



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

February 5, 2016

MORTGAGEE LETTER 2016-04

To All FHA-Approved Mortgagees

Subject Automatic Extensions to HUD's Initiation of Foreclosure Timeline

Purpose This Mortgagee Letter supersedes Mortgagee Letter 2015-21 in its entirety and provides updated guidance relating to HUD's regulatory requirement for mortgagees to utilize a loss mitigation option or initiate foreclosure within six months of the date of default. Specifically, this Mortgagee Letter:

- reiterates the existing eight automatic extensions available to mortgagees when they are unable to initiate foreclosure within the allotted timeframe; and
- introduces two new automatic extensions to align with the Consumer Financial Protection Bureau's Regulation X.

Affected Policy The policies set forth in this Mortgagee Letter supersede the extension request guidance in Mortgagee Letters 2013-38, 2013-40, and 2015-21.

Effective Date This Mortgagee Letter is effective for all FHA-insured mortgages in default on or after October 1, 2015.

Automatic Extensions for Loss Mitigation Denials The Consumer Finance Protection Bureau (CFPB), under the Real Estate Settlement Procedures Act (Regulation X) at 12 CFR 1024.41, requires an appeals process for loan modification denials when a complete loss mitigation application has been received under the requirements of the regulation.

Accordingly, HUD now provides an automatic 90-day extension to the initiation of foreclosure timeline for those cases in which the mortgagee needs additional time to comply with the appeals process required by the CFPB. The 90-day extension begins on the date the mortgagee denies loss mitigation and sends the borrower the notice required under CFPB regulations.

Automatic Extension for Federal Regulation

Where a federal regulation requires a delay in the initiation of foreclosure and such delays are not otherwise covered by any other available automatic extensions, the mortgagee must initiate foreclosure no later than 90 days after the expiration of the time during which foreclosure is prohibited.

Automatic Extension to Foreclosure-Related Deadlines

Mortgagees must utilize a loss mitigation option or initiate foreclosure within six months of the date of default. HUD provides automatic 90-day extensions to these deadlines under certain circumstances. These extensions are available to mortgagees without the requirement for mortgagees to obtain HUD approval via the Extensions and Variances Automated Requests System (EVARS).

Mortgagees may use these extensions, as outlined in *Appendix A – Automatic Extensions to HUD’s Initiation of Foreclosure Timeline*, provided that they meet the criteria for such usage and follow the documentation requirements in the “Required Documentation for Automatic Extensions” section of this Mortgagee Letter.

Required Documentation for Automatic Extensions

The mortgagee must document the use of an automatic extension as follows:

- in the Claim Review File, note the reason for the automatic extension and relevant dates that necessitated the extension, and retain documentation supporting the reason and dates;
- report the applicable status codes in the Single Family Default Monitoring System (SFDMS); and
- include on form HUD-27011, Part A:
 - in Block 19, the Expiration Date of the 90-day extension being used,
 - in the “Mortgagee’s Comments” section, the extension being used, the dates and reason(s) for the extension, and
 - in the “Mortgagee’s Comments” section, the statement, “*I certify that the use of this extension is for the reason(s) stated above*”.

Curtailment of Claims

When the mortgagee is subject to interest curtailment pursuant to HUD’s regulations, the mortgagee must self-curtail interest as of the date on which the required action should have been taken, including any applicable extensions.

HUD reserves the right to demand repayment of interest if it determines that the required action was not taken timely and no extensions are applicable or the mortgagee has failed to document the applicability of any extension. If repayment is required, the mortgagee will be required to re-calculate interest for the claim payment to the earliest missed timeframe requirement, including any extensions determined to be applicable by HUD.

Information Collection Requirements

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB Control Number 2502-0584. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB Control Number.

Questions

Any questions regarding this Mortgagee Letter may be directed to the HUD National Servicing Center at (877) 622-8525. Persons with hearing or speech impairments may reach this number by calling the Federal Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Edward L. Golding
Principal Deputy Assistant Secretary for Housing

Attachment

Appendix A – Automatic Extensions to HUD’s Initiation of Foreclosure Timeline

Extension	Description
Bankruptcy	Mortgagees are allowed an automatic 90-day extension from the date of the applicable release of stay or bankruptcy discharge date.
Presidentially-Declared Major Disaster Areas	Mortgagees are allowed an automatic 90-day extension from the date the foreclosure moratorium expires.
Loss Mitigation	Mortgagees are allowed an automatic 90-day extension from the first legal action initiating foreclosure if they have evaluated and approved a Borrower for loss mitigation before the expiration of that first legal timeframe and need additional time to send and receive back the executed documents or to initiate foreclosure.
Special Forbearance	Mortgagees are allowed an automatic 90-day extension from the failure of a Special Forbearance (SFB) – Unemployment or completion of a SFB to review for additional loss mitigation options or to initiate foreclosure.
Pre-Foreclosure Sale (PFS or short sale)	Mortgagees are allowed an automatic 90-day extension from the expiration of the PFS marketing period to pursue a deed-in-lieu of foreclosure or to initiate foreclosure if a qualified offer is not obtained.
State Law Prohibition	Mortgagees are allowed an automatic 90-day extension from the expiration of the time during which the foreclosure is prohibited or delayed due to state law prohibitions.
Trial Payment Plans	Mortgagees are allowed an automatic 90-day extension from the date the trial payment plan fails.
Servicemembers Civil Relief Act (SCRA)	Mortgagees are allowed an automatic 90-day extension from the date the SCRA foreclosure moratorium expires.
Loss Mitigation Denial	Mortgagees are allowed an automatic 90-day extension, from the date the borrower has been denied loss mitigation, to comply with the appeals process required by federal regulation.
Federal Regulation	Mortgagees are allowed up to a 90-day extension after the expiration of the time during which foreclosure is prohibited by federal regulation.

