

CLAIM PROCEDURES

§ 266.626 Notice of default and filing an insurance claim.

(a) *Definition of default.* (1) A monetary default exists when the mortgagor fails to make any payment due under the mortgage.

(2) A covenant default exists when the mortgagor fails to perform any other covenant under the provision of the mortgage or the regulatory agreement, which is incorporated by reference in the mortgage. An HFA becomes eligible for insurance benefits on the basis of a covenant default only after the HFA has accelerated the debt and the owner has failed to pay the full amount due, thus converting a covenant default into a monetary default.

(b) *Date of default.* For purposes of this subpart, the date of default is:

(1) The date of the first uncorrected failure to perform a mortgage covenant or obligation; or

(2) The date of the first failure to make a monthly payment that is not covered by subsequent payments, when such subsequent payments are applied to the overdue monthly payments in the order in which they were due.

(c) *Notice of default.* If a default (as defined in paragraph (a) of this section) continues for a period of 30 days, the HFA must notify the Commissioner within 10 days thereafter, unless the default is cured within the 30-day period. Unless waived by the Commissioner, the HFA must submit this notice monthly, on a form prescribed by the Commissioner, until the default has been cured or the HFA has filed an application for an initial claim payment. In cases of mortgage acceleration, the mortgagee must first give notice of the default.

(d) *Timing of claim filing.* Unless a written extension is granted by HUD, the HFA must file an application for initial claim payment (or, if appropriate, for partial claim payment) within 75 days from the date of default and may do so as early as the first day of the month following the month for which a payment was missed. Upon request of the HFA, HUD may extend, up to 180 days from the date of default, the deadline for filing a claim. In those cases where the HFA certifies that the

project owner is in the process of transacting a bond refunder, refinancing the mortgage, or changing the ownership for the purpose of curing the default and bringing the mortgage current, HUD may extend the deadline for filing a claim beyond 180 days, not to exceed 360 days from the date of default.

§ 266.628 Initial claim payments.

(a) *Determination of initial claim amount.* (1) The initial claim amount is based on the unpaid principal balance of the mortgage note as of the date of default, plus interest at the mortgage note rate from date of default to date of initial claim payment. The mortgage note interest component of the initial claim amount is subject to curtailment as provided in paragraph (b) of this section.

(2) HUD shall make an initial claim payment to the HFA that is equal to the initial claim amount, less any delinquent mortgage insurance premiums, late charges and interest, assessed under § 266.604(d).

(3) The HFA must use the proceeds of the initial claim payment to retire any bonds or any other financing mechanisms securing the mortgage within 30 days of the initial claim payment. Any excess funds resulting from such retirement or repayment shall be returned to HUD within 30 days of the retirement.

(b) *Curtailment of interest for late filings.* In determining the mortgage note interest component of the initial claim amount, if the HFA fails to meet any of the requirements of this section within the specified time (including any granted extension of time), HUD shall curtail the accrual of mortgage note interest by the number of days by which the required action was late.

(c) *Method of payment.* HUD shall pay the claim in cash.

§ 266.630 Partial payment of claims.

(a) *General.* When the Commissioner receives a claim for a partial payment under § 266.626(d), the Commissioner may make a partial payment of claim in accordance with the requirements of this section. If the HFA has not previously received a partial claim payment, the HFA may file a claim for a partial claim payment under § 266.630.