

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 207

[Docket No. FR-4957-P-01; HUD-2005-0008]

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: Proposed rule.

SUMMARY: This proposed rule would amend 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.

DATES: *Comment Due Date:* July 5, 2005.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Electronic comments may be submitted through either:

- The Federal eRulemaking Portal at <http://www.regulations.gov>; or
- The HUD electronic Web site at <http://www.epa.gov/feddocket>. Follow the link entitled "View Open HUD Dockets." Commenters should follow the instructions provided on that site to submit comments electronically.

Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Copies are also available for inspection and downloading at <http://www.epa.gov/feddocket>.

FOR FURTHER INFORMATION CONTACT: Roland C. Diggs II, Housing Project Manager, Room 6180, Department of Housing and Urban Development, 451 Seventh Street, SW., 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.

II. This Proposed Rule

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.

This proposed rule would amend HUD's multifamily mortgage insurance regulations at 24 CFR part 207 to require mortgagees to file all supplemental insurance claims with HUD within six 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 would be 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.

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 would impose no additional economic or other burdens on mortgagees participating in HUD's multifamily mortgage insurance programs. All such mortgagees, regardless of size, will be subject to the new requirements proposed by the rule. The rule proposes to establish a six-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 six-month time limit as a result of this rule. Therefore, the undersigned certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, and an initial regulatory flexibility analysis is not required.

Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described by this preamble.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of the Department's regulations, this proposed 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 proposed 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 proposed 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.

For the reasons stated in the preamble, HUD proposes to amend 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; and 42 U.S.C. 3535(d).

2. Add § 207.259 (f) to read as follows:

§ 207.259 Insurance benefits.

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(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 payment of the initial insurance claim by the Commissioner. For the purpose of this section, the term *final payment* shall mean the payment of the initial insurance claim that is made by the Commissioner at final settlement based upon the submission by the mortgagee of all required documents and information pursuant to part 207 of this chapter.

Dated: April 8, 2005.

John C. Weicher,

Assistant Secretary for Housing—Federal Housing Commissioner.

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