

Additional guidance from HUD/Freddie/Fannie/Ginnie/VA on mortgage-related disaster relief for hurricane victims

In addition to the [guidance regarding Hurricane Harvey](#) disaster relief, the housing agencies and government-sponsored enterprises (GSEs) recently addressed the mortgage-related relief available to victims of both Hurricane Harvey and Hurricane Irma in Presidentially-declared disaster areas.

U.S. Department of Housing and Urban Development (HUD)

On September 5, 2017, HUD [announced](#) that survivor housing was a top priority in Hurricane Harvey recovery efforts. HUD is working with a host of federal agencies, such as the Federal Emergency Management Agency (FEMA), local communities, and voluntary and faith-based agencies to provide transitional housing assistance, emergency shelters, help cleaning out flood damage to homes, and immediate foreclosure relief.

HUD also reiterated its commitment to pursuing intermediate and long-term housing solutions by providing the following recovery resources:

Expedited Funds. Redirecting of annual Community Development Block Grant (CDBG) and HOME Investment Partnerships (HOME) funds to address critical needs.

Foreclosure Relief. HUD is granting a 90-day moratorium on foreclosures and foreclosure forbearance on Federal Housing Administration (FHA)-insured home mortgages located within the geographic boundaries of the disaster area. Immediate foreclosure relief may also be available for Texas residents.

Mortgage Insurance. HUD's Section 203(h) program provides FHA insurance to disaster victims who have lost their homes, enabling them to finance the purchase or rehabilitation of a home. Borrowers working with participating FHA-approved lenders may be eligible for 100% financing. Additionally, HUD's Section 203(k) loan program enables the purchase, refinance, and rehabilitation of a home that has been lost or damaged.

Section 108 Loan Guarantee Program. HUD will offer state and local governments federally-guaranteed loans for housing rehabilitation, economic development, and repair of public infrastructure.

HUD notes that other agencies and programs are also providing housing-related assistance for flood victims:

FEMA's Individuals and Households Program. This program provides grants to survivors with uninsured or under-insured flood related losses and \$50 million has been earmarked for housing assistance, such as rental assistance.

Small Business Administration (SBA) Loans. The SBA provides low-interest loans to cover residential losses not fully compensated by insurance. Loans up to \$200,000 are available for primary residence; up to \$40,000 for personal property, including renter losses.

On September 11, HUD [announced](#) that disaster relief and foreclosure assistance would be extended to the victims of Hurricane Irma in the [Culebra and Vieques municipalities](#) of Puerto Rico.

Homeowners and renters in these areas may qualify for foreclosure relief, Section 203(h) FHA insurance, and/or Section 203(k) loans. Moreover, Puerto Rico government officials may reallocate CDBGs and HOME funds, which will likely be expedited, toward disaster relief. The government Puerto Rico of may also obtain a Section 108 loans for housing rehabilitation and repairs.

On September 13, HUD [announced](#) near identical disaster relief protections and resources for Florida victims of Hurricane Irma.

Freddie Mac

On September 5, Freddie Mac [clarified](#) that if a mortgage loan is in forbearance under the disaster relief policies announced on August 29, Freddie Mac would not repurchase that loan from its related Mortgage Participation Certificates (PC). However, the loan may be removed from the PC and if the applicable mortgage loan is in forbearance for 24 months, Freddie Mac will repurchase the loan from its related PC, unless the loan has been brought current or has commenced a repayment plan.

On September 6, Freddie Mac [confirmed](#) that its disaster relief options would be available to affected homeowners in Puerto Rico, the U.S. Virgin Islands, and the U.S. mainland. Under its [Single-Family Seller/Servicer Guide](#), Freddie Mac requires servicers to suspend foreclosure proceedings for up to 12 months for disaster-affected borrowers and waive penalties or late fees for borrowers with disaster-damaged homes, and bars servicers from reporting forbearance or delinquencies caused by the disaster to credit bureaus.

And on September 13, Freddie Mac [announced](#) that it was suspending all evictions and foreclosure sales through December 31, 2017 in the [FEMA-declared](#) disaster areas affected by Hurricanes Harvey and Irma. Freddie Mac urged borrowers to contact their mortgage servicers and reminded servicers that no property inspection costs resulting directly from either Hurricanes Harvey or Irma could be passed on to impacted borrowers.

Concurrently, Freddie Mac issued [Bulletin 2017-19](#) (the “Bulletin”), which provides temporary servicing requirements related to Hurricane Irma and updates certain selling and Servicing requirements previously announced in Bulletins [2017-14](#) and [2017-16](#) related to Hurricane Harvey. The Bulletin is effective immediately and applies to borrowers with mortgaged properties or places of employment within the disaster area.

Servicing Requirements. Under the Bulletin, servicers and foreclosure firms must suspend all foreclosure sales from when the area was declared to be a disaster area until December 31, 2017 **unless** the subject property was identified as vacant or abandoned prior to either Hurricane Harvey or Hurricane Irma, and a property inspection confirmed that there is no insurable damage

or ability to receive FEMA funds. Freddie Mac notes that it is creating a process for servicers to seek reimbursement for the related inspection costs. The Bulletin also suspends evictions for an undetermined amount of time.

Selling Requirements. The Bulletin provides new age of document requirements for properties in disaster areas, such as requiring a property valuation to be dated no more than 180 days before the date of the note. The Bulletin also sets forth special collateral requirements — for example, properties with note dates prior to September 10, 2017 (but not yet sold) (1) must be inspected to determine whether the property was damaged by Hurricane Irma and remains eligible for sale, (2) are not eligible for automated collateral evaluation (ACE) appraisal waivers, and (3) are only eligible for collateral representation and warranty relief if the seller confirms and documents that the property has not been adversely impacted by Hurricane Irma and includes such documentation in the mortgage file. Properties that may have been damaged by Hurricane Harvey and whose mortgages are in the process of being sold to Freddie Mac as of August 25, 2017, must be examined to determine if the property remains an acceptable security. In the context of cash contracts, the Bulletin urges sellers to contact the Cash Desk if the mortgage cannot be delivered prior to contract expiration because it is in a disaster area. And as long as the property secured by a “Relief Refinance Mortgage” is covered by qualifying insurance, a seller is not required to obtain a property inspection or new appraisal (1) when a property valuation was relied on prior to a disaster, or when (2) using a HVE[®] point value estimate with a high or medium confidence score. The Bulletin also announces various system updates.

Fannie Mae

On September 13, Fannie Mae issued [Lender Letter LL-2017-06](#) (the “Letter”), which clarifies its selling and servicing policies for loans impacted by Hurricanes Harvey and Irma.

August 25, Fannie Mae [reminded](#) servicers and homeowners to take advantage of its disaster relief policies, which allow servicers to suspend or reduce a homeowner’s mortgage payment for up to 90 days if the servicer believes a natural disaster reduced the value or habitability of the property or temporarily impacted the homeowner’s ability to make mortgage payments. Under Fannie Mae’s [Servicing Guide](#), servicers do not need to contact homeowners in order to suspend payments for 90 days, but after contacting the homeowner, they can offer forbearance for up to six months, which can be extended up to an additional six months as needed for homeowners that were current or less than 90-days delinquent at the time of the storm.

Selling Policies. The Letter summarizes Fannie Mae’s property inspection and appraisal requirements, which depends on the status of the loan at the time of the disaster, and whether the lender intended to deliver the loan with an appraisal or property inspection waiver (PIW). For example, if a loan has been closed but not delivered, and the lender intended to submit a PIW, the lender must determine if the property’s condition has materially changed since the note date. If the property condition has not changed, the lender may exercise the PIW without obtaining an appraisal. The Letter, among other things, extends the maximum age of credit and appraisal documents to 180 days for loans in process that were impacted by Hurricane Irma.

Servicing Policies. The Letter requires servicers to grant disaster relief, and report a delinquency status code of 42 – Delinquent if the servicer:

- is unable to contact a borrower who may have been impacted by a catastrophe that was caused by nature or a person other than the borrower; and
- has determined that such an event may adversely affect either the value or habitability of a property securing a mortgage loan, or the borrower's ability to make further payments or payment in full on a mortgage loan.

The Letter provides that in these situations, Fannie Mae is implementing:

- a foreclosure sale suspension until December 31, 2017,
- an eviction lock-out suspension until January 2, 2018,
- a servicing transfer suspension until it can be determined that the property is not damaged and the borrower's ability to make further payments has not been adversely impacted by the disaster, and
- an extension of the time for submission of Form 176 (Report of Property Insurance Loss) from 5 business days to 15 business days that will expire on December 31, 2017.

Moreover, the Letter notes that lenders will be reimbursed for the cost of exterior inspections only (unless the property is confirmed as abandoned and an interior inspection is performed), and the cost of inspections related to insurance loss proceeds.

The Letter also reiterates that homeowners may qualify for forbearance if the borrower's employment or income is seriously affected by a disaster event. If a borrower is performing on a forbearance plan, the Letter reminds servicers that they do not need to send a Borrower Solicitation Letter (Form 745) or complete a Borrower Solicitation Package by the 45th day of delinquency.

Ginnie Mae

On August 30, Ginnie Mae announced the assistance available for any Mortgage Backed Security (MBS) Issuer with more than 5% of its loan portfolio in the disaster area. This assistance includes:

- a forbearance from declaring advance obligations in default,
- deleting affected loans from calculations of delinquency ratios, and
- authorizing MBS Issuers to purchase affected loans from the related pools.

Department of Veterans Affairs (VA)

In addition to the previously published [Circular 26-17-23](#), which describes the various disaster relief options available to VA mortgagees and points to various regulations that facilitate the implementation of these options, the VA recently published a document titled "[VA Guidance on](#)

[Natural Disasters.](#)” The Guidance document provides information for veteran borrowers affected by a natural disaster and suggestions for other sources of assistance.

The document also provides guidance to mortgage lenders and servicers. The VA notes that any loan closed prior to the date of the declared disaster is eligible for VA Guaranty without regard to the disaster. But if the property was appraised prior to the disaster, a mortgage lender must submit, along with the VA Guaranty request, the following documents:

- a *Lender Certification* stated that the property was either not damaged or has been restored,
- a *Veteran Certification* affirming that the property condition is acceptable to the veteran,
- a *VA Loan Summary Sheet* annotated “Lender and Veteran Disaster Certifications Enclosed” and submitted with reports required by local law, if applicable,
- a revised *property estimate* by a VA appraiser if there has been a decline in value, and
- an *Employment/Income Certification* that confirms the veteran’s employment and income has not changed since the loan application.

The VA urges mortgage servicers to provide disaster relief to affected homeowners in the form of forbearance, and a 90-day moratorium on foreclosures. The VA also reminds loan holders that the burden of proof is on them to establish that no increase in VA’s ultimate liability is attributable to failure of the holder to have the property properly insured or to properly apply an insurance loss settlement.

We are continuing to monitor guidance related to disaster recovery efforts, including that issued by the [banking agencies](#). Please do not hesitate to reach out to us with questions.