



Federal Register

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Part III

Department of Housing and Urban Development

24 CFR Part 207

**Mortgagee Time Limits for Supplemental
Claims for Additional Insurance Benefits;
Final Rule**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 207

[Docket No. FR-4957-F-02]

RIN 2502-AI31

**Mortgagee Time Limits for
Supplemental Claims for Additional
Insurance Benefits**

AGENCY: Office of the Assistant Secretary of Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations to establish a time limit for filing supplemental multifamily mortgage insurance claims. The time limit established will provide an incentive for mortgagees to complete all mortgage insurance claims in a timely manner. This final rule revises and further defines the term "final payment." This final rule follows publication of a May 6, 2005, proposed rule, and takes into consideration the public comments received on the proposed rule.

DATES: *Effective Date:* May 10, 2006.

FOR FURTHER INFORMATION CONTACT: Kimberly R. Munson, Housing Project Manager, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 6180, Washington, DC 20410-8000; telephone (202) 708-1320 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 207 of the National Housing Act (12 U.S.C. 1713) (NHA) authorizes the Secretary to insure certain eligible multifamily mortgages and to pay insurance benefits to the mortgagee. HUD's regulations implementing multifamily mortgage insurance eligibility requirements and contract rights and obligations regarding insurance benefits can be found at 24 CFR part 207. Under part 207, upon an assignment of the mortgage or a conveyance of the property to the Federal Housing Commissioner (Commissioner), and delivery by the mortgagee of items required pursuant to part 207, the Commissioner will pay insurance benefits to the mortgagee. After the initial insurance claim is paid to the mortgagee at final settlement, the Commissioner may also pay additional benefits due to adjustments or corrections of the claim amount paid at

final settlement. These additional claims are often known as supplemental insurance claims.

For several years, a considerable number of mortgagees have filed supplemental insurance claims for additional insurance benefits more than a year after the Commissioner paid a final settlement on the mortgagee's initial insurance claim. These supplemental insurance claims are often belatedly filed in part due to insufficient preparation when filing the initial insurance claim. The large and complex nature of supplemental insurance claims, and the time spent reviewing and processing these claims, delays processing and payment of all initial and supplemental insurance claims.

On May 6, 2005, HUD published a proposed rule (70 FR 24272) that amended HUD's multifamily mortgage insurance regulations at 24 CFR part 207 to require mortgagees to file all supplemental insurance claims with HUD within 6 months after the date of final payment of the initial insurance claim. Requiring that mortgagees file supplemental insurance claims within this time period creates an incentive for mortgagees to complete all final settlements promptly and will allow HUD to decrease some of its reviewing and processing costs. For the purposes of the proposed rule, the term "final payment" was defined to mean the payment of the initial claim that is made at final settlement by the Commissioner based upon the submission by the mortgagee of all required documents and information.

II. This Final Rule

This final rule follows publication of the May 6, 2005, proposed rule. The public comment period for the proposed rule closed on July 5, 2005, and HUD received one public comment. After careful consideration of the comment, HUD has decided to revise the definition of "final payment."

The commenter, an attorney, wrote first that the 6-month time limit should begin not from the date of final payment, but, rather, from the date the mortgagee receives the HUD mortgage insurance claim settlement statement. The commenter also wrote that the proposed regulation should indicate that HUD is bound by its original claim computation based on information HUD receives from the mortgagee. The commenter explained that this indication is necessary because a supplemental insurance claim time limit may be affected by HUD's reexamination of the original claim computation.

HUD understands the commenter's first point and has revised the language to more accurately reflect settlement by defining the time limit for filing as 6 months from the date of "final settlement" rather than "final payment" of the insurance claim. The term "final settlement" shall mean the payment of the insurance claim in either cash or debentures, as appropriate, or the billing for an overpayment of a partial claim. HUD, however, is not adopting the commenter's second suggestion. HUD must make claim adjustments for various reasons and cannot restrict its authority to reopen a claim, which may occur sometimes years after the final settlement. For example, when a mortgagee submits a claim with unreported mortgage payments received from a project owner, HUD must at that time reexamine an original claim computation, regardless of when the original claim was filed.

III. Findings and Certifications

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule imposes no additional economic or other burdens on mortgagees participating in HUD's multifamily mortgage insurance programs. All such mortgagees, regardless of size, are subject to the new requirements proposed by the rule. The rule establishes a 6-month time limitation for all mortgagees to file supplemental multifamily housing mortgage insurance claims. Small mortgagees will have no more additional compliance costs than other mortgagees within this 6-month time limit as a result of this rule. Therefore, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this

final rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This final rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of UMRA.

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits, to the extent practicable and permitted by law, an agency from publishing any rule that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the

agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

List of Subjects in 24 CFR Part 207

Manufactured homes; Mortgage insurance; Reporting and recordkeeping requirements; Solar energy.

■ Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 207 as follows:

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

■ 1. The authority citation for 24 CFR part 207 continues to read as follows:

Authority: 12 U.S.C. 1701z–11(e), 1709(c)(1), 1713, and 1715b; 42 U.S.C. 3535d.

■ 2. Section 207.259(f) is added to read as follows:

§ 207.259 Insurance benefits.

* * * * *

(f) *Mortgagee Time Limits for Supplemental Claims for Additional Insurance Benefits.* A mortgagee may not file for any additional payments of its mortgage insurance claim more than six months after the date of final settlement of the insurance claim by the Commissioner. For the purpose of this section, the term final settlement shall mean the payment of the insurance claim (in cash or debentures) or billing for any overpayment of a partial claim that is made by the Commissioner. Final settlement is based upon the submission by the mortgagee of all required documents and information pursuant to part 207 of this chapter.

Dated: April 3, 2006.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

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