

§ 203.558

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the date of the oldest unpaid installment but not the date on which the account first became delinquent.

(c) If the mortgage is not in default, a partial payment may be returned to the mortgagor with a letter of explanation.

(d) If the mortgage is in default, a partial payment may be returned to the mortgagor with a letter of explanation in any of the following circumstances:

(1) When payment aggregates less than 50 percent of the amount then due;

(2) The payment is less than the amount agreed to in a forbearance plan, whether or not reduced to writing;

(3) The property is occupied by a tenant who is paying rent and the rentals are not being applied to the mortgage payments;

(4) Foreclosure has been commenced. (Foreclosure is commenced when the first action required for foreclosure under applicable law is taken.)

(e) Under the following circumstances the mortgagee may return any partial payment received more than 14 days after the mortgagee has mailed to the mortgagor a statement of the full amount due, including late charges, and a notice of intention to return any payment less than such amount.

(1) Four or more monthly installments are due and unpaid, or

(2) A delinquency of any amount has continued for at least six months since the account first became delinquent.

[42 FR 15680, Mar. 23, 1977]

§ 203.558 Handling prepayments.

(a) *Handling prepayments for FHA-insured mortgages closed on or after January 21, 2015.* With respect to FHA-insured mortgages closed on or after January 21, 2015, notwithstanding the terms of the mortgage, the mortgagee shall accept a prepayment at any time and in any amount. The mortgagee shall not require 30 days' advance notice of prepayment, even if the mortgage instrument purports to require such notice. Monthly interest on the debt must be calculated on the actual unpaid principal balance of the loan as of the date the prepayment is received,

and not as of the next installment due date.

(b) *Handling prepayments for FHA-insured mortgages closed before January 21, 2015.* (1) With respect to FHA mortgages insured before August 2, 1985, if a prepayment is offered on other than an installment due date, the mortgagee may refuse to accept the prepayment until the first day of the month following expiration of the 30-day notice period as provided in the mortgage, or may require payment of interest to that date, but only if the mortgagee so advises the mortgagor, in a form approved by the Commissioner, in response to the mortgagor's inquiry, request for payoff figures, or tender of prepayment. If the installment due date (the first day of the month) falls on a nonbusiness day, the mortgagor's notice of intention to prepay or the prepayment shall be timely if received on the next business day.

(2) With respect to FHA mortgages insured on or after August 2, 1985, but closed before January 21, 2015, the mortgagee shall not require 30 days' advance notice of prepayment, even if the mortgage instrument purports to require such notice. If the prepayment is offered on other than an installment due date, the mortgagee may refuse to accept the prepayment until the next installment due date (the first day of the month), or may require payment of interest to that date, but only if the mortgagee so advises the mortgagor, in a form approved by the Commissioner, in response to the mortgagor's inquiry, request for payoff figures, or tender of prepayment.

(3) If the mortgagee fails to meet the full disclosure requirements of paragraphs (b)(1) and (b)(2) of this section, the mortgagee may be subject to forfeiture of that portion of the interest collected for the period beyond the date that prepayment in full was received and to such other actions as are provided in part 25 of this title.

(c) *Mortgagee annual notice to mortgagors.* Each mortgagee, with respect to a mortgage under this part, shall provide to each of its mortgagors not less frequently than annually a written notice, in a form approved by the Commissioner, containing a statement of

the amount outstanding for prepayment of the principal amount of the mortgage. With respect to FHA-insured mortgages closed before January 21, 2015, the notice shall describe any requirements the mortgagor must fulfill to prevent the accrual of any interest on the principal amount after the date of any prepayment. This paragraph shall apply to any outstanding mortgage insured on or after August 22, 1991.

[79 FR 50837, Aug. 26, 2014]

MORTGAGEE ACTION AND FORBEARANCE

§ 203.600 Mortgage collection action.

Subject to the requirements of this subpart, mortgagees shall take prompt action to collect amounts due from mortgagors to minimize the number of accounts in a delinquent or default status. Collection techniques must be adapted to individual differences in mortgagors and take account of the circumstances peculiar to each mortgagor.

§ 203.602 Delinquency notice to mortgagor.

The mortgagee shall give notice to each mortgagor in default on a form supplied by the Secretary or, if the mortgagee wishes to use its own form, on a form approved by the Secretary, no later than the end of the second month of any delinquency in payments under the mortgage. If an account is reinstated and again becomes delinquent, the delinquency notice shall be sent to the mortgagor again, except that the mortgagee is not required to send a second delinquency notice to the same mortgagor more often than once each six months. The mortgagee may issue additional or more frequent notices of delinquency at its option.

§ 203.604 Contact with the mortgagor.

(a) [Reserved]

(b) The mortgagee must have a face-to-face interview with the mortgagor, or make a reasonable effort to arrange such a meeting, before three full monthly installments due on the mortgage are unpaid. If default occurs in a repayment plan arranged other than during a personal interview, the mortgagee must have a face-to-face meeting

with the mortgagor, or make a reasonable attempt to arrange such a meeting within 30 days after such default and at least 30 days before foreclosure is commenced, or at least 30 days before assignment is requested if the mortgage is insured on Hawaiian home land pursuant to section 247 or Indian land pursuant to section 248 or if assignment is requested under § 203.350(d) for mortgages authorized by section 203(q) of the National Housing Act.

(c) A face-to-face meeting is not required if:

(1) The mortgagor does not reside in the mortgaged property,

(2) The mortgaged property is not within 200 miles of the mortgagee, its servicer, or a branch office of either,

(3) The mortgagor has clearly indicated that he will not cooperate in the interview,

(4) A repayment plan consistent with the mortgagor's circumstances is entered into to bring the mortgagor's account current thus making a meeting unnecessary, and payments thereunder are current, or

(5) A reasonable effort to arrange a meeting is unsuccessful.

(d) A reasonable effort to arrange a face-to-face meeting with the mortgagor shall consist at a minimum of one letter sent to the mortgagor certified by the Postal Service as having been dispatched. Such a reasonable effort to arrange a face-to-face meeting shall also include at least one trip to see the mortgagor at the mortgaged property, unless the mortgaged property is more than 200 miles from the mortgagee, its servicer, or a branch office of either, or it is known that the mortgagor is not residing in the mortgaged property.

(e)(1) For mortgages insured pursuant to section 248 of the National Housing Act, the provisions of paragraphs (b), (c) and (d) of this section are applicable, except that a face-to-face meeting with the mortgagor is required, and a reasonable effort to arrange such a meeting shall include at least one trip to see the mortgagor at the mortgaged property, notwithstanding that such property is more than 200 miles from the mortgagee, its servicer, or a branch office of either. In addition, the mortgagee must document that it has made