SECTION 5: ASSISTANCE IN NATURAL DISASTERS [7 CFR 3555.307]

The following provides guidance for servicing accounts when a county, parish or municipality has been identified as a Presidentially Declared Disaster (PDD) area where federal aid in the form of individual assistance is being made available.

PROPERTY PROTECTION [7 CFR 3555.307(b)]

When a servicer becomes aware that they have properties secured by an Agency guarantee in a PDD, they should immediately take the following actions:

- Ascertain the number of affected properties;
- Secure abandoned properties;
- Determine the extent and nature of the damage and the effect on the borrower's ability to continue making mortgage payments;
- Determine if the property is adequately insured against the damage;
- Aid the borrower regarding the availability of appropriate relief provisions from local, state or federal disaster assistance;
- Consider waiving any late payment charges if the borrower's payments are late because of added expenses or loss of income due to the disaster;
- Monitor and coordinate hazard insurance claims; and
- Monitor and coordinate the progression of repairs when a deposit of insurance proceeds occurs in lieu of borrowers receiving insurance proceeds for properties.

SPECIAL RELIEF MEASURES [7 CFR 3555.307(c)]

The servicer must suspend all foreclosure actions for affected borrowers in PDD areas who meet the criteria in 7 CFR 3555.307(c) (including consideration for other special relief alternatives), effective for 90 days from the date of declaration unless extended by the Agency. This applies to both the initiation of new foreclosures as well as foreclosures already in process.

During the suspension servicers should consider the following factors to determine the appropriate course of action:

- Evaluate the effects of the disaster.
- Instruct the borrower to file insurance claims and apply for disaster assistance that may be available through FEMA, state, and local governments.
- Offer appropriate repayment plans as outlined in Section 2 of this Chapter; and
- Determine if foreclosure is the only option.

The borrower's income or ability to pay the mortgage, any increase in living expenses, the extent of damage, the delinquency status of the mortgage, and the availability of alternative housing are additional factors to consider. The goal should be a formal relief provision that will cure the delinquency as soon as possible without imposing an undue hardship on the borrower. Forbearance is highly encouraged in disasters. Under forbearance, the servicer can agree to reduce or suspend the borrower's monthly payments for up to 12 months. At the conclusion of the forbearance, regular monthly payments should resume, with the agreement for the borrower to pay additional money at scheduled intervals toward repayment of the amount reduced or suspended.

Regular follow-up during a suspension and reassessment of the individual borrower's circumstances, based upon property inspections, borrower financial information at the end of the suspension period should be conducted. If the servicer is not actively engaged in workout options with the borrower(s) and believes suspension beyond the 90-day period is warranted, the servicer must document the reason to extend a hold on any and all foreclosure actions and retain the documentation in their collection systems. Failure to do so may impact any future loss claim payment.

Servicers may use existing loss mitigation workout options to reinstate a borrower that is ready to resume mortgage responsibilities. Late charges while the borrower is on a forbearance plan, or paying as agreed on a repayment plan, should not be assessed. The servicer should take appropriate steps to mitigate the credit impact for a borrower for whom a forbearance or repayment plan is extended due to disaster-related circumstances.

SPECIAL RELIEF ALTERNATIVES

In addition to the standard workout options in Attachment 18-A The Loss Mitigation Guide found at the end of this chapter, servicers may offer the following special relief measures depending on the borrower's circumstances.

A. Special Relief Measures:

The lender may offer options in this Section 18.15(A) if the borrower meets the following conditions:

- The loan was current or less than thirty (30) days past due as of the date the applicable PDD was made;
- The servicer receives verification the hardship (employment and/or property) has been resolved; and
- The total modified mortgage principal and interest payment is less than or equal to the payment prior to modification.

If the borrower meets the conditions above, the lender may offer any one of the following options.

- Payment Deferral: If the servicer determines the borrower can maintain the current contractual payment including any escrow shortage created by advancements during the forbearance period, spread over 60 months, the missed payments may be deferred to the end of the loan term. USDA does not allow any type of balloon payment as part of the guaranteed UPB. Therefore, the term must be extended along with the deferral, thus allowing the borrower to make regular payments until the deferred balance is paid in full. Any interest accrued during the forbearance period should be included in the deferred balance.

- Capitalization of Delinquency and Term Extension: If the servicer determines the borrower can maintain the current contractual payment but cannot manage the additional escrow repayment amount, the servicer may offer a "Cap and Extend Modification" under the following terms:

    - Capitalize the accumulated arrearages and eligible unreimbursed servicer advances, fees, and costs into the modified mortgage balance.
    - Extend term for a total of up to 360 months.
    - Reduce the interest rate to no more than 50 basis points greater than the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) Rate for 30-year fixed-rate conforming mortgages (US Average), rounded to the nearest one-eighth of one percentage (0.125%), as of the date a plan is offered to the borrower; and
    - The borrowers post modified principal and interest payment must be equal to or less than their payment prior to the disaster.

- Mortgage Recovery Advance: The servicer may utilize a Mortgage Recovery Advance (MRA) to settle the borrower delinquency and bring the borrower current. The MRA is limited to an amount no greater than what is necessary to resolve any accumulated delinquency and unreimbursed servicer advances made during the forbearance and must meet all other requirements as explained in section 5.K of the Loss Mitigation Guide found in Attachment 18A of this Chapter.

(B) COVID-19 Public Health Emergency

The COVID-19 emergency had nationwide impact on home loan borrowers. To provide relief to impacted borrowers, a moratorium on foreclosures and evictions was effective through July 31, 2021 and servicers are authorized to approve initial payment forbearances upon request through September 30, 2021. The Consumer Financial Protection Bureau (CFPB) released the 2021 Mortgage Servicing COVID-19 Rule with an effective date of August 31, 2021. Servicers may take actions as outlined in the CFPB final rule prior to the effective date but must follow the rule once it becomes effective.

This section builds upon the Special Relief Measures in Section 18.15(A), comports with the CFPB Final rule, and is applicable to borrowers that meet the following criteria:

- The borrower was no greater than 120 days past due on March 1, 2020 or the loan was closed on or after March 1, 2020,
- The borrower occupies, as the borrower's residence, the property securing the guaranteed loan, and,
- The borrower requested and received an initial forbearance due to a COVID-19 related hardship prior to September 30, 2021.

If the servicer determines the borrower meets the above criteria, they must first evaluate the borrower for the standard workout options and Special Relief Measures described in18.15.A of this chapter.

If the borrower indicates they cannot afford their pre-pandemic payment and requires greater payment relief, the servicer should evaluate the borrower for the COVID-19 Special Relief Measures identified in section 18.15.C.

(C) COVID – 19 Special Relief Measures:

The servicer should establish a target payment that includes up to a twenty (20) percent payment reduction from the borrower's current principal and interest payment. Once the target payment is established, the servicer should incrementally utilize the following options to get as close to the target payment as possible.

1. <u>Rate Reduction</u>: The servicer should use the most recent Freddie Mac Weekly Primary Mortgage Market Survey (PMMS) rate as a [minimum/maximum] for 30-year fixed-rate mortgages.
2. <u>Term Extension</u>: If the target payment is unable to be achieved with rate reduction alone, the servicer should extend the term in one-month increments, up to a maximum of 480 months.
3. <u>Mortgage Recovery Advance</u>: If the targeted monthly mortgage payment still cannot be achieved, the servicer may consider a Mortgage Recovery Advance (MRA) in addition to the rate reduction and term extension to achieve the monthly target payment. The MRA must meet all other requirements as explained in section 5.K of the Loss Mitigation Guide found in Attachment 18A of this Chapter.

Unless extended, the COVID-19 Special Relief Measures will expire on December 31, 2022.