CHAPTER 2. ELIGIBILITY CRITERIA

2-1General. This chapter specifies and interprets the CRITERIA which must be used to determine a borrower's eligibility for assistance from the Department through assignment of the mortgage (24 CFR 203.650).

The six criteria listed in this section are the ONLY criteria upon which to base a decision to accept or reject an assignment request. The facts used to make a decision must relate specifically to these criteria.

Appendix C contains case studies which are designed to illustrate how to interpret the criteria in processing assignment applications. THESE CASE STUDIES ARE ONLY A GUIDE. Each case should be evaluated on its own merits.

2-2Mortgages are INELIGIBLE for assignment review if any of the following conditions exist:

A.The mortgaged property has been abandoned or vacant for more than 60 days.

B.The borrower, after being clearly advised of the options available for relief, clearly stated in writing that he has no intention of fulfilling his obligation under the mortgage.

C.Mortgages on rental properties. If the borrower owns two or more rental properties, including the property under review, but the borrower does NOT apply the rental income from the property under review to the mortgage on that property, the mortgage on that rental property is not eligible for assignment.

D.The property is owned by a corporation or partnership.

If any of these conditions exist, lenders may foreclose the ineligible mortgages without sending the letters in Appendix A (ASGN-1 through 5) of this Handbook. The borrower's file must contain documents that clearly show the condition of ineligibility.

2-3Who may apply for assignment? Only individuals who were mortgagors of record, or their successor(s) in interest, at the time of default are eligible for assignment consideration. A mortgagor of record, or their successor(s) in interest, is an individual who is in possession of a properly executed deed, divorce decree, or other legal document that conveys title to the property. HUD does not require the borrower to record the document before processing the assignment request.

A.There are two instances when assignment requests from individuals who are not mortgagors of record at the time of default may be considered:

1.A spouse who was not originally a party to the mortgage or deed of trust is eligible to make an application for assignment. Proof of marriage is required before processing the assignment request. If there is a separation or divorce in process, the spouse, applying alone, must provide a sworn

affidavit regarding a

separation or divorce in process at time of default and evidence of legal title to the property prior to processing the assignment application.

2.Deceased borrowers. When a borrower dies intestate (without a will) or testate (with a will) there is often a surviving spouse, children, or other relatives of the deceased who are probably heirs. HUD presumes that one or more of the probable heirs will inherit the property, even if the estate has not yet been settled. Field Offices may accept an application for assignment from one of the heirs apparent if he or she provides some evidence of the family relationship. If the borrower applied for assignment consideration but dies before a decision is rendered, the heir may assume the rights of the deceased during the assignment processing. Field Offices must waive the principal residence criterion (Criterion Three) if the applicant did not live in the property at the time of the borrower's death.

3.Bankruptcy no longer prevents a borrower from having his or her mortgage reviewed for assignment. However, HUD is prohibited from issuing the assignment acceptance letters until the automatic bankruptcy stay under U.S.C.A. 362 is lifted. See paragraph 9-8.

B.Assignment Requests for Coinsured Mortgages

1.Mortgages coinsured under appropriate sections of the National Housing Act are eligible for assignment consideration.

2.The coinsurance agreement between HUD and the lender does not affect assignment processing procedures.

C.Assignment Requests for Shared Equity Mortgages

1.Under a shared equity agreement, each co-borrower may assume responsibility to pay a portion of the monthly mortgage payments. If one of the co-borrowers fails to pay, and the mortgage goes into default, the remaining co-borrower(s) may request assignment. Since HUD requires that the co-borrower's contribution be for at least the first 5 years of the mortgage, the non-contribution by a co-borrower during that time period shall not be considered to be an acceptable reason for default, unless the reason(s) the co-borrower withdrew contribution was due to loss of employment or other recognized reasons for default.

2.The lender/Field Office must send the assignment documents to ALL co-borrowers, whether occupant or investor.

3.The lender/Field Office must respond to the co-borrower who requests assignment consideration.

a.Only one assignment request per property may be considered.

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b.If a co-borrower fails to pay his or her portion of the mortgage payment, this may be a circumstance beyond the control of the other co-borrower.

4.If a second co-borrower also requests assignment consideration, contact both co-borrowers and explain that only one request can be processed.

a.Allow a reasonable amount of time for the co-borrowers to decide who will present the request.

b.The lender/Field Office must NOT decide which co-borrower will make the request.

5.If the co-borrowers wish to make a joint request, they may do so.

a.When co-borrowers jointly request assignment consideration, accept a Request for Financial Information, form HUD-92068-F, and Request for Verification of Employment (VOE), form HUD-92004-G, from each borrower, and combine them into one case file.

b.Issue only one set of assignment letters, mailing copies to each co-mortgagor.

c.Issue only one final decision (mail copies to each co-borrower) and ACCEPT ONLY ONE ASSIGNMENT.

d.Normally, the Field Office will hold only one appeal conference, which all co-borrowers may attend. However, the Field Office may hold separate conferences if necessary.

e. Each co-borrower shall have access to all appeal conference notes.

2-4 Six criteria in determination of eligibility. The six conditions or criteria which must be met in order for an assignment to the Secretary to be accepted are listed below:

A. CRITERION ONE: THE LENDER INFORMED THE BORROWER THAT IT INTENDS TO FORECLOSE THE MORTGAGE.

"Lender" means the person or entity having the power to foreclose. This criterion has two distinct parts (paragraphs 2-4A1 and 2 below), each of which must exist to satisfy the criterion.

1. The lender is able to foreclose.

a. Presumption of the ability to foreclose exists but State or Federal law may preclude initiation of foreclosure.

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b. During bankruptcy status, although the lender may not be able to foreclose, review for assignment is permitted. However, acceptance of an assignment must wait until the bankruptcy court lifts the automatic stay. See paragraph 9-8.

c. The Soldiers and Sailors Civil Relief Act of 1940 precludes a foreclosure by a lender without permission of a court. Lenders must review each case individually to determine if limitations of the Act are applicable.

2. The lender decides to foreclose.

a. If the lender does NOT own the mortgage, but is a servicing lender, it must obtain the investor's authorization to foreclose.

b. An approval to foreclose on an investor's mortgage may be conditioned upon HUD's rejection of an assignment request, but the authorization can include no other conditions.

c. The servicing lender must have the foreclosure authorization BEFORE beginning the assignment process (i.e., before sending the Lender Assignment Packet).

B. CRITERION TWO: AT LEAST THREE FULL MONTHLY INSTALLMENTS DUE ON

THE MORTGAGE ARE UNPAID AFTER APPLICATION OF ANY PARTIAL PAYMENTS THAT MAY HAVE BEEN ACCEPTED, BUT NOT YET APPLIED TO THE MORTGAGE ACCOUNT.

1.This criterion is satisfied the day after the due date of the third completely unpaid installment. Under no circumstances can the assignment process begin prior to this date (i.e., the Lender Assignment Packet cannot be mailed prior to the 62nd day of delinquency).

For example, if the full January, February, and March installments are unpaid, three full installments are due and unpaid on the day after the March due date. But if any part of the January installment has been paid, three full installments are not due and unpaid until the April installment becomes due and unpaid (e.g., April 1st).

2.Partial Payments. If the lender has accepted partial payments, this criterion is satisfied when the amount due and unpaid equals or exceeds the amount of three full monthly installments.

3.Section 235 Mortgages

a.If the borrower is currently receiving Section 235 subsidy, this criterion is met when the amount due

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from the borrower equals or exceeds three full monthly installments OF THE BORROWER'S PORTION OF THE MONTHLY PAYMENT.

b.Section 235 Mortgages and Partial Payments. It is possible that the lender could accept partial payments from a borrower who also receives Section 235 assistance. The lender/Field Office must consider the partial payments (see paragraph 2-4B2).

C. CRITERION THREE: THE PROPERTY IS THE BORROWER'S PRINCIPAL RESIDENCE.

"Principal residence" means the dwelling where the borrower maintains his or her permanent abode AND typically spends the majority of the calendar year.

1.The lender/Field Office must confirm that at the time of the date of default or assignment review the borrower resides at the property. The lender/Field Office must check for evidence of this criterion. For example, the lender/Field Office may have noted an additional residence in the collection history, or the borrower may have requested that mail be sent to a different address.

2.HUD does NOT normally grant waivers for investors. The ownership of two or more properties must be reviewed on a case-by-case basis (see paragraph 2-4D below). However, the Field Office may waive this criterion if:

a.The property is leased or rented and the rental income is applied to the mortgage delinquency. or

b.The borrower used the rental income to make repairs necessary to maintain the property in a safe and habitable condition. or

c.If such waiver is in the best interest of the Department.

3.If the borrower does not reside in the property, but claims that the property is still his or her principal residence, documentation may be required to show the borrower's intent, such as a driver's license, voter registration, local income tax payments, utility bills, etc.

D. CRITERION FOUR: THE BORROWER DOES NOT OWN OTHER PROPERTY SUBJECT TO A MORTGAGE INSURED OR HELD BY THE SECRETARY.

1.The Field Office must check for evidence of meeting this criterion. For example, the mortgagee may have noted an additional property in the collection history, or the borrower may have requested that the lender send mail to a different address. The Field Office must use the A43 System (see paragraph 9-6) to search for the borrower's

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name on any other FHA-insured mortgage. The Field Office also must use the Single Family Mortgage Notes System (SFMNS) to determine if the borrower has a Secretary-held mortgage. Consult the SFMNS User Guide on-line documentation for assistance in accessing the QPIK screen.

2.HUD may waive this criterion if the income from any such other property is the borrower's principal source of income.

3.HUD will not penalize a borrower who owns more than one property with an FHA-insured mortgage if he or she purchased other property as an owner/occupant but was required to move due to job change, family needs, etc., as long as the rental income from the other property is applied to that mortgage and the mortgage is current.

E. CRITERION FIVE: CIRCUMSTANCES BEYOND THE BORROWER'S CONTROL CAUSED THE DEFAULT AND RENDERED THE BORROWER UNABLE TO CORRECT THE DELINQUENCY WITHIN A REASONABLE TIME OR MAKE FULL MORTGAGE PAYMENTS.

1.Apply Criterion Five (the circumstances criterion) individually to each request for assignment consideration. To apply the criterion, answer the following three questions:

a.When was the Date of Default? The date of default is critical because the circumstances beyond the borrower's control must occur before the date of default. See paragraph 9-5 for additional guidance on calculating the date of default.

(1)The date of default is 30 days after the due date of the oldest fully unpaid installment. For this purpose, all months contain 30 days. The lender/Field Office must determine the date of default for each request for assignment. (SEE THE SAMPLE CALCULATION in paragraph 3-5B2)

(2)If the borrower receives Section 235 subsidy, the date of default is also 30 days after the oldest fully unpaid borrower's portion of the total mortgage payment. If the borrower makes a partial payment of his or her portion it must be taken into account when determining the date of default.

(3)Under certain circumstances the lender is required to advance the date of default. See paragraph 9-5D for further information.

b.What caused the default? Determine the cause(s) for the mortgage default.

DO NOT, at this time, decide whether the causes qualify the case for assignment. The cause is often one event such as the loss of a job, separation or divorce, sickness or injury.

If there is no obvious single cause, (e.g. job loss, divorce, sickness or injury) review the case further to determine if a series of factors or a chain of circumstances caused the default. Examples of circumstances could include:

(1)Decreases in family income caused by unemployment or underemployment; loss, reduction or delay in receipt of Federal, state, municipal benefits (e.g., Social Security, Supplemental Security Income, Public Assistance, Government pensions) or of private benefit payments (e.g., pensions, annuities, retirement benefits); loss of support payments; or other loss of income because of divorce, illness or death

(2)Unanticipated increases in reasonable expenses

(3)An unanticipated increase in payments to a mortgage escrow account to compensate for past underestimates of escrow requirements. (Escrow shortage).

While paragraph 2-9B of Handbook 4330.1 (REV.5), dated 9/94 Administration of Insured Home Mortgages, encourages lenders to prorate shortages over a period of months, some borrowers cannot meet the resulting increased payment.

(4)Uninsured damage or unanticipated costly repairs to the mortgaged property, affecting its livability

(5)Expenses related to death or illness (including care for a child with a disability) in the borrower's household, or of family members living outside the household, which significantly reduce the amount of income available for the mortgage payment

c.Do the circumstances qualify? Determine whether the circumstances identified, which occurred BEFORE the date of default, were beyond the control of the borrower. If they were beyond the borrower's control, the criterion is met.

2.Applying Criterion Five. Sometimes it is difficult to tell whether a circumstance is beyond a borrower's control. The following policies govern some of the more problematic assignment situations.

a. Labor Actions (Strikes). Participation by a borrower in a labor action, such as a strike, may qualify as a

circumstance beyond the borrower's control if that labor action is legal.

If a court rules that a labor action is illegal, then the borrower should not participate in the strike after the date of the ruling. The borrower should not be penalized for participation prior to the court ruling.

If there is no court ruling, the labor action is presumed legal, and the lender/Field Office may determine that the borrower's participation is beyond his or her control.

b. Chemical (Alcohol or Drug) Dependency. The borrower may attribute the mortgage default to alcoholism or another chemical dependency. The borrower might claim that the dependency rendered the borrower unable to pay the monthly mortgage payment. The lender/Field Office uses the following guidelines to evaluate the claim.

(1) To substantiate a borrower's claim that a chemical dependency impaired his or her ability to handle financial obligations, the borrower must provide:

a. A physician's written medical diagnosis of the dependency condition, and

b. A documented pattern of behavior that supports the borrower's claim. (See 2-4E2b(2) below)

NOTE: A pattern of nonpayment of other obligations (as well as the mortgage payment), poor work attendance or continued unemployment, etc., must exist to confirm the borrower's claim.

(2) The lender/Field Office may use credit reports or payment histories of other financial obligations to document a behavioral pattern of non-payment of debts.

A consistent pattern of the nonpayment of all debts must be evident to support the borrower's claim that dependency was the reason for default.

If the payment pattern indicates that only the mortgage payment was not paid while other debts were paid, the dependency cannot be directly related to the reason for default.

(3)HUD DOES NOT consider rehabilitation efforts under Criterion Five.

For this criterion, the lender/Field Office determines only whether circumstances beyond the borrower's control caused the default. (However, rehabilitation is a key part of Criterion Six. See paragraph 2-4F2d6).

c.Defaults Related to Divorce or Separation. A borrower may attribute the default to a loss of income or increase in expenses because of divorce, abandonment, or permanent or temporary separation. This might qualify as a circumstance beyond his or her control. The assignment reviewer must avoid SUBJECTIVE JUDGMENTS about the reasons for divorce or separation (this provision applies equally to married and unmarried persons who share title to the property).

(1)To apply the circumstances criterion, determine whether the default was caused by a loss of income caused by the physical separation.

Physical separation is easier to document where a legal document exists, such as a separation agreement or divorce decree. But the absence of legal documents does not necessarily prevent a borrower from meeting the circumstances criterion.

(2)When legal documents do not exist, the lender/Field Office may accept documentation of the separation such as personal statements by or on behalf of the borrowers concerning the date and length of the separation. All reasonable doubt must be resolved in the borrower's favor.

d.Defaults relating to unemployment. When evaluating borrowers who lost their job, the decision should be based on the reason for the dismissal. If the job loss was not due to borrower's own action or inaction and instead was the result of circumstances beyond the borrower's control, he or she would meet Criterion Five. In addition, the borrower should not be rejected solely on the fact that he or she did not qualify for unemployment compensation. The evaluator should collectively consider the reasons the borrower lost his or her job and the reasons he or she did not qualify for unemployment.

When determining whether or not the circumstance rendered the borrower temporarily unable to make the mortgage payment, the evaluator should consider all sources of income available to the borrower at the

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time of default. For example, just because the borrower lost his or her job does not automatically mean he or she could not make the mortgage payment. Other sources of income should be considered such as unemployment compensation, severance pay, etc.

e.Self-employed borrower who has a business, but whose business has suffered financial decline, may qualify; borrowers who were employed, but were terminated due to circumstances beyond their control, then as a means of livelihood opened a business which failed may also qualify; borrowers who voluntarily left employment to open a business and who were aware that they would default immediately but intended to make up the delinquent payments from future profits, but the business failed, may not qualify.

f.Care of family members and relatives. A borrower's decision to care for a family member with a disability, ill and/or aged family members may result in that person having to stop working, reduce the number of hours employed, or make other changes in his or her employment which will result in loss of income. Such care may also result in increased expense to the household. In general, these obligations should be viewed as circumstances beyond the borrower's control unless it is clear to the Field Office/lender that alternatives were available.

g.Increased expenses. Many increased expenses are incurred by borrowers only as a last resort or as a result of reasonably projected income. Even incurring debt for a new vehicle will not be considered disqualifying if the purchase was necessitated by the need for reliable transportation for employment, medical reasons, or other factors. Further, the question may arise concerning whether, if at the time the debt was incurred, the borrower had sufficient income to purchase that type of vehicle. The evaluator should not try to second guess whether a certain amount of money should have been spent, or a certain vehicle should have been purchased. The evaluator should avoid subjective judgements as to purchases made by borrowers. Each case should be evaluated objectively.

h.Other factors

(1)Legal expenses may qualify as circumstances beyond the borrower's control.

(2)Major repairs and/or costly maintenance to the borrower's home may qualify as beyond the borrower's control. The evaluator must determine on a case-by-case basis whether the repairs were costly enough to have prevented the borrower from making the mortgage payment.

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(3)Arrests and indictments must be reviewed with respect to events leading up to the arrest and evidence based on the police/arrest report. Since court procedures to determine innocence/guilt are generally lengthy, in such cases, the evaluator should encourage an application for assignment from a co-borrower, or other party to the title occupying the mortgaged property.

(4)Leaving work for medical reasons resulting from pregnancy with appropriate documentation may be a circumstance beyond the borrower's control. Not returning to work after a six week period of time following the birth with no prohibitive medical condition may not be a qualifying circumstance.

(5)Examples of unacceptable debts and expenditures are charitable donations, tithes and church offerings, school tuition (other than special needs education), and the purchase of luxury items.

i. Timing of circumstances. The borrower may attribute the default to any circumstances beyond his or her control regardless of when they occurred prior to the date of default.

(1) The fact that a circumstance occurred long before the date of default does NOT mean that the event is not related to the default.

For example, a borrower may suffer a loss of income, but continue to pay the mortgage payments from savings for several months. When the savings run out, the default occurs.

(2) The amount of time since the event is NOT relevant to whether the loss of income was a circumstance beyond the borrower's control.

(3) The borrower must provide documentation to prove that the circumstances identified were the direct cause of the default.

j. Payment of the First Mortgage First. DO NOT automatically reject a borrower under this criterion simply because the mortgage was not paid before any other indebtedness. Instead, determine whether the borrower used prudent financial management. CRITERION FIVE IS MET IF THE CIRCUMSTANCES FACING THE BORROWER WERE BEYOND THE BORROWER'S CONTROL.

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(1) Poor financial management should be considered within the borrower's control. However, the borrower's continued payment of normal and necessary living expenses after the financial hardship occurred should not be considered evidence of poor financial management. Examples of normal and necessary living expenses include, but are not limited to, utilities, food, child care, insurance, and transportation. The borrower's continuing to make reasonable payments on debts reasonably incurred prior to the financial hardship also will not be considered evidence of poor financial management.

(2) If the default occurred because one or more

particular justifiable expenses increased beyond the borrower's ability to pay, and there is no evidence of poor money management, then the borrower meets the circumstances criterion.

k.Qualifications to Obtain a Mortgage. Qualification for a HUD-insured mortgage, or assumption of a HUD-insured mortgage with a creditworthiness review, must be taken at face value.

(1)DO NOT reject a borrower simply because, in the lender's/Field Office's judgment, he or she "should not have been given a mortgage in the first place."

(2)However, if there has been an assumption without a creditworthiness review performed and the assumptor defaults, the lender/Field Office must evaluate the borrower's ability to maintain the mortgage payments at the time of the assumption. Consider whether the down payment, if any, was borrowed and whether the borrower's housing expense increased which would reduce available income.

l.Previous Payment Performance. Review the borrower's payment history to determine the date of default.

(1)The date of default is necessary to evaluate whether the circumstances identified by the borrower caused the default.

(2)The lender/Field Office staff must NOT make subjective judgments of the borrower's payment performance such as, "This person is a chronic delinquent." The evaluator must avoid attaching improper significance to payment performance.

F.   CRITERION SIX: THERE IS A REASONABLE PROSPECT THAT THE BORROWER WILL BE ABLE TO RESUME FULL MORTGAGE PAYMENTS AFTER A PERIOD OF REDUCED OR SUSPENDED

PAYMENTS NOT EXCEEDING 36 MONTHS AND WILL BE ABLE TO PAY THE MORTGAGE IN FULL BY ITS MATURITY DATE EXTENDED, IF NECESSARY, BY UP TO TEN YEARS.

1. There must be a REASONABLE PROSPECT that the borrower can:

a. Resume full mortgage payments by the 37th month after acceptance of the assignment, if not earlier.

b. Begin repayment of the delinquency at a time designated by HUD.

c. Pay the mortgage in full by its maturity date or not more than ten years after the original maturity date.

2. Evaluation of Reasonable Prospects. Base the evaluation of reasonable prospects upon the estimated FUTURE ability of the borrower to make full mortgage payments. DO NOT base the evaluation on the borrower's PRESENT ability to pay.

a. The lender/Field Office must review the borrower's current income and expenses and decide if there is a potential for future changes through education, training, or debt reduction sufficient to enable the borrower to resume full mortgage payments.

b. Assignment must not be denied to a borrower simply because housing expenses exceed an arbitrary fixed percentage of net effective income.

c. The borrower must provide sufficient information to allow the lender/Field Office to assess his or her future ability to pay.

d. The lender/Field Office must evaluate each borrower according to the borrower's needs and lifestyle.

Consider income and expenses reported by the borrower on Request for Financial Information, form HUD-92068-F, as well as the factors listed below.

(1) Non-Cash Benefits That Reduce Expenses. Such benefits include food stamps, free medical services for military or low-income families, a company-provided automobile, or receipt of food and clothing from family members living outside the household.

(2) Changes in Income and Recurring Expenses. Monthly expenses may change as the age and composition of the household change. Short-term or installment loans are paid in full, members of the household transfer from school to full-time employment, or Aid to Families with Dependent Children (AFDC) or Social Security payments end.

(3)Discharged debts. Loans, judgments, installments and other bills may be discharged in bankruptcy.

(4)Lifestyle. Review the borrower's past spending patterns carefully.

If the borrower has demonstrated the ability to make regular mortgage payments, even when those payments represented most of his or her income, the borrower must receive the benefit of the doubt in judging the ability to resume full payments.

(5)Employment, Earning Potential and Non-Wage Income. Resolve all doubts of future employability in favor of the borrower when the borrower is out of work but:

(a)Has a favorable record of past employment at an income that supported housing expense and other routine expenses.

(b)Is not suffering from any disability that prevents reemployment.

(c)Provides a written statement that shows he or she is actively seeking work.

(6)Rehabilitation or participation. Where a chemical or other dependency is a contributing factor to the borrower's inability to make payments, the borrower's participation in a dependency treatment program is a factor to be considered when evaluating the reasonable prospects criterion. Participation in such a program is not an absolute requirement. Such programs are not guaranteed to work, and there may be individuals who can recover from their dependency without the aid of treatment. In the latter case, no documentation of rehabilitation would be available. We are not willing to set up a standard that would exclude these borrowers from the assignment program. HUD views chemical dependency as a disease. Just as we would not automatically reject a cancer patient who could not or would not provide documentation of his or her therapy, neither will we require someone suffering from chemical dependency to document his or her treatment (if any) in order to meet the reasonable prospects criterion.

Therefore, do not require evidence of rehabilitation or participation in a dependency treatment program in order to meet the reasonable

prospects criterion. You may ask for such documentation, but failure to provide the documentation must not lead to an automatic rejection of the assignment request. If the documentation is not provided, evaluate whether the borrower meets the criteria based upon the documentation you have at hand.

(7)If a borrower has been diagnosed with a terminal illness, the total household income and composition should be considered to determine reasonable prospects. The evaluator should review the doctor's prognosis to understand the borrower's anticipated future condition. In determining reasonable prospects, the evaluator should consider any future expected insurance benefits such as medical insurance, life insurance, disability insurance, social security insurance, and mortgage insurance.

e.Analysis of Borrower's Income and Expenses. Use form HUD-92208 to prepare the analysis of each item of income and expense. Complete both columns.

(1)The first analysis is to be made using the borrower's income from documentation in the file and expenses from the Request for Financial Information, form HUD-92068-F at the time of default for evaluation of the circumstances criterion. This analysis should be documented in the first column provided.

(2)The second analysis using the income and expense documentation in the file (HUD-92004-G, HUD-92068-F, correspondence, etc.) is to be performed to project the borrower's future income and expenses to evaluate the reasonable prospects criterion. This analysis should be documented in the second column.

f. The lender/Field Office should presume that the borrower accepted under the assignment program may receive 36 months of reduced or suspended payments consistent with the borrower's ability to pay but must begin making full payments on the 37th month after date of assignment acceptance.

g. The borrower's future income must cover normal living expenses and the full mortgage payment which is required after a 36-month period of reduced or suspended payments. The minimum payment, due on the 37th month, includes the amount necessary to pay:

(1) Monthly principal and interest according to the original amortization schedule, and

(2) Escrow requirements for taxes.

2-5 Documentation of Eligibility Criteria. Lenders/Field Offices must clearly document the decisions for each criterion. Borrowers must provide written documentation to support their reasons for default. HUD and the lender will request and evaluate the documentation received to determine whether or not it supports the reasons for the default. The documentation should validate/support the circumstances leading to the default, with reasonable doubts being resolved in the borrower's favor. The borrower must provide enough documentation to support at least one qualifying reason for each criterion. Where the borrower attempted, but could not obtain sufficient evidence, he or she may provide an affidavit and/or a written statement supporting the criteria.

Following are examples of evidence to use when documenting decisions for Criteria Three, Five, and Six. OTHER EVIDENCE MAY BE ACCEPTABLE FOR A PARTICULAR CASE.

A. Examples of evidence for Criterion Three, THE PROPERTY IS THE BORROWER'S PRINCIPAL RESIDENCE:

Sample evidence - Voter registration, driver's license, utility bill

B. Examples of evidence for Criterion Five, CIRCUMSTANCES BEYOND THE BORROWER'S CONTROL CAUSED THE DEFAULT AND RENDERED THE BORROWER UNABLE TO CORRECT THE DELINQUENCY WITHIN A REASONABLE TIME OR MAKE FULL MORTGAGE PAYMENTS:

1. The borrower had reduced income due to medical expenses.

Sample evidence - Copy of paid medical bills showing amount, date paid and amount of medical insurance coverage

2.The borrower was unable to pay due to chemical dependency.

Sample evidence - If available, written proof of counseling and/or physician's written diagnosis (written statement from borrower is acceptable in lieu of documentation from a health professional)

3.The borrower had reduced income due to repairs on the home.

Sample evidence - Copies of paid invoices/receipts, canceled checks

4.The borrower had reduced income due to divorce or separation.

Sample evidence - Divorce or separation agreement that states who is responsible for the mortgage or documentation to verify that the borrowers are living apart such as utility bills or other mail to one of the borrowers

addressed to another residence, driver's license indicating a different address or voter registration.

5.The borrower had reduced income because the mortgage money was stolen.

Sample evidence - Police report

6.The borrower had reduced income due to caring for a relative.

Sample evidence - Medical bills for relative; documentation of relatives' need for care by a physician

7.The borrower had reduced income due to unemployment or refusal of unemployment benefits.

Sample evidence - Notice of separation from employer; copy of application for unemployment benefits; copy of unemployment office decision denying unemployment compensation due to insufficient hours of work to qualify (Some states disqualify individuals for compensation for a variety of reasons. Consider this information pursuant to specific state policy.)

C.Examples of evidence for Criterion Six, THERE IS A REASONABLE PROSPECT THAT THE BORROWER WILL BE ABLE TO RESUME FULL MORTGAGE PAYMENTS AFTER A PERIOD OF REDUCED OR SUSPENDED PAYMENTS NOT EXCEEDING 36 MONTHS AND WILL BE ABLE TO PAY THE MORTGAGE IN FULL

BY ITS MATURITY DATE EXTENDED, IF NECESSARY, BY UP TO TEN YEARS:

1.The borrower is expecting to get a new job.

Sample evidence - Proof that the borrower has been actively looking for employment (unemployment card); written statement indicating promise of future employment; evidence indicating work in his or her field will be available in future (newspaper articles)

2.The borrower has been ill or injured and is expected to go back to work.

Sample evidence - Copy of medical records, statement from physician (including prognosis)

3.The borrower has applied for some form of assistance that will supplement his or her income.

Sample evidence - Copy of food stamp entitlement letter, proof of subsidized medical services (e.g., medicare, medicaid)

4.The borrower's son or daughter will graduate from high school and be available for work.

Sample evidence - Written statement from borrower indicating graduation date; letter of job offer/indication part-time job might become full-time, etc.

5.A relative of the borrower is to move into the home and will contribute income.

Sample evidence - Letter showing intent to contribute to the mortgage; documentation of relative's income

2-6 Assignment Recommendation and Acceptance

A.The lender must recommend and the Field Office must accept an assignment of any case where:

1.All the criteria listed in paragraphs 2-4 are met (or waived for criteria three and four), and

2.None of the conditions described in paragraph 2-2 exists.

B.If a supervisor does not accept a subordinate's recommendation, the supervisor must include the reasons for the reversal in the case file (on a separate Analysis and Documentation of Assignment Eligibility Criteria, form HUD-92209 and retain the original recommendation.

2-7Automatic Assignment of Defaulted Mortgages on Properties on Indian Reservations

A.These mortgages are assigned in accordance with 24 CFR 203.350(b) if the requirements of 203.664(a), including the requirement for a face-to-face conference (203.604), are met. If the lender chooses to foreclose after the mortgage is three full monthly installments past due, the lender MUST follow the ordinary assignment procedures described in Chapter 8 of HUD Handbook 4330.1 (REV-5) 9/94, Administration of Insured Home Mortgages. Due to the special nature of the programs for the Seneca Indians and the Hawaiian Homelands, contact HUD Headquarters for instructions concerning assignment procedures.

B.The lender/Field Office must consider the borrower for forbearance relief if the criteria in paragraphs 2-4A,B,D and F are met and all the information necessary to decide whether to forbear is submitted within 15 days of request. Processing these forbearance requests is the same as for non-Indian assignment requests.

C.Forbearance will not be granted if any of the following conditions exist:

1.The mortgaged property was abandoned or vacant for more than 60 days.

2.The borrower, after being clearly advised of the options available for relief, clearly states in writing that he or she has no intention of fulfilling his or her obligation under the mortgage.

3.The mortgaged property is NOT the borrower's principal residence and it is occupied by tenants who are paying rent, but the borrower does not apply the rental income to the mortgage debt.

D.If the borrowers are eligible for forbearance relief, the guidelines in Chapter 5 of Handbook 4330.2 REV-1 dated 3/91 apply.

E.If the borrowers are NOT eligible for forbearance relief, HUD must initiate appropriate actions to foreclose when the lender completes the mortgage assignment.