

Department of Housing and Urban Development

Supporting Statement for Notice of Application for Designation as a Single Family Foreclosure Commissioner (2510-0012)

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary

The Single Family Mortgage Foreclosure Act of 1994 (12 U.S.C. 3751 *et seq*) (the Act), authorizes the Secretary of HUD to exercise a non-judicial power of sale with respect to any defaulted single family mortgage held by the Secretary under Title I or II of the National Housing Act or Section 312 of the Housing Act of 1964. This authority was provided because, as stated in the Act, the disparate State laws under which HUD-insured mortgages are and the long periods required to complete the foreclosure of HUD-insured mortgages under certain State laws result in substantial Federal holding expenditures and often lead to the deterioration of the condition of the insured properties.

The Act further authorizes the Secretary to appoint foreclosure commissioners to act as the Secretary's agents in foreclosing such mortgages under that nonjudicial power of sale. Section 3754(c) of the Act, entitled "Qualification," reads in full as follows:

The foreclosure commissioner, if a natural person, shall be a resident of the State in which the security property is located and, if not a natural person, the foreclosure commissioner must be duly authorized to transact business in the State in which the security property is located. No person shall be designated as a foreclosure commissioner unless that person is responsible, financially sound, and competent to conduct a foreclosure.

The regulations implementing single family nonjudicial foreclosures are found in 24 CFR part 27, subpart B. Section 27.102 provides that the Secretary may designate foreclosure commissioners, including substitute commissioners, as set forth in the statute. Section 3754(c) of the Act, as cited above, establishes the qualifications required of a foreclosure commissioner. Section 3754(d)(1) of the statute provides the Secretary may designate a foreclosure commissioner by executing a written designation stating the name and business or residential address of the commissioner, except that if a person is designated in his or her capacity as an official or employee of a government or corporate entity, such person may be designated by his or her unique title or position instead of by name. Section 27.102 of the regulations provides that the method of selection and determination of the qualifications of the foreclosure commissioner shall be at the discretion of the Secretary, and that the execution of a designation shall be conclusive evidence that the commissioner selected has been determined to be qualified by the Secretary. The designation is effective upon execution. A copy of 24 CFR part 27 as it appears in the current CFR is attached.

The Secretary has designated the authority to appoint foreclosure commissioners to HUD's General Counsel, who in turn has redelegated this authority to HUD's Regional Counsel (see the General Counsel's Redlegation of Authority published on July 18, 2011, at 76 FR 42463; see especially item #11 at 76 FR 42466, column 1).

A party who wants to be a commissioner need apply only once for each of HUD's 10 regions in order to be approved on a permanent or indefinite basis. Upon appointment, the foreclosure commissioner will be under contract to HUD. Because of the economies and efficiencies that would be provided by use of this procedure (compared to existing State procedures), HUD routinely employs a foreclosure commissioner in all States (except Texas, where foreclosures normally can be completed in about 3 weeks under State procedure).

2. Purpose and Use of the Information Collection

Consistent with the statute, the appointment of a foreclosure commissioner aids HUD in reducing the burden and time involved in a foreclosure under State law, which in turn protects HUD property (property which becomes HUD's as a result of the borrower's default on the mortgage). As the statute states, a lengthy foreclosure process may lead to the deterioration of the property, which causes the property to lose value.

Persons who wish to be designated as foreclosure commissioners provide the requested information in the Application for Foreclosure Commissioner (copy attached) to the appropriate HUD Regional Counsel in one or more of HUD's 10 Regions. The information will be used to assess the applicant's qualifications for position. However, any person who is already a HUD designated multifamily foreclosure commissioner under the Multifamily Mortgage Foreclosure Act of 1981 may be approved as a single family commissioner without submitting the full application.

3. Use of Improved Information Technology and Burden Reduction

At this time, the requested information must be in writing, but it may be submitted via email. Because of the simplicity of the application, little or no burden is saved with other means.

4. Efforts to Identify Duplication and Use of Similar Information

Persons who are already approved as foreclosure commissioners for HUD held multifamily mortgages may be approved as a single family foreclosure commissioner without having to submit unnecessarily duplicative information. Otherwise, there is no information similar to what is required here that is already available.

5. Impact on Small Businesses or Other Small Entities

This requirement does not impose a significant impact upon small entities. This information collection involves individuals, not entities.

6. Consequences of Collecting the Information Less Frequently

No scheduled collection is involved.

7. Special Circumstances Relating to the Guidelines of 5 CFR 1320.5

This request fully complies with regulation 5 CFR 1320.5.

8. Comments in Response to the *Federal Register* Notice and Efforts to Consult Outside the Agency

As required by 5 CFR 1320.8(d), HUD published in the Federal Register a 60-Day Notice on November 17, 2015, at 80 FR 71823. HUD received no public comments in response to this notice. On January 22, 2016, at 81 FR 3815, HUD published in the Federal Register its 30-Day Notice for this information collection.

9. Explanation of Any Payment or Gift to Respondents

This information collection involves no payment or gift to respondents.

10. Assurance of Confidentiality Provided to Respondents

This information collection does not seek any personal identifying information.

11. Justification for Sensitive Questions

No sensitive questions are being asked by this collection.

12. Estimates of Hour-Burden Including Annualized Hourly Costs:

The estimates are provided in the chart below.

A. Estimated Annualized Burden Hours:

The burden hours are provided in the chart below.

B. Estimated Annualized Burden Costs:

There are no costs to the respondents to apply for the position of single family foreclosure commissioner and no requirement to apply for such position. Application for the position is voluntary.

| Number of Respondents | Frequency of Response | Burden Hour Per Response | Hourly Cost Per Response | Total Burden Hours | Annual Cost |
|------------------------------|------------------------------|---------------------------------|---------------------------------|---------------------------|--------------------|
| 30 | 1 | 0.5 | \$25 | 15 | \$375 |

The total reporting burden is estimated to be 15 hours and to cost \$375.00. There is no recordkeeping burden. These estimates are based on experience to date. Generally, HUD receives approximately 30 applications per year. Frequency for any applicant is once per HUD Region, and there are 10 HUD Regions. To date, no applicant applies to perform foreclosures in more than one HUD Region. The burden will be 30 minutes per application; typically, the work will be done by a paralegal, as the typical applicant will be an attorney and cost \$25 per hour for salary, benefits and miscellaneous expenses. It is a very simple application and a half-hour may over-estimate the time involved.

Costs: 30 applications expected in 2016 x \$12.50 ((\$25 per hour 12.50 per half hour per application] = \$375.00.

13. Estimate of Other Total Annual Cost Burden to Respondent or Recordkeepers

There are no additional costs to respondents.

14. Annualized Cost to the Federal Government:

Cost to the Government: the annual cost to the federal government will be \$ 572.00 (\$19.07 per application x 30 applications).

This estimate is arrived at as follows: For each application received, a staff attorney (typically a GS 11) will spend an average of 25 minutes reviewing the application, and a GS 15 attorney supervisor will spend approximately 5 minutes reviewing the application after the staff attorney has reviewed. Assuming a staff attorney at the GS 11, Step 5, level to undertake the review of the application, the hourly pay for such individual is \$28.14 (per OPM 2016 salary table at <https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/2016/general-schedule/>) the labor cost will be \$14.07 (half hour cost) per application, which results in a \$422 annual cost of the staff attorney (30 applications x \$14.07). Supervisory review at the GS-15, Step 3 level results in an hourly rate of \$52.46 hourly rate, which results in approximately \$5 additional dollars in annual labor cost, which results in additional annual labor cost of \$150. The total combined labor cost is \$572.00.

15. Changes in Hour Burden

This is an extension of a currently approved collection. There are no program changes or adjustments.

16. Plans for Tabulation, Publication, and Project Time Schedule

A. Time Schedule

There is no time schedule associated with this collection of information. Individuals can apply whenever they would like to apply.

B. Publication

Other than the PRA notices, no further publication is planned.

C. Analysis Plan

No analysis plan is associated with this information collection.

17. Reason(s) Display of OMB Expiration Date Inappropriate

The Department is not seeking approval not to display the OMB control number.

18. Exceptions to Certification for Paperwork Reduction Act Submissions:

There are no exceptions to the certifications statement identified in item 19 of the OMB 83-I.

19. Collections of Information Employing Statistical Methods: N/A