

## § 30.15

*ALJ, Department, HUD, and Secretary* are defined in 24 CFR part 5.

*Ability to pay.* Determined based on an assessment of the respondent's resources available both presently and prospectively from which the Department could ultimately recover the total award, which may be predicted based on historical evidence.

*Agent.* Any person, including an officer, director, partner, or trustee, who acts on behalf of another person.

*Dealer.* A seller, contractor or supplier of goods or services having a direct or indirect financial interest in the transaction between the borrower and the lender, and who assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender.

*Knowing or Knowingly.* Having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under subpart B of this part or under 24 CFR part 4. For purposes of §§ 30.35 and 30.36, *knowing* or *knowingly* is defined at 12 U.S.C. 1735f-14(g).

*Material or Materially.* Having the natural tendency or potential to influence, or when considering the totality of the circumstances, in some significant respect or to some significant degree.

*Person.* An individual, corporation, company, association, authority, firm, partnership, society, State, local government or agency thereof, or any other organization or group of people.

*Respondent.* A person against whom a civil money penalty action is initiated.

*Sponsored third-party originator.* A sponsored third-party originator as defined at § 202.8 of this title.

[61 FR 50215, Sept. 24, 1996, as amended at 74 FR 2751, Jan. 15, 2009; 77 FR 51468, Aug. 24, 2012; 82 FR 24524, May 30, 2017]

## § 30.15 Application of other remedies.

A civil money penalty may be imposed in addition to other administrative sanctions or any other civil remedy or criminal penalty.

## 24 CFR Subtitle A (4-1-23 Edition)

### Subpart B—Violations

#### § 30.20 Ethical violations by HUD employees.

(a) *General.* The General Counsel, or his or her designee, may initiate a civil money penalty action against HUD employees who improperly disclose information pursuant to section 103 of the HUD Reform Act of 1989 (42 U.S.C. 3537a(c)) and 24 CFR part 4, subpart B.

(b) *Maximum penalty.* The maximum penalty is \$23,727 for each violation.

[61 FR 50215, Sept. 24, 1996, as amended at 72 FR 5588, Feb. 6, 2007; 81 FR 38935, June 15, 2016; 82 FR 24524, May 30, 2017; 83 FR 32793, July 16, 2018; 84 FR 9453, Mar. 15, 2019; 85 FR 13044, Mar. 6, 2020; 86 FR 14373, Mar. 16, 2021; 87 FR 24420, Apr. 26, 2022; 88 FR 9748, Feb. 15, 2023]

#### § 30.25 Violations by applicants for assistance.

(a) *General.* The General Counsel, or his or her designee, may initiate a civil money penalty action against applicants for assistance, as defined in 24 CFR part 4, subpart A, who knowingly and materially violate the provisions of subsections (b) or (c) of section 102 of the HUD Reform Act of 1989 (42 U.S.C. 3545).

(b) *Maximum penalty.* The maximum penalty is \$23,727 for each violation.

[61 FR 50215, Sept. 24, 1996, as amended at 72 FR 5588, Feb. 6, 2007; 81 FR 38935, June 15, 2016; 82 FR 24524, May 30, 2017; 83 FR 32793, July 16, 2018; 84 FR 9453, Mar. 15, 2019; 85 FR 13044, Mar. 6, 2020; 86 FR 14373, Mar. 16, 2021; 87 FR 24420, Apr. 26, 2022; 88 FR 9748, Feb. 15, 2023]

#### § 30.35 Mortgagees and lenders.

(a) *General.* The Mortgagee Review Board may initiate a civil money penalty action against any mortgagee or lender who knowingly and materially:

(1) Violates the provisions listed in 12 U.S.C. 1735f-14(b);

(2) Fails to comply with the requirements of § 201.27(a) of this title regarding approval and supervision of dealers;

(3) Approves a dealer that has been suspended, debarred, or otherwise denied participation in HUD's programs;

(4) Makes a payment that is prohibited under § 202.5(l).

## Office of the Secretary, HUD

## § 30.36

(5) Fails to remit, or timely remit, mortgage insurance premiums, loan insurance charges, or late charges or interest penalties;

(6) Permits loan documents for an FHA insured loan to be signed in blank by its agents or any other party to the loan transaction unless expressly approved by the Secretary;

(7) Fails to follow the mortgage assignment procedures set forth in § 203.664 of this title or in §§ 207.255 through 207.258b of this title.

(8) Fails to timely submit documents that are complete and accurate in connection with a conveyance of a property or a claim for insurance benefits, in accordance with §§ 203.365, 203.366, or 203.368, or a claim for insurance benefits in accordance with § 206.127 of this title;

(9) Fails to:

(i) Process requests for formal release of liability under an FHA insured mortgage;

(ii) Obtain a credit report, issued not more than 90 days prior to approval of a person as a borrower, as to the person's creditworthiness to assume an FHA insured mortgage;

(iii) Timely submit proper notification of a change in mortgagor or mortgagee as required by § 203.431 of this title;

(iv) Timely submit proper notification of mortgage insurance termination as required by § 203.318 of this title;

(v) Timely submit proper notification of a change in mortgage servicing as required by § 203.502 of this title; or

(vi) Report all delinquent mortgages to HUD, as required by § 203.330 of this title;

(10) Fails to service FHA insured mortgages, in accordance with the requirements of 24 CFR parts 201, 203, 206, and 235;

(11) Fails to fund loans that it originated, or otherwise misuses loan proceeds;

(12) Fails to comply with the conditions relating to the assignment or pledge of mortgages;

(13) Fails to comply with the provisions of the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.*), the Equal Credit Opportunity Act (15

U.S.C. 1691 *et seq.*), or the Fair Housing Act (42 U.S.C. 3601 *et seq.*);

(14) Fails to engage in loss mitigation as provided in § 203.605 of this title.

(b) *Continuing violation.* Each day that a violation continues shall constitute a separate violation.

(c)(1) *Amount of penalty.* The maximum penalty is \$11,864 for each violation, up to a limit of \$2,372,677 for all violations committed during any one-year period. Each violation shall constitute a separate violation as to each mortgage or loan application.

(2) *Maximum penalty for failing to engage in loss mitigation.* The penalty for a violation of paragraph (a)(14) of this section shall be three times the amount of the total mortgage insurance benefits claimed by the mortgagee with respect to any mortgage for which the mortgagee failed to engage in such loss mitigation actions.

[61 FR 50215, Sept. 24, 1996, as amended at 63 FR 9742, Feb. 26, 1998; 68 FR 12788, Mar. 17, 2003; 70 FR 21578, Apr. 26, 2005; 72 FR 5588, Feb. 6, 2007; 74 FR 2751, Jan. 15, 2009; 74 FR 14725, Apr. 1, 2009; 78 FR 4059, Jan. 18, 2013; 81 FR 38935, June 15, 2016; 82 FR 24524, May 30, 2017; 82 FR 7117, Jan. 19, 2017; 83 FR 32793, July 16, 2018; 84 FR 9453, Mar. 15, 2019; 85 FR 13044, Mar. 6, 2020; 86 FR 14373, Mar. 16, 2021; 87 FR 24420, Apr. 26, 2022; 88 FR 9748, Feb. 15, 2023]

### § 30.36 Other participants in FHA programs.

(a) *General.* The Assistant Secretary for Housing-Federal Housing Commissioner (or his/her designee) may initiate a civil money penalty action against any principal, officer, or employee of a mortgagee or lender, or other participants in either a mortgage insured under the National Housing Act or any loan that is covered by a contract of insurance under title I of the National Housing Act, or a provider of assistance to the borrower in connection with any such mortgage or loan, including:

- (1) Sellers;
- (2) Borrowers;
- (3) Closing agents;
- (4) Title companies;
- (5) Real estate agents;
- (6) Mortgage brokers;
- (7) Appraisers;
- (8) Sponsored third-party originators;
- (9) Dealers;