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CHAPTER 1: GENERAL

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1-1 CLAIM TYPES.

All claims for single family mortgage insurance benefits must be submitted on Form HUD-27011, Single Family Application for Insurance Benefits. There are seven types of single family claims:

TYPE #	TYPE
01	Conveyance - The mortgagee obtains the property through foreclosure or by deed-in-lieu after mortgage default and deeds the property to HUD.
02	Assignment - The mortgagee, with HUD approval, assigns a mortgage in default to HUD, and HUD becomes the mortgagee.
03	Automatic Assignment Under Section 221 (g)(4) - Mortgagees may elect to assign certain mortgages to HUD. These mortgages must not be in default on the 20th anniversary and the election to assign must be made before the 21st anniversary. Upon assignment, HUD becomes the mortgagee.
04	Coinsurance - Certain FHA approved mortgages are coinsured. The mortgagee acquires a property after default and sells it rather than conveying or assigning. Any loss on the sale is shared by HUD and the mortgagee on a 90%:10% basis, respectively.
05	Supplemental Claims/Remittances - A supplemental claim is the only tool for mailing adjustments after payment of the initial claim has been made. Such adjustments are subject to strict time limitations and are made only when additional amounts are owed or due.

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06	Claims Without Conveyance of Title - The property is sold at foreclosure and is not conveyed to HUD. Currently, this claim type is limited to claims involving deficiency judgments.
07	Pre-foreclosure Sales - Under certain circumstances the

Department may provide relief to a mortgagor where the property's fair market value is less than the outstanding indebtedness. The terms of the sale and the minimum sales price are pre-authorized by the Department. If the sale is successful, a foreclosure is avoided and the mortgagee may file a claim to recover the shortage between the sales proceeds and the total indebtedness.

Chapter 1 of this Handbook relates to procedures which are applicable to all seven types of claims listed above. The remaining chapters relate to specify procedures for each of these claim types.

1-2THE APPLICATION (FORM HUD-27011, SINGLE FAMILY APPLICATION FOR INSURANCE BENEFITS)

A. Form Description. The application form consists of five parts. The parts to be submitted vary depending on the type of claim submission. All claim types will require submission of Parts A and B. The supporting information required for each claim type will vary as will the time frame requirements. The specific requirements for each claim type are provided in detail in a separate chapter for each claim type.

1. Part A, Initial Application. Provides the initial case data. Part A is the first part of the claim prepared and contains information relating to the mortgage, property, property condition, mortgagee, payment history and the foreclosure or assignment process.

2. Part B, Fiscal Data. Contains fiscal data consisting of allowable expenses and accrued interest. It provides summary information relating to receipts and disbursements by the mortgagee which affect the amount of the insurance claim. With the exception of conveyances, Part B is submitted with Part A for all claim submissions. The supporting documents (Parts C, D and E) are all prepared prior to completing Part B.

3. Part C - Support Document. Contains itemized information relating to disbursements for the protection and preservation of the property.

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4. Part D - Support Document (Continuation 1). Contains itemized information relating to such items as taxes, hazard insurance premiums, MIP, foreclosure costs, etc.

5. Part E - Support Document (Continuation 2). Contains itemized information relating to closing costs and amounts

due from and to the buyer at closing. It is used for coinsurance claims, claims without conveyance of title (CWCOT), Pre-Foreclosure Sales claims (PFS), and for claiming certain (e.g., appraisal and deficiency judgment) costs where appropriate on conveyance claims.

B.Where to Obtain Forms. Form HUD-27011 may be obtained from the local HUD office, or if not available, copies of the forms in Appendix 1 may be used. A computer generated form or facsimile may be used only if it is substantially identical to the HUD form in size and format. Any forms submitted that do not comply with the HUD format or that are illegible or incomplete will be returned.

C.Where to Submit Forms. To ensure good and timely receipt of the claim, submit the claim as follows:

1.The original (not copy) of the HUD-27011 Parts A and/or B with required attachments should be mailed to:

U.S. Department of Housing and Urban Development Office  
of Mortgage Insurance Accounting and Servicing Single  
Family Mortgage Insurance Claims Branch P. O. Box 23998  
Washington, D.C. 20036-3998

\* If courier/express mail or registered or certified mail is used, send the claim with required attachments to:

U.S. Department of Housing and Urban Development Single  
Family Mortgage Insurance Claims Branch Systems  
Management and Control Section, Room 6137  
451 Seventh St., S.W.  
Washington, D.C. 20410

A completed copy of a transmittal form (Appendix 25) should accompany all Forms HUD-27011 sent by courier/express mail.

NOTE: See Par. 7-8 regarding a supplemental claim with a payment to HUD.\*

2.Copies of Parts A and B and the originals of Parts C, D and E, together with required attachments should be sent to the local HUD office having jurisdiction over the mortgaged property. These must be forwarded to the local HUD office on the same date that the original Part A and Part B are sent to Washington requesting payment. Mailing addresses for local HUD offices can be obtained from correspondence received from such office or by consulting local telephone directories. Include the FHA Case Number on all correspondence and documents sent to HUD. Detailed

instructions on claim submission requirements are provided in Chapters 2 through 8 of this Handbook.

3.A copy of all parts of the form, schedules and attachments must be retained in the claim file.

D. Who May Submit a Claim Application. A claim may be submitted by either the holder or the servicer of the mortgage. It must be signed by an official of the organization submitting the claim. In either case the settlement check will be made payable to the holder of the mortgage, as listed in Item 12 of the Form HUD-27011.

HUD will not honor requests for claim payment checks to be delivered to any entity other than the holder. The form submitted to HUD Headquarters must bear the original signature.

E. Certification of Claim Accuracy. The mortgagee official signing the Form HUD-27011 is certifying that all information and statements contained in the claim are true and correct. Entering information that is inaccurate for the purpose of avoiding an interest curtailment or obtaining unauthorized insurance benefits is in direct conflict with the certification that statements and information on the claim are true and correct. HUD will prosecute false claims and statements. Convictions may result in criminal and/or civil penalties. Additionally HUD may refer any cases to the mortgagee review board where evidence is found to indicate intentional misrepresentation on a claim submission.\*

### 1-3 CLAIM PROCESSING.

A. Pre-Screening. Applications are pre-screened prior to processing to determine whether certain essential data are missing or incomplete. If any of the following discrepancies (or similar deficiencies) are found, the unprocessed claim will be returned to the mortgagee:

- Invalid/incomplete case number;

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-Signature missing or not an original (copied or stamped signatures are not acceptable);

- Illegible document;
- Missing Part B (except for conveyance claims);
- Missing original MIC;
- Missing original Title Approval Letter;

- Missing title submission certifications (assignments only);
  - Missing holding mortgagee number (Part A);
  - Missing mortgagor's social security number; or
- Computer generated forms using unacceptable format or form size.

The above data is essential to claim processing. Claim submissions returned because of one or more of the above discrepancies will not be edited for other errors. Therefore, they will be returned a second time if additional errors are detected.

Claims returned for correction will be considered received on the date the final corrected form is received. This will normally result in a loss of interest because the time limitation will be exceeded.

B. Automated Processing. Form HUD-27011, Parts A and B, are processed by computer at HUD Headquarters. If the information provided on the form passes all system edits and control checks, the system will compute and generate payment to the mortgagee. The system edits are designed to permit prompt payment of most claims by accepting costs encountered in routine claims. If unusually high disbursements are reported, the claim payment will be reduced and the mortgagee may file a supplemental claim for the amount of the claim disallowed, with documentation to support the amount of, and the need for, the higher payment. The advice of payment with the initial claim reimbursement will identify amounts and reasons for a reduced claim payment (See Appendix 2). If other disbursements are unusually high the claim may be returned for additional documentation.

Although a claim may be processed and paid by the computer, HUD may, upon review, require reimbursement of any amounts which are found to be excessive

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or not supported by appropriate documentation (See Appendix 3, Errors Frequently Made In Preparing Claims).

C. Payment Advice Letter. Within a few days of receipt of payment the mortgagee will receive a letter giving detailed information on the payment of the claim (Appendix 2).

D. Capitalized Accounting. If the mortgagee uses the "capitalization" method of applying mortgage payments or any of

the several variations thereof, the Part A must be accompanied by a worksheet showing the allocation of all mortgage payments in accordance with the terms of the mortgage, i.e., to escrow, interest and principal, in that order. The recomputation is necessary for the system to accept the claim and to permit entry of the correct due date of the last complete installment paid (Item 8) and the unpaid loan balance (Item 17).

#### 1-4 CLAIMS ASSISTANCE.

General questions concerning the use of the claim form (HUD-27011) may be addressed to the local HUD office. Specific inquiries to confirm HUD's receipt of claim or to request the status of a claim may be directed to the Single Family Claims Support Service Center at (703) 235-9102.

This service center is equipped with an interactive voice response capability. Basic claim payment data may be obtained by using a touch-tone telephone. Enter the first five digits of the holder or servicer number and the FHA Case Number to find out whether a claim was paid, the amount of the payment, when it was paid, and the mortgagee number of the payee. Up to 15 claims may be researched per call. The option to transfer to an operator for further assistance is also available.

The local HUD Office should be contacted concerning questions regarding title evidence and title approval for specific cases. For conveyances, please direct your questions to the Single Family Property Disposition Branch. For assignments, please direct your questions to the Single Family Loan Management Branch who will coordinate with their Counsel's office depending upon the nature of your question.

#### 1-5 METHOD OF PAYMENT.

HUD has authority to reimburse the mortgagee for the unpaid principal balance of the mortgage and allowable costs and advances in cash or debentures (24 CFR 203.401).

A.Cash Payment. All claims for single family insurance benefits (except those assigned pursuant to Section 221(g)(4)) are settled in cash.

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B.Debentures. Effective January 4, 1995, FHA/HUD debentures are issued in book-entry form in the full settlement amount. They are valid and binding obligations of the mortgage insurance fund under which the mortgage was insured and are issued in accordance with the regulations (24 CFR 203.400-411) in settlement of

mortgagee's application for insurance benefits.

Principal and interest are fully and unconditionally guaranteed by the United States. Interest is paid semiannually on January 1 and July 1. The Federal Reserve Bank of Philadelphia is the fiscal agent for the Treasury Department, who is HUD's agent, in the issue, transfer, exchange, redemption, payment, purchase, payment of semiannual interest and retirement of debentures.

C. Debenture Interest Payment. When the mortgage insurance claim is paid in cash, the settlement includes the interest the claim would have earned, as of the date such payment is made, if it had been paid in debentures.

D. Debenture Interest Rate (General). Debenture interest rates are established from time to time by the Secretary with the approval of the Secretary of the Treasury. The rates from 1941 to December 31, 1994, are shown in Appendix 4. The rate applicable to a claim is the higher of the rate in effect on (i) the date the mortgage was endorsed for insurance, or (ii) the date of firm commitment, except for Direct Endorsements, Coinsured Loans and Automatic Assignments.

E. Debenture Interest Rate (Direct Endorsement, Coinsurance Programs). For applications involving mortgages originated under the Single Family Direct Endorsement or Coinsurance Programs, the debenture interest rate is the rate in effect as of the date the mortgage was endorsed for insurance. (Appendix 4)

F. Debenture Interest Rate for Automatic Assignments. For Automatic Assignments the rate is the "going Federal rate" at the date of assignment. (Appendix 4)

\*1-6 EXTENSION OF TIME REQUIREMENTS.\*

The mortgagee is required to take specific actions or to submit specific documents to HUD within time limits specified in the regulations. The Secretary is authorized to establish time limitations by Sections 211 (12 USC 1715b) and 204(a)(12 USC 1710) of the National Housing Act. The time within which specific actions are to be taken vary with the type of claim and are discussed in

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detail in the following chapters relating to the respective claim types. Failure to comply with the time requirements may result in a loss of debenture interest. (24 CFR 203.402(k))

If the mortgagee cannot comply with the time requirements for a particular action because of circumstances beyond its control, a request should be submitted to the local HUD office for an extension

of time. The request should be made as soon as possible, but before the time limit for that action expires. Time extension requests should be made as follows:

A.Extension Request Format. All extension requests must be submitted on Form HUD-50012, Mortgagee's Request for Extensions of Time (See Appendix 5).

1.Oral requests for extension will not be accepted.

2.Mortgagees may submit their requests via facsimile in emergency situations.

B.Submission of Extension Requests. The request must be submitted to the local HUD field office having jurisdiction over the property.

1.For conveyance claims, (unless directed otherwise by the local office) requests to extend the time limit for conveying title to HUD, submitting title evidence, submitting fiscal data or submission of supplemental claims on conveyances must be submitted to the local HUD office, ATTN: Single Family Property Disposition Branch.

2.All other extension requests must be submitted to the local HUD office, ATTN: Single Family Loan Management Branch.

C.Time Requirements For The Submission Of Extension Requests.

1.Mortgagees must submit all extension requests prior to the expiration of the time limit.

a.In order to ensure timely receipt by the local HUD Office, avoid potential disputes and allow adequate response time, mortgagees should submit their requests as early as possible.

b.Extension requests submitted after expiration of the time limit will be denied. HUD will allow ten days for receipt of requests sent via first class mail through the United States Postal Service and will verify the date submitted by the date of the postmark.

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The date of submission will also be verified for all courier delivered requests.

c.Internal controls have been established in each of HUD's local Offices to ensure that all extension requests received are properly logged in and responded

to in a timely manner. In the event a dispute arises concerning the actual date of the mortgagee's submission or the date of HUD's receipt of an extension request, the dispute will be resolved on a case-by-case basis by the local HUD Office. If the mortgagee can demonstrate to the local HUD Office's satisfaction that the extension request was submitted timely, the local Office will review the request for extension.

2. Extensions will not be granted retroactively, unless the delay is directly related to the action of the HUD local office.

3. A time requirement is not extended until the extension has been approved in writing by HUD.

a. An extension will not be granted verbally.

b. Failure of the field office to meet a response time limit set by the mortgagee will not be interpreted as an extension approval.

c. HUD's direction to a mortgagee to take action, or HUD's approval of a mortgagee's action, does not extend a time requirement unless HUD extended the expiration date in writing.

D. Basis For The Extension Request.

1. All extension requests must provide a valid reason to support the need for an extension of time. Mortgagees must clearly define the circumstances and reason(s) for the request. Vague or unclear requests will be denied.

2. Extension requests based on the following reasons will be denied.

a. Investor or holder delay in obtaining required documents.

b. Staffing constraints.

c. Errors of the servicer, holder and/or of any of the previous holders or servicers.

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d. Delays caused by the mortgagee's staff, agent or contractor.

e. Failure by the mortgagee's staff, agency or contractor

to take appropriate, necessary or required action.

E. Extensions Will Not Be Approved For The Following.

1. Time requirement for the submission of Part A, Form HUD-27011, Single Family Application for Insurance Benefits Part A (any claim type except pre-foreclosure sales claims). Mortgagees must submit their Claim for Insurance Benefits on the date the deed or assignment is filed for record. (24 CFR 203.360, 203.351).

2. Time requirement for recordation and submission of automatic assignment claims. The mortgagee must exercise its option under Section 221(g)(4) by filing the assignment for record within one year following the twentieth anniversary of the date the mortgage was endorsed for insurance. The claim must be submitted on the date the assignment is filed for record. (24 CFR 221.251, 221.255).

F. Mortgagees Are Not Required To Request Prior Written Approval From The Local HUD Office For Extensions Of Time Under The Following Circumstances.

1. Bankruptcy or State law. HUD Regulations (24 CFR 203.355) provide that if a mortgagee was prohibited by State law or Federal bankruptcy law from instituting foreclosure within nine months from the date of default, the mortgagee has 60 days from the date such prohibition was lifted to institute foreclosure. In addition, in certain circumstances, the mortgagee may have an extension longer than 60 days: see Paragraph 2-2A for a complete discussion.

The date of the bankruptcy release must be entered in Item 21 Form HUD-27011, Part A and a date 60 days after that date must be entered in Item 19, in order to receive this extension.\*

NOTE: This instruction is applicable only if the bankruptcy action, or local law prohibition, actually prevented the initiation of foreclosure action within the nine month requirement. If the bankruptcy did not preclude the institution of foreclosure within the nine month time frame, do not enter an extension date in Item 19, unless approved by the local HUD Office.\*

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If more than 60 days are needed to initiate foreclosure, mortgagees must request an extension from the local HUD Office on Form HUD-50012.

2. Assignment Rejection. (24 CFR 203.355) Local HUD Offices will provide mortgagees (attached to the final assignment rejection letter) Form HUD-50012 which will grant a 60 day extension from the date of the final assignment rejection letter under the following circumstances:

a. The mortgagee sent either the HUD #2 or the HUD #3 Letter a minimum of twenty days prior to the expiration of the nine month time limitation, unless the mortgagee was prohibited from doing so by State Law (or bankruptcy); and

\* b. The mortgagee had been prevented from initiating foreclosure within nine months from the date of default because the local HUD Office was reviewing the case for Assignment.\*

NOTE: If the only reason the mortgagee did not meet the time limit to institute foreclosure was due to the mortgagee's failure to begin the assignment process in a timely manner (issue HUD #2 or HUD #3 letter at least twenty days prior to the expiration of the time limit), no extension will be given by the local HUD Office.

3. Time Frames for completion of Foreclosure. (24 CFR 203.356) (Reasonable Diligence).

At the present time, the Department is not requiring that mortgagees obtain prior written approval to exceed the state time limits for the completion of foreclosure.

However, an extension of time to complete foreclosure is not automatic. Supporting documentation such as attorney's correspondence or copies of court records must be retained in the Claim Review File. In areas where recording delays are excessive, mortgagees must document efforts to follow-up with the recording authority.

Compliance with the foreclosure time limits will be monitored through the Department's post claims review process and Headquarters claim processing staff, as appropriate.

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4. Certain Supplemental Claims. (CFR 203.401(c)) Mortgagees have a six month limitation to submit a supplemental claim. Supplemental claims submitted after the six month limitation will not be honored, except under the following

circumstances.

a. Hazard Insurance Refund Adjustments. A supplemental claim for a hazard insurance refund adjustment (beyond the six month time limit), will automatically be honored up to one year from the date of final settlement of the initial Part B, Single Family Claim Form, HUD-27011, under the following conditions:

(1) All hazard insurance costs when known, where included in the initial submission of Form HUD-27011, Part B, or to the extent possible, are claimed, within six months from the date of final settlement of Part B.

(2) The mortgagee diligently followed up with the hazard insurance carrier to confirm any necessary adjustment.

(3) The supplemental claim is submitted within fourteen calendar days from the date of the insurance carrier's notification of an adjustment.

NOTE: The supplemental claim must be received within 24 calendar days from the date of the carrier's notification.

(4) A copy of the carrier's notification is attached to the mortgagee's supplemental claim.

(5) The mortgagee has adequately indicated in the mortgagee's comment section that the supplemental claim is being filed to recover an adjustment to the hazard insurance premium refund.

If more than one year is needed to make HIP adjustments, mortgagees must request an extension from the local HUD Office on Form HUD-50012. Only hazard insurance adjustments will be honored with this type of approved extension. Mortgagees may not include other types of costs they may have failed to include in earlier claim submissions.

b. Deficiency Judgment Costs. For cases where a deficiency judgment was pursued, a supplemental claim for the additional costs related to the pursuit of the deficiency judgment may be submitted up to one year from the date of final settlement (of the initial Part B) or up to 3 months after the deficiency judgment,

whichever is later, subject to the following conditions.

(1)All such costs when known, were included in the initial submission of Form HUD-27011, Single Family Application for Insurance Benefits, Part B, or, to the extent possible, are claimed within six months from the date of final settlement of the initial Part B.

(2)The mortgagee has adequately indicated in the Mortgagee's Comment section that the supplemental claim is being filed to recover deficiency judgment costs.

NOTE:Mortgagees must request an extension from the local HUD Office on Form HUD-50012 if it will be necessary to request reimbursement for any costs related to the pursuit of a deficiency judgment after the year time limit.

Only deficiency judgment costs will be honored with this type of approved extension. Mortgagees may not include other types of costs they may have failed to include in earlier claim submissions.

Only one supplemental claim should be filed for deficiency judgment costs on any one FHA case. Mortgagees should ensure the deficiency judgment has been resolved and that all deficiency judgment costs are known and claimed at the time the supplemental is filed.

A supplemental claim for deficiency judgment costs should not be submitted until resolution of the deficiency judgment.

c.Overpayments. Mortgagees must promptly remit any amounts overpaid on the claim and must promptly remit any other funds received, within thirty calendar days from the date of receipt. The six month limitation for supplemental claims does not apply to

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supplemental remittances. Prior written approval is never required to file a supplemental for remittance of funds.

Mortgagees will be monitored as to the promptness of

their submission.

\* 5.Special Forbearance Agreement. If the mortgagee has entered into a valid special forbearance agreement with the mortgagor, the mortgagee need not request prior written approval from the local HUD office for an extension of the timeframe to initiate foreclosure.

NOTE:The mortgagee must commence foreclosure within 90 days following the date the mortgagor fails to meet the requirements of a special forbearance under 24 CFR 203.614. Exceeding this 90 day timeframe requires prior written approval from the local HUD office.

6.Pre-foreclosure Sales. If initiation of foreclosure is delayed due to a mortgagor being accepted into the pre-foreclosure procedure in accordance with HUD Guidelines, the mortgagee need not request prior written approval from the local HUD office for an extension of the timeframe to initiate foreclosure.

Mortgagees have nine months from the date default to begin the pre-foreclosure sale procedure with a mortgagor (i.e., indicate to the mortgagor in writing that he or she is qualified to pursue buyer under the PFS procedure, and delay the foreclosure sale date). If the PFS procedure commences within the nine-month period, but is not completed within that time frame, mortgagees are not required to request prior written approval from the local HUD Office for an extension. However, commencement of the pre-foreclosure sale procedure near the nine-month deadline should be avoided except in cases where other types of mortgagor relief have been tried and failed (e.g., application for assignment; special forbearance).

NOTE:If the Pre-foreclosure Sale Procedure is unsuccessful, mortgagees have 60 days from the date a mortgagor's bona fide participation in the pre-foreclosure sale procedure ends either to accept a deed-in-lieu of foreclosure or to initiate foreclosure proceedings against that mortgagor, if foreclosure had not been initiated before the date the mortgagor began participating in the

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PFS procedure, or is legally required to be "re-initiated". This 60-day period is applicable regardless of whether the nine month timeframe has

run, so long as the homeowner was participating in the pre-foreclosure sale procedure during the affected period. Exceeding this 60 day timeframe requires prior written approval from the local HUD office.\*

Compliance with all portions of Paragraph F will be monitored through the post claims review process and Headquarters claim processing staff, as appropriate.

G.Special Circumstances Which May Require The Mortgagee To Request An Extension Of Time To Initiate Foreclosure.

1.Drug seizure related cases. Mortgagees will be prohibited from initiating foreclosure in situations where the U. S. Marshall/Department of Justice (DOJ) seized the property in a drug related action. HUD will not become involved if the U. S. Marshall/DOJ chooses to retain mortgaged property. Mortgagees need not request an extension until the property is released by the U. S. Marshall/DOJ and foreclosure action or deed in lieu becomes necessary to acquire the property.

Because of the complexity of these cases, they will be dealt with on a case-by-case basis. For cases where the mortgagee needs an extension of time to initiate foreclosure, a request should be made promptly to the local HUD Office. Please contact the local HUD Office for guidance as to the documentation required to be submitted with your extension request.

2.Soldiers and Sailors Civil Relief Act of 1940. (24 CFR 203.346) The activation of certain reservists (such as to the Persian Gulf in 1990) may require mortgagees to delay the initiation of foreclosure because of the requirements of this Act. If an extension to initiate foreclosure is needed because of the requirements of the Act, an extension request must be made to the local HUD Office. An appropriate extension will be approved based upon the specifics of the individual case. Please contact the local HUD Office for guidance as to the documentation required to be submitted with your extension request.

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H.Claim Review File.

\* 1.A copy of HUD's written response to each extension request or requests to exceed cost limits must be maintained in the mortgagees' claim review file. In addition, appropriate documentation to support extensions not requiring prior\* written approval as explained in Paragraph F must be a part

of the Claim Review File.

\* 2.If a subsequent claim review finds that an extension or an approval to exceed cost limits was granted based upon a misrepresentation of the facts, the claim will be considered paid in error.\*

#### 1-7 MORTGAGE INSURANCE CERTIFICATE.

In all types of claims for mortgage insurance benefits, the mortgagee is required to attach the original Mortgage Insurance Certificate (MIC) to the original of Part A when it is submitted to HUD Headquarters. Where the original MIC is not available, a duplicate MIC may be obtained from the local HUD office having jurisdiction over the property. (Additional guidance for obtaining a duplicate MIC may be found in HUD Handbook 4000.2, Rev-2, Mortgagees' Handbook, Application through Insurance dated July 30, 1991.)

A.All requests for a duplicate MIC must be in writing and forwarded to the Chief of Mortgage Credit in the local HUD office. Provide documentation that the case is insured (i.e., a copy of the MIC reproduced from microfilm or other source), accompanied by a copy of the mortgage note and a self addressed, stamped envelope. (This will help assure that the duplicate MIC is returned to the requesting lender rather than the originator.)

B.Old Section 221 Mortgages. Mortgage Insurance Certificates were not issued for some old Section 221 mortgages. For these mortgages, the mortgagee should submit a certification that the mortgage is fully insured, that the insurance has not been terminated and that no MIC was issued because it was an old Section 221 mortgage. The certification must fully identify the mortgage. Include a copy of the note showing the endorsement date.

#### 1-8 MORTGAGOR'S SOCIAL SECURITY NUMBER.

All claims must have the mortgagor's social security number entered in Item 33 of Part A, Form HUD-27011. Any claim submitted without the number will be returned for correction and debenture interest will be curtailed if the corrected claim is not received within the prescribed time. If a co-mortgagor's social security number is available, it

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should also be entered. If there are additional mortgagors or additional space is required, the "Mortgagee's Comments" space may be used for this purpose.

If the application for a firm commitment was signed before August 15, 1986 the claim may be accepted without a social security number if:

-the mortgagee has made the annual requests for the mortgagor's social security number that are required by the Internal Revenue Service (IRS) but the mortgagor has failed to provide the requested number;

-the mortgagee has made an exhaustive search of all available records and cannot find the mortgagor's social security number in addition to attempting direct contact with the mortgagor; and

-the defaulting mortgagor is either deceased or cannot be located to provide the missing number.

Under these circumstances, the following certification, signed by an authorized official of the mortgagee, must be attached to the claim or entered in the "Mortgagee's Comments" section of the application.

"I certify that no social security number is available for FHA Case Number \_\_\_\_\_, upon which this claim is based. I further certify that I or representatives of my company have searched for all available records and made all annual requests for the mortgagor's social security number that are required by the IRS."

The following remark, "See attached" must be entered in Item 33 in lieu of the social security number.

1-9 MORTGAGE DEFAULT.

A mortgage is in default if the mortgagor fails to make any payment, or to perform any other obligation under the mortgage, and such failure continues for a period of 30 days. The date of a monetary default is 30 days after the first failure to make a monthly payment which subsequent payments are insufficient to cover when applied to the overdue monthly payments in the order in which they became due. Therefore, the date of default is either:

A. Two months from the due date of the last fully paid installment.

Example:

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Due date of first installment	04/01/93
Due date of last fully paid installment	07/01/93
Date of first uncorrected payment failure	08/01/93
Date of default	09/01/93

B. One month from the due date of the first installment if no payments are made

Example:

Due date of first installment	04/01/93
Date of first uncorrected payment failure	04/01/93
Date of default	05/01/93

If appropriate origination practices are followed, a situation involving no payments should only occur in very unusual circumstances.

Although subsequent payments may be sufficient to advance the date of default when applied to overdue monthly payments, if the time requirement to initiate foreclosure or record a deed-in-lieu has been missed, such payments will not change the mortgagee's failure to comply with the time requirement unless the payments are sufficient to cure the default.

1-10 ATTORNEY'S FEES.

A.Allowable Fees. HUD will reimburse the mortgagee for reasonable and customary fees paid to attorneys and trustees in connection with the foreclosure of a mortgage or other acquisition of title, the assignment of a mortgage to HUD and with securing possession of the property. For routine legal actions, HUD reimburses mortgagees for attorney's fees based on the FNMA Schedule of Standard Attorney's and Trustee's Fees. Formerly, mortgagees were generally instructed to enter the amount actually paid to the attorney, regardless of whether the fee exceeded the FNMA fee or whether the amounts were reasonable, and the initial claim payment was limited to the allowable amount. Mortgagees must now follow the instructions below regarding what may be claimed for attorney's fees (for all claims filed on or after June 25, 1994, except that the 75% reimbursement rule discussed below applies only to foreclosures referred to an attorney on or after June 25, 1994). Generally, mortgagees may enter no more than the FNMA fee for a routine legal action and may enter only reasonable

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payments will not change the mortgagee's failure to comply with the time requirement unless the payments are sufficient to cure the default.

1-10 ATTORNEY'S FEES.

A.Allowable Fees. HUD will reimburse the mortgagee for reasonable and customary fees paid to attorneys and trustees in connection with the foreclosure of a mortgage or other acquisition of title, the assignment of a mortgage to HUD and with securing possession of the property. For routine legal actions, HUD reimburses mortgagees for attorney's fees based on the FNMA Schedule of

Standard Attorney's and Trustee's Fees. Formerly, mortgagees were generally instructed to enter the amount actually paid to the attorney, regardless of whether the fee exceeded the FNMA fee or whether the amounts were reasonable, and the initial claim payment was limited to the allowable amount. Mortgagees must now follow the instructions below regarding what may be claimed for attorney's fees (for all claims filed on or after June 25, 1994, except that the 75% reimbursement rule discussed below applies only to foreclosures referred to an attorney on or after June 25, 1994). Generally, mortgagees may enter no more than the FNMA fee for a routine legal action and may enter only reasonable amounts for contested foreclosures, contested evictions, contested bankruptcies, required probate procedures, etc. If the mortgagee complies with the guidance, the need to file a supplemental claim for additional funds for attorney's fees should be eliminated in all but a very few cases. FNMA revises its fee schedules from time to time; therefore the mortgagee should use care in ensuring the applicable schedule is being used. HUD reserves the right to revise amounts which it considers reasonable and customary at any time.

Mortgagees are expected to maintain adequate documentation in the claim review files to support all attorney's fees. This will be subject to verification during the post claim review. If a mortgagee's claim is more than the amounts allowed by the following instructions, it will be considered a monetary finding, and the mortgagee will be billed for the statistically calculated overpayment for all claims within the review period.

As before, if the mortgagee believes it is entitled to more than the amount HUD actually reimbursed in the initial claim payment, the mortgagee may file a supplemental claim for attorney's fees. However, mortgagees may file only one supplemental claim, so any claim for additional attorney's fees must be included in that one supplemental claim. In addition, supplemental claims for attorney's fees should no longer be sent to the Home Mortgage Division, Room 9258, as had been previously directed. The claims should now be sent to the appropriate address indicated in Par. 1-2.C. (See Chapter 7 for Supplemental Claim Instructions.)

HUD will not reimburse a mortgagee for overhead items such as postage, telephone, duplicating, etc. Attorney or trustee overhead costs should be included in the attorney's fee.

Reimbursement for attorney's fees may be claimed by entering the amount of the fee in the following Items in Part D of Form HUD-27011:

Item 305 - Mortgagees may enter in Item 305 an amount up to the maximum FNMA fee for routine evictions, and reasonable attorney's fees for contested evictions.

Item 306 - Mortgagees may enter in Item 306:

oa maximum of the FNMA fee for attorney's fees incurred in any completed routine foreclosure and reasonable and customary fees for a contested foreclosure.

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oa maximum of 75% of the FNMA fee incurred for a routine foreclosure that was not completed because:

- the mortgagor filed a bankruptcy petition.
- a deed-in-lieu of foreclosure was accepted after the foreclosure was initiated.
- HUD directed the mortgagee to terminate foreclosure in order to permit assignment consideration, provided the foreclosure was properly initiated. (See HUD Handbook 4330.1, REV-4, paragraph 8-7(F)).
- the mortgagor was accepted into the Pre-foreclosure Sale program or procedure.

oa maximum of the FNMA fee for attorney' fees incurred for specific legal services such as "proceedings subsequent" for a Torrens title in Minnesota.

oa maximum of the FNMA fee for attorney's fees incurred for a deed-in-lieu of foreclosure.

oreasonable attorney's fees incurred in preparing assignment of a mortgage to HUD.

Item 307 - Mortgagees shall not enter attorney's fees in Item 307.

Item 310 - Mortgagees may enter in Item 310 an amount up to the FNMA fee for attorney's fees actually incurred for each bankruptcy and reasonable and customary attorney's fees incurred when the bankruptcy was not routine. Mortgagees may not claim attorney's fees for defending "cramdowns" in bankruptcy. \*

B.Full and Two-Thirds Reimbursement. Allowable fees related to assignment, and eviction or other possessory actions, are reimbursable in full, but only two-thirds of fees paid in connection with acquiring title to the property and its conveyance to the Secretary are reimbursable. Bankruptcy proceedings are related to the foreclosure action and are limited to two-thirds reimbursement except in assignment claims.

In order to properly allocate attorney's fees between full and two-thirds reimbursement, and permit review and payment, it may be necessary to separate attorney's fees into six categories:

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1.Fees Related to Acquisition of Title. These fees relate to the foreclosure action or deed-in-lieu of foreclosure and are shown in Item 306. They are subject to two-thirds reimbursement. Costs paid by the attorney and reimbursed by the mortgagee are shown in Item 307. If the attorney bills the mortgagee for unallowable costs, they should not be listed in either item.

2.Fees Related to Eviction or Gaining Possession. A separate fee is permitted only in jurisdictions where court procedures do not enable the foreclosing party to obtain possession as a part of the foreclosure action and a separate proceeding must be brought. Eviction fees and costs should be shown in Item 305. The fee for eviction should not be shown in Item 306 nor should costs be shown in Item 307 because eviction fees and costs are fully reimbursable (up to amounts approved by HUD) and not limited to two-thirds as in foreclosure costs.

3.Fees Related to Bankruptcy Proceedings. Fees related to bankruptcy should be separately stated and shown in Item 310. These fees are considered costs of acquisition and subject to two-thirds reimbursement.

4.Fees Related to the Assignment of the Mortgage to the Secretary. Fees related to assignment are reimbursable in full and shown in Item 306.

5.Fees for Special Services. Extra costs or fees incurred as a result of a defect in the mortgage transaction or a defect in title which existed at, or prior to, the time the mortgage was filed for record are not reimbursable, unless the mortgage was sold by the Secretary or executed in connection with the sale of the property by the Secretary.

6.Fees Related to Deficiency Judgments. Fees related to deficiency judgments are reimbursable in full and shown in Item 410. The fee for a judicial foreclosure when the mortgage would otherwise be foreclosed by power of sale is considered related to the deficiency judgment.

C.Salaried Employees. Compensation paid to an attorney or trustee who is a salaried employee will not be reimbursed. The salary is an obligation of the mortgagee unrelated to the foreclosure, therefore, it is not a foreclosure cost "actually paid" by the mortgagee (24 CFR 203.402(f)).

1-11 DEFICIENCY JUDGMENTS.

A.Pursuit of Judgment. Mortgagees are authorized to seek deficiency judgments against mortgagors but costs associated with such actions are reimbursable only if HUD requested or required the action or approved the mortgagee's request to pursue a judgment. The mortgagee must use the "Claims Without Conveyance of Title (CWCOT)" procedure described in Chapter 6 in obtaining a Commissioner's Adjusted Fair Market Value and in bidding at the foreclosure sale. If the mortgagee is the successful bidder and conveys title to the property to HUD, the claim for insurance benefits must be filed as a conveyance claim (Chapter 2). If the mortgagee retains the title or if a third party is the successful bidder, the claim for insurance benefits must be filed as a Claim Without Conveyance of Title (Chapter 6).

B.HUD Request. Generally, deficiency judgments will be sought against mortgagors who retain significant assets or income after foreclosure and can be expected to pay all or part of a deficiency judgment within a reasonable time.

C.Collection. If a deficiency judgment is obtained, it must be assigned to HUD within 30 days. The mortgagee shall not engage in any collection activity.

D.Fees and Costs. Fees and costs are reimbursable only when HUD requested or required the deficiency judgment action or when HUD has approved the mortgagee's request to pursue the judgment. If the costs of seeking a deficiency judgment are reimbursable, they are 100 percent reimbursable. They should be entered in Item 410 of Part E and must be described in detail.

Allowable costs and fees are as follows:

- 1.Attorney fees which relate only to the deficiency judgment.
- 2.Additional filing or recording fees which relate only to the deficiency judgment.
- 3.Costs related to a judicial foreclosure if local law requires a judicial foreclosure in order to obtain a deficiency judgment and the foreclosure would otherwise be by power of sale.

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The time limit for filing a supplemental claim will be extended, if necessary, for reimbursement of the cost of seeking a  
\* deficiency judgment (See paragraphs 1-6F.4b and 7-5). \*

1-12 CLAIM FILE AND RETENTION OF RECORDS.

A.Claim File Maintenance. A claim file with complete records must be maintained by the mortgagee on all cases for which a claim for insurance benefits has been filed. Insurance claims are paid through an automated payment system with control exercised primarily on an exception basis. Since mortgagees are not required to furnish receipts for reimbursable expenses with their claims, the integrity of the system is dependent on mortgagee compliance with claim processing requirements. Claim reviews are conducted by HUD after payment to verify the accuracy of claim submissions, and if inaccurate or

\* inappropriate claims are found, repayment is required. If a question arises regarding the support of an amount reimbursed on an insurance claim, the burden of proof is on the mortgagee to show the amount is valid and reimbursable. Amounts charged to the mortgagee by any third party (over and above allowable fees) and claimed for reimbursement are subject to the same documentation requirements the mortgagee is expected to meet if the mortgagee expended the funds directly.\*

The mortgagee must be able to show support for all information entered on the application for insurance benefits. Claim files must be maintained for a period of three years after the date of the last check received by the mortgagee in payment of a claim. If the last notification from HUD was a billing then all records must be maintained for a period of three years after resolution of such billing. If the mortgagee is notified within the three year period that its claims will be reviewed by HUD or its agent, all claim files must be maintained until completion and final settlement of the review. Claim files must be made available for review within 24 hours of HUD's request. Mortgagees must be able to retrieve claim files using the FHA case numbers. If mortgagees wish to file according to their own internal numbering system, they must maintain a cross reference with the FHA case number. If a supplemental claim is filed, its resolution becomes the last action for the purpose of establishing the three year retention period. Documents may be stored on microfilm, provided a legible hard copy can be produced within 24 hours of request.

The following records must be retained:

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1. Copy of Parts A through E of Form HUD-27011.
2. All records, loan payment history, documents, papers and \* accounts relating to the mortgage transaction including all collection and foreclosure notes relating to each FHA case maintained in the system database.\*
3. Copies of the conditional commitment for insurance (if

applicable), the firm commitment (if applicable), the mortgage insurance certificate (face and reverse), the mortgage, and the mortgage note.

\* 4.The credit worksheet signed by the mortgagee's approved underwriter (if applicable).\*

5.Copy of Deed or assignment with date of recordation.

6.A copy of transmittal letter, if deed or assignment is sent to recording authority.

7.HUD letters of approval or disapproval with respect to assignments, extensions, protection and preservation expenses and damaged properties.

8.Foreclosure initiation document.

9.Bankruptcy supporting documentation.

10.Title Approval letter.

11.Title Submission Certification (for assignments only).

12.Receipts supporting all disbursements for which reimbursement is claimed. (Canceled checks are not considered receipts.)

13.Inspection reports (initial, occupied and vacant).

14.Any photographs needed to support protection and preservation expenses.

15.Copy of buydown and rental agreements.

16.Payment advice letters.

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17.Copy of the Hazard Insurance Policy and Flood Insurance Policy (if applicable).

18.Any additional information or data required by HUD regulation, handbook, or mortgagee letter.

This is not intended to be an all-inclusive list. Mortgagees must ensure the claim file contains documentation for all information entered on the claim form.

B.Missing Claim Files. Claim files must be maintained for a period of three years after final claim payment. If a claim file is

missing and cannot be produced for review, the Department may consider all amounts for expenses and interest to have been paid in error. HUD may charge a fee for the review of claim files that are not provided to HUD when requested.

1-13 NEGATIVE CLAIM AMOUNT.

A. Original Claim. If the Net Claim Amount in Part B (Item 137) of the original claim is a negative amount, do not send HUD a check. HUD will calculate the claim making the necessary adjustments for \* the costs of foreclosure and will bill the mortgagee for the amount due. The date of HUD's billing letter is the date used for the 3-year documentation-retention requirement. \*

B. Supplemental Claim. If the Net Claim Amount in Part B of a Supplemental Claim is a negative amount, follow the instructions in Paragraph 7-8.

1-14 REASSIGNMENT AND RECONVEYANCE.

A. Reassignment and Reconveyance. (24 CFR 203.364) If the mortgagee conveys a property or assigns a mortgage to HUD which is ineligible for insurance benefits or otherwise fails to comply with the regulations, the mortgagee must promptly correct the defect or HUD will reconvey the property or reassign the mortgage to the mortgagee. If this occurs the mortgagee must reimburse HUD for all expenses incurred in connection

with the acquisition, reconveyance or reassignment. If reimbursement is not made promptly after \* notice, HUD will collect the debt by administrative offset. The reimbursement must include the amount of the insurance settlement, interest on such amount from the date the insurance benefits were paid to the date of refund at an interest rate set in conformity with the Treasury Fiscal Requirements Manual, all expenses incurred in connection with the acquisition and reconveyance and HUD's cost of holding the property, accruing on a daily basis, from the date the deed was filed for record to the date of reconveyance. The holding costs shall be based on HUD's estimate of the taxes, maintenance and operating expenses of the property and administrative expenses.

\*

B. Reapplication. Upon reassignment or reconveyance the application for insurance benefits shall be considered as canceled without prejudice to the right of the mortgagee to reapply for insurance at a subsequent date. Reapplication, however, does not extend the time periods for the performance of any required action. The claim will be

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considered received at the time of reapplication. This will result in a loss of interest in most cases because the time limitation will not be met.

\*

For mortgages insured under firm commitments issued on or after November 19, 1992 or under direct endorsement processing where the credit worksheet was signed by the mortgagee's approved underwriter on or after November 19, 1992, if the mortgagee reapplies for insurance benefits the mortgagee will not be reimbursed for any expenses incurred in connection with the property after it has been reconveyed by the Secretary or paid any debenture interest accruing after the date of the initial conveyance or after the date conveyance was required by 24 CFR 203.359 of the regulations (see paragraph 2-2.D) whichever is earlier and there will be deducted from the insurance benefits any reduction in the Secretary's estimate of the value of the property occurring from the time of reconveyance to the time of reapplication (24 CFR 203.363).

\*

C. Damage or Defective Title. On discovery of damage to the property or defective title, the field office will notify the mortgagee to repair the damage within 90 days or correct the defective title within 30 days in order to avoid reassignment or reconveyance. One 30 day extension may be granted by the field office if requested within the 90 or 30 day time frame.

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If the damage or defect reduces the value of the property by a measurable amount but does not prevent its sale, HUD may agree to accept the

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property and reduce the insurance benefits in an amount which will compensate the mortgage insurance fund for any anticipated loss.

For mortgages insured under a firm commitment issued on or after November 19, 1992, or under Direct Endorsement processing where the credit worksheet was signed by the mortgagee's approved underwriter on or after November 19, 1992 if the title to a property conveyed to the Secretary is not good and marketable, the mortgagee will be required to correct the defect within 60 days after receiving notice from the Secretary or within such further time as the Secretary may approve in writing. In this case, the mortgagee may retain the insurance benefits already paid, but it will not be reimbursed for any costs involved in correcting the title (24 CFR 203.402(f)) (See paragraph 2-6D).

For specific requirements relating to the condition of the

property at the time of conveyance, see paragraph 2-10.\*

\* D.Uninsured Mortgages. If the mortgagee submits a claim on a mortgage which was not insured by HUD, the property will be\* reconveyed or the mortgage will be reassigned and the mortgagee will be required to reimburse HUD as above. If the property has been sold, HUD will remit to the mortgagee the property's sales price less the expenses of sale and expenses incurred while the property was in HUD's inventory (taxes, utilities, repairs, management fees, etc.).

#### 1-15 QUALITY ASSURANCE.

HUD Regulation 24 CFR 202.12(j) requires approved mortgagees to have a written Quality Control Plan for loan origination and servicing. HUD has established minimum requirements which must be met for a Quality Control Plan to be acceptable to HUD. Mortgagees' policies, procedures and practices with respect to origination and servicing have a direct impact on the number of claims filed, the amount of loss to the government, and quality and accuracy of claim submissions. Following are some of the determinations relating to claims which mortgagees must make in order to meet HUD's minimum requirements. A complete listing of HUD's Quality Control Plan minimum requirements can be found in Handbook 4060.1, Mortgagee Approval Handbook.

Mortgagees must determine that:

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A. Insurance claims are properly calculated and claim amounts are fully supported.

B. A thorough review of the claim application has been accomplished to verify that supporting documentation exists for all information entered on the claim form.

C. A thorough review is accomplished when filing a supplemental claims to ensure that no other adjustments are needed.

D. Deeds-in-lieu are pursued where appropriate and deficiency judgments are taken where required.

E. Property inspections are performed when the mortgagor fails to make a mortgage payment and no contact is possible within 45 days of the due date, or if the mortgage is in foreclosure and the property is vacant (see 2-11B for more detailed inspection requirements).

F. HUD-FHA monthly reporting requirements under the Single Family Default Monitoring System are complied with.

G.Foreclosure proceedings are initiated and completed on a timely basis and in accordance with HUD-FHA requirements.

H.Sufficient controls exist to assure that preparation of insurance claims are complete, accurate and timely, in order to minimize any loss to HUD.

#### 1-16 REVIEW OF CLAIMS.

The automated system for the payment of insurance benefits relies on the accuracy of the information provided by the mortgagee on the claim form. Therefore all information entered on the claim form must be supported by documentation in the claim file.

In order to verify the accuracy and appropriateness of amounts claimed, HUD or its agent may conduct a review of the claim file at any time within three years after the claim is paid. The mortgagee who files the claim as the Servicing Mortgagee is responsible for the completeness and accuracy of the claim submission. It is the responsibility of the Servicing Mortgagee to remit any overpayments identified on claim payments made by HUD. Statistical sampling may be used to select claims for review and determine the amount due HUD for overpayments. Denial of access to a file will be grounds for withdrawal of the mortgagee's approved lender

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status, debarment by the Secretary, or immediate suspension of all claim payments to the mortgagee.

Mortgagees must promptly reimburse HUD for any amount overpaid because of incorrect, unsupported or inappropriate information provided by the mortgagee.

A.Frequency of Reviews. The Department may review any claim file at any time during the required claim file retention period. See paragraph 1-12.

B.Notification to Mortgagee. The Department will notify mortgagees by letter prior to the commencement of a claims review. Upon request by the Department, the mortgagee will make available for review, hard copy claim files for any paid claim within 24 hours of such a request.

C.Evaluation of Results. The result of a claims review will be evaluated prior to the issuance of a report. Any discrepancies resulting from inaccuracies, omissions, unsupported claim information will be identified and provided to the mortgagee in the initial report.

D.Reporting Process. After completion of the reviews, the

Department will issue the initial report identifying the errors found, the mortgagee's potential liability, and whether or not the mortgagee is in compliance with Department guidelines.

E.Billing. The mortgagee's potential liability will be identified in the initial report. Mortgagees will have 45 days from the date of the report to provide any additional documentation that could affect the review results. If no additional documentation is provided within 45 days, the report will be considered final and the potential liability identified will become the amount owed.

If additional information is provided, it will be reviewed and adjustments to the potential amount owed will be made. Once the final amount is determined, the mortgagee will be billed and required to pay within 14 days. If payment is not received within 30 days, interest will accrue from the date billed on the amount owed. If payment is not received within 90 days, a penalty plus administrative costs will be assessed.

F.Administrative Offset. If reimbursement is not made promptly after the final amount is determined HUD may collect the debt by administrative offset or other means.