

§ 245.405

24 CFR Ch. II (4-1-04 Edition)

§ 245.405 Applicability of subpart.

The requirements of this subpart apply to any request by a mortgagor, as provided by §245.10, for HUD approval of one or more of the following covered actions:

(a) Conversion of a project from project-paid utilities to tenant-paid utilities, or a reduction in tenant utility allowances.

(b) Conversion of residential units in a multifamily housing project to a non-residential use or to condominiums, or the transfer of the project to a cooperative housing mortgagor corporation or association. Conversion of a project to a cooperative or of a portion of a project to nonresidential use does not constitute a change of use requiring mortgagee approval.

(c) A partial release of mortgage security. The requirements of this subpart, however, do not apply to any release of property from a mortgage lien with respect to a utility easement or a public taking of such property by condemnation or eminent domain.

(d) Making major capital additions to the project. For the purposes of this subpart, the term "major capital additions" includes only those capital improvements that represent a substantial addition to the project. Upgrading or replacing existing capital components of the project does not constitute a major capital addition to the project.

§ 245.410 Notice to tenants.

At least 30 days before submitting a request to HUD for approval of an action described in §245.405, the mortgagor must serve notice of the proposed covered action on the project tenants, as provided in §245.15. The notice shall state that—

(a) The mortgagor intends to submit a request to HUD for approval of the covered action or actions specified in the notice;

(b) The tenants have the right to participate as provided in §245.420, and what those rights are, including the address at which the materials required to be made available for inspection and copying under that section are to be kept;

(c) Tenant comments on the proposed covered action may be sent to the mortgagor at a specified address or di-

rectly to the local HUD office, and comments sent to the mortgagor will be transmitted to HUD, along with the mortgagor's evaluation of them, when the request for HUD's approval is submitted;

(d) HUD will approve or disapprove the proposed action, based upon its review of the information submitted and all tenant comments received. In the case of a proposed reduction in tenant-paid utilities, the notice must also state that HUD may adjust the proposed reduction upward or downward;

(e) In the case of a proposed conversion of residential units, partial release of mortgage security, or major capital additions to the project, the proposed action may require the owner to request HUD approval of a rent increase; and

(f) The mortgagor will notify the tenants of HUD's decision and it will not begin to effect any approved action (in accordance with the terms of existing leases) until at least 30 days from the date of service of the notification.

§ 245.415 Submission of materials to HUD: Timing of submission.

(a) *Initial submission.* The mortgagor must submit the materials applicable to the covered action, as specified in §§245.416 through 245.419, to the local HUD office when the notice required under §245.410 is served on the tenants.

(b) *Subsequent submission.* If additional notice under §245.420(c) is required, the mortgagor must submit to HUD any changes to the materials required under §§245.416 through 245.419 when the notice required under §245.420(c) is served on the tenants.

§ 245.416 Initial submission of materials to HUD: Conversion from project-paid utilities to tenant-paid utilities or a reduction in tenant utility allowances.

In the case of a conversion from project-paid utilities to tenant-paid utilities or a reduction in tenant utility allowances, the mortgagor must submit the following materials to the local HUD office:

(a) A copy of the notice to tenants;

(b) In the case of a proposed conversion from project-paid utilities to tenant-paid utilities—

(1) A statement indicating: