

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.

Otherwise, the HFA must file for an initial claim payment under § 266.628.

(b) *HFA submission.* In addition to any other requirements set forth in administration instructions, the HFA must provide the following information with its application for a partial claim payment:

(1) The amount by which the HFA will reduce the principal on the insured mortgage and the amount of delinquent interest on the insured mortgage that the HFA will defer based on the anticipated closing date; and

(2) A certification that:

(i) The amount of the principal reduction of the insured first mortgage does not exceed 50 percent of the unpaid principal balance;

(ii) The relief resulting from the partial claim payment when considered with other resources available to the project are sufficient to restore the financial viability of the project;

(iii) The project is or can (at reasonable cost) be made structurally sound;

(iv) The management of the project is satisfactory;

(v) The default under the insured mortgage was beyond the control of the mortgagor.

(c) *Claim processing*—(1) *Acceptable application.* If the HFA's application is acceptable, the Commissioner shall notify the HFA to process the partial payment, which will include the modification of the existing mortgage and the execution by the mortgagor of a second mortgage payable to the HFA. When the second mortgage is closed, the HFA shall notify the Commissioner, in a form and manner prescribed in administrative instructions. Upon receipt of notice from the HFA, the Commissioner shall make the partial claim payment.

(2) *Unacceptable application.* If the application is unacceptable, the Commissioner shall either advise the HFA of the information needed to make the application acceptable or return the application for further action. The HFA is granted an extension of 30 days from the date of any notification for further action.

(d) *Requirements*—(1) *One partial claim payment.* Only one partial claim payment may be made under a contract of insurance.

(2) *Partial claim payment amount.* The amount of the partial claim payment is equal to the amount of relief provided by the HFA in the form of a reduction in principal and a reduction of delinquent interest due on the insured mortgage times the lesser of HUD's percentage of the risk of loss or 50 percent.

(3) *HFA second mortgage.* Repayment of the relief provided by the HFA must be secured by a second mortgage to the HFA. This second mortgage may provide for postponed amortization and may not be assigned by the HFA. This second mortgage is not insured under this part and may not be insured under any other HUD-related insurance program.

(4) *Partial claim repayment by HFA.* The HFA must remit to HUD a percentage of all amounts collected on the HFA's second mortgage within 15 days of receipt by the HFA. The applicable percentage is equal to the percentage used in paragraph (d)(2) of this section to determine the partial claim payment amount. Payments made after the 15th day must include a 5 percent late charge plus accrued interest at the debenture rate.

(5) *Certified statements of amounts collected.* As long as the second mortgage remains of record, the HFA must submit to the Commissioner an annual certified statement of the amounts collected by the HFA. The HFA must submit a final certified statement within 30 days after the second mortgage is paid in full, foreclosed, or otherwise terminated.

§ 266.632 Withdrawal of claim.

In case of a default and subsequent filing of claim, the HFA shall determine the form of workout or modification and will inform HUD of the type of mortgage relief determined to be appropriate. If the default is cured after the claim is made but before the initial claim payment is paid by HUD, the HFA may, in writing, withdraw the claim, and insurance will continue as if the default had not occurred.

§ 266.634 Reinstatement of the contract of insurance.

(a) *Conditions for reinstatement.* After the initial claim payment, HUD may

reinstate the contract of insurance on the following conditions:

(1) The HFA has not acquired the project;

(2) The mortgagor has cured the default; and

(3) The HFA requests that HUD reinstate the contract of insurance.

(b) *Notification of reinstatement.* If reinstatement is acceptable to HUD, HUD shall notify the HFA of the date the contract of insurance will be reinstated and shall advise the HFA of the payment needed to reinstate the contract of insurance.

(c) *Payment.* Within 30 days of the date of the notice under paragraph (b) of this section, the HFA shall pay HUD an amount equal to the initial claim amount, as determined under § 266.628(a)(1), plus an amount equal to the accrued and unpaid interest on the HFA Debenture through the reinstatement date, plus an amount equal to the mortgage insurance premium for the period from the date of reinstatement of the contract of insurance to the next anniversary date for payment of the mortgage insurance premium.

(d) *Cancellation of debenture.* Upon receipt from the HFA of the amount specified in paragraph (c) of this section, HUD shall return the HFA debenture for cancellation.

(e) *Continuation of contract of insurance.* Upon reinstatement, the contract of insurance shall continue as if the default had not occurred.

§ 266.636 Insuring new loans for defaulted projects.

The HFA may not make another loan that is insured under this part to the same owner in the same project if HUD has paid a claim under this part.

§ 266.638 Issuance of HFA Debenture.

(a) *Condition to initial claim payment.* The HFA must issue an instrument in the form of a debenture to HUD within 30 days of receiving the initial claim payment. The HFA Debenture shall meet the following requirements and shall be in a form that has been approved by HUD as part of the application approval process.

(b) *Term of HFA Debenture.* The HFA Debenture shall be dated the same date that the initial claim payment is