Information for Consumers with Mortgages Secured By Property Affected by Hurricane Isaac

The Office of Financial Institutions has prepared a summary of guidelines for government sponsored enterprise loans relating to consumers affected by a natural disaster.

Freddie Mac Loans

Collection, foreclosures, and eviction may be suspended for up to 12 months from the date of the disaster based upon the relative merit of each case. At the end of the suspension period, servicers must reassess whether or not the borrower's circumstances warrant additional forbearance in the form of extending the suspension or a reduction of payments.

General duties of a servicer in the event of a disaster are as follows:

1) Ascertain the number of affected mortgages
2) Determine the extent of the damage or losses suffered by the properties securing the mortgages
3) Secure abandoned properties if they have not sustained significant or total damage
4) Provide assistance to borrowers regarding options for local, state, or federal disaster assistance
5) Monitor and coordinate the insurance claim process and the progress of repairs

In making a determination to grant an initial suspension or to recommend an additional extension to Freddie Mac, the servicer must:

1) Evaluate the effect of the disaster on the delinquency status of the mortgage
2) Require the borrower to file all applicable insurance claims before becoming eligible for relief or a workout plan and apply for disaster assistance
3) Consider relevant factors in determining whether to suspend collection, foreclosure, or eviction to the extent the disaster has:
    - Reduced the borrower's income or ability to repay their mortgage
    - Increased the borrower's living expenses
    - Caused damage to the property
    - Affected the delinquency status of the mortgage
    - Limited the availability of alternative housing
4) Not assess late charges as long as the borrower is on a forbearance plan
5) Not report borrowers on forbearance plans to credit repositories

When the insurance claim is filed the servicer may be named loss payee on insurance drafts and must comply with applicable laws and any requirements of the FHA, VA, RHS, or MI. The homeowners insurance generally issues the insurance drafts directly to the insured borrower and the servicer for off residence living expenses and structural losses. The insurance funds used for living expenses should be released to the borrower without delay. The insurance funds used for structural damages may be released to the borrower who legitimately needs to advance the funds to the contractors if the following conditions are met:

1) The mortgage is current
2) The borrower's payment history does not show delinquencies of two payments or more
3) The released funds do not exceed the highest of $10,000, 10% of the unpaid principal balance (UPB), and the amount by which the released funds exceed the UPB of the mortgage

If the insurance funds equal or exceed, $10,000 the borrower must execute an affidavit in which the borrower agrees to apply the released funds to repair or reconstruct the property. If the expected repair of the property takes more than three months, the insurance funds should be retained in a federally insured account that pays interest to the borrower. The servicer should oversee the repairs and reconstruction of the mortgage premise by ascertaining the following:

1) That the contractor chosen by the borrower is licensed, qualified , and financially able to repair the property within a scheduled timeframes
2) The plans and specifications for the repairs are consistent with the damage and destruction suffered by the residence, and the contractor establishes a completion of each phase
3) The borrower and contractor have executed a contract which they agree to the contractor performing the work described in the plan, the contractor will comply with applicable codes and regulations, a specified dollar amount is the maximum amount the contractor will charge for the work, the contractor will be paid on specified advance and a specified draw schedule contingent on the completion of the specified work phases, and the contractor will provide written acknowledgment of payment
4) Each scheduled work has been completed in accordance with the plans

Fannie Mae Loans

In the case of a disaster, servicers must not only protect Fannie Mae's interest in a mortgage security but also consider the effects that damages will have on borrower's abilities to maintain a reasonable standard of living and meet their financial obligations.

When a Fannie Mae servicer becomes aware that property is damaged as a result of a disaster they must:

1) Determine the extent and nature of the damage including the effect on the borrower's ability to continue paying the loan
2) Ascertain whether the property was adequately insured
3) Counsel the borrower on availability of appropriate relief such as temporary indulgences, special forbearance, or liquidation plans and any federal disaster relief that might be available through the Federal Emergency Management Agency (FEMA)
4) Waive late fee for delinquencies caused from additional expenses or loss of income due to the disaster
5) Ensure that hazard insurance claims are filed and settled promptly and that properties are repaired fully
6) The servicer temporarily must not report delinquencies to the credit bureaus if the delinquency is attributable to the hardships incurred as a result of the disaster

Relief measures are evaluated on an individual basis which may include Special Forbearance which allows reduced or suspended monthly payments for generally up to 6 months. This period may be extended by the servicer to prevent a mortgage default. In order to receive this type of relief the borrower must agree to resume regular monthly payments at the end of the forbearance period and pay additional money toward the delinquency at scheduled intervals.

Once the insurance claim is filed, the contractors may require homeowners to advance funds for materials needed to repair the property damaged. If the property cannot be legally rebuilt, any insurance proceeds must be used to reduce the amount of the outstanding mortgage loan debt. If the property can be legally rebuilt, the servicer's action should be based on the status of the mortgage loan at the time of the disaster and the extent of the damages.

If the consumer has a mortgage that is current, but has not suffered a total or near total loss the servicer must:

1) Use its discretion to determine the amount of insurance proceeds to disburse and the timing of the disbursements.
2) Deposit any funds not disbursed to the borrower in an interest-bearing account for the borrower's benefit
3) Either disburse the insurance proceeds in a single payment or in a series of progress payments as work is completed

4) Determine if the progress of the repairs should be monitored through property inspections

If the property has suffered a total or near total loss (greater than 80% of the coverage amount of the insurance policy), the borrower is willing to repair the property the servicer must follow the below options.

1) If the insurance proceeds exceed the unpaid principal balance (UPB), the servicer should issue a check in the amount exceeding the UPB
2) If the insurance proceeds do not exceed UPB, the servicer should release up to 20% of the total claim not to exceed $15,000, review the contractor's estimates, and make a determination on how to disburse the remaining funds. Also, the servicer must require the borrower should utilize a licensed contractor, deposit the funds in an interest bearing account, closely monitor the repairs of the property through inspections, and conduct a final inspection
3) Issue the final payment to the borrower and the contractor

If the mortgage loan is 30 days to less than 90 days delinquent or current under the terms of a bankruptcy plan, but the property has not suffered a total or near total loss the following should be followed by the servicer:

1) Release up to 20% of the total claim proceeds, but not more than $15,000 to the borrower
2) Require the borrower to utilize and insured contractor
3) Review the contractors estimates and determine the method of disbursements for the remaining funds
4) Must deposit any funds not disbursed to the borrower in an interest-bearing account
5) May monitor the progress and completion of the repair work through property inspections
6) May conduct a final inspection
7) Should issue the final payment to both the borrower and the contractor

If the property has suffered a total or near total loss and the borrower is willing to repair the property the servicer must follow the below options:

1) If the insurance proceeds exceed the unpaid principal balance (UPB), the servicer should issue a check in the amount exceeding the UPB
2) If the insurance proceeds do not exceed UPB, the servicer should
   - Release up to 20% of the total claim not to exceed $15,000
   - Review the contractor's estimates

- Make a determination on how to disburse the remaining funds

In both options the servicer must require the borrower to utilize a licensed contractor, deposit the funds in an interest bearing account**,** closely monitor the repairs of the property through inspections, and conduct a final inspection. Once the final inspection is complete the servicer should issue the final payment to the borrower and the contractor.

If the mortgage loan is 90 days or more delinquent, delinquent under the terms of a bankruptcy plan, or the mortgage is in foreclosure the servicer:

1) May release up to 10% of the insurance proceeds, but not more than $10,000 jointly to the borrower or contractor to cover the cost of materials needed to repair property damages
2) The funds not disbursed must be in an interest-bearing account
3) Must require the borrower to utilize a licensed and insured contractor

FHA Loans

The Department of Housing and Urban Development (HUD) has a handbook which provides procedural standards for servicing FHA/HUD insured mortgages. The handbook has detailed guidelines for servicing and providing assistance to borrowers who have insured loans secured by property in disaster affected areas. The handbook recognizes that a borrower may not have their property affected by the disaster, but their financial viability may be. With supporting documentation from borrowers to this effect, servicers of insured loans may include them in participation in relief.

The relief measures discussed in the handbook are intended to:

1) Mitigate the hardships faced by borrowers with FHA-insured mortgages in areas affected by the disaster
2) Allow borrowers time to obtain the hazard insurance benefits that are available
3) Reduce the impact of the disaster on claims submitted for FHA insurance benefits

At the time of disaster declaration the procedures provide that a 90 day moratorium be automatically enacted relating to the initiation of all foreclosures and the suspension of all foreclosures in process in the declaration area. In the guidelines HUD strongly recommends that borrowers be given the utmost consideration for forbearance and recommends one or more of the following:

1) Providing special forbearance. Written forbearance may be for a period of up to 18 months for borrowers with no other property subject to an FHA-insured mortgage without HUD advance approval
2) Refinancing, re-amortization, recasting or refinancing the mortgage may be appropriate when repairs are necessary and secondary financing may be sought to complete the repairs
3) Waiving late charges. Consider waiving any late payment charges if the borrowers payment is late because they incurred added expenses or loss of income as a result of the disaster or if they need additional time to receive a pending insurance claim
4) Reporting of delinquencies to credit bureaus. Reporting should be temporarily suspended if the borrower's delinquency is attributable to hardships as a result of the disaster
5) Providing the borrower with insurance proceeds. Affirmative action should be taken to ensure that hazard insurance claims are filed and settled as soon as possible and that properties undergo full repair. Also turning over proceeds to the borrower should be expedited in accordance with inspection and verification procedures

The mortgagee should not retain proceeds to make up an existing arrearage without the written consent of the mortgagor. If the consumers' mortgage delinquency precedes the disaster date, then the mortgagee should consider forbearing on the loan in order to allow the mortgagor additional time to stabilize their financial situation, and allow the mortgagor to arrange with the insurance carrier for repair and restoration to the property. If the property was totally destroyed, then the mortgagee should compare the unpaid principal balance with the amount of anticipated insurance proceeds.

On August 30, 2012, HUD announced disaster assistance for victims of Hurricane Isaac. HUD is offering the following assistance:

1) Granting a 90-day moratorium on foreclosures and forbearance on foreclosures and FHA-approved lenders are eligible for 100% financing including closing cost
2) Making insurance available for both mortgages and home rehabilitation through HUD's Section 203(k) loan program, which allows those who lost their homes to finance the purchase or refinance of a house along with its repair through a single mortgage. Also, allows homeowners who have damaged houses to finance the rehabilitation of their existing home
3) Offering loan guarantee assistance through section 108, which offers state and local governments federally guaranteed loans for housing rehabilitation, economic development and repair of public infrastructure

FEMA

Assistance is available to eligible individuals who have lost their jobs and or businesses due to the natural disaster. The application period is 60 days following the date the President declares an incident a major disaster or an emergency. The following eligibility guidelines must be met by the applicant:

1) The applicants' primary residence has been made unlivable or the applicant has be displaced as the result of a major disaster.
2) The applicants' have made every reasonable effort to secure insurance benefits, and the insured has agreed to repay REMA from whatever insurance proceeds are later received

Also, FEMA offers a Mortgage and Rental Assistance Program, which is intended to provide emergency assistance to disaster affected individuals who, without such assistance, would be dispossessed from their primary residence. The application can be filed up to six months after the disaster declaration. The eligibility requirements are:

1) Proof of occupancy at the mortgage property
2) Proof of pre-disaster business ownership/employment which was interrupted as a result of the disaster
3) Proof of intent to foreclose or notice of foreclosure

If you are interested in additional assistance FEMA my offer to homeowners affected by Hurricane Isaac, please visit FEMA website http://www.fema.gov/apply-assistance.

The preceding is a brief summary of the Federal Home Mortgage Loan Corporation, Federal National Mortgage Association, and Federal Housing Agency servicing guidelines. Please note the summary may not be all encompassing of options available to consumers whose mortgage loans are secured by property which was affected by Hurricane Isaac. Further, some provisions of these guidelines may be necessarily be required by the entities and may be optional for servicers rather than required.