

CHAPTER 2. CORRECTION OF STRUCTURAL
DEFECTS IN NEW HOMES - SECTION 518(a)

2-1. GENERAL. This Chapter provides procedures for processing homeowner requests for financial assistance under Section 518(a) of the National Housing Act.

Section 518(a) authorizes the Secretary, under conditions described herein, to make expenditures to:

- a. Correct structural defects in the mortgaged property.
- b. Pay the claim of the owner of the property for expenditures to correct damages to the property arising from structural defects.
- c. Acquire title to the property with the approval of the mortgagor and under such terms and conditions as are satisfactory to the mortgagor.

The type of assistance for the correction of structural defects to be extended to a homeowner shall be determined by the Secretary acting through the Field Office.

* The homeowner shall be entitled to receive relief under Section 518(a) only if the Secretary acting through the Field Office determines that all criteria which are applicable are met and the owner completes all applicable processing requirements. *

2-2. STATUTORY REQUIREMENTS. To be eligible for financial assistance, the homeowner and the property must meet all of the following criteria:

- a. The dwelling shall be a one- to four-family structure covered by an individual mortgage.
- b. The dwelling shall have been approved for mortgage insurance or Veterans Administration loan guaranty prior to the beginning of construction and acceptably completed under HUD or VA inspection.

NOTE: A VA guaranteed property is not eligible for financial assistance under Section 518(a), even though inspection during construction was made by HUD. Veterans Administration legislation similar to Section 518(a) is provided in Section 1827 of Title 38 of U.S. Code.

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- c. The request for Financial Assistance, Form HUD-92556 SFA, shall be filed with the Field Office not later than four years after the date of the first Form HUD-59100, Mortgage Insurance Certificate issued in connection with the property.

A mortgagor under a new HUD mortgage on the property or a new mortgagor on the same mortgage (loan assumption) shall be entitled to file an application if it is filed within the same four-year period following the date of the first Mortgage Insurance Certificate.

- d. The insured mortgage on the property shall have been endorsed, as evidenced by the issuance of a Mortgage Insurance Certificate.
- e. The contract of mortgage insurance shall be in force as of the date the homeowner's request for financial assistance is received.
- f. The homeowner shall have made reasonable, but unsuccessful, efforts to obtain correction of the structural defect by the builder, seller, or other appropriate responsible person.

2-3. DEFINITION OF STRUCTURAL DEFECT. For the purpose of implementing Section 518(a), a structural defect is defined as any major structural failure or other major defect which threatens the structural components of the dwelling. The defect may be due to construction, material, workmanship, or latent unpredictable phenomena.

- a. The term includes, but is not limited to:
 - (1) Actual structural failures directly affecting the basic integrity of the dwelling such as substantial defects in the foundation, footings, slabs, floors, framing or roof.
 - (2) Major defects, substantial faults, failures, omissions or critical unpredictable deficiencies relating to the structural components of the property such as dangerous wiring, basement flooding, or failure of individual sewage disposal or water supply systems.
- b. Defects in manufactured basic home equipment (furnace, air conditioner, water heater) are covered by the manufacturer's warranty and normally are not eligible for financial assistance. The homeowner may obtain relief from the manufacturer for defects in these items. If a defect develops in any of

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these basic pieces of equipment that is clearly not due to manufacture, or the manufacturer refuses to make correction, financial assistance may be offered.

- c. Defects in appliances that are easily removed, such as

clothes washers, dryers, kitchen ranges, and refrigerators, are not eligible for financial assistance.

- d. Defects in finishing materials, such as paint, stain, or decorative nonstructural exterior surface coatings, are not eligible for financial assistance unless the problem is the direct result of a structural defect.
- e. Assistance under Section 518(a) is not available when the structural defects are caused by fire, earthquakes, flood, tornado, or other natural disaster or by failure of the homeowner to properly maintain the property.
- * f. Section 518(a) is not intended to relieve or expand the obligation of the builder or insured protection plan to correct construction deficiencies determined to be the builder's or insurer's or warrantor's responsibility. *
- g. HUD will not reimburse the homeowner for damaged household furnishings.

2-4. APPLICATION FOR FINANCIAL ASSISTANCE. An application for financial assistance under Section 518(a) shall be submitted by the homeowner on Form HUD-92556 SFA, Request for Financial Assistance. The Complaint Officer may assist the homeowner, if necessary, to prepare and submit the application.

- a. The application shall be filled in completely with all structural defects listed. Attaching or referring lists of complaints filed previously is not acceptable.
- b. The receipt of the request for financial assistance shall be acknowledged by a letter to the homeowner. (See Figure 2-B.)
- c. No statements or promises of relief shall be made to the homeowner or anyone prior to complete processing of the application.

2-5. FILES AND RECORDS. Upon receipt of the homeowner's application, any prior complaint file pertaining to the property shall be made a part of the Special Assistance Binder.

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- * a. The original Construction Complaint Case History Card, Form HUD-92557, shall be continued. A chronological history of every action on the application from date of receipt to date of final disposition shall be entered.
 - b. The previous complaint correspondence folder shall become part of the Special Assistance Binder. All Special Assistance Binders shall be filed alphabetically by the last name of the applicant.

- c. If there is no prior complaint file, a Case History Card and Special Assistance Binder shall be initiated with this fact noted.

2-6. INITIAL REVIEW BY COMPLAINT OFFICER. The homeowner's application for financial assistance shall be reviewed to determine statutory eligibility as stated in Paragraph 2-2.

- a. If review shows that the homeowner's application is ineligible, it shall be returned with a letter citing the appropriate reason(s) for ineligibility (See Figure 2-C.)
- b. Any questions about factual evidence provided as to statutory eligibility shall be resolved in favor of the homeowner and the application shall be accepted for further processing.
- c. The Complaint Officer shall review the prior complaint file or, if no prior complaint exists, the documentation with the request for financial assistance to determine whether appropriate demand has been made upon the builder for correction of complaint items.
 - (1) If it is determined that the builder has not refused to correct the justified items of homeowner * complaint, the application shall be considered to be a construction complaint and shall be handled pursuant to the procedures in Chapter 1 of this Handbook prior to further processing as an application for financial assistance.
 - (2) The builder shall be restricted from the use of HUD programs for refusal or inability to correct justified items of complaint (see Paragraph 1-12c) unless it is determined that correction of the defect is not the builder's responsibility. The Special Assistance Binder shall be so documented.

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- (3) Prior handling as a construction complaint may be omitted when it is apparent that the builder is unwilling or unable to correct the structural defects * Known bankruptcy or administrative sanctions pursuant to 24 CFR Part 24 are acceptable evidence that the builder will not perform.
 - d. When it is determined that the application meets the statutory requirements, it is considered ready for technical processing and is referred to the Architectural and Engineering Branch.

2-7. TECHNICAL REVIEW. The Chief Architect shall review the Special Assistance Binder. All information necessary to determine that the defects for which financial assistance is claimed are

structural, as defined in Paragraph 2-3, must be in the binder.

- a. The Chief Architect shall add any comment or instruction deemed necessary when assigning the case for inspection. A structural defect inspection shall be made regardless of any previous complaint inspection.
- b. The Chief architect shall assign each structural defect case to an inspector.

2-8. STRUCTURAL DEFECT INSPECTION. The inspector shall make the inspection as soon as possible. An appointment shall be arranged with the homeowner. It is essential that the homeowner know that an inspector will be visiting the property. It is desirable to have the homeowner's or owner's representative present during inspection, but mandatory only if the inspector must enter the house. If a structural defect inspection involves exterior items, the inspection may be made without the homeowner being present, but not without their knowledge that the inspection is scheduled. When an appointment is made to inspect the property, an entry is made on Form HUD-92557, Construction Complaint Case History Card, to document this fact.

- a. The purpose of the inspection is to determine the nature of the defect(s), the cause, and the method of correction. If no one is home on the date set for an interior inspection, the homeowner shall be sent a form letter unless other arrangements for inspection can be made expeditiously by telephone.
- b. The inspector must take care not to give the homeowner any indication that financial assistance will be given. The inspector may answer any questions and provide technical explanations. *

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c. A structural defect inspection report shall be prepared in memorandum form by the inspector to the Chief Architect.

- * (1) Each item listed on the Form HUD-92556 SFA shall be covered individually.
- (2) Each item shall be defined, clarified, or explained as necessary so that it may be clearly understood.
- (3) The cause of the defect shall be stated.
- (4) The work necessary to correct the defect (including work already under way or completed by the homeowner and acceptable to HUD) shall be listed. Correction shall be permanent in nature and commensurate with the value and type of property. The format shall be

such that specifications and invitations to bid can be prepared pursuant to housing management procedures. (See Reference (1) of the Foreword.)

- (5) An estimate of the cost of repairing the defect shall be stated. This estimate may be made by the inspector or cost analyst.
- (6) A statement shall be made as to whether the defect is considered "structural" in accordance with the definition in Paragraph 2-3.

d. The Chief Architect shall review the report for completeness and technical accuracy and indicate concurrence by signing the structural defect inspection report and returning it to the Complaint Officer with the Special Assistance Binder.

2-9. REVIEW BY COMPLAINT OFFICER. The Complaint Officer shall review the structural defect inspection report and recommend to the Director, Housing Division/Supervisor the manner in which financial assistance, if any, should be given. (See Paragraph 2-1.) The final determination is made by the Area Office Manager/Service Office Supervisor. If the Area Office Manager/Service Office Supervisor determines that the owner is entitled to relief, the homeowner shall be advised by letter of the type of financial assistance which will be extended (repair, reimbursement or acquisition). The date of this letter will be the cut-off time used in the preparation of the quarterly report. (Figure 2-E.)

2-10. DETERMINATION FOR NO ASSISTANCE. If it is determined that the * owner is not entitled to receive special assistance, the following action shall be taken by the Complaint Officer.

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- * a. Address a letter to the mortgagor, and to their attorney, if so represented, for the Area Office Manager/Service Office Supervisor's signature, explaining: (See Figure 2-F.)
- (1) Reasons HUD cannot be assistance.
 - (2) Describing HUD's opinion of how the defect can be corrected including HUD's estimate of cost to correct.
 - (3) Offering to guide the mortgagor in contracting the work.
 - (4) Offering to aid the mortgagor in obtaining any financing needed to correct the defect.
- b. If the owner requests permission to examine the

drawings and specifications, approved change orders, inspection reports and all other documents pertaining to the property, these exhibits shall be made available for the owner's review and copying. Technical assistance to review and interpret these exhibits and to explain HUD-FHA requirements shall be made available. Under no circumstances may the exhibits be removed from the office. Copies may be made at the homeowner's expense.

- c. The file is closed and the duplicate Construction Complaint Case History Card is filed in a special section of the case history file designated for the filing of all cards pertaining to requests for financial assistance. The original Construction Complaint Case History Card is retained in the "builder" portion of the file.

- 2-11. DETERMINATION TO REPAIR. When it is determined to proceed with repairs to the property in accordance with repair specifications and cost estimates prepared by the Architectural and Engineering Branch, the Property Disposition Branch shall contract for the repairs. *

If the authorized repairs require moving the family while the work is being performed, the Field Office is authorized to reimburse the family for temporary living quarters while such repairs are being made. This expenditure is not to exceed the amount available to a Government family in travel status within the Continental United States.

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* Bidding, contracting, vouchering Form SF-1034 and paying for the correction of defects shall follow the procedures set forth in the Property Disposition Contracting Handbook 4320.1. (See Reference (3) of the Foreword.) The voucher shall not be executed until the inspection by the Architectural and Engineering Staff reveals that the corrective work complies with the terms of the repair contract. Preparation of the voucher, Form SF-1034, shall be in accordance with instructions in the Fiscal Administrative Handbook 4045.1. (See Reference (2) of the Foreword.)

The Davis-Bacon Act is not applicable in Section 518(a) contracts.

A subrogation agreement must be signed by the mortgagor before any contract is let for repairs. (See Figure 2D.)

The original and two copies of each voucher, properly certified, shall be sent to the Office of Finance and Accounting, Director, General and Program Accounting,

Attention: Diversified Payments Division. The voucher must be marked "structural defect-518(a)."

Prior to initiating the vouchers, a written statement from the owner "that repairs are acceptable" shall be obtained.

In all correspondence, including voucher submissions (Form SF-1034), reference shall be made to the FHA case number, including the section of the Housing Act Code.

Prior to contracting for repairs, the Area Office Manager shall issue an Order of Temporary Denial of Participation to the builder of the property. (See Paragraph 1-12c). As a condition, the builder must reimburse HUD for funds * expended to make the necessary repairs.

For the purpose of monitoring this program, any eligible request in an estimated amount of \$5,000 or more must be promptly reported to the Assistant Secretary for Housing, Attention: Office of Single Family Housing. The report shall include the nature and cause of the defect.

- 2-12. DETERMINATION TO REIMBURSE HOMEOWNER. Reimbursement for corrective work that has been complete or is under way must be supported by copies of paid invoices, cancelled checks, unpaid invoices, or other evidence.

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Prior to execution of the voucher, a determination shall be made that the owner has paid in full for the repair work. If the contractor has not been paid or only partially paid, the payee on the voucher shall be the owner and the contractor. If amounts are due to two or more contractors or material dealers, separate vouchers shall be prepared for each claim.

- 2-13. DETERMINATION TO ACQUIRE. If the option of acquisition of the property is being considered, the Director, Housing Division/Supervisor may determine that the total cost (and net loss) to HUD to acquire may be greater than the cost to repair the property with title remaining with the present homeowner. When the cost analysis indicates that it is in the best interests of the Department to acquire the property, three alternatives exist: *

a. To restore the property and to sell it in the competitive sales market.

- (1) Restoration of the property is rarely, if ever recommended as additional costs over and above the owner's claim for correcting structural defects will be encountered. These may include additional repairs and redecorating to make the property saleable, expenses of ownership and

management during the period of HUD ownership, and sales commission and expenses in connection with release of the property.

- (2) Also, the homeowner faces a loss due to the problem of finding a new dwelling and the expense of moving. Whenever field review and other information show that structural defects can be corrected in a satisfactory manner, the objective must be to do it for the present homeowner.

b. To sell the property in an "as is" condition.

c. Raze the structure and sell the land.

If a recommendation for acquisition is made, the amount of the owner's total current investment in the property must be established. This amount is the owner's downpayment, plus principal payments on the mortgage loan, the cost of any capital improvements made by the homeowner, and special assessments for off-site improvements paid by the owner.

A recommendation for HUD to acquire the property must be supported by a copy of the purchase agreement or sales contract, evidence of payments for capital improvements, etc.

No allowance is included for normal maintenance expenditures, property taxes, or payments to interest on the mortgage. When circumstances warrant, reasonable expenses to relocate the mortgagor may be paid. However, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646) does not apply to 518(a) acquisitions.

As claims for financial assistance must be submitted within 4 years of initial insurance endorsement, HUD will disregard either appreciation or depreciation in the market and permit the owner to recover only the total investment.

a. Cash payment shall be made to the owner through a local escrow or title company who will close the purchase transaction and distribute the sales proceeds to those having a claim in the property. After conveyance of a marketable title to the Secretary, the case is closed.

b. Properties acquired pursuant to Section 518(a) shall be considered and treated as any other property acquired in settlement of a claim for insurance benefits. Such properties shall be carried on the reports and inventory records of the office until

final disposition.

- 2-14. QUARTERLY REPORT OF SECTION 518(a) REQUEST FOR FINANCIAL ASSISTANCE. At the end of each quarter, the Complaints Officer shall prepare and forward a summary report of all 518(a) activity during the quarter (see Figure 2-E). This report will be due in Headquarters for each preceding quarter no later than April 30, July 31, October 31, and January 31. Forward this report to: *

Department of Housing and Urban Development
Office of Management
Management Information Systems Division
Washington, D.C. 20410

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CHAPTER 2, FIGURE 2-B

(Letter of Acknowledgement to Mortgagor)

Dear _____:

This will acknowledge receipt of your recent Request for Financial Assistance under Section 518(a) of the National Housing Act.

We have started the assembly and analysis of all pertinent facts necessary to process your case. I will write and advise you of our findings.

Sincerely,

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CHAPTER 2, FIGURE 2-C

(Letter to Homeowner Advising that Request Does not Meet Statutory Requirements)

Dear

This is in reply to your Request for Financial Assistance under Section 518(a). We have carefully reviewed your request and we must advise you that your request for assistance cannot be approved because it does not meet the following criterion (criteria) established by law as (a) requirement(s) for eligibility.

- a. The dwelling shall be a one- to four-family structure covered by an individual mortgage.
- b. The dwelling shall have been approved for mortgage insurance or VA loan guaranty prior to beginning of construction and acceptably completed under HUD or VA inspection.

- c. The Request for Financial Assistance, Form HUD-92556 SFA, shall be filed with the Field Office not later than four years after the date of the first Mortgage Insurance Certificate issued in connection with the property.
- d. The insured mortgage on the property shall have been endorsed, as evidenced by a Mortgage Insurance Certificate.
- e. The contract of mortgage insurance shall be in force as of the date the homeowner's Request for Financial Assistance is received.

If you believe that your request has not been fairly reviewed in view of the requirements of the law, you may request a reconsideration by writing to me and explaining why you believe the rejection of your request was in error.

Sincerely,

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CHAPTER 2, FIGURE 2-D

SUBROGATION ASSIGNMENT AGREEMENT

THIS agreement made this ____ day of _____, 19____ by and between _____ (hereinafter called Mortgagors) and the Secretary of Housing and Urban Development of Washington, D.C., his successors and assigns (hereinafter called Secretary).

WHEREAS, Mortgagors have applied to the Secretary for assistance in the Correction of Structural Defects according to the terms and conditions set forth in HUD Regulations, 24 CFR, Chapter II, Subpart K 200.500 through 200.515.

WHEREAS, the Secretary has determined it appropriate and necessary to take the following action to correct the structural defect(s):

THEREFORE, in consideration of the assistance the Secretary has given and will give under the provisions of 200.510 of the HUD Regulations, and pursuant to such provisions, we, _____ (Mortgagors) do hereby assign, transfer and set over to the Secretary of Housing and Urban Development, his successors, and assigns all claims, demands, causes of action, and any other legal rights arising out of or because of the aforementioned structural defect(s), which we have had, now have, or may have against the builder, seller, or any other party who may be liable to us thereunder.

GIVEN under our hands and seals this ____ day of _____, 19____.

(Mortgagor)

(Mortgagor)

STATE OF)
COUNTY OF)ss

CHAPTER 2, FIGURE 2-D

On this _____ day of _____, 19____, before me _____, a Notary Public in and for said County, personally appeared _____ known to me to be the persons whose names are subscribed to the within instrument, and acknowledged that they executed the same.

Witness my hand and official seal.

Notary Public in and for said County and State

CHAPTER 2, FIGURE 2-E

SUMMARIZATION OF SECTION 518(a) ACTIVITY DURING ____ QUARTER OF 19____

	Number of Cases	Amount in Dollars
1. Requests on Hand Beginning of Quarter	_____	
2. Number of New Requests Received During Quarter	_____	
*3. Total Actions Taken During Quarter		
a. Applications Rejected	_____	_____
b. Repairs Approved	_____	_____
c. Homeowners Reimbursed	_____	_____
d. Acquisitions	_____	_____
4. Applications on Hand End of Quarter	_____	
5. Average Processing Time (Staff Days/Application)	_____	

6. Classification of Defects
for which assistance
authorized in 3 above
(number)

FOUNDATION
FLOOR
WALL
ROOF
INDIVIDUAL SEWAGE
MECHANICAL
(PLUMBING, HEATING,
A/C, ELECTRICAL)
OTHER (SPECIFY)

NOTE: This report is to
be sent to Head-
quarters at the
end of each
quarter.

Signature of Complaint Officer

*Cut off date for this entry will be the date of the letter to the
homeowner advising of the type of assistance, if any, to be extended.

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CHAPTER 2, FIGURE 2-F

(Letter to Homeowner Advising that Request Does not Meet
Definition of Structural Defect)

Dear

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This is in reply to your request for financial assistance under
Section 518(a). We have carefully reviewed your request and have
determined that it cannot be approved because the defects do not meet
HUD's definition of a "structural defect."

Under Section 518(a), a structural defect is defined as any major
structural failure or other major defect which threatens the
structural components of the dwelling. The defect may be due to
construction, material, workmanship, or latent unpredictable
occurrence.

a. The term includes:

- (1) Actual structural failures directly affecting the basic
integrity of the dwelling, such as substantial defects in
the foundation, footings, slabs, floors, framing or roof.
- (2) Major defects, substantial faults, failures, omissions or
critical unpredictable deficiencies relating to the
structural components of the property, such as dangerous

wiring, basement flooding, or failure of individual sewage disposal or water supply systems.

Although we cannot provide financial help, if requested, we will offer an opinion as to how these defects can be corrected; and if you decide to correct these defects, we will be pleased to furnish the names of several contractors qualified to do the work. We estimate the cost of repairs to be approximately \$_____.

We will also assist you in obtaining financing, if necessary, by providing the names of lending institutions whom you may contact for possible financial assistance. We will also provide you with information on other HUD rehabilitation and home improvement programs for which you might be eligible.

IF YOU BELIEVE THAT YOUR REQUEST FOR ASSISTANCE HAS BEEN UNFAIRLY REVIEWED, YOU MAY REQUEST RECONSIDERATION BY WRITING TO ME AND PRESENTING FACTS, INFORMATION OR ARGUMENTS NOT PREVIOUSLY CONSIDERED.

You may look at all documents in our files about your home, including plans, specifications, approved change orders and inspection reports. If you need copies, you will be charged \$_____ for each copy. If you wish to examine these documents, please call or write _____ at _____, telephone number _____, for an appointment to do so. If the necessary staff is available, we will assist you in understanding the documents. *

Sincerely,

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CHAPTER 2, FIGURE 2-G

FACT SHEET

SECTION 518(a)

Section 518(a) became a part of the National Housing Act on September 2, 1964. Section 518(a) was established to provide financial assistance to homeowners with HUD-insured mortgages to avert family catastrophe or loss of property caused by structural defects in their home.

Interpretation and implementation of this Section of the Act is based on Secretary-authorized Regulations and HUD Handbook procedures specifying the terms, conditions, and types of assistance available to homeowners, as determined by HUD Field Offices, on a case-by-case basis.

To be eligible for financial assistance, the homeowner and the property must meet all of the following statutory requirements:

- a. The dwelling shall be a one- to four-family structure covered by an individual mortgage.

- b. The dwelling shall have been approved for mortgage insurance or Veterans Administration loan guaranty prior to the beginning of construction and acceptably completed under HUD or VA inspection.

NOTE: A VA guaranteed property is not eligible for financial assistance under Section 518(a), even though inspection during construction was made by HUD. Veterans Administration legislation similar to Section 518(a) is provided in Section 1827 of Title 38 of U.S. Code.

- c. The request for Financial Assistance (Form HUD-92556 SFA), shall be filed with the Field Office not later than four years after the date of the first Form HUD-59100, Mortgage Insurance Certificate issued in connection with the property.

A mortgagor under a new HUD mortgage on the property shall be entitled to file an application if it is filed within the same four-year period following the date of the first Mortgage Insurance Certificate.

- d. The insured mortgage on the property shall have been endorsed, as evidenced by the issuance of a Mortgage Insurance Certificate, after September 2, 1964, the date of enactment of the Housing Act of 1964.
- e. The contract of mortgage insurance shall be in force as of the date the homeowner's request for financial assistance is received.

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CHAPTER 2, Figure 2-G

- f. The homeowner shall have made reasonable, but successful efforts to obtain correction of the structural defect by the builder, seller, or other appropriate responsible person.

In addition to meeting the statutory requirements, the defect must meet the definition of a "structural defect." For the purpose of implementing Section 518(a), a structural defect which threatens the structural components of the dwelling. The defect may be due to construction, material, workmanship, or latent unpredictable phenomena.

- a. The term includes, but is not limited to:
 - (1) Actual structural failures directly affecting the basic integrity of the dwelling, such as substantial defects in the foundation, footings, slabs, floors, framing or roof.
 - (2) Major defects, substantial faults, failures, omissions or critical unpredictable deficiencies relating to the

structural components of the property, such as dangerous wiring, basement flooding, or failure of individual sewage disposal or water supply systems.

- b. Defects in manufactured basic home equipment (furnace, air conditioner, water heater) are covered by the manufacturer's warranty and normally are not eligible for financial assistance. The homeowner may obtain relief from the manufacturer for defects in these items. If a defect develops in any of these basic pieces of equipment that is clearly not due to manufacture, or the manufacturer refuses to make correction, financial assistance may be offered.
- c. Defects in appliances that are easily removed, such as clothes washers, dryers, kitchen ranges, and refrigerators, are not eligible for financial assistance.
- d. Defects in finishing materials, such as paint, stain, or decorative nonstructural exterior surface coatings, are not eligible for financial assistance unless the problem is the direct result of a structural defect.
- e. Assistance under Section 518(a) is not available when the structural defects are caused by fire, earthquakes, flood, tornado, or other natural disaster or by failure of the homeowner to properly maintain the property.

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CHAPTER 2, Figure 2-G

Section 518(a) authorizes the Field Office, under conditions described above, to make expenditures to:

- a. Correct structural defects in the mortgage property.
- b. Pay the claim of the owner of the property for expenditures to correct damages to the property arising from structural defects.
- c. Acquire title to the property with the approval of the mortgagor and under such terms and conditions as are satisfactory to the mortgagor.

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CHAPTER 2, Figure 2 H

Chapter II-Office of Assistant Secretary for Housing

Subpart K-Correction of Structural Defects.

covered by an individual mortgage that was insured by the Commissioner after September 2, 1964.

(b) The dwelling was approved for mortgage insurance prior to the beginning of construction and was inspected by the

200.500 Purpose.

The purpose of this subpart is to specify the terms, conditions, and types of assistance that the Federal Housing Administration will render to an eligible mortgagor who has been unable to secure satisfactory reconstruction or replacement of structural defects in his property.

200.502 Application for assistance.

An application for assistance in the correction of structural defects, in form satisfactory to the Commissioner, shall be filed by a mortgagor under an FHA-insured mortgage with the Field Office Director having jurisdiction over the area in which the property is located. The application shall be filed not later than four years after the date of the first mortgage insurance certificate issued in connection with the property. A mortgagor under a new FHA mortgage on the same property shall be entitled to file an application if it is filed within the same four-year period following the date of the first insured mortgage certificate.

200.505 Nature of defect.

Assistance in the correction of structural defects shall be available only in connection with a structural defect in the property which the Commissioner has determined to be of such a nature as to seriously affect the liability of the property. Such assistance shall not be available where the defect occurs as a result of fire, earthquake, flood, tornado, or waste.

200.507 Eligibility Requirements.

Commissioner or by the Veterans Administration.

(c) He has made reasonable efforts to obtain a correction of a structural defect in his property by the builder, seller, or other persons, and that the defect has not been corrected.

200.510 Type of assistance.

The type of assistance in the correction of structural defects to be rendered a mortgagor who establishes eligibility shall be determined by the Commissioner.

In those cases where the Commissioner determines it is appropriate and necessary, he may take any actions as follows:

(a) Pay expenses in connection with having the defect corrected.

(b) Pay the claim of the mortgagor for corrected damages to the property arising out of such defect.

(c) Acquire title to the property with the approval of the mortgagor and under such terms and conditions as are satisfactory to the mortgagor.

200.512 Subrogation by mortgagor.

Where the Commissioner has taken action as provided in 200.510, any legal rights the mortgagor may have against the builder, seller, or other persons, arising out of the defect in his property shall be assigned and set over to the Commissioner.

200.515 Right and finality of determination.

The mortgagor shall not be entitled, as a matter of right, to receive the assistance in the correction of structural defects provided in this subpart. Any determination made by the Commissioner in connection with a mortgagor's application for

To be eligible for consideration by the Commissioner for receiving assistance in the correction of structural defects, the mortgagor must establish that:
(a) He is the owner of a one-to four-family dwelling

assistance shall be final and conclusive and shall not be subject to judicial review.

SOURCE OF MATERIAL -

24 CFR - 1980