

**COMMENTS**

**to the  
U.S. Department of Housing and Urban Development**

**on**

**Mortgagee Letter 2019-14 (August 29, 2019)**

**by**

**National Consumer Law Center (on behalf of its low-income clients), and**

**The Legal Aid Clinic of Pontifical Catholic University**

**September 27, 2019**

**Via E-mail to [answers@hud.gov](mailto:answers@hud.gov)**

On behalf of our low-income clients, we appreciate the opportunity to comment on HUD's Mortgagee Letter 2019-14.

We applaud HUD for its decision to permanently include the Disaster Loan Modification and the Disaster Standalone Partial Claim options in the Single Family Housing Policy Handbook. We also appreciate that HUD removed unnecessary eligibility requirements for the new programs and instituted a policy in which borrowers can elect to restart their former mortgage payment through the completion of a three month trial plan. These changes will help homeowners who have faced hardship but recovered their income to access assistance more efficiently than under previous policy. We appreciate HUD's responsiveness to our comments on these issues.

HUD, however, should further expand options available for homeowners facing hardship from disasters. By primarily focusing on homeowners who have maintained or increased their income, HUD ignores the reality that full recovery from a disaster is a long process. As a result, the Disaster Loan Modification and the Disaster Standalone Partial Claim will not provide relief for people still struggling in disaster areas that have not fully recovered. This is especially true since HUD's standard loss mitigation process still suffers from unnecessary documentation requirements. HUD must generally revisit documentation requirements in all loss mitigation; however, eliminating unnecessary document requests for borrowers in disaster areas is especially important since they face increased obstacles to obtaining documents.

Finally, HUD must recognize and take steps to address the broader foreclosure crisis in Puerto Rico. Hurricane Maria exacerbated an already severe housing crisis. Without targeted steps, Puerto Rico's housing market is in danger.

**1. HUD must expand the scope of the Disaster Loan Modification and the Disaster Standalone Partial Claim.**

Under Mortgagee Letter 2019-14, the Disaster Standalone Partial Claim and the Disaster Loan Modification are for homeowners whose income has recovered to pre-disaster levels.

This is unnecessarily limited in scope as it ignores the realities of disaster recovery. By focusing only on those borrowers who have equal or greater income than prior to the disasters, HUD fails to recognize that many borrowers, especially low- to moderate-income borrowers with FHA-insured loans, will not have fully restored income yet may still be able to afford their mortgage payments. Rather than require equal or greater income, HUD should explicitly allow for the Disaster Loan Modification and Standalone Partial Claim if homeowners choose to restart their former mortgage payment

**2. Since many borrowers in disaster areas will need to access standard FHA loss mitigation, HUD must fix the significant issues created by Mortgagee Letter 2016-14.**

Borrowers have faced significant problems since the release of Mortgagee Letter 2016-14. We have enclosed two letters to HUD that outline burdensome requests that servicers have imposed. Unfortunately, HUD has taken no action to address the vague rules of ML 2016-14 and homeowners continue to receive demands from servicers to produce a wide range of bills and receipts prior to any loss mitigation review, along with overbroad requests for documenting hardship. Such requests unnecessarily impede FHA loss mitigation and deter participation in the program.

These continued issues will disproportionately impact borrowers in disaster areas who face additional challenges in obtaining documents. Servicers, who believe these burdensome documentation requests are required by HUD, also have expressed a desire for clarification on this issue and would benefit from a more streamlined process.

**3. HUD should clarify the limits on loss mitigation in a Presidentially-Declared Major Disaster Area [PDMDA].**

Under Mortgagee Letter 2019-14, a homeowner is allowed to “receive one Permanent Loss Mitigation Home Retention Option for a PDMDA.”

This provision may be read to be unnecessarily limiting. HUD must clarify that homeowners who receive permanent options in response to a disaster are eligible for the same assistance in a subsequent disaster. Homeowners simply cannot control when disasters will strike.

Moreover, homeowners may need more than one permanent option during the same disaster if there is a change of circumstances. The aftermath of disasters are chaotic, and that chaos is not confined to the time immediately after a storm. Homeowners may face a wide range of hardships over time in response to a disaster, and HUD should not limit this option. This recommendation, moreover, is consistent with the rules for standard loss mitigation, which allows re-evaluation for assistance if there is a change of circumstances. By not allowing for another permanent option after a change in circumstances, disaster victims are actually treated worse than homeowners in the standard loss mitigation program.

**4. HUD should clarify that homeowners are owner-occupants even if they have been unable to return to their homes.**

Puerto Rico is still, to a great extent, a sea of blue tarps. Many homeowners are in the process of trying to rebuild but are unable to live in their homes while they do so. Some have had to temporarily evacuate the island in order to find shelter, educate their children, or otherwise take care of their family needs. Yet, they intend to return to their properties once rebuilding has adequately progressed. HUD should clarify that homeowners are

owner-occupants as long as they have not transferred their primary residence on a permanent basis, whether they are living with another family elsewhere or have evacuated to await their home's rebuilding. If needed, HUD could set a standard focused on "reasonable efforts to rebuild."

**5. HUD must take additional, significant steps to address the broader foreclosure crisis in Puerto Rico.**

When Hurricane Maria hit Puerto Rico in September 2017, it exacerbated an already existing foreclosure crisis in Puerto Rico. Puerto Rico was in the midst of an economic recession that had led to depopulation and the loss of jobs. Hurricane Maria further depreciated Puerto Rico's housing market, which led many families to either leave Puerto Rico, stay within their damaged homes, or move to live with other families within the island.

In order to address the housing crisis in Puerto Rico, HUD must provide solutions for homeowners who were facing challenges even pre-Maria. Many of those homeowners can qualify for loss mitigation if made available to them, thus benefitting both the MMI Fund and FHA borrowers. Other measures, such as principal reduction, would also help stabilize the market.

In addition, advocates working with borrowers in Puerto Rico have seen significant non-compliance by servicers with the rules that apply to FHA-insured loans. Given this non-compliance and the magnitude of the foreclosure crisis on the island, HUD should specifically examine how servicers are handling FHA-insured loans on Puerto Rico and should pursue non-compliance through the agency's administrative process.

We appreciate the opportunity to comment on this important guidance, and we look forward to discussing this with you in further depth. To discuss this further or if you have questions, please contact Alys Cohen at the National Consumer Law Center, [acohen@nclc.org](mailto:acohen@nclc.org),

Attachments:

- August 11, 2017 Memorandum regarding Mortgagee Letter 2016-14
- September 22, 2016 Letter regarding Mortgagee Letter 2016-14