

**Supporting Statement for
Legal Instructions Concerning - Applications for Full Insurance Benefits—Assignment of
Multifamily and Healthcare Mortgages to the Secretary
OMB # (2510-0006)**

A. JUSTIFICATION

1. Circumstances Making the Collection of Information Necessary

Under Section 207(g) of the National Housing Act (12 U.S.C. § 1713(g)), when an FHA insured multifamily or healthcare mortgage goes into default, the mortgagee may become entitled to receive mortgage insurance benefits from FHA by assigning the mortgage to HUD. Section 207(g) states that in connection with the assignment of the mortgage to HUD, the mortgagee shall assign, transfer and deliver to the Secretary:

- (1) All rights and interests arising under the mortgage so in default;
- (2) All claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions;
- (3) All policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; and
- (4) All records, documents, books, papers, and accounts relating to the mortgage transaction.

HUD's regulations implementing these requirements are found in 24 C.F.R. § 207.258(b). (Copies of relevant statutes and regulations are attached.) HUD's Office of General Counsel (OGC), Multifamily Mortgage Division, is responsible for reviewing and approving the mortgage-related documents submitted by the mortgagee in connection with these requirements. When HUD receives the mortgagee's election to assign the mortgage, the mortgagee receives an e-mail from HUD's Multifamily Delinquency and Default Report System (MDDR), which informs the mortgagee that it can obtain the Legal Instructions Concerning Applications for Full Insurance Benefits from MDDR or <https://www.hud.gov/sites/documents/leginstrfullinsben.pdf>, in order to inform the mortgagee of the requirements, timelines and procedures for submission of the required documents.

Most of the documents which mortgagees are required to produce pursuant to the proposed form—e.g., the mortgage and the security agreement, are documents which the mortgagee should have in its files even in the absence of these requirements.

2. Purpose and Use of the Information Collection

The mortgagee provides HUD with accurate, complete and valid documentation on the mortgage being assigned to the Secretary so that HUD may effectively service and, if necessary, sell or foreclose the lien of the mortgage. If the documentation did not meet HUD's requirements, an enforceable lien on the real and personal property or its lien priority may be compromised

3. Use of Improved Information Technology and Burden Reduction

Due to the low number of annual respondents and that MDDR prepopulates several required documents, additional improvements to information technology would not reduce the burden. The information is gathered from the actual mortgage documents that the mortgagee already has in its possession as a result of applying for the insurance and providing the loan, and closing or settlement of mortgages remains a hard copy documentation process.

In addition, the proposed Exhibit A to the Legal Instructions allows respondents to submit required documents electronically.

4. Efforts to Identify Duplication and Use of Similar Information

Due to the low number of annual respondents and that there are no standard forms to complete, information technology would not reduce the burden. The information is gathered from the actual mortgage documents that the mortgagee already has in its possession as a result of applying for the insurance and providing the loan, and closing or settlement of mortgages remains a hard copy documentation process.

5. Impact on Small Businesses or Other Small Entities

The collection of this information will not impact small businesses or other small entities.

6. Consequences of Collecting the Information Less Frequently

FHA insurance claims could not be paid to mortgagees who are in good standing without this necessary information. Under Section 207 of the National Housing Act (12 U.S.C. 1713), in order to receive the benefits of insurance, the mortgagee must assign, transfer, and delivery to HUD, within a period and in accordance with HUD rules and regulations, all rights and interests arising under the defaulted mortgage; all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; all records, documents, books, papers, and accounts relating to the mortgage transactions; and all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions. The documents are required by law to assign the mortgage and determine ownership of the real property and personal property secured by the mortgage. The burden cannot be reduced as each of the documents is necessary because of the legal ramifications of each individual document.

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

There are no special circumstances applicable to this collection of information.

- **Requiring respondents to report information to the agency more than quarterly** - There are no special circumstances surrounding this collection of information.
- **Requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it** - There are no special circumstances surrounding this collection of information.

- **Requiring respondents to submit more than an original and two copies of any document** - There are no special circumstances surrounding this collection of information.
- **Requiring respondents to retain records other than health, medical, government contract, grant-in-aid, or tax records for more than three years** - There are no special circumstances surrounding this collection of information.
- **In connection with a statistical survey, that is not designed to produce valid and reliable results than can be generalized to the universe of study** - There are no special circumstances surrounding this collection of information. **Requiring the use of a statistical data classification that has not been reviewed and approved by OMB** - There are no special circumstances surrounding this collection of information.
- **That includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use** - There are no special circumstances surrounding this collection of information. **Requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law** - There are no special circumstances surrounding this collection of information.

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

1. **If applicable, provide a copy and identify the date and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.**
 - **Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping disclosure, or reporting format (if any) and the data elements to be recorded, disclosed, or reported. N/A**
 - **Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that preclude consultation in a specific situation. These circumstances should be explained. N/A**

The agency's notice announcing this collection of information appeared in the Federal Register on November 23, 2021, (Volume 86, No 223, Page 6582). The agency did not receive any public comments.

9. Explanation of Any Payment or Gift to Respondents

FHA insurance claims could not be paid to mortgagees who are in good standing without this necessary information. The documents are required by law to assign the mortgage and determine ownership of the real property and personal property secured by the mortgage. The burden cannot be reduced as each of the documents is necessary because of the legal ramifications of each individual document.

10. Assurance of Confidentiality Provided to Respondents

All legal documents and communications submitted will be bound by the principles of confidentiality set forth in the Model Rules of Professional Conduct as well as the attorney-client privilege. This document contains no personally identifying information subject to privacy requirements. Most of the required documents are publicly available.

11. Justification for Sensitive Questions

No questions of a sensitive nature are included in this request.

12. Estimates of Hour Burden Including Annualized Hourly Costs:

The burden on each respondent will vary in proportion to the number of claims filed by the respondent. Some mortgagees hold very few FHA-insured mortgages, and may file few if any claims for insurance benefits each year. Other mortgagees hold very large portfolios of FHA-insured mortgages, and may file ten or more claims per year. For purposes of this response, however, it is assumed that in each year no mortgagee would file more than one claim.

The number of claims filed has been fewer since the previous OMB approval was provided. In 2021, the number of actual respondents to date is 3; in 2020, the number was 14; in 2019, the number was 17; and in 2018, the number was 20. Therefore, based on the number of claims in 2020, 2019, and 2018, the annual claim response was calculated at the average of 17.

The burden of no less than 26.5 hours per claim includes the time necessary to provide mortgage documents such as title policies, UCCs, security agreements, original mortgage and mortgage note, etc., which relate to the FHA-insured mortgage covering the project, and to complete the exhibits to the Legal Instructions. Documents must be obtained from various recording offices (land offices, title companies, etc.) archives, etc. The annualized cost to the respondent is estimated at \$150 an hour times 26.5 burden hours per claim times 17 responses or \$67,575.

Information Collection 2510-0006	Number of Respondents	Frequency of Response	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
HUD 2510	17	1	17	26.5	450.5	\$71.17	\$32,062.09
Total							

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

There are no capital or start-up costs. There are no cost burdens to respondents for operation and maintenance.

14. Annualized Cost to the Federal Government:

For each claim filed, a paralegal specialist (typically a GS12) will spend an average of 16 hours reviewing and checking on the insurance claim, and a GS14 attorney advisor or a GS15 senior attorney advisor will spend approximately two hours reviewing the work of the paralegal specialist. Assuming an hourly rate of \$48.78 (GS12, Step 5), the labor cost will be approximately \$780.48 for staff review of the insurance claim. The additional two hours of the supervising attorney (\$68.55 for a GS-14, Step 5 and \$80.63 for a GS-15, Step 5) adds approximately an additional \$149.18 to the claim review. (See OPM table of federal wages which provide an hourly rate https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2022/DCB_h.pdf) Therefore, the HUD employee wage cost per application is \$929.66, which reflects the total cost to the federal government per insurance claim.

Total estimated annualized costs to the Federal government are \$15,804.22 based on 18 hours processing time at \$929.66 per claim for 17 responses.

Information Collection 2510-0006	Number of Respondents	Frequency of Response	Responses Per Annum	Burden Hour Per Response	Annual Burden Hours	Hourly Cost Per Response	Annual Cost
Paralegal Specialist (GS 12 Step 5)	17	1	17	16	272	\$48.78	\$13,268.16
Attorney Advisor (GS 14 Step 5)	17	1	17	1	17	\$68.55	\$1,165.35
Senior Attorney Advisor (GS 15 Step 5)	17	1	17	1	17	\$80.63	\$1,370.71
Total				18	306		\$15,804.22

15. Changes in Hour Burden

As part of the new electronic submission process, mortgagee and mortgagee's counsel are required to provide a certification regarding electronic submission to HUD to ensure that all documents submitted to HUD conform to those documents mortgagee obtained from HUD and such documents have not been changed or modified in any manner except as specifically identified and approved by HUD. Mortgagees are informed that changes and modifications do not include filling in blanks, attaching exhibits or riders, striking through inapplicable provisions, deleting bracketed provisions as contemplated by the terms of the documents, or making changes authorized by the Legal Instructions or a HUD-OGC reviewing attorney. It is estimated that this additional no-change certification will increase burden hours by 0.5 hour, from 26 hours to 26.5 hours.

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

A. Time Schedule

B. Publication

C. Analysis Plan

None of the information collected will be published.

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

No Exemption is requested.

18. Exceptions to Certification for Paperwork Reduction Act Submissions:

N/A

19. Collections of Information Employing Statistical Methods:

N/A