

FHA Post Foreclosure Claims

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Panelists:

- Jodi Gaines, CEO, Claims Recovery Financial Services, LLC
- Sarah Martin, U.S. Department of Housing and Urban Development
- Michele Stockdale, First Vice President, LPS Field Services

The following items have strict time frames that must be met in order to avoid an interest curtailment. Failure to comply will not only lead to losses but could also lead to treble damages:

- Loss Mitigation
- First Legal
- SFDMS Reporting
- Bankruptcy
- Reasonable Diligence
- Eviction Initiation
- Conveyance/Part A
- Title Package
- Part B Claim
- Supplementals

Loss Mitigation

- Extensions of Time
- Note Rate Interest
- Tier Rankings Incentive
- Loss Mitigation Incentives

First Legal

File first legal within the earlier of:

6 months from the Date of Default or

120 days from date property was discovered or should have
been discovered vacant

90 days from failure of loss mitigation attempt

Guidance available in Mortgagee Letter 2005-30, including
foreclosures, reasonable diligence and fee schedules related to FAC

Extension of time for first legal – bankruptcy and loss mitigation
efforts

SFDMS Reporting

- Timely and accurate reporting by mortgagees is essential.
- Failure to comply with default reporting can result in monetary losses to the mortgagee.
- Report status -- as of the last day of the month -- no later than COB on the 5th working day of the month.
- Report all mortgages 30 days or more delinquent to SFDMS until delinquency is resolved. Mortgagee letters 2006-15 and 2009-39.
- Summary: report monthly SFDMS status for any mortgage with (1) new delinquency, (2) open/ongoing delinquency and (3) resolved delinquency.

Bankruptcy

- HUD does not reimburse for legal expenses associated with a performing (current) FHA-insured mortgage.
- Delays in completing foreclosure due to bankruptcy are treated as exceptions and are not included in reasonable diligence timeframes.
- Know and track your timeframes!
- Chapter 7 delays -- in general -- should not exceed 90 days from the date of bankruptcy filing.
- Chapter 13 (11 or 12) delays -- in general -- should not exceed 90 days from the date the account became 60 days delinquent.

Reasonable Diligence

- Time measured from 1st Legal Filing through date of Foreclosure Deed Recording
- HUD established reasonable diligence timeframes for uncontested foreclosures for each state in ML 2005-30
- Delays such as bankruptcy, loss mitigation, litigation, moratorium, court or sheriff delays, may extend timeframes. These extensions are automatic as long as delays are justified.
- Mortgages must document (chronology) delays in compliance with reasonable diligence timeframes in claim files. Subject to further review during Post Claim Review.

Eviction Initiation

- Take the first legal action to initiate the eviction or possessory action within 30 calendar days of foreclosure completion
- Effective May 20, 2009, the Protecting Tenants Against Foreclosure Act, provides a 90-day timeframe for initiation of eviction after foreclosure completion for tenant-occupied properties. Proof of a bona fide lease is required to support the additional time.
- Failure to initiate eviction timely results in interest curtailment. Mortgagee must complete Part A, block 31, with curtailment date.
- Comply with fee schedule in ML 2005-30; eviction attorney fees and eviction fees and costs are claimed in Part D, block 305.
- Personal Property Evictions must comply with state and local laws. Consult with Local Counsel to determine guidelines.
- Maintain “before” and “after” photos to document evictions.

Conveyance

- Unpaid Taxes
- Condo/HOA Fees
- Legal Description
- Demolition Notices

TITLE PACKAGE

- Original title policy MTP or OTP
- Deed conveying the property to HUD
- Copy of the 27011 A
- Security Instrument “with legal description”

The legal description on ALL instruments and the title policy MUST match. If you are correcting a typographical error of a misspelled word for example the is typed hte. Then you should inform the M&M contractor of this correction.

Part B - E

- Property Preservation – Part C (reimbursed at 100%)
- Disbursements for HIP, taxes, ground rents, water rates, eviction costs, other disbursements not shown elsewhere. Part D, Block 305 (reimbursed at 100%)
- Attorney Fees and Costs (variable reimbursement)
- HIP Refunds – Line 109
- Supporting Documentation, Receipts and Photos

Supplemental Claims

- Only 1 supplemental claim to recover additional funds may be filed
- Supplemental must be received within 6 months of the final settlement date.
- **EXCEPTION:** Mortgagee may file supplemental for HIP refunds previously credited to HUD on the Part B claim if the Insurance Company issued refund to the homeowner. Must be received within one year of final settlement **AND** within 24 days of insurer's notification of refund to homeowner. **MUST** include copy of notification with supplemental.
- Submit all supplementals as paper claim packages.
- There is no deadline for returning overclaimed amounts to HUD via supplemental filing.
- If requesting additional Part A interest, supplemental package must document all time frames on the original Part A. If requesting additional Part B reimbursement of fees, costs, taxes, insurance, etc., must document all previously reimbursed amounts to ensure the combined claims do not result in an overpayment
- Post claim reviews also cover supplemental claims.

Reconveyances

- In order to avoid a Reconveyance, the mortgagee must make every effort to convey a property in conveyance condition per HUD Guidelines.
- In addition, the mortgagee should be conveying clear and marketable title to the property. HUD will no longer accept property if the manufactured home title issues have not been resolved.
- Due Diligence in Acquiring Loans

Top 10 FHA Claim Mistakes



- Based on FHA Post Claim Reviews
- FY 2008 and 2009

Top 10 FHA Claim Mistakes

- 10. Inappropriate foreclosure and/or acquisition expenses
- 9. Missing timeframe requirements
- 8. Untimely reporting of foreclosure institution – status 68 to SFDMS
- 7. Excessive attorney fees

Top 10 FHA Claim Mistakes

- 6. Hazard/flood insurance proceeds due HUD
- 5. Inappropriate attorney overhead expenses
- 4. Missing receipts or improper supporting documentation
- 3. Excessive debenture interest on Part B
- 2. P&P expense discrepancies

The Most Common Finding on FHA Post Claim Reviews

1. Compliance Discrepancies
(non-monetary findings)

Thank You!

- Time for Questions!

The panel thanks you for your participation.

