

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-4679-N-10; HUD-2005-0018]

Changes in Certain Multifamily Mortgage Insurance Premiums

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

ACTION: Notice.

SUMMARY: In accordance with HUD regulations, this notice announces the changes of the mortgage insurance premiums (MIP) for the following Federal Housing Administration (FHA) multifamily mortgage insurance programs whose commitments will be issued or reissued in Fiscal Year (FY) 2006:

- All sections of the National Housing Act where the mortgagor equity is produced from the proceeds of the sale of low-income housing tax credits (LIHTC): The MIP is reduced to 45 basis points.

- Section 207/223(f) refinance or purchase of apartments: The MIP is reduced to 45 basis points.

- Section 223(a)(7) refinance of FHA insured apartment mortgages: The MIP is reduced to 45 basis points.

Under the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235 (approved December 15, 1989) and HUD's implementing instructions, a sponsor is required to submit a certification regarding governmental assistance, including any low-income housing tax credits, with all mortgage insurance applications.

DATES: *Comment Due Date:* September 29, 2005.

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

- The Federal eRulemaking Portal at: www.regulations.gov; or
- The HUD electronic website at: 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, without revision, 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 www.epa.gov/feddocket.

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000, (202) 708-1142 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal Information Relay Service at (800) 877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

Introduction

HUD's regulations at 24 CFR 207.252, 207.252a, and 207.254 provide that instead of setting the MIP at one specific rate for all programs, the Secretary is permitted to change an MIP program by program within the full range of HUD's statutory authority of one fourth of one percent to one percent of the outstanding mortgage principal per annum through a notice, as provided in section 203(c)(1) of the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)). The rule states that HUD will provide a 30-day period for public comment on notices changing MIPs in multifamily insured housing programs.

Pursuant to this comment procedure, this notice announces changes from FY 2005 in the MIP for programs authorized under the National Housing Act. The effective date for these changes is proposed to be October 1, 2005.

The MIP rate is to be changed to 45 basis points for the following programs where the mortgagor's equity is being produced from the proceeds of the sale of Low Income Housing Tax Credits (LIHTCs): sections 221(d)(4), 221(d)(3), 207, 220, 231, 232, 241(a). Section 207/223(f) refinance or purchase of apartments will be lowered from 50 to 45 basis points; and section 223(a)(7) refinance of FHA insured apartment mortgages has been lowered from 50 to 45 basis points. The MIP rate for section

232 new construction or substantial rehabilitation of Health Care Facilities and section 241(a) Health Care Improvements and Additions will remain unchanged at 57 basis points. The MIP rate for sections 207, 213, 220, 231 without LIHTC, and 234(d), 242 and Title XI of the National Housing Act will remain unchanged at 50 basis points. The MIP rate for Refinancing of Health Care Facilities under section 232/223(a)(7) and 232/223(f) will remain at 50 basis points. The MIP rate for the following programs without low-income housing tax credits will also remain at 80 basis points: section 221(d)(3) for Nonprofit and Cooperatives for New Construction or Rehabilitation, section 223(d) for Operating Loss Loans for apartments and health care facilities, and section 241(a) for improvements and additions for apartments.

Loans under section 221(d)(3) without LIHTC, section 241(a) for supplemental loans for additions or improvements to existing apartments without LIHTC, and section 223(d) for operating loss loans will require a credit subsidy obligation in fiscal year 2006. Only nonprofit and nonprofit cooperative mortgagors can obtain a 100 percent mortgage under section 221(d)(3). The nonprofits cannot be under the control or influence of profit-motivated entities and continue to require a HUD Headquarters approval prior to issuance of the firm commitment.

Premiums for risk sharing applications under sections 542(b) and 542(c) of the Housing and Community Development Act of 1992 will be reduced from 50 basis points to 45 basis points for those projects where low-income housing tax credits are part of the project financing. This will require a revision to the section 542(c) regulations at 24 CFR 266.604 and renegotiation of section 542(b) agreements. Until the regulation change is effective and the section 542(b) agreements are modified, risk sharing premiums remain at 50 basis points for risk sharing projects with or without low-income housing tax credits.

The mortgage insurance premiums to be in effect for FHA firm commitments issued, amended, or reissued in FY 2006 are shown in the table below:

FISCAL YEAR 2006 MIP RATES
[Multifamily Loan program]

Loan program	Basis points
207 Multifamily Housing NC/SR	50
207 Multifamily Housing NC/SR with LIHTC	45
207 Manufactured Home Parks	50
207 Manufactured Home Parks with LIHTC	45
213 Cooperatives	50
221(d)(3) Nonprofit/Cooperative mortgagor	80
221(d)(3) Limited dividend with LIHTC	45
221(d)(4) NC/SR with or without LIHTC	45
232 NC/SR Health Care Facilities	57
232 NC/SR—Assisted Living Facilities with LIHTC	45
220 Urban Renewal Housing with LIHTC	45
220 Urban Renewal Housing without LIHTC	50
231 Elderly Housing	50
231 Elderly Housing with LIHTC	45
207/223(f) Refinance or Purchase for Apartments with or without LIHTC	* 45
232/223(f) Refinance for Health Care Facilities without LIHTC	* 50
232/223(f) Refinance for Health Care Facilities with LIHTC	* 45
223(a)(7) Refinance of Apartments with or without LIHTC	45
223(a)(7) Refinance of Health Care Facilities without LIHTC	50
223(a)(7) Refinance of Health Care Facilities with LIHTC	45
223d Operating loss loan for Apartments	80
223d Operating loss loan for Health Care Facilities	80
241(a) Improvements/additions for Apartments/coop	80
241(a) Improvements/additions for Apartments/coop with LIHTC	45
241(a) Improvements/additions for Health Care Facilities without LIHTC	57
241(a) Improvements/additions for Health Care Facilities with LIHTC	45
242 Hospitals	50
Title XI—Group Practice	50

* The first year MIP for these programs will remain at 100 basis points.

Applicable Mortgage Insurance Premium Procedures

The MIP regulations are found in 24 CFR part 207. This notice is published in accordance with the procedures stated in 24 CFR 207.252, 207.252(a), and 207.254.

Transition Guidelines

A. General

If a firm commitment has been issued at a higher MIP and FHA has not initially endorsed the note, the lender may request the field office to reprocess the commitment at the lower MIP and reissue the commitment on or after the October 1, 2005 effective date.

B. Extension of Outstanding Firm Commitments

FHA may extend outstanding firm commitments when the Hub/Program Center determines that the underwriting conclusions (rents, expenses, construction costs, mortgage amount and case required to close) are still valid in accordance with Mortgagee Letter 03-21, "FHA Policies for Controlling Multifamily Firm Commitments and Credit Subsidy," dated December 3, 2003.

C. Reprocessing of Outstanding Firm Commitments

FHA will consider requests from mortgagees to reprocess outstanding firm commitments at the lower mortgage insurance premium once the new premiums become effective on October 1, 2005:

1. Outstanding commitments with initial 60-day expiration dates on or after the effective date of this MIP notice.
 - FHA Multifamily HUD Hub/Program Center staff will simply reprocess these cases to reflect the impact of the lower MIP and reissue commitments with a new date.
2. Outstanding commitments with initial expiration dates prior to the effective date of this MIP notice which have pending extension requests or have had extensions granted by FHA beyond the initial 60-day period of the commitment.
 - These cases will require more extensive reprocessing by FHA staff. Reprocessing will include an updated FHA field staff analysis and review of rents, expenses and construction/rehabilitation costs, particularly considering any changes in Davis-Bacon wage rates on new/substantial cases and cash required to close. An updated appraisal and other exhibits may be

required from the mortgagee depending on the age of the appraisal and the age of the commitment (See Mortgagee Letter 03-21) . If reprocessing results in favorable underwriting conclusions, Hub/Program Center staff will reissue commitments with a new date at the new MIP.

D. Reopening of Expired Firm Commitments

FHA will consider mortgagee's requests, which may be either updated traditional application processing (TAP) firm commitment applications or updated multifamily accelerated processing (MAP) applications with updated exhibits, to reopen expired 50 basis points commitments on or after October 1, 2005, provided that the reopening requests are received within 90 days of the expiration of the commitments and include the \$.50 per thousand of requested mortgage reopening fee. Reopening requests will be reprocessed by FHA field staff under the instructions in paragraph C.2 above and Mortgagee Letter 03-21.

After expiration of the 90-day reopening period, mortgagees are required to submit new applications with the \$3 per thousand application fee.

Credit Subsidy

A credit subsidy obligation is required for the three sections of the Act listed below. If the mortgagor's equity is produced from LIHTC for sections 221(d)(3) and 241(a), a credit subsidy obligation will not be required.

- Section 221(d)(3) for new construction or substantial rehabilitation
- Section 223(d) for operating loss loans for both apartments and health care facilities
- Section 241(a) for supplemental loans for additions or improvements for apartments only.

Dated: August 18, 2005.

Brian D. Montgomery,

Assistant Secretary for Housing—Federal Housing Commissioner.

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