U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Special Attention of:	**Notice PIH 2015-15**
All Section 184 Approved Mortgagees, Indian Housing Authorities, Tribally Designated Housing Entities, and Tribes.	**Issued:** September 24, 2015 **Expires:** This notice remains effective until amended, superseded, or rescinded. **Cross References:** PIH Notice 2014-11; PIH Notice 2014-22.

SUBJECT: Section 184 Indian Loan Guarantee Program Disaster Policy

I. PURPOSE

The purpose of this Notice is to inform lenders, who make loans under the Section 184 program to individual tribal members, about the HUD guidelines and procedures that must be followed in Presidentially Declared Major Disaster Areas (PDMDA). This Notice applies to lenders and mortgagees under the Section 184 program.

II. BACKGROUND

The Indian Housing Loan Guarantee program is authorized by Section 184 of the Housing and Community Development Act of 1992, P.L. 102-550, enacted October 28, 1992, as amended. Regulations are at 24 CFR part 1005. The Section 184 program addresses the special needs of American Indians and Alaska Natives by making it possible to achieve homeownership with market-rate financing. Historically, American Indians and Alaska Natives have had limited retail banking opportunities and limited access to private mortgage capital. The Section 184 loan program provides an incentive for private lenders to market loans to this traditionally underserved population by guaranteeing 100 percent repayment of the unpaid principal and interest due in the event of default. This Notice provides guidance for the servicing of Section 184 loans in PDMDAs.

III. GUIDELINES

A. Servicing Actions-Disaster Areas

HUD is requiring a moratorium on foreclosures of properties in PDMDAs for a 90-day period beginning on the date of each Disaster Area Declaration. The moratorium applies to the initiation of foreclosures AND foreclosures already in process. As necessary, HUD may communicate further specific guidance for extension of moratorium periods for individual disasters.

During foreclosure moratorium periods, HUD expects servicers to make every effort to communicate with and assist affected borrowers in rebuilding or repairing damaged properties, minimizing delinquencies, and retaining homeownership.

To determine the appropriate course of action, the servicer must review the individual facts and circumstances of each case, and take into consideration the adverse impact that property damage, uninsured losses, curtailment of income, and extraordinary expenses related to the disaster are having on the ability of the borrower(s) to make on-time mortgage payments. When appropriate, servicers must provide borrowers with forbearance and other loss mitigation alternatives as specified in this Notice and in PIH Notice 2014-11.

B. Forbearance Options for Disaster-Impacted Borrowers

Before considering impacted borrowers for a permanent solution using one of the Section 184 program's loss mitigation procedures, the servicer must first evaluate the borrower for a forbearance, which allows for one or more periods of reduced or suspended payments without specific terms of repayment.

Borrowers with a mortgaged property or place of employment located within designated disaster areas may be offered forbearance relief consistent with the following:

1. Informal forbearances do not need to be in writing. Informal forbearances in PDMDAs are effective for up to 3 months. If the moratorium is extended, a new informal forbearance period may be granted in applicable areas (in proportion to the length of the moratorium extension);
2. Formal forbearances must be in writing. The following conditions apply to formal forbearances pertaining to PDMDAs that do meet the requirements under PIH Notice 2014-11:
   (a) they cannot exceed the estimated time to repair the property as supported by a contract or repair estimate;
   (b) they can be granted for periods of up to 12 months while borrowers are pursuing home repairs and resolving verifiable financial difficulties related to the disaster; and
   (c) at no point during the forbearance period can the total accumulated arrearages on the loan exceed the equivalent of 12 months of principal, interest, taxes, and insurance (PITI).

C. Loss Mitigation Owner-Occupant Requirement

A borrower shall not be denied any loss mitigation option solely for failure to occupy a mortgaged property if the mortgaged property is located within a PDMDA, and the borrower: (a) occupied the mortgaged property as their principal residence immediately prior to the disaster, (b) has not exceeded the equivalent of 12 months of principal, interest, taxes, and insurance (PITI) in total accumulated arrearages; and (c) intends on re-occupying the mortgaged property upon restoration of the property to habitable condition.

D. Loan Modification without a Financial Evaluation

Borrowers who receive informal or formal forbearances based solely on location of their mortgaged property or place of employment within a PDMDA, shall, at the conclusion of the forbearance period, be offered rate and term modifications without the standard financial analysis required under PIH Notice 2014-11 subject to the following conditions:

1. The loan was current or less than 30 days past due as of the date of the applicable Disaster Declaration;
2. The mortgagee performs a Verification of Employment (VOE) that the mortgagor(s)' employment status is the same as prior to the disaster;
3. Home damages have been repaired and the dwelling is owner-occupied;
4. Total monthly mortgage payment (PITI) on the modified loan is less than or equal to the existing payment on the HUD-insured loan; and
5. Borrower(s) successfully complete a 3-month trial payment plan.

The terms of such modifications shall be as follows:

1. Accumulated arrearages of delinquent accrued interest and eligible unreimbursed servicer advances, fees, and costs chargeable to the loan shall be capitalized into a modified loan balance;
2. Late fees may not be capitalized, and must be waived if the borrower satisfies all conditions of the trial payment plan;
3. The term of the loan shall be extended to 360 months from the modification effective date; and
4. The interest rate shall be set at the Market Rate as defined by HUD.

E. Required Evaluation for Other Loss Mitigation Home Retention Options

Following evaluation for and completion of approved forbearances, the servicer must evaluate eligible borrowers for other Loss Mitigation Home Retention Options in accordance with PIH Notice 2014-11 and other applicable PIH policy guidance. Borrowers who meet the following criteria must be evaluated for those additional Special Forbearance and Loan Modification alternatives:

1. Borrowers who are not eligible for the "Loan Modification without a Financial Evaluation" Option;
2. Borrowers eligible for "Loan Modification without a Financial Evaluation" who are experiencing a continuation of lower income or higher living expenses following the disaster; and
3. Borrowers eligible for "Loan Modification without a Financial Evaluation" who do not successfully complete the required Trial Payment Plan.

In all cases, home damages must be repaired and the dwelling owner-occupied before any Loan Modification may be completed.

F. Refinances - Effect of Disaster Forbearance on Payment History and Maximum Insurable Balance

In accordance with PIH Notice 2014-22, Section 184 Indian Loan Guarantee Program Processing Guidelines, for the purpose of determining the acceptability of the borrower's payment history for any Section 184 refinance, when a borrower has withheld mortgage payments pursuant to either a formal or informal forbearance grant under this Notice, the Section 184 program will not consider those payments to be "late" because the payments were not "due" during the disaster relief period. Mortgagees must continue to analyze the borrower's payment history for the period prior to, and, where applicable, following, the forbearance period to determine if the borrower's payment history meets Section 184 refinancing program requirements.

G. Streamline Refinances- Effect of Disaster Forbearance on Payment History and Maximum Insurable Balance

For streamline refinances (those from a currently guaranteed Section 184 loan refinanced into a new Section 184 loan), the maximum insurable balance of the refinancing mortgage may include the unpaid principal balance, plus up to 60 days of interest and 2 months of the Section 184 annual premium, plus the up-front loan guarantee fee. If the borrower's forbearance plan results in greater than 60 days of interest due on the current loan, the borrower will need to pay the excess by the closing date of the refinance.

H. Suspension of Reporting to Credit Bureaus

Servicers must suspend reporting of delinquencies to credit repositories for borrowers who are granted disaster related mortgage payment relief and are otherwise performing as agreed, unless such reporting is required for a loan modification.

I. Waiver of Late Charges

Servicers must waive late charges as long as the borrower is on a forbearance plan or paying as agreed on a loss mitigation option.

J. Monitoring of Repairs to Substantially Damaged Homes

Servicers must take appropriate actions to ensure that repairs to substantially damaged properties comply with the applicable building elevation standard. As defined in the National Flood Insurance Program (NFIP) regulations at 44 CFR § 59.1, "substantial damage" is "damage of any origin sustained by a structure whereby the cost of restoring the structure to its "before damaged" condition would equal or exceed 50 percent of the market value of the structure before the damage occurred." Homes in flood hazard areas that have been substantially damaged by a disaster event must have the lowest floor (including basement) elevated to or above the applicable base flood level that has been established on a Flood Insurance Rate Map (FIRM) adopted by the Federal Emergency Management Agency (FEMA), except in accordance with NFIP exceptions for certain corrections of code violations and alterations of historic structures. Compliance with any higher applicable building elevation standard adopted by the relevant state or local government is also required.

IV. APPROVALS

A. Information Requests

For further information concerning this Notice, please contact HUD at (202) 708-0614. Persons with hearing or speech impairments may access their Area Office of Native American Programs via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/

Lourdes Castro Ramírez
Principal Deputy Assistant Secretary
for Public and Indian Housing