

§ 203.605

requested under §203.350(d) for mortgages authorized by section 203(q) of the National Housing Act.

(c) A face-to-face meeting is not required if:

(1) The mortgagor does not reside in the mortgaged property,

(2) The mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either,

(3) The mortgagor has clearly indicated that he will not cooperate in the interview,

(4) A repayment plan consistent with the mortgagor's circumstances is entered into to bring the mortgagor's account current thus making a meeting unnecessary, and payments thereunder are current, or

(5) A reasonable effort to arrange a meeting is unsuccessful.

(d) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall consist at a minimum of one letter sent to the mortgagor certified by the Postal Service as having been dispatched. Such a reasonable effort to arrange a face-to-face meeting shall also include at least one trip to see the mortgagor at the mortgaged property, unless the mortgaged property is more than 200 miles from the mortgagee, its servicer, or a branch office of either, or it is known that the mortgagor is not residing in the mortgaged property.

(e)(1) For mortgages insured pursuant to section 248 of the National Housing Act, the provisions of paragraphs (b), (c) and (d) of this section are applicable, except that a face-to-face meeting with the mortgagor is required, and a reasonable effort to arrange such a meeting shall include at least one trip to see the mortgagor at the mortgaged property, notwithstanding that such property is more than 200 miles from the mortgagee, its servicer, or a branch office of either. In addition, the mortgagee must document that it has made at least one telephone call to the mortgagor for the purpose of trying to arrange a face-to-face interview. The mortgagee may appoint an agent to perform its responsibilities under this paragraph.

(2) The mortgagee must also:

(i) Inform the mortgagor that HUD will make information regarding the

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status and payment history of the mortgagor's loan available to local credit bureaus and prospective creditors;

(ii) Inform the mortgagor of other available assistance, if any;

(iii) Inform the mortgagor of the names and addresses of HUD officials to whom further communications may be addressed.

(Approved by the Office of Management and Budget under control number 2502-0340)

[41 FR 49736, Nov. 10, 1976, as amended at 51 FR 21873, June 16, 1986; 52 FR 48202, Dec. 21, 1987; 53 FR 9869, Mar. 28, 1988; 61 FR 35019, July 3, 1996; 61 FR 36266, July 9, 1996]

§ 203.605 Loss mitigation evaluation.

No later than when three full monthly installments due on the mortgage are unpaid, the mortgagee shall evaluate all of the loss mitigation techniques provided at §203.501 to determine which, if any, are appropriate, and shall reevaluate monthly thereafter. The mortgagee shall maintain documentation of such evaluations. Should a claim for mortgage insurance benefits later be filed, the mortgagee shall maintain this documentation in the claim file under the requirements of §203.365(c).

[61 FR 35019, July 3, 1996]

§ 203.606 Pre-foreclosure review.

(a) Before initiating foreclosure, the mortgagee must ensure that all servicing requirements of this subpart have been met. The mortgagee may not commence foreclosure for a monetary default unless at least three full monthly installments due under the mortgage are unpaid after application of any partial payments that may have been accepted but not yet applied to the mortgage account. In addition, prior to initiating any action required by law to foreclose the mortgage, the mortgagee shall notify the mortgagor in a format prescribed by the Secretary that the mortgagor is in default and the mortgagee intends to foreclose unless the mortgagor cures the default.

(b) If the mortgagee determines that any of the following conditions has been met, the mortgagee may initiate

foreclosure without the delay in foreclosure required by paragraph (a) of this section:

(1) The mortgaged property has been abandoned, or has been vacant for more than 60 days.

(2) The mortgagor, after being clearly advised of the options available for relief, has clearly stated 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 mortgagor's principal residence and it is occupied by tenants who are paying rent, but the rental income is not being applied to the mortgage debt.

(4) The property is owned by a corporation or partnership.

[52 FR 6915, Mar. 5, 1987, as amended at 61 FR 35020, July 3, 1996]

§ 203.608 Reinstatement.

The mortgagee shall permit reinstatement of a mortgage, even after the institution of foreclosure proceedings, if the mortgagor tenders in a lump sum all amounts required to bring the account current, including foreclosure costs and reasonable attorney's fees and expenses properly associated with the foreclosure action, unless: (a) The mortgagee has accepted reinstatement after the institution of foreclosure proceedings within two years immediately preceding the commencement of the current foreclosure action, (b) reinstatement will preclude foreclosure following a subsequent default, or (c) reinstatement will adversely affect the priority of the mortgage lien.

§ 203.610 Relief for mortgagor in military service.

The mortgagee shall specifically give consideration to affording the mortgagor the benefit of relief authorized by §§ 203.345 and 203.346, if the mortgagor is *person in the military service* as that term is defined in the Soldiers and Sailors Civil Relief Act of 1940, as amended.

§ 203.614 Special forbearance.

If the mortgagee finds that a default is due to circumstances beyond the mortgagor's control, as defined by HUD, the mortgagee may grant special

forbearance relief to the mortgagor in accordance with the conditions prescribed by HUD.

[61 FR 35020, July 3, 1996]

§ 203.616 Mortgage modification.

The mortgagee may modify a mortgage for the purpose of changing the amortization provisions by recasting the total unpaid amount due for a term not exceeding 360 months. The mortgagee must notify HUD of such modification in a format prescribed by HUD within 30 days of the execution of the modification agreement.

[62 FR 60130, Nov. 6, 1997]

MORTGAGES IN DEFAULT ON PROPERTY LOCATED ON INDIAN RESERVATIONS

§ 203.664 Processing defaulted mortgages on property located on Indian land.

Before a mortgagee requests that the Secretary accept assignment under § 203.350(b) of a mortgage insured pursuant to section 248 of the National Housing Act (§ 203.43h), the mortgagee must submit documents showing that the requirements of § 203.604 have been met.

[61 FR 35020, July 3, 1996]

MORTGAGES IN DEFAULT ON PROPERTY LOCATED ON HAWAIIAN HOME LANDS

§ 203.665 Processing defaulted mortgages on property located on Hawaiian home lands.

Before a mortgagee requests the Secretary to accept assignment under § 203.350(c) of a mortgage insured pursuant to section 247 of the National Housing Act (§ 203.43i), the mortgagee must submit documents showing that the requirements of § 203.604 have been met.

[61 FR 35020, July 3, 1996]

ASSIGNMENT AND FORBEARANCE—PROPERTY IN ALLEGANY RESERVATION OF SENECA INDIANS

§ 203.666 Processing defaulted mortgages on property in Allegany Reservation of Seneca Nation of Indians.

(a) *Applicability.* This section applies to mortgages authorized by section 203(q) of the National Housing Act