the ACD Demonstration will include a list of the mortgagees selected to participate in the demonstration.

In order to be selected for participation in the ACD Demonstration, a mortgagee must satisfy all of the following criteria:

1. *Number of serviced loans.* The mortgagee must currently service in excess of 20,000 mortgage loans secured by properties that are located within the jurisdiction of the Philadelphia or Atlanta HOCs.

2. *Loss mitigation performance.* The mortgagee must be qualified in the top tier of the FHA Tiering System, which ranks mortgagees in loss mitigation performance. The FHA Tiering System was developed by HUD's National Servicing and Loss Mitigation Center and is subject to future refinement.

3. *Computer system capabilities.* The mortgagee must have the technical capability to interface with the FHA Single Family Claims system, through the internet (using the FHA Connection System) or using Electronic Data Interchange (EDI) technology. In addition, the mortgagee must have the technical capability to interface with any other computer systems utilized by FHA or its contractors pertaining to the ACD Demonstration.

4. *Use of the Freddie Mac Early Indicator Risk Scoring System.* The mortgagee must have the ability to run risk scoring models using the Freddie Mac Early Indicator risk scoring software program. Early Indicator is a scoring software that ranks the risk of delinquent loans, and determines the likelihood of a loan becoming more seriously delinquent or continuing through to loss. Under the system, delinquent loans are assigned a numeric score that corresponds to an alphabetic grade ranging from "A" (indicating a lower risk of nonpayment) to "F" (indicating a higher risk of nonpayment).

5. *Other criteria.* The mortgagee will be required to meet any additional criteria that HUD may establish regarding the eligibility of mortgagees for participation in the ACD Demonstration.

D. Eligible Loans

Only certain defaulted FHA-insured loans are eligible for the new accelerated claim payment process. To be eligible for payment of an accelerated claim, the defaulted mortgage must meet the following criteria:

1. The mortgage must be an FHA-insured single family mortgage loan on a one-unit home.

2. The mortgage must be secured by a property located within the jurisdiction of HUD's Philadelphia, Pennsylvania or Atlanta, Georgia HOCs.

3. The mortgage must have a loan to value ratio in excess of 90 percent (the loan to value ratio represents the relationship between the amount of the mortgage loan and the value of the real estate). The loan to value ratio must be determined using a Broker's Price Opinion (BPO) and the current unpaid principal balance of the mortgage loan.

4. The mortgagor must have a FICO score of less than 550 at the time of payment of the accelerated claim. (FICO stands for Fair, Issac and Company—the company that has developed the mathematical formulas used to derive FICO scores. FICO scores are commonly used by credit bureaus to evaluate the credit-worthiness of borrowers for a particular loan. The scores are continually updated to incorporate new information about the subject's credit history. FICO scores range from 300 to 850. The higher the score, the lower the credit risk of making the loan.)

5. The mortgage must have received one of the following scores on the Freddie Mac Early Indicator risk scoring software system:

- a. Grade F (and the mortgagee has been unable to contact the borrower);
- b. Grade F (and the condition of the property is fair or poor); or
- c. Grades D, E, or F (and the property is vacant).

6. Any additional criteria that HUD may establish regarding the eligibility of defaulted mortgage loans for an accelerated claim under the ACD Demonstration.

III. Demonstration Overview

A. Risk Scoring

As noted above, amended section 204 of the National Housing Act allows HUD to pay an accelerated claim if a mortgage is in default for not less than three full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. At the 60th day of delinquency, mortgagees participating in the ACD Demonstration will be required to begin running scoring models using the Freddie Mac Early Indicator Risk Scoring System to confirm the eligibility of the mortgage for payment of an accelerated claim. Provided that the mortgage meets the eligibility criteria described in paragraph II.D. of this notice, participating mortgagees will have the option to receive payment of an

accelerated claim. However, in the case of a monetary default, HUD may only pay an accelerated claim upon the conclusion of the statutorily required three month period.

B. Disposition Methods

HUD will use one or both of the following disposition methods under the ACD Demonstration. HUD, in its sole discretion, will determine which of the two disposition methods to use for particular mortgages under the demonstration.

1. *Joint Venture Partnership.* The joint venture partnership method will be the primary disposition method used under the ACD Demonstration. Under this disposition method, HUD will sell the mortgages to a public-private joint venture, in which HUD will retain an equity interest. The public-private joint venture will be responsible for servicing and asset disposition. The joint venture partner will be selected through a competitive bidding process. HUD will announce the process for selection of the ACD joint venture partner in its final **Federal Register** notice establishing the ACD Demonstration.

2. *Special servicing with whole loan or securitization.* HUD may also use the special servicing disposition method under the demonstration. The ACD Demonstration will not initially use this method, and HUD may decide not to use this disposition method at all during the course of the demonstration. Under this disposition method, servicing of the mortgage would be transferred to a default servicer. The default servicer will provide assistance to HUD in undertaking one or more of the following actions: (a) Foreclosing and selling the properties; (b) accumulating mortgages for a whole loan sale; and/or (c) accumulating mortgages for disposition in a securitization (with or without Federal credit enhancement).

C. Required Documents

Unless otherwise specified by HUD, all documents required to be submitted to HUD under the ACD Demonstration must be paper originals signed in ink.

IV. Evaluating the Success of the ACD Demonstration

At the conclusion of the ACD Demonstration, HUD will assess its success and determine whether to implement the ACD process on a permanent basis throughout the country. In conducting this evaluation, HUD will assess such factors as whether the use of the ACD process will: (1) Reduce loss rates; (2) reduce the cost and time associated with claim dispositions; and (3) enhance the ability

of HUD to assess risk and manage the FHA mortgage insurance fund. The ACD Demonstration will be designed to permit ongoing review of these and other factors that HUD considers necessary for an accurate evaluation of the demonstration's success. HUD invites public comment on what factors it should consider in evaluating the success of the ACD Demonstration, as well as on appropriate methods HUD should use to conduct the evaluation (for example, the use of a "control group" of mortgagees, or the conducting of interviews with lenders and other ACD Demonstration participants).

V. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of

1969 (42 U.S.C. 4223). The Finding of No Significant Impact is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits, to the extent practicable and permitted by law, an agency from promulgating policies that have federalism implications and either impose substantial direct compliance costs on State and local governments and are not required by statute, or preempt State law, unless the relevant requirements of section 6 of the Executive Order are met. This notice does not have federalism implications and does not impose substantial direct compliance costs on State and local

governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. The proposed demonstration would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Dated: January 22, 2002.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

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