



# **Mortgage Program Servicing Manual**

May 2021

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*An equal opportunity employer.*

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## **Introduction**

### **Mission Statement**

Housing is the foundation for success, so we collaborate with individuals, communities and partners to create, preserve and finance affordable housing.

### **Background**

The Minnesota Housing Finance Agency (“Minnesota Housing”) was created in 1971 by the Minnesota Legislature.

Minnesota Housing offers programs funded with mortgage revenue bonds (MRB) to finance the purchase of new and existing homes by low- and moderate-income Borrowers. Minnesota Housing purchases closed loans originated by private lenders under prescribed program requirements.

Minnesota Housing also provides financial assistance to potential borrowers who need entry cost and monthly Mortgage assistance to make homeownership possible.

## Chapter 1 – General Information

### 1.01 Business Statements

#### Servicing Agreement

The servicing agreement and this servicing manual shall constitute the Agreement between Minnesota Housing and the servicer regarding the servicing of the Minnesota Housing portfolio. The servicing manual may at times be amended or supplemented by issuance of revised pages.

#### Servicing Facilities

The servicer must maintain servicing facilities that are staffed with trained personnel who are sufficiently knowledgeable to adequately service Minnesota Housing loans in accordance with industry accepted standards as determined at Minnesota Housing's sole discretion. The servicer's personnel must be familiar with all Minnesota Housing, FHA, RD, VA and MI regulations and requirements affecting Minnesota Housing Mortgages.

#### Representations and Warranties

The servicer agrees to comply with all applicable federal, state, and local laws, ordinances, regulations and orders including, but not limited to, the following (and any applicable rules, regulations and orders thereunder):

- Minnesota Statute § 58.04, Subds. 2-4;
- Title VI of the Civil Rights Act of 1964;
- Title VII of the Civil Rights Act of 1968, as amended by the Housing and Community Development Act of 1974;
- Section 527 of the National Housing Act;
- The Equal Credit Opportunity Act;
- The Fair Credit Reporting Act;
- Executive Order 11063, Equal Opportunity in Housing, issued by the President of the United States on 11/20/62;
- Federal Fair Housing Act (Title VIII of the Civil Rights Act of 1968);
- Minnesota Human Rights Act (Minnesota Statutes Chapter 363A);
- Minnesota S.A.F.E. Mortgage Licensing Act of 2010 – Minnesota Statutes Chapters 58 and 58A;
- Data Privacy - Minnesota Statutes Chapter 13 and Minnesota Statutes Section 462A.065;
- Americans with Disabilities Act, 42 U.S.C.A. Section 12101;
- Fair and Accurate Credit Transactions Act;
- National Flood Insurance Act;
- Truth in Lending Act (Regulation Z);
- Home Mortgage Disclosure Act;

- Anti-Predatory Lending Act;
- USA Patriot Act;
- Bank Secrecy Act;
- Anti-Money Laundering and Office of Foreign Assets Control Policy;
- Internal Revenue Code of 1986, Section 6050H;
- Real Estate Settlement and Procedures Act of 1974; and
- Consumer Financial Protection Bureau servicing requirements.

In addition to the warranties and representations noted above, the servicer also certifies the following:

- The servicer will maintain adequate internal management and audit control procedures to:
  - Assure the loans are serviced in accordance with sound servicing and accounting principles;
  - Guard against dishonest, fraudulent, or negligent acts; and
  - Guard against errors and omissions by officers, employees, or other authorized persons.

The servicer currently has and will continue to maintain servicing facilities that are staffed with trained personnel who are sufficiently knowledgeable to adequately service Minnesota Housing loans in accordance with industry accepted standards as determined at Minnesota Housing's sole discretion. The servicer's personnel are familiar with all regulations and requirements affecting loans serviced for Minnesota Housing.

The servicer must comply with all local, state, or federal laws and regulations, including but not limited to those relating to affirmative action, fair housing, equal credit opportunity, truth in lending, wrongful discrimination in residential lending, or the enforcement of any terms of the loan.

The servicer must ensure all private information obtained in the course of servicing loans will not be used by the servicer or by its officers, employees, agents, or affiliates in any way that can be construed to represent a conflict of interest or an unfair advantage to the user. All information must be used in a manner consistent with any applicable laws or regulations regarding disclosure of credit information. No property that secures a Minnesota Housing loan will be acquired by a servicer or by its officers, employees, agents, or affiliates, unless Minnesota Housing informs the servicer that it does not object to the acquisition.

#### **Compliance with FHA/RD/VA/MI Requirements**

Servicers must comply with all requirements that FHA, RD, VA, and the MIs have for Mortgages that they insure or guarantee. The servicer must not take any action that might prevent Minnesota Housing from recovering the full amount due under the guarantees or insurance contracts.

#### **Conflicts of Interest**

Through normal servicing activities, including the servicing of delinquencies, servicers sometimes obtain privileged information concerning the Mortgage Loans, Mortgages, mortgagors, and Mortgaged

Properties. Such privileged information should not be used by the servicer or by its officers, employees, agents, or affiliates in any way that can be construed to represent a conflict of interest or an unfair advantage to the user. All information shall be used in a manner consistent with any applicable laws or regulations regarding disclosure of credit information. No property that secures a Minnesota Housing Mortgage Loan may be acquired by a servicer or by its officers, employees, agents, or affiliates, unless Minnesota Housing has informed the servicer that it does not object to such acquisition.

### **1.02 Servicer Eligibility Criteria**

To service first Mortgage Loans for the Minnesota Housing Finance Agency (Minnesota Housing), a servicer must:

- Be an organized business enterprise which has as one of its principal purposes the servicing of first Mortgage Loans;
- Be engaged in first Mortgage Loan servicing during its usual and normal course of business;
- Be, at all times, approved to service FHA, RD, VA, and insured and uninsured conventional Mortgage Loans for Fannie Mae and/or Freddie Mac;
- Fully meet and/or observe all requirements of this servicing manual;
- Be a Freddie Mac or Fannie Mae approved seller and servicer in good standing of FHA, RD, VA, and conventional Mortgage Loans;
- Use an automatic data processing system for the servicing and reporting of Mortgage Loans;
- Have a servicing portfolio that is at least 400% greater than the number (and amount) of Minnesota Housing loans it services;
- Be an experienced servicer of low and moderate income first time homebuyer Mortgage Loans; and
- Have an affirmative action plan approved by the Commissioner of the Minnesota Department of Human Rights - if, the servicer has over 40 full-time employees at any time during the twelve month period prior to the execution of a servicing agreement and if, the aggregate servicing fee income of the servicer from all contracts either executed or to be executed with Minnesota Housing exceeds \$100,000.

### **1.03 Contractual Relationships**

#### **Eligibility**

The servicer selected to service Minnesota Housing loans will be required to maintain its eligibility. To do this, the servicer must comply with the terms of the servicing agreement and the provisions of this servicing manual. Minnesota Housing's Agreement with the servicer also requires that the servicer protect Minnesota Housing's investment in the Mortgage Loans it services by performing its functions in a businesslike manner.



### **Audit and Management Control**

The servicer must maintain adequate internal audit and management control systems to:

- Assure that the Minnesota Housing Mortgage Loans are serviced in accordance with sound Mortgage banking and accounting principles;
- Guard against dishonest, fraudulent, or negligent acts; and
- Guard against errors and omissions by officers, employees, or other authorized persons.

### **Notification of Changes**

As part of the contractual relationship, the servicer must notify Minnesota Housing of any material or relevant changes within the servicer's organization. Minnesota Housing will also notify the servicer(s) of any material or relevant changes within Minnesota Housing's organization.

### **Continuation**

When a servicer has been selected to act as a servicer for Minnesota Housing, both parties must execute a servicing agreement to establish the terms and conditions of the contractual relationship. The continuation of that relationship depends on both parties honoring the mutual promises contained in the servicing agreement and on the servicer satisfying the requirements of this servicing manual.

### **Annual Audit Reports**

The servicer must, within 90 days after the close of the servicer's fiscal year, furnish to Minnesota Housing, Portfolio Management an accountant's report relating to the servicer's financial statements and the auditor's report regarding the examination in accordance with the uniform single attestation program for mortgage bankers.

The annual financial statements must be prepared under generally accepted accounting principles, must be comparative with the previous year's reports, and must include:

- an opinion of an independent certified public accountant;
- a balance sheet;
- an income statement;
- a statement of retained earnings;
- a statement of additional paid-in capital;
- a statement of changes in financial position; and
- all related notes.

If the servicer's financial statements are consolidated with those of its parent or holding company, they must contain sufficient detail that will enable Minnesota Housing to review the servicer's financial data separately from that of the other companies.

### **Servicer Indemnification**

The servicer must indemnify, defend, and hold Minnesota Housing harmless against all losses, damages, judgments, or legal expenses that result from the servicer's failure to perform its services and duties for the Mortgage Loans in accordance with the servicing agreement and this servicing manual. If a claim is made or a suit or other proceeding is started against Minnesota Housing based on the servicer's acts or omissions in servicing or in disposing of Acquired Properties, the servicer's responsibility for

indemnifying, defending, and holding Minnesota Housing harmless must be met regardless of whether the suit, claim, or proceeding has merit. However, the servicer's obligation does not apply if Minnesota Housing gave the servicer written instructions during a suit, claim, or proceeding and Minnesota Housing suffers a loss because the servicer follows Minnesota Housing's instructions.

**Fidelity Bond Coverage; Errors and Omissions Coverage**

The servicer must maintain in effect at all times, and at the servicer’s expense, a fidelity bond (or direct surety bond) and an errors and omissions policy issued by a company having a current rating in Best’s Rating Guide of A/AAA or better on a policy form acceptable to Minnesota Housing. The policy must cover all officers, employees, and other persons duly authorized by the servicer to act on behalf of the servicer for Minnesota Housing. Such coverage may be in the form of individual bonds or a blanket bond, covering all such persons and insuring the servicer, or Minnesota Housing as applicable, against loss arising from dishonest, criminal, fraudulent, or negligent acts and errors and omissions of such persons. No provision of this section requiring the servicer to maintain bond or insurance coverage shall operate to diminish, restrict, or otherwise limit the servicer’s responsibilities and obligations as set forth in the servicing agreement and this servicing manual.

The errors and omissions policy must, at least, protect the servicer against negligence, errors, and omissions in:

- Maintaining hazard and flood insurance that meets Minnesota Housing’s requirements;
- Maintaining FHA insurance, RD guarantee, VA guarantee, or conventional Mortgage Loan insurance;
- Determining whether properties are located in Special Flood Hazard Areas;
- Paying real estate taxes and any special assessments; and
- Complying with reporting requirements of FHA, RD, VA, and MIs.
  - Coverage Limits:
    - Fidelity Coverage or Direct Surety Bond. Each servicer shall maintain fidelity coverage or furnish a direct surety bond issued in favor of Minnesota Housing on policy forms normally used by servicers of the same class as the servicer. Coverage must be in a minimum amount equal to a percentage of the servicer’s total servicing portfolio (i.e., Mortgage Loans serviced for self and others and not limited to Mortgage Loans serviced for Minnesota Housing) in accordance with the following formula:
      - ◆ 0.4% First \$50,000,000 of principal serviced
      - ◆ 0.2% Next \$50,000,000 of principal serviced
      - ◆ 0.15% Next \$400,000,000 of principal serviced
      - ◆ 0.125% Next \$500,000,000 of principal serviced
      - ◆ 0.1% All amounts over \$1,000,000,000 of principal serviced.

Servicers required to maintain fidelity coverage by an agency of the federal or state government, other than Minnesota Housing, shall maintain the higher amount of coverage where there is a discrepancy between the amounts required under this section and that required by the federal or state governmental agency. A deductible clause in the amount of \$100,000 or 5% of the face amount of fidelity coverage, whichever is higher, is permissible. Deviations from the foregoing requirements will be considered by Minnesota Housing upon request.

- **Errors and Omissions Coverage.** The servicer shall maintain errors and omissions coverage on policy forms normally used by servicers of the same class in a minimum amount of coverage per occurrence equal to the greater of \$1,000,000 or the amount required for the fidelity bond. The errors and omissions policy must, at least, protect the servicer against negligence, errors, and omissions in:
  - ◆ Maintaining hazard and flood insurance that meets Minnesota Housing’s requirements;
  - ◆ Maintaining any required Mortgage insurance or loan guarantee;
  - ◆ Determining whether Mortgaged Properties are located in Special Flood Hazard Areas;
  - ◆ Paying real estate taxes and any special assessments; and
  - ◆ Complying with reporting requirements of the Mortgage insurer or guarantor.
- **Reports.** The servicer shall report to Minnesota Housing the amount, kind, and underwriter of all required insurance and bonds upon renewal of the servicer’s fidelity or direct surety bond and errors and omissions policy. Notice must be sent to Minnesota Housing, Portfolio Management.
- **Cancellation.** The servicer shall require insurers to promptly notify Minnesota Housing, Portfolio Management, in writing, if any required insurance or bond is canceled for any reason. The servicer shall require the insurers to promptly notify Minnesota Housing, Portfolio Management, in writing, of any insurer’s refusal to renew any required insurance or bond at the expiration of a premium period. The servicer shall notify Minnesota Housing, Portfolio Management, in writing, of any more restrictive terms required by any insurer as a condition for renewal.
- **Claims.** The servicer shall promptly report to Minnesota Housing, Portfolio Management, in writing, all cases of embezzlement, fraud, criminal, or dishonest acts by any employee, officer, or agent of the servicer and claims made against any required insurance or bond.

### **Changes in Servicer’s Organization**

The servicer will immediately notify Minnesota Housing, Portfolio Management, in writing:

- Of any contemplated major changes in its organization such as a resignation of management personnel, mergers, reorganization, or consolidations;
- Of changes of names or addresses;
- Of change of ownership of one-third or more of servicer or any parent entity, if servicer is a wholly owned subsidiary of another entity;
- If the servicer shall voluntarily file a petition under the Federal Bankruptcy Act or under any state bankruptcy or insolvency act;
- Of an answer in an involuntary proceeding admitting insolvency or inability to pay debts;
- If the servicer shall be put on probation or its activities restricted in any manner whatsoever by an agency of the federal or state government;

- Of any disciplinary action of any sort considered or taken by Fannie Mae, Freddie Mac, HUD, VA, or RD against the servicer; or
- If the servicer is no longer eligible to service loans for Fannie Mae, Freddie Mac, HUD, VA, or RD.

### **Transfers of Servicing**

The servicer may not assign its servicing agreement or duties to another servicer without prior written consent of Minnesota Housing.

When a Mortgage Loan is transferred, the servicer must comply with all requirements of the Real Estate Settlement Procedures Act (RESPA).

## **1.04 Servicer's Compensation**

### **Servicing Fees**

Minnesota Housing agrees to compensate the servicer through a servicing fee in accordance with the servicing agreement. The fee is payable to the servicer from the time servicer initiates the servicing of a Mortgage Loan until it is paid in full, providing the servicer collects the Mortgage payments and complies with requirements and provisions contained in the servicing agreement and in this servicing manual.

### **Late Charges**

The servicer may, at the servicer's discretion, collect and keep any late charges that are provided for in the Mortgage.

The servicer must comply with any IRS reporting requirements regarding the collection of late charges.

### **Fees for Special Services**

The servicer may charge the mortgagor fees to perform special services that are authorized by Minnesota Housing. Special services include work related to an assumption or a change in ownership, replacement of insurance policies, or a partial release of Mortgage. Servicers are required to abide with FHA, RD, and/or VA guidelines regarding the maximum allowable assumption fees. For a conventional Mortgage, an assumption fee equal to the greater of \$400 or 1% of the unpaid principal balance up to \$900 is considered reasonable. The assumption fee does not include out-of-pocket expenses, such as the cost of a credit report, which may be charged at the actual cost.

The servicer must comply with any IRS reporting requirements regarding the collection of these fees.

## **1.05 Mortgage File and Records**

### **Mortgage File Contents**

The servicer will maintain an individual file for each Mortgage Loan. Each file will be clearly marked to indicate Minnesota Housing's interest in the Mortgage Loan and the loan number assigned to it by Minnesota Housing. All documents retained by the servicer remain the property of Minnesota Housing.

This file will include, but will not be limited to, the following documentation:

- All documents initially received by the servicer.
- Any pertinent documents pertaining to legal servicing (i.e. assumptions, transfer of ownership, modifications, partial releases, etc.).
- All legal notices, correspondence, forms, reports, and results of conversations relating to the loan.

The loan file does not need to contain form collection letters and form notices to mortgagor, provided servicer possesses an adequate record of collection efforts including the dates of mailing the letters and notices

All documents retained by the servicer remain the property of Minnesota Housing.

### **Delivery of File**

Loans are originated in the name of the lender and purchased by Minnesota Housing. It is the responsibility of the lender to provide the servicer with the required documents as listed on the Loan Transmittal form.

### **Record Retention**

Precautions must be taken by the servicer to secure the loan documents from accidental destruction and disclosure to unauthorized personnel and outside parties. For convenient storage, the servicer may microfilm (or otherwise condense) most of the papers required to document and service the Mortgage Loan, providing such papers and/or documentation can be promptly reproduced by the servicer, at the servicer's expense, for prudent servicing or on request from Minnesota Housing. However, the servicer must retain original Mortgage notes (first and second), original recorded Mortgages (first and second), Mortgage amendment (if applicable), original assignment of Mortgages, and originals of any documents that change the Mortgage Loan terms.

After the loan has been closed by reason of foreclosure, satisfaction of mortgage, etc., all records must be maintained for a minimum of four years. After four years, the servicers may maintain the records on microfiche/film and destroy the originals.

### **Access to Records**

At Minnesota Housing's written request, the servicer must deliver all Mortgage Loan records and documents to Minnesota Housing or to whomever Minnesota Housing designates. Each Mortgage must be clearly identified. If the servicer has microfilmed or condensed any of the records, it must reproduce them at its own expense. When a servicer does not respond to a Minnesota Housing request to produce any documents or other records that Minnesota Housing requires it to maintain, Minnesota Housing will presume that the servicer did not produce the requested records because the records would confirm that the servicer did not take certain actions that Minnesota Housing requires. If that is not the case, the servicer must provide a reasonable explanation for its failure to produce the records and, if appropriate, offer evidence that any particular requirement was satisfied. If the servicer fails to provide a reasonable explanation or any evidence showing that the requirement was satisfied, Minnesota Housing can take

any action that is authorized under the servicing agreement or servicing manual for the servicer's breach.

If Minnesota Housing has to take legal action to obtain these records, the servicer will be liable for any legal fees, costs, and related expenses that Minnesota Housing incurs in enforcing Minnesota Housing's right of access to the records, unless it is determined that Minnesota Housing had no legal right of access to them.

## Chapter 2 – Servicer Performance

### 2.01 Expectations

#### Reporting or Submission of Information and Funds

It is expected all information and funds will be submitted or reported accurately, timely, and completely according to this servicing manual.

#### Customer Service

It is expected the servicer will respond quickly and courteously to requests or concerns presented by Minnesota Housing staff, Minnesota Housing borrowers, or other customers associated with Minnesota Housing Mortgage Loans or activities.

#### Delinquency and Foreclosure Performance

Minnesota Housing will establish benchmarks for loan delinquency rates, and may periodically adjust the benchmarks. The servicer must manage all defaulted loan processes to maintain acceptable delinquency levels relative to the established benchmarks.

#### Initiative Servicing

It is expected that servicers will approach the servicing of Mortgage Loans with proactive and creative attitudes. It is also expected that servicers will perform all their duties with an emphasis on prevention of future problems and methods to continually improve Minnesota Housing's and the servicer's processes and create better customer service for Minnesota Housing borrowers. It is further expected servicers will understand the mission of Minnesota Housing and the distinct nature of its customers.

### 2.02 Servicer Performance Evaluation

The servicer's performance will be evaluated in each of the following functional areas:

- Delinquency and Loss Performance
  - Delinquency rates relative to the established benchmarks
  - Loss experience
- Funds Remittance and Reporting Requirements
  - All payments and prepayments are applied timely and accurately. Application of funds conforms to Minnesota Housing's requirements.
  - Cash flow from operating accounts into custodial accounts is in accordance with Minnesota Housing's requirements.
  - Minnesota Housing is provided with required reports and statements in a timely manner.
- Regulatory and Policy Compliance Requirements
  - Modifications: appropriately applied and comply with Minnesota Housing requirements.
  - Fees and Charges: Do not exceed prescribed limits and appropriate borrower(s) notices have been given.



- Transfer of servicing: Timely notification to borrower(s), taxing authorities, and credit bureaus.
- Loan Set-up: Timely set-up upon receipt of documents and accurate input of loan data.
- Investor Reporting: Reconciliation reports; delinquency recap reports and private Mortgage insurance report.
- Maintenance of Eligibility: insurer/guarantor approval and performance rankings; financial position and reporting.
- Escrow Administration: Reserves comply with federal and Minnesota Housing requirements; all tax and insurance amounts are included; timely and accurate disbursements; hazard and flood insurance maintained.
- Customer Service Performance
  - Borrower-related telephone calls and written correspondence are answered within established time frames.
  - Complete and timely response to borrower(s) contacts and/or correspondence in compliance with Minnesota Housing’s policy, insurer/guarantor requirements, and state and federal law.

### **2.03 Remedies**

When the servicer's performance indicates improvement is necessary in any one area, or a number of areas, it is the responsibility of the servicer to take the necessary steps to correct the situation. Minnesota Housing will follow-up with the servicer if it appears the servicer is not addressing the problem.

There may be times when the servicer's performance is alarming enough to require immediate action by Minnesota Housing. There are generally three instances when this is the case:

- Delinquency performance is significantly above the established benchmark average for two months;
- The servicer did not remit funds as expected; and/or
- FHA, VA, RD, Fannie Mae, or Freddie Mac has taken action against the servicer or the servicer loses its FHA, VA, RD, Fannie Mae, or Freddie Mac servicing eligibility.

Minnesota Housing has two remedy processes, depending on the issues that need to be addressed.

### **2.04 Delinquency Performance Remedy**

This remedy addresses situations where the servicer’s delinquency performance is significantly above the established benchmark average for two months.

- Minnesota Housing will issue a warning letter to the servicer advising them of the portfolio's status.
  - The servicer may be required to send collection histories for all loans 60 days or more delinquent or other specified documentation.

- Minnesota Housing may review a sample of the collection histories for inconsistencies, poor procedures, or other collection deficiencies and notify the servicer of its findings.
- If the servicer's performance does not improve, and/or meet acceptable levels for a third consecutive month, Minnesota Housing will require the servicer to prepare an improvement plan. The improvement plan must provide specific details to meet the established benchmark within 60 days; or other improvement as specified by Minnesota Housing.
- If the servicer is unable to bring its delinquency rate to acceptable levels within six months of the initial improvement plan, Minnesota Housing may transfer the portfolio. If the servicer demonstrates improving performance, Minnesota Housing may grant the servicer additional time to manage the improvement effort.
- Minnesota Housing will deliver to the servicer a 30-day notice, as required by the Agreement, stating the portfolio is to be transferred due to poor performance. The portfolio will be transferred to a different servicer within 90 days or as soon thereafter as possible.

## **2.05 Critical Intervention Remedy**

This remedy addresses situations in which the servicer did not remit funds within the required timeframe or the servicer lost its FHA or Fannie Mae servicing eligibility. Either occurrence indicates the servicer is experiencing serious business or financial problems and Minnesota Housing must move quickly to preserve its portfolio.

- The servicer is issued a warning letter and within 24 hours of non-remittance of funds or notification of lost eligibility for FHA, VA, RD, Fannie Mae, or Freddie Mac servicing. The servicer has three days to provide evidence of eligibility or remit the funds.
  - Upon Minnesota Housing's failure to receive either notice of continued eligibility or the funds, within three days, Minnesota Housing will send the servicer a 30-day letter notifying the servicer that Minnesota Housing is transferring the portfolio.
  - Within five days of the non-remittance or notification of lost eligibility, Minnesota Housing will solicit other providers to service the at-risk portfolio.
  - Within 30 days of the solicitation, Minnesota Housing will choose a contingency servicer.
  - The new servicer may begin to collect data and loan files from the servicer within five days of selection.
  - Unless the servicer remits the funds or regains eligibility prior to the expiration of the 30-day letter, the portfolio will be transferred 120 days from non-remittance or loss of eligibility or as soon thereafter as possible.
- If the servicer remits the funds or regains FHA, VA, RD, Fannie Mae, or Freddie Mac servicing eligibility after the three day notice, but prior to the expiration of the 30-day letter, Minnesota Housing will put the servicer on a Performance Watch.
  - Minnesota Housing will also continue with its solicitation process of a contingency servicer.

- If the servicer remits all funds according to schedule and/or maintains eligibility as a servicer for six months, the servicer will be taken off the Performance Watch.
- The performance problem will be reviewed and may necessitate a more extensive review of the servicer's business processes and financial status.

If during the Performance Watch, the same or a similar problem occurs, Minnesota Housing will immediately issue the 30-day letter and transfer the portfolio as soon after the expiration of the 30-day letter as possible.

## Chapter 3 – General Servicing

### 3.01 Payment Application

#### Application of Regular Payment

The regular monthly Mortgage Loan payment should equal the monthly constant of principal and interest; all required escrow amounts; and HAF monthly assistance or repayment, if any.

The servicer's procedures for applying and accounting for individual Mortgage Loan payments, including escrow deposits, must comply exactly with those procedures set forth below. No modification, deviation, or exception, in any form or manner, to the procedures set forth below regarding applying payments is permitted, unless previously approved in writing by Minnesota Housing. The procedures specified provide the necessary accounting control and conform to the Mortgage document and industry standards.

- **Basis for Interest Calculation.** Interest must be calculated in arrears on loans serviced for Minnesota Housing. Any other method, such as interest capitalization, is not permitted.
- **Application of Principal and Interest Payments.** An individual principal and interest payment should first be applied to interest; the remainder should be used to reduce the unpaid principal balance.
- **HAF - Monthly Assistance or Repayment.** The full payment is to be applied to the mortgagor's account. The HAF receivable or payable is to be reported on the monthly Settlement Remittance form.
- **NSF Funds.** Insufficient funds checks (NSF) are to be reflected as a complete reversal of the most recent payment applied.

#### Non-Regular Payment Amounts

Servicers should contact the mortgagor(s) where there is a question as to the intent of the mortgagor(s).

Mortgage Loan payments should not be applied to the unpaid principal balance unless it equals or exceeds the monthly constant of principal and interest. If the difference between the monthly payment received, including the escrow amount, and the regular monthly payment due on the Mortgage is:

- A deficiency of \$5.00 or less, the amount credited to the escrow balance may be reduced by the amount of the difference.
- A deficiency of more than \$5.00, the entire payment may either be credited to the account as "unapplied funds" until such time as full payment is received or may be returned to the mortgagor, as deemed appropriate. In either case, the mortgagor(s) should be fully informed of the actions taken, the reasons for the specific action, and the total amount the mortgagor owes and is expected to pay.
- Excess of \$5.00 or less, the amount may be credited to the escrow balance.
- An excess of more than \$5.00 is to be applied as a principal curtailment. However, if the excess equals the amount of the mortgagor's full monthly payment, and the mortgagor notified the servicer in writing that the excess should be applied as a future installment, the excess is to be applied as the next future installment.

## Prepayments

- **Partial Prepayments.** Additional principal payments must be immediately accepted and applied on current Mortgage Loans. Funds received in consideration of a partial release or partial taking by eminent domain, are to be applied as a partial prepayment. If the payment includes a curtailment, the servicer should first apply the scheduled payment, then the curtailment.
- **Prepayment in Full.** The servicer shall determine and accept the amount required to prepay, in full, both the first Mortgage and HAF second Mortgage, if applicable. The payoff amount must include interest charged up to, but not including, the date of the payoff. Unless the Mortgage Loan documents specify otherwise, a 30/360-day year is to be used. If the calculation period is for less than a month, a 365-day year should be used. Factors used for such calculations are to be carried out at least six decimal places. Certain FHA Mortgage Loans require interest to be computed through the end of the month in which the payoff funds are received. At the servicer's discretion, escrow funds on hand may either be credited to the payoff amount or returned separately to the mortgagor. The amount to be remitted to Minnesota Housing for the prepayment in full shall be the sum of the following:
  - Unpaid principal balance of the first Mortgage Loan;
  - Plus any unpaid interest;
  - Plus the unpaid balance of the HAF second Mortgage, if applicable;
  - Less servicing compensation.

The net payoff amount due Minnesota Housing is to be remitted within two business days of receipt.

### Reapplication of Prior Prepayments

On a case-by-case basis, Minnesota Housing will allow previous additional principal payments to be reapplied as payments in order to cure a delinquency. See Chapter 7, Section I. H. Reapplying Principal Prepayments.

### 3.02 Credit Bureau Reporting

Each month, the servicer is required to provide a 'full-file' status report to each of the industry major credit repositories for each Mortgage Loan.

'Full-file' reporting means that the servicer must describe the exact status of each Mortgage Loan it is servicing as of the last business day of each month. The servicer may use a later cutoff date to allow time for payment corrections, returned checks and other adjustments to be processed. Statuses that must be reported include new origination, current, delinquent (30, 60, 90 days, etc.), foreclosed, and charged off.

The servicer is responsible for the complete and accurate reporting of Mortgage Loan status information to the repositories and for resolving any disputes that arise about the information reported. The servicer must respond promptly to any inquiry or notice of dispute from a borrower. The servicer must comply with all applicable provisions of the Fair Credit Reporting Act, including provisions that address obligations with respect to disputed or inaccurate information.

Each major credit repository may use different codes for identifying Mortgage Loan statuses. The servicer should verify the appropriate codes with each of the repositories.

### **3.03 Property Inspections**

The servicer must assure that the properties securing Mortgage Loans are being properly maintained by periodically inspecting each Mortgaged Property. The servicer does not need to perform an inspection if regular contact with the mortgagor is made in accordance with the insurer's guidelines, or Fannie Mae guidelines on uninsured loans. Whenever possible, the inspection should include the property's interior.

#### **Current Mortgages**

Ordinarily, the servicer does not need to inspect the Mortgaged Property as long as the Mortgage Loan is current. However, if the servicer believes that the property value may be in jeopardy for any reason, it should inspect the property immediately. When an inspection discloses any condition detrimental to the Mortgaged Property's value, or the need for urgent repairs, the servicer should remind the mortgagor of his or her obligation to maintain the property and take one of the following actions:

- If the mortgagor agrees to arrange for the necessary repairs, the servicer should follow up until the repairs have been completed.
- If the mortgagor is willing to make the repairs but is unable to do so, the servicer may ask Minnesota Housing to advance the necessary funds by submitting a written request. Appropriate arrangements should be made for the mortgagor to repay the advance.
- If the mortgagor refuses to make the necessary repairs and they are of an emergency nature, the servicer must make them. Minnesota Housing will reimburse the servicer for any funds advanced for this purpose. These funds become additional debt of the borrower secured by the Mortgage.

#### **Vacant or Abandoned Property**

When an inspection or contact with the mortgagor reveals that the Mortgaged Property is vacant and may have been abandoned, the servicer should try to determine the reason for the vacancy. The servicer must also make immediate arrangements to protect the Mortgaged Property from vandalism and the elements, to the extent that local laws allow it to take such action. The servicer should contact any junior lienholders to determine their intentions. The servicer should also notify the hazard insurance carrier of the vacancy to assure that appropriate insurance coverage is being maintained.

If the Mortgage Loan is current, the servicer should summarize its attempts to locate the mortgagor and its discussions with any junior lienholders and submit to Minnesota Housing, Portfolio Management, a recommendation for further action. If the Mortgage Loan is delinquent, the servicer should consider instituting foreclosure proceedings.

#### **Delinquent Mortgages**

The servicer must inspect the Mortgaged Property before the 60th day of delinquency. After the initial inspection, and until such time as the Mortgage is referred for foreclosure, the servicer should schedule subsequent property inspections at least once a month or as often as it considers necessary to protect Minnesota Housing's interests. Particular attention should be paid to Mortgaged Properties located in areas that have a high rate of vandalism and neglect.

### **Chronic Delinquencies**

For chronic delinquencies, the servicer may forego the required initial inspection for each separate delinquency period as long as it has no reason to believe that the Mortgaged Property has been abandoned and previous inspections did not reveal any evidence of vandalism or the probability for it. The servicer should inspect the Mortgaged Property as often as it believes necessary to protect Minnesota Housing's interests, but at least once in each six-month period that this payment pattern continues.

### **Use of Relief Provisions**

The servicer should inspect the Mortgaged Property before it places a delinquent Mortgage Loan under a relief provision, and then re-inspect as often as necessary to protect Minnesota Housing's interests, but at least once a year. If the Mortgage Loan becomes delinquent under a repayment plan, or there appears to be a potential for abandonment or vandalism, the servicer should inspect the Mortgaged Property more often.

### **Foreclosure Inspections**

The servicer must make a thorough inspection of the Mortgaged Property before it decides to approve a Mortgage Loan for foreclosure or a deed-in-lieu of foreclosure. Once a Mortgage Loan has been referred for foreclosure, the servicer must inspect the Mortgaged Property at least every 30 days, and more often if the property is vacant or is located in an area with a high rate of vandalism. If the inspection immediately preceding the foreclosure sale reveals that the Mortgaged Property has been damaged, the servicer must determine whether the sale should be postponed to allow time for resolving any claim with the hazard insurance carrier.

When a property inspection in connection with a foreclosure of a VA Mortgage Loan reveals a possible deterioration in property value that could affect the VA's decision to establish an "upset price", the servicer should request the VA's predetermination of its likely action.

When a property inspection in connection with a foreclosure indicates a notice of condemnation, the servicer must contact the jurisdiction that issued the notice and determine what needs to be done in order to terminate, if possible, the condemnation. On FHA insured loans, the servicer must notify FHA immediately.

### **Need for Emergency Repairs**

If, at any time, the servicer determines that emergency repairs are required to protect Minnesota Housing's security, it must advance the funds necessary to pay for repairs to a Mortgaged Property that secures a delinquent Mortgage Loan. The servicer should arrange for the mortgagor to repay this advance, either in installments or as part of the full amount required to reinstate the Mortgage Loan. If the Mortgage Loan is subsequently foreclosed and the mortgagor has not repaid the advance, Minnesota Housing will reimburse the servicer for the amount of the advance still outstanding when the Statement of Expenses form is submitted.

### **Post Foreclosure Inspections**

The servicer is required to conduct the following post foreclosure property inspections:

- (Non-REO) – Post foreclosure property inspections that HUD and VA require for Mortgaged Properties that will be conveyed to them.

- (REO) – For Mortgaged Properties that are subject to conventional Mortgages, FHA Mortgages/VA Mortgages that will not be conveyed to HUD or VA, and RD Mortgages, an inspection at least every 30 days or in accordance with insurer’s guidelines, until the redemption period expires.
- Any inspections Minnesota Housing may specifically request the servicer to conduct for a given property.

### **Criminal Penalties for Damage to Real Estate**

Whoever removes or damages real property, which is subject to a Mortgage, including during a redemption period, with the intent to impair the value of the property without consent of the security holder, is subject to criminal penalties. The servicer must contact Minnesota Housing, Portfolio Management, in writing, immediately if they are aware of damages to the Mortgaged Property. Minnesota Housing will determine the appropriate action to be taken.

### **3.04 Notices of Liens or Legal Action**

The servicer must take all reasonable actions to prevent new liens that would be superior to Minnesota Housing’s Mortgage from being attached against the Mortgaged Property. When it becomes aware that any new superior lien has been attached, the servicer must notify Minnesota Housing, Portfolio Management, in writing immediately.

The servicer must also give Minnesota Housing immediate notice of any legal or financial action - condemnation, probate proceedings, tax sale, partition, etc. - affecting the Mortgaged Property.

For routine legal actions – such as condemnations, partition suits, quiet title actions, building code violations, subordinate lien foreclosure actions, etc. - the servicer should retain legal counsel to represent Minnesota Housing’s interest in such matters. It generally is not necessary to obtain Minnesota Housing’s prior approval to do so, however, if it appears that the matter will not be routine, or that the fees and costs will become Minnesota Housing’s responsibility, the servicer must immediately contact Minnesota Housing, Portfolio Management, in writing, for approval, before it retains legal counsel. For any non-routine legal action or when any routine legal proceeding is contested or appealed, the servicer must contact Minnesota Housing, Portfolio Management, in writing, for approval, before it files any appeal, motion for rehearing, or similar procedure. The servicer should not forward routine papers, pleadings, or other notices related to these cases to Minnesota Housing, unless the case becomes contested or Minnesota Housing requests that it do so.

### **3.05 Property Forfeitures and Seizures**

Various federal statutes provide for the civil or criminal forfeiture of properties that are used, or are intended to be used, to commit or to facilitate the commission of certain violations of federal law.

A Notice of forfeiture is served on all interested parties whose identities are known or can be reasonably ascertained. The entire property, including all liens on it, is subject to forfeiture to the federal government if the owner and lienholder do not file a response in the requisite time. A lienholder that proves it was not aware of, and did not consent to the alleged violation, files a timely claim, and meets certain other requirements will be considered an “innocent lienholder.”



Minnesota Housing must rely on its “innocent lienholder” status to assure that its interests in a seized property are protected. A lienholder who is deemed by the courts to be ‘innocent’ will be reimbursed (to the extent of its interest in the property) from the proceeds of any sale of the property that is accomplished by the U. S. Marshals Service, although the courts have not been uniform in granting post-seizure interest and certain costs and expenses.

### **3.06 Partial Releases and Condemnations**

The servicer is responsible for the complete handling of requests for a partial release, release of personal property, easements, the waiver of any right under a Mortgage Loan or Mortgage, consent to substantial alterations, removal, demolition, taking, or division of Mortgaged Property, and other matters relating to changes affecting the Mortgage Loan, Mortgage or Mortgaged Property.

Minnesota Housing will not consent to the modification of the security for any Mortgage Loan if it would result in the deterioration of Minnesota Housing’s security, be detrimental to bond holders, or violate any provision of the bond documents.

The servicer shall have the responsibility to see that the instruments used in connection with changes affecting Mortgage Loans or Mortgages are in proper form and that all requirements under applicable law are met.

The loan-to-value ratio is to be no greater than before the partial release, condemnation, etc. The principal balance shall be reduced proportionately.

#### **Partial Releases**

The following information is required for review of any request for a partial release:

- A detailed market analysis or appraisal that clearly indicates the value of the original Mortgaged Property and the value of the property after the requested modification.
- A Plat drawing, survey, or acceptable alternative documentation that clearly outlines the Mortgaged Property in its entirety and identifies the area of modification.
- The legal description of the easement or property to be released.
- An explanation of the reason for the request.
- A Written approval from the Mortgage Loan insurer or guarantor is required. The servicer must adhere to the Mortgage Loan insurer or guarantor’s guidelines regarding application of the consideration. Minnesota Housing will abide by the decision of the Mortgage Loan insurer or guarantor.

If necessary, the servicer shall inform the appropriate taxing authority of the release of real property and request a division of any taxes levied or to be levied.

#### **Condemnations**

The servicer shall notify the Mortgage Loan insurer or guarantor, as appropriate, immediately upon learning of any planned or impending taking by eminent domain of any Mortgaged Property. The servicer is to take all steps necessary to prevent loss of the Mortgage Loan insurer/guarantor benefits by reason of eminent domain.

### **3.07 Satisfactions**

Through the execution of a limited Power of Attorney, the servicer is granted the limited power to execute a satisfaction of mortgage. The servicer is responsible for the complete handling of loan payoffs, including the execution and delivery to the borrower of satisfactions of mortgage, in full and complete compliance with any and all federal and state laws, rules, and regulations.

Within 5 business days of a payoff, the servicer must submit the Loan Paid in Full Statement form to Minnesota Housing, Accounting.

If there was a HAF loan in conjunction with the first Mortgage Loan, the HAF loan must be paid in full as well.

A HAF loan may also be repaid through the scheduled payments prior to the payoff of the first Mortgage Loan. The Loan Paid in Full Statement form must also be submitted on a HAF loan only payoff.

### **3.08 Mortgage Account Statements**

At the beginning of each year, the servicer must send the mortgagor a statement of activity in his or her Mortgage Loan account during the past year. This statement can be used to satisfy the IRS requirement for notifying mortgagors of the total interest received from them and reported to the IRS for the preceding year. This annual statement must be furnished to the mortgagor by January 31. The statement should include:

- The escrow balance at the beginning of the year, the total deposits to or withdrawals from the account during the year, and the account balance at year-end;
- The amount of interest that the mortgagor paid during the year;
- The amount of real estate taxes paid during the year;
- The unpaid principal balance of the Mortgage Loan at the end of the year;
- The amount of any HAF loan payments made for or by the mortgagor; and
- The amount of interest paid (or credited) to the mortgagor as 'interest on escrow'.

The servicer must also provide a detailed analysis of all transactions relating to a mortgagor's payments or escrow whenever the mortgagor requests it. The servicer cannot charge the mortgagor for the annual statement or the detailed analysis.

### **Notice to IRS**

The servicer must comply with the Internal Revenue Service's (IRS) requirements for reporting the receipt of \$600 or more of interest payments from the mortgagor for a calendar year. It must file an information return with the IRS – using its own name and employer's tax identification number. The servicer must also notify the mortgagor of the amount of interest it received and reported to the IRS.

**3.09 Low Balance Loans**

- If a loan has more than \$10,000 in total debt, excluding late fees (includes principal balance, escrow advances, recoverable corporate advances, etc.); the servicer should attempt all collection activities available by law, including foreclosure action if necessary.
- If a loan has less than \$10,000 in total debt, excluding late fees, and the borrower becomes severely delinquent and unresponsive, the servicer should stop tax and hazard insurance disbursements and notify the borrower in writing. If the property is non-owner occupied, and the loan is severely delinquent, the servicer should proceed with legal action to gain possession of the property.
- If a loan has less than \$2,500 in total debt, excluding late fees, the servicer should stop all disbursements and notify Minnesota Housing in writing with a recommendation to write off the loan.

## Chapter 4 – Assumptions

### 4.01 Background

The assumption of Minnesota Housing Mortgage Loans and the procedural requirements pertaining to them may be one of the most complex areas of servicing Minnesota Housing Mortgage Loans. In an effort to clarify and explain this area, some background information is appropriate.

For Mortgage Loans financed with mortgage revenue bonds issued prior to 1981, there were no restrictions imposed by federal law pertaining to the assumption of Mortgage Loans. Any regulation of assumptions was the option of the bond issuer, but subject to the requirements of the Mortgage Loan insurer/guarantor, if any.

In 1980, federal legislation was enacted affecting issues of tax-exempt mortgage revenue bonds. The Mortgage Subsidy Bond Tax Act (MSBTA) was created to, among other things, maximize the availability of funds raised through such issues to modest income first-time homebuyers purchasing affordable homes.

Among the restrictions imposed to achieve this goal was the limitation on assumptions. Regulations precluded the opportunity for investors to unduly profit from the program and assured that assumptors benefiting from such financing were individuals that met the public policy goals imposed upon the program. Therefore, the same Mortgage Loan requirements that were imposed on the original mortgagor were also imposed on assumptors.

Upon passage of the MSBTA, neither FHA nor VA allowed the imposition of assumption restrictions imposed in the law. Therefore, Minnesota Housing was only able to provide insured and uninsured conventional Mortgage Loans under the program. Under these circumstances, Minnesota Housing deemed it appropriate to altogether prohibit assumptions of Mortgage Loans for both financial and administrative reasons.

By 1986, both FHA and VA had issued regulations that allowed assumption limitations on Mortgage Loans funded by mortgage revenue bond loans with adequate mortgagor disclosure. However, it was not allowed that assumptions could be precluded altogether. Minnesota Housing determined that it was advantageous to again offer FHA and VA loans commencing with its first 1986 bond issue and, given that it had to liberalize its assumption requirements for FHA and VA loans, Minnesota Housing also liberalized its policy on conventional Mortgage Loans for all subsequent series of bonds - not including its 1986 issue.

Federal laws pertaining to the use of mortgage revenue bond programs passed in 1990, stipulate that all loans closed after December 31, 1990, that are funded with mortgage revenue bonds issued August 15, 1986, and later, are subject to federal subsidy recapture. The objective is to enable the federal government to collect some of the subsidy realized by a borrower from the difference in the interest rate of a Mortgage Loan financed with proceeds from mortgage revenue bonds and a market rate Mortgage Loan.

The practical effect of the federal legislation divides the Minnesota Housing portfolio into five specific categories with very different policies and procedures affecting each group. These categories are:

- **Category 1:** Mortgage Loans funded from bond series prior to January 1982.
- **Category 2:** Mortgage Loans funded from bond series between 1982 and 1985, inclusive, and conventional Mortgage Loans funded from 1986 bond series.
- **Category 3:** FHA and VA Mortgage Loans funded from 1986 bond series, and conventional Mortgage Loans funded from bond series 1987 and later.
- **Category 4:** All Mortgage Loans funded from bond series issued after August 15, 1986; and loans assumed after December 31, 1990 and within nine years of the origination of the Mortgage Loan.
- **Category 5:** All RD Mortgage Loans funded from bond series issued after January 1, 1991.

**NOTE:** For all loans originated since January 1, 1991 refer to Category 3 for requirements and Category 4 for the Subsidy Recapture Disclosure Statement. If an RD loan, see also Category 5.

**NOTE:** Loans committed as an MBS loan subsequently purchased and moved to a whole loan.

Effective September 1, 2009, Minnesota Housing switched from a whole loan environment to a Mortgage backed secured environment. Occasionally, one of these loans may be repurchased and moved to a whole loan.

- All Loans originated prior to May 28, 2012 are subject to the appropriate category above.
- FHA and VA Mortgage Loans originated on or after May 28, 2012 are subject to the appropriate category above.
- Conventional and RD Mortgage Loans originated on or after May 28, 2012 are due upon sale and may not be assumed.

#### **4.02 General Policies**

##### **Due-on-Sale**

The servicer's response to a request for information in connection with a possible transfer of ownership, or knowledge after-the-fact that a transfer has occurred, should clearly state Minnesota Housing's right to enforce the due-on-sale provision, describe Minnesota Housing's policy, and point out any exceptions or limiting conditions to the policy.

The servicer should establish procedures to monitor requests for changes in mailing address for the mortgagor or changes of the mortgagor's name or mailing address on hazard insurance policies or tax notices. The servicer should investigate any questionable changes to determine whether a transfer of ownership has occurred and take the action necessary to enforce the due-on-sale provision along with the action necessary to ensure that the benefits of any Mortgage Loan insurance/guarantee remain in full force and effect and without interruption.

### **Legal Compliance and Business Obligations**

The servicer will make the required disclosures, comply with any local, state, or federal law or ordinance, and any regulation or order issued there under pertaining to fair housing, equal credit opportunity, and any other prohibition against discrimination in residential lending, including preservation of documentary evidence of compliance, and defend and save Minnesota Housing harmless from loss or damage for any failure therein.

The servicer is responsible for processing assumption requests, including gathering the necessary documentation, credit review, and preparing the appropriate documents for execution including the assumption agreement (Minnesota Housing's form or similar document). The servicer agrees to retain copies of appropriate documentation in its files for a period of 25 months.

When an approved transfer of ownership has occurred, the servicer must notify the hazard insurance companies, including flood, if applicable; tax authorities; and any other interested parties. If the new mortgagor does not provide his or her own hazard insurance policy, including flood, if applicable, the servicer should request the insurer(s) to prepare an endorsement to the existing policy to name the new mortgagor.

### **Homeownership Assistance Fund (HAF) Loans**

HAF loans are not assumable. If a transfer of ownership occurs, the HAF loan balance is immediately due and payable. The amount necessary to pay-off the HAF loan must be collected on or before the closing date of the assumption transaction.

### **Release of Liability**

- **Release of One of the Original Borrowers.** If one of original borrowers requests a release of liability from the Mortgage Loan, the servicer should complete the necessary steps to qualify the original borrower who is retaining possession of the Mortgaged Property. The servicer should observe the eligibility and underwriting requirements of the applicable category described below. Minnesota Housing will waive the first-time homebuyer qualification requirement to allow the remaining original borrower to assume the Mortgage Loan and to grant a release of liability to the other original borrower. Minnesota Housing will authorize a release of liability on a HAF loan if the first mortgage meets the release of liability requirements.
- **FHA/VA Mortgages.** Upon an approved assumption of an FHA or VA loan, Minnesota Housing will grant a release of liability to the prior obligator, provided the release is approved by FHA or VA. The servicer should prepare an assumption and release of liability in such form as to ensure the priority of Minnesota Housing's Mortgage after execution.

### **Fees**

- **Conventional Loans.** The servicer may charge an assumption fee equal to 1% of the unpaid principal balance of the Mortgage Loan – subject to a \$400 minimum and a \$900 maximum – as long as its costs warrant these fees.
- **Government Loans.** The servicer may not charge fees and expenses in excess of those allowed by applicable Mortgage Loan insurer/guarantor.

### **Wrap-around Mortgage Loans and Contracts for Deeds**

Minnesota Housing will not consent to or approve transactions financed by wrap-around Mortgage Loans or overall contracts for deed in conjunction with Mortgage Loans. Should the servicer receive notification of such a transaction, the servicer must notify the appropriate party of Minnesota Housing's requirement and that violation of those requirements may result in acceleration of the debt.

## **4.03 Category Specific Policies**

### **Category 1**

Mortgage Loans in bond series issued prior to January 1982.

- **FHA/VA Mortgages.** FHA and VA Mortgage Loans are assumable in accordance with their terms and applicable federal regulations.

Within 30 days of the completed transaction, the servicer should submit to Minnesota Housing, Portfolio Management, the Assumption Transmittal form along with evidence of HUD/VA's approval of the transaction, if applicable.

- **Conventional Mortgages.** For the most part, Minnesota Housing will exercise its rights to enforce the due-on-sale provision of the Mortgage. However, Minnesota Housing will allow Mortgage Loans to be assumed upon qualification of the proposed assumptor.

Mortgage Loans may be assumed at the rate specified in the Mortgage or the current VA regulated interest rate - whichever is higher. If the VA interest rate should increase during the application process, Minnesota Housing will honor the interest rate effective at the time of application, for a period not to exceed 60 days. If the VA interest rate decreases during the application process, the applicable interest rate will be the lower VA rate.

An underwriting review, by the servicer, of the prospective assumptor's credit worthiness is required for all approvals of assumptions. If, after review, it is determined that the applicant's credit does not meet industry accepted underwriting standards for conventional Mortgage Loans, the servicer may decline the application on Minnesota Housing's behalf. If the proposed assumptor meets industry accepted underwriting criteria for conventional Mortgage Loans, the servicer may approve the transaction, contingent upon primary and pool insurance approvals, if applicable and receipt of all necessary documentation including the Seller Affidavit – Assumption form and Assumptor Affidavit form.

Within 30 days of the completed transaction, the servicer should submit to Minnesota Housing, Portfolio Management the Assumption Transmittal form along with copies of the:

- Primary and/or pool insurer's written approval, if applicable.

### **Category 2**

Mortgage Loans funded from bond series between January 1982 through 1985, inclusive; and conventional Mortgage Loans funded from 1986 bond series.

Minnesota Housing will not allow any assumption of Mortgage Loans under this category. All Mortgage Loans under this category are due upon sale or transfer of the property.

### Category 3

FHA and VA Mortgage Loans funded from 1986 bond series and conventional Mortgage Loans funded from bond series 1987 and later.

Under this category, there are five requirements mandated by federal law that all assumptions must meet. They are:

- **First-Time Homebuyers.** Each assumptor who assumes a Mortgage Loan under an applicable program must qualify as a first-time homebuyer. A first-time homebuyer is an eligible mortgagor who has not had an ownership interest in a principal residence other than the property being purchased during the three-year period ending on the date that the mortgagor executes the assumption agreement. In the event that there is more than one assumptor with respect to a particular residence, each of such assumptors must qualify as a first-time homebuyer.

An “ownership interest” includes the following types of interests:

- A fee simple interest.
- A joint tenancy, a tenancy-in-common, or tenancy by the entirety.
- The interest of a tenant-shareholder in a cooperative.
- A life estate.
- A vendee’s interest in a contract for deed (i.e., a contract pursuant to which the benefits and burdens of ownership are transferred although legal title is not transferred until some later time).
- An interest held in trust for the assumptor that would constitute an ownership interest if held directly by the assumptor.

The following types of interest do not constitute an “ownership interest”:

- A remainder interest.
- A lease with or without an option to buy.
- A mere expectancy to inherit an interest in a principal residence.
- An interest in other than a principal residence (i.e., a recreational home).
- The interest that the purchase of a residence acquires on the execution of an earnest money contract or purchase agreement.
- The interest in a mobile home that is located on land leased or rented as personal property.
- **Owner Occupancy.** The assumptor must plan to occupy the Mortgaged Property promptly after closing but in no event more than 60 days after closing. Each application for assumption must be evaluated to ascertain compliance with this requirement.



- **Principal Residence.** It is mandatory that the assumptor occupy the Mortgaged Property as his/her “principal residence”. A principal residence is a residence that is purchased and occupied as the primary year-round domicile of the assumptor. The Mortgage Loan is not eligible for assumption if the residence is intended to be used as an investment property (except with respect to the rental of the second unit in a two-family dwelling) or as a recreational home.

The Mortgage Loan is also not eligible for assumption if 15% or more of the total area of the residence will be dedicated for the regular and exclusive use in a trade or business in a manner which would permit the assumptor to take a deduction on the assumptor’s federal income tax for any portion of the costs of the residence in connection with the business use. (Note: Daycare in the residence is allowable only if the assumptor can establish that less than 15% of the total residence is used exclusively for daycare.)

The servicer must thoroughly review each application and determine whether each assumptor may be reasonably expected to occupy the Mortgaged Property as a principal residence. The servicer should not hesitate to question an assumptor in this regard where it is deemed necessary.

- **Income Limits.** The gross annual projected income as of the date of application, from all sources and before taxes or withholding of all residents to be living in the Mortgaged Property cannot exceed the amounts stated in Exhibit #1, Federal Purchase Price and Income Limits-Assumptions.

Gross annual income includes salary, commissions, bonuses, earnings from part-time employment, interest, dividends, tips, gains on sale of securities, annuities, pensions, royalties, Veterans Administration compensation, net rental income from all sources, alimony, child support, public assistance, sick pay, social security benefits, income received from business activities or investments, unemployment compensation, estate or trust income, and miscellaneous income.

- **Acquisition Cost Limits.** The assumptor’s acquisition cost of the Mortgaged Property may not exceed the amounts stated in Exhibit #1, Federal Purchase Price and Income Limits-Assumptions.

Acquisition cost is the cost of acquiring a completed residential unit. Acquisition cost is comprised of all amounts paid either in cash or in kind by the assumptor (or the assumptor’s representative) as consideration for the residence, including amounts required to complete or repair a residence that may be agreed upon beyond the purchase price provided contractually. Acquisition cost also includes land cost or land value.

The usual and reasonable settlement or closing costs or assumption fees are not to be included in acquisition cost.

- **Documentary Requirements.** To meet the requirements, specified above, certain documentation must be acquired and examined by the servicer in specified form. The documentation serves as a verification of the above requirements in accordance with federal law.

- *Borrower Application:* Applications for assumption must be made on Fannie Mae Form 1003/Freddie Mac Form 65, Residential Loan Application, under its most current issue date. Each application must be typed and duly executed by the assumptor. The application must recite unadjusted gross income from all sources, including alimony, child support, and interest income for all residents of the household. The application must have been duly executed by the assumptor during the four-month period ending on the date of the closing for the assumption.
- *Income Tax Returns:* The servicer must request, review, and retain copies of each assumptor's complete federal income tax returns for the preceding three-year period to determine whether any entries on the return reveal an ownership interest in a principal residence (i.e., a real estate tax or interest deduction for a Mortgage Loan). It is essential that the servicer receive explanations of any evidence, written or otherwise, that indicates that an assumptor may have had an ownership interest in a principal residence, and, if necessary, verify and document whether or not there was such an interest.
- *Income Verification:* Standard employment verification forms are to be used to verify an assumptor's income and employment status despite the fact that three years of federal income tax returns must also be obtained by the servicer. However, for self-employed assumptors or those assumptors having variable annual incomes (e.g., commissions), the servicer may use the previous two years' federal income tax returns for income verification purposes. In many circumstances, federal income tax returns may not be adequate to determine a self-employed assumptor's income. The servicer should not hesitate to request additional supporting documentation (i.e., current balance sheet and income statement).
- *Affidavits:* In order to assure that the provisions of applicable federal law have been met for each assumption, the assumptors and home sellers must make certain certifications in the Assumptor Affidavit form and Seller Affidavit – Assumption form, as applicable. The servicer should become thoroughly familiar with the certifications made in both affidavits. The servicer certifies that it has examined the certifications of the assumptor and home seller and has made such investigations, as it deems necessary, to verify the facts stated therein and has determined such facts to be true and correct.

The Assumptor Affidavit form shall be part of the application for the assumption and incorporated therein. No other party but the assumptor may sign the Assumptor Affidavit form, regardless of whether another party may have Power of Attorney. Early in the application process, servicers should ascertain whether the assumptor is able to make the certifications in the Assumptor Affidavit. If it is apparent that a particular assumptor will not be able to make the required certifications, it is beneficial to both the servicer and the assumptor that the assumption application be promptly denied with proper notice of adverse action given.

Generally, the Seller Affidavit – Assumption form, is to be executed only by those persons who are actually conveying the residence to the assumptor. However, circumstances may arise in which a seller is either unavailable for closing or a seller has been declared legally incompetent and a legal guardian has been appointed by the court to represent the seller's

interests. In these circumstances, the court appointed representative must sign the Seller Affidavit. The seller must attach the Power of Attorney, Letters of Guardianship/Conservatory, or the Letters Testamentary, as applicable, to the Seller Affidavit – Assumption.

- *Acquisition Cost Worksheet – Assumption*: The servicer is required to compute the acquisition cost of each residence in which Minnesota Housing financing is assumed on the Acquisition Cost Worksheet – Assumption form.
- *FHA/VA Loans*: Assumption transactions must fully meet the aforementioned criteria. Within 30 days of the completion of an assumption, the following is to be delivered to Minnesota Housing, Portfolio Management:
  - The Assumption Transmittal form
  - A copy of FHA/VA's written approval, if applicable.
- **Conventional Loans**. The interest rate on conventional category 3 loans will not change with an assumption. Assumption transactions must fully meet the aforementioned criteria. In addition, an underwriting review by the servicer of the prospective assumptor's credit worthiness is required. If, after review, it is determined that the applicant's credit does not meet industry accepted underwriting standards for conventional Mortgage Loans, the servicer may decline the application on Minnesota Housing's behalf. If the proposed assumptor meets industry accepted underwriting criteria for conventional Mortgage Loans, the servicer may approve the transaction, contingent upon primary and pool insurance approvals, if applicable, and receipt of all necessary documentation including the Seller Affidavit – Assumption form and Assumptor Affidavit form.

Within 30 days of the completed transaction, the servicer must submit to Minnesota Housing, Portfolio Management the Assumption Transmittal form along with a copy of the:

- Primary Mortgage insurer's written approval.

#### **Category 4**

All Mortgage Loans funded from mortgage revenue bonds after August 15, 1986 and assumed after December 31, 1990 and within nine years of the origination of the Mortgage Loan.

All requests for assumptions under this category must meet the requirements set forth under category 3 along with completion of the Subsidy Recapture Disclosure Statement form pertaining to the recapture tax on the sale of the Mortgaged Property.

The Subsidy Recapture Disclosure Statement form is to ensure all assumptors of affected loans are aware of the federal subsidy recapture tax that applies to loans originated after December 31, 1990. This statement must be completed by the servicer and then signed and dated by the assumptor. A copy of the completed, signed, and dated statement should be included with the Assumption Transmittal form to Minnesota Housing, Portfolio Management.

**Category 5**

All RD Mortgage Loans in bond series issued after January 1, 1991.

The interest rate on category 5 Mortgage Loans will not change with an assumption. Assumption transactions must fully meet the requirements set forth under Categories 3 and 4, as well as RD requirements for assumption. Please note that RD regulations prohibit the release of liability of the original borrower.

Within 30 days of the completion of an assumption, the following is to be delivered to Minnesota Housing, Portfolio Management:

- The Assumption Transmittal form
- A copy of RD's written approval
- The Subsidy Recapture Disclosure Statement form

## Chapter 5 – Escrow Administration

The servicer is responsible for protecting the priority of Minnesota Housing’s lien and investment in the Mortgages it services for Minnesota Housing.

### 5.01 Escrow Accounts

Escrows are required for all Mortgage Loans for property taxes and assessments, homeowners insurance, and, if applicable, flood insurance and Mortgage insurance.

- **Escrow Account Statements (Escrow Analysis).** Servicers are required to provide initial and annual Escrow Account statements to the mortgagors in compliance with the Real Estate Procedures Act (RESPA).
- **Interest on Escrow.** If the servicer is required by law, or has entered into an Agreement to pay interest on escrow, the servicer is responsible for the interest payment.

### 5.02 Taxes and Assessments

The servicer must maintain accurate records on the status of real estate taxes or any other assessments that could become a lien against the Mortgaged Property. If the Escrow Account balance is not sufficient to pay the taxes and assessments, the servicer is to advance its own funds – adjusting the mortgagor’s payments thru an escrow analysis. The servicer is to pay the taxes and assessments before any penalty date. If a penalty is incurred for late payment of taxes, the servicer must pay the penalty from its own funds and may not recover the amount from the mortgagor.

### 5.03 Mortgage Insurance/Guarantee

Servicers must comply with all requirements that FHA, VA, RD, or the MIs have for Mortgage Loans that they insure or guarantee. Servicers are responsible for assuring that the Mortgage insurance that was required when Minnesota Housing purchased the Mortgage Loan remains in effect, by paying required renewal premiums promptly, unless the conditions Minnesota Housing or federal law imposes for canceling private Mortgage insurance are met. If the Escrow Account balance is not sufficient to pay the renewal premiums, the servicer is to advance its own funds – adjusting the mortgagor’s payments, if necessary, thru an escrow analysis.

#### Cancellation of Private Mortgage Insurance (PMI)

Minnesota Housing and its servicers must comply with all requirements of the federal Homeowners Protection Act of 1998.

Servicers do not need Minnesota Housing’s approval for PMI cancellations. If all eligibility criteria are met, the servicer should process the cancellation, maintaining appropriate supporting documentation in the servicing file.

- Eligibility Criteria – Cancellations Based on Original Value
  - *Automatic Cancellation:* The PMI is to be cancelled on the date that the principal balance of the Mortgage Loan is first scheduled to reach a level that is 78% of the original value of the Mortgaged Property, provided that the Mortgage Loan is current or as soon as payments become current thereafter.

- Borrower Requested Cancellation:
  - A two year good payment history;
  - Based on actual payments, the Mortgage Loan reaches 80% of the original value of the Mortgaged Property; and
  - The BPO or appraisal ordered and received by servicer at borrower's expense, supports the fact that the value of the Mortgaged Property has not declined below its original value.
- **Eligibility Criteria – Cancellations Based on Current Value.** Loans must be two years old. Minnesota Housing, at its sole discretion, may make an exception if the increase in market value is due to substantial improvements to the Mortgaged Property.
  - Loans 2-5 years old:
    - A two year good payment history;
    - The loan-to-value is at or below 75%; and
    - The loan-to-value is supported by a BPO or appraisal, ordered and received by the servicer at the borrower's expense.
  - Loans 5 years and older:
    - A two year good payment history;
    - The loan-to-value is at or below 80%; and
    - The loan-to-value is supported by a BPO or appraisal, ordered and received by the servicer at the borrower's expense.

### **Annual Disclosures**

The Homeowners Protection Act of 1998 requires servicers to disclose the following to mortgagors in an annual written statement:

- Loans dated prior to July 29, 1999
  - That PMI may, under certain circumstances, be canceled by the borrower; and
  - An address and telephone number the borrower can use to contact the servicer to determine whether the borrower may cancel PMI.
- Loans dated on or after July 29, 1999
  - The rights of the borrower to cancellation or termination of PMI; and
  - An address and telephone number the borrower can use to contact the servicer to determine if cancellation is appropriate.

### **Other**

The Homeowners Protection Act of 1998 requires various Notifications to the borrower at the time of cancellation, termination, or denial of cancellation. Servicers are to make all required Notifications, as well as comply with other requirements of the Act not specifically mentioned here.

#### **5.04 Pool Mortgage Insurance**

Pool Mortgage insurance is a supplemental layer of Mortgage insurance that protects Minnesota Housing from losses that are not covered by primary Mortgage insurance. The pool Mortgage insurance is a direct policy between Minnesota Housing and the pool insurer. Rather than insuring an individual loan, pool insurance covers an entire pool of loans in a bond series. The premiums for these policies are paid directly by Minnesota Housing.

Most conventional loans originated under the 1982 through 1985 Minnesota Housing Mortgage programs are covered by pool Mortgage insurance. Pool Mortgage insurance does not apply to FHA, RD, or VA loans.

The servicer must comply with all requirements that the pool insurers have for Mortgage Loans that they insure.

The bond series and corresponding pool insurers are:

- 1982 Series A Mortgage Guaranty Insurance Corporation (MGIC)
- 1982 Series B Mortgage Guaranty Insurance Corporation (MGIC)
- 1983 Series B General Electric Mortgage Insurance Corporation (GE)
- 1983 Series C General Electric Mortgage Insurance Corporation (GE)
- 1984 Series AB General Electric Mortgage Insurance Corporation (GE)
- 1985 Series AB General Electric Mortgage Insurance Corporation (GE)
- 1985 Series B General Electric Mortgage Insurance Corporation (GE)

#### **5.05 Hazard Insurance**

All Mortgage Loans must be covered by hazard insurance which meets, at a minimum, the requirements of Fannie Mae or Freddie Mac, in addition to the following requirements:

- Insurance must be effective on the date of the Mortgage
- Level of Coverage:
  - Hazard insurance must protect against loss or damage from fire and other hazards covered by the standard extended coverage endorsement and should be the type that provides for claims to be settled on a replacement cost basis
- Amount of Coverage:
  - The lessor of:
    - ◆ 100% of the insurable value of the improvements
    - ◆ The unpaid principal balance of the first Mortgage, as long as the amount of coverage equals the minimum amount required to compensate for damage or loss on a replacement cost basis (80% of the insurable value of the improvements)

- Deductible Amount:
  - The higher of:
    - \$2,500
    - 2.5% of the policy face amount
- Mortgage Clause:
  - All insurance policies must contain a ‘standard’ or ‘union’ Mortgage clause in the form customarily used. The Mortgage clause should read “Minnesota Housing Finance Agency.”

### Evidence of Insurance

Unless the servicer is covered by a Mortgage impairment or Mortgage interest insurance policy, it must keep the original insurance policy in its custody. When the Mortgage covers an individual unit in a PUD, in addition to the individual unit policy, the servicer must have in its possession a copy of any insurance policy covering the common areas in the project.

- **Short-Form Certificate of Insurance.** Servicers may accept a short-form certificate of insurance in lieu of an original policy if the certificate shows all the necessary information and is signed by the insurer. In this case, a complete text of the full policy must be available in the servicer’s office.
- **Master or Blanket Policies.** Master’ or ‘blanket’ policies instead of individual policies cover many condominium units and some PUD units. In these cases, the servicer may maintain a copy of the current ‘master’ or ‘blanket’ policy and a certificate of insurance showing that the individual unit is covered by the policy. As an alternative, the servicer may obtain from an authorized representative of the insurer individual evidence of insurance for each unit. This evidence must:
  - Provide for at least ten days’ notice to the servicer if the policy is canceled or not renewed, or if any other change that adversely affects Minnesota Housing’s interest is made;
  - Include the types and amounts of coverage provided; and
  - Describe any endorsements that are part of the ‘master’ policy.
- **Data Files in Lieu of Policies:** Minnesota Housing will not object to a servicer accepting data files in lieu of original policies, as long as the following controls exist to assure that Minnesota Housing’s interests are protected:
  - The data file must include sufficient information about the insurance policy, the property, and the borrower(s) to assure that the servicer will be able to comply with Minnesota Housing’s requirements for maintaining and monitoring hazard insurance (such as reviewing the policy terms, amount of coverage and deductible amounts; confirming that premiums have been paid; processing loss drafts; etc.).
  - The servicer’s errors and omissions insurance policy must acknowledge electronic data transfers – and fully protect the servicer and Minnesota Housing against losses incurred as the result of erroneous data files or transfers.



- The insurance carrier must provide the servicer with written assurance that the data file is equivalent to a printed policy, typically through a detailed agreement between the two parties.
- The servicer must have in place appropriate procedures to mitigate the risks associated with not possessing an original hard copy policy.
- The servicer must be able to produce legible, hard copies of the actual insurance policies and proof of premium payments if requested by Minnesota Housing.

### **Replacement Policies**

The mortgagor may modify the existing insurance coverage or replace it with a policy from another acceptable company. If the mortgagor allows the insurance coverage to lapse, the servicer should immediately obtain new coverage that meets basic requirements. If necessary, the servicer should advance its own funds to pay the premium.

If the Mortgaged Property is part of a PUD or condominium regime, the association may also have its existing coverage modified or replaced with a policy from another insurance company. In this case, the association must give the servicer notice of the change, so that the servicer can determine if the coverage adequately protects Minnesota Housing's interest.

### **Changes in Coverage**

Existing insurance coverage may prove inadequate to protect Minnesota Housing's interests in some cases. When this is the case, the coverage should be changed. For example, when a Mortgaged Property becomes vacant, the servicer should add the proper endorsement to change a homeowner's policy to a fire and extended coverage policy with a vacancy clause.

### **5.06 Flood Insurance**

A Mortgaged Property located in a Special Flood Hazard Area must have adequate flood insurance when the Mortgage Loan is originated and the coverage maintained for as long as the Mortgage Loan is outstanding or until a remapping of a flood zone results in the property no longer being in a Special Flood Hazard Area. Flood insurance coverage is also required if the remapping of a flood zone results in the security property being in a Special Flood Hazard Area - even though no flood insurance would have been required when the Mortgage Loan was originated.

Servicers must actively monitor all flood maps and community status changes and take appropriate action as changes occur. Servicers may choose to monitor flood zone remappings themselves or use a flood determination company to perform the monitoring.

Servicers must make sure that Mortgage Properties are adequately protected by flood insurance when it is required, with no lapse of coverage for any reason. If the maximum level of coverage available under the National Flood Insurance Program increases, servicers are to review the coverage of the Mortgage Loans they service for Minnesota Housing to determine whether additional coverage needs to be obtained.

The flood insurance policy, including the amount of coverage and deductible, must meet, at a minimum, the requirements of Fannie Mae or Freddie Mac.

### 5.07 Insurance Losses

Servicers are responsible for taking prompt action to protect the interest of Minnesota Housing and the borrowers when a hazard or flood insurance loss occurs. As soon as the servicer learns of a casualty loss, it must get complete details of the damage, determine whether the mortgagor has filed the proof of loss, and discuss with the mortgagor any plans that he or she has for repairing the Mortgaged Property. If the mortgagor has not filed a proof of loss, the servicer should take appropriate action to assure that the proof of loss is filed within the time period specified in the insurance policy in order to avoid a delay in receiving payment of the claim. The servicer must then closely monitor the filing of the proof of loss with the insurance carrier, the repairs to the Mortgaged Property, and the disbursement of the insurance proceeds.

When the servicer is unable to contact the mortgagor (or it appears that the Mortgaged Property has been abandoned), the servicer should determine the general extent of the damage and the required repairs, take appropriate measures to protect the property from further damage, and contact the insurance carrier to determine whether the borrower has submitted a claim. If the mortgagor has not filed a claim, the servicer should file a proof of loss under the standard Mortgage clause and collect the insurance proceeds on Minnesota Housing's behalf.

- **Disposition of Insurance Loss Settlements.** The proceeds of an insurance settlement must be applied in accordance with provisions contained within the Mortgage. If proceeds are applied to restoration, any excess proceeds shall be applied to the Mortgage Loan, unless otherwise approved by Minnesota Housing. Minnesota Housing shall be named as payee on all insurance loss drafts. The servicer may endorse the loss drafts on Minnesota Housing's behalf.
  - *Loss of \$10,000 or Less:* On losses of \$10,000 or less, the servicer is required to obtain a copy of the insurance adjuster's worksheet; copy of contractor's estimate; and a signed affidavit from the mortgagor(s) agreeing to apply the insurance proceeds to the restoration of the damaged property. Provided that there is no delinquency or other servicing problem, the servicer shall disburse the proceeds to the mortgagor(s) and document in the Mortgage Loan file all pertinent facts concerning the loss and disposition of the proceeds. The servicer shall exercise its prudent judgment in determining whether a physical inspection of the Mortgaged Property should be made.
  - *Loss Exceeding \$10,000:* The servicer shall place all insurance proceeds in a Suspense Account pending disbursement. The servicer is required to obtain a copy of the insurance adjuster's worksheet and an executed Restoration Affidavit form, or similar document, from the mortgagor(s). A Stipulated Sum Agreement form, or similar document, must be executed between the owner of the Mortgaged Property and the building contractor selected to restore the property. The servicer is to review the Stipulated Sum Agreement form to see that it provides, at a minimum, the following:
    - The total contract sum for construction does not exceed the total loss proceeds;
    - The dwelling, as repaired or restored, will not lessen Minnesota Housing's security interest;
    - The construction will be completed within 90 days after its commencement;
    - The contractor maintains adequate fire, hazard, liability, and workmen's compensation insurance coverages on the premises;

- The contractor will deliver lien waivers and sworn construction statements for each requested draw of the construction contract amount;
- The construction draws will be in such numbers and amounts as to protect the mortgagor's interest in the successful completion of construction; and
- A reasonable retainage will be withheld from the contractor before completion of construction.

Partial disbursement or a draw plan may be utilized, provided that physical inspection is made to ensure that the percentage of work satisfactorily completed at least equals the percentage of funds to be disbursed on each draw. The servicer will document in the Mortgage Loan file all pertinent facts concerning the loss and disposition of the proceeds.

Whenever a total or near total loss is sustained and the servicer does not recommend that the proceeds be applied against the Mortgage Loan, the servicer will explain its reasons to Minnesota Housing.

The servicer will adhere to all applicable laws regarding application of insurance proceeds, all FHA, MI, RD, or VA regulations, and prudent practices concerning notification, inspection, and approval. The servicer will take any action necessary to protect the priority of the Mortgage, such as obtaining waivers of materialmen's or mechanic's liens.

- *Uninsured Losses:* When a disaster, such as a flood, results in an uninsured loss to the Mortgaged Property, the servicer should:
  - Determine the extent of the damage;
  - Secure the property, if it is abandoned;
  - Develop plans for repairing the property; and
  - Send a complete report of the damage to Minnesota Housing, Portfolio Management.

The servicer should help the borrower file for any disaster relief aid that may be available. If the damage is extensive, the servicer should agree to any reasonable forbearance plan that the borrower proposes.

## Chapter 6 – Minnesota Housing Second Mortgages

### 6.01 Homeownership Assistance Fund (HAF) Second Mortgages

The Homeownership Assistance Fund (HAF) is a source of funds used to provide interest free loans to eligible borrowers for entry cost assistance, monthly payment assistance, and/or an equity contribution secured by a second Mortgage. All components of HAF, together or separate, are considered one transaction. HAF loans are due and payable when the first Mortgage Loan pays off. The HAF loan balance is to be collected along with the first Mortgage Loan payoff balance.

HAF loans are not assumable.

The HAF program has gone through several changes over the years. It is the responsibility of the servicer to fully understand the provisions of the HAF program as established in the various HAF documents; to properly administer the assistance whether in terms of applying the assistance, providing for repayment, or in making adjustments in accordance with the lending documents, to report and reconcile the status of the first Mortgage Loans in conjunction with HAF promptly and accurately in accordance with the provisions of this servicing manual, and to take whatever actions are necessary to enforce the terms of the lending document.

#### HAF Delinquency Assistance Measures

Minnesota Housing approves of the following actions to resolve delinquencies of HAF loans originated in 2009 or earlier:

- Repayment plans not to exceed twelve months and in accordance with the Servicing Manual under the Delinquency Assistance Measures section.
- Military Indulgence as defined in the Servicing Manual under the Delinquency Assistance Measures section.
- Modification of the due date of the HAF mortgage to match the maturity date of the first mortgage held by Minnesota Housing which effectively changes the monthly payment loan to a deferred loan due upon payoff or maturity of the first mortgage. Modifications must be completed in accordance with the modification requirements in the Servicing Manual under the Delinquency Assistance Measures section.

#### Current HAF Provisions

- **Entry Cost Assistance (ECA).** Provides between \$1,000 and \$3,000 to pay for eligible entry cost expenses, including down payment and other customary and normal buyer closing costs. The loan is a deferred loan and due on sale, transfer, refinance, or at such time as the property is no longer owner occupied or upon payoff of the first Mortgage Loan.
- **Monthly Payment Assistance (MPA).** Provides funds to pay a portion of the monthly first Mortgage Loan payments when the borrower's housing ratio exceeds 30% of the gross qualifying income. MPA is set at \$75/month for the first year, \$50/month the second year and \$25/month the third year, for a total maximum assistance of \$1,800. HAF monthly payment assistance is available with all Mortgage types with a 30-year term on the purchase of a single-family residence. The loan is a deferred loan and is due on sale,

transfer, refinance, at such time as the Mortgaged Property is no longer owner occupied or upon payoff of the first Mortgage Loan.

#### **Prior HAF Provisions**

- **Monthly Assistance.** Up to \$120 assistance per month during the first year of the HAF loan had been available. The assistance decreases at a rate of \$5, \$10, or \$20 per month per loan year. In addition, loans reserved prior to April 20, 2000, were not deferred. On those non-deferred loans, when the amount of HAF monthly assistance has declined to \$0 for a year, repayment will begin the following loan year. The Borrower will gradually pay back the total HAF amount (monthly assistance given plus amount of entry cost assistance, if any) by increasing their monthly payments by \$5, \$10, or \$20 each loan year.
- **Entry Cost Assistance.** HAF loans reserved prior to April 20, 2000 were not deferred. If only entry cost assistance was provided, repayment began immediately with the first monthly installment at the rate of \$10 or \$20 per month, as specified in loan documents for the HAF loan, increasing each year in the same increment, until paid in full. If the mortgagor received both entry cost and monthly payment assistance, repayment for the entry cost assistance is delayed until repayment on the monthly payment assistance begins.
- **Equity Contribution Loan/Entry Cost Assistance Plus.** Available only to CASA borrowers whose Mortgage Loan payments, including the maximum HAF monthly payment assistance, exceeded 28% of their qualifying income. The available amount was 10% of the property purchase price, up to a maximum of \$10,000. These were deferred loans and due on sale, transfer, refinance, or at such time as the property is no longer owner occupied or upon payoff of the first Mortgage Loan.

#### **Discontinuation of HAF Monthly Assistance**

Upon request of the mortgagor, HAF monthly assistance may be terminated provided the mortgagor provides the servicer with any necessary supporting documentation to assure the servicer that the mortgagor has the financial ability to support the increase in payments. Written notification of the termination is to be sent to Minnesota Housing, Accounting Department.

- Non-deferred HAF loans reserved prior to April 20, 2000 - repayment is to begin immediately upon discontinuation of the monthly assistance with the same incremental yearly increases as in the original repayment schedule. The servicer should submit a letter outlining the repayment terms and request the mortgagor's signature. A copy of that executed letter is to be sent to Minnesota Housing, Accounting Department.
- Deferred HAF loans reserved on or after April 20, 2000 - repayment is deferred until sale, transfer, refinance, at such time as the property is no longer owner occupied, or upon payoff of the first Mortgage Loan.

#### **Forgiveness of the HAF Second Mortgage**

Upon a foreclosure of the first Mortgage Loan, the HAF loan will be extinguished and Minnesota Housing will not be able to collect on the outstanding balance of the HAF loan. In addition, the Mortgage Loan insurer/guarantor rarely makes Minnesota Housing whole on a foreclosure claim. The servicer should take this into consideration in their loss mitigation efforts – especially if a first Mortgage Loan is facing

foreclosure and a partial or total forgiveness of the HAF Mortgage would result in a payoff of the first Mortgage saving the loan from foreclosure and filing a claim with the Mortgage insurer/guarantor.

**Treatment of HAF Loans on Annual Statements**

When HAF monthly assistance is used to pay all or a portion of the monthly payments due on a Minnesota Housing first Mortgage Loan, the portion of the interest component of each payment that is made with HAF monthly assistance cannot be included in the 1099 INT or used by the borrower as a deduction until that portion of the HAF loan is repaid.

**6.02 Homesteps Second Mortgages**

The Minnesota Housing Homesteps program was a demonstration program used to assist people living in subsidized rental units to purchase homes. The Homesteps second Mortgage behaves much like the HAF second Mortgage. When the first Mortgage Loan pays off, the loan secured by the Homesteps second Mortgage is also due and payable. The amount necessary to fully repay the loan secured by the Homesteps second Mortgage is to be collected along with the first Mortgage Loan payoff balance.

## Chapter 7 – Delinquencies

Servicers must establish a system for servicing delinquent Mortgage Loans that follows the accepted standards used by prudent lenders. The servicer's system must include, at a minimum, the following:

- An accounting system that immediately alerts the appropriate department that a Mortgage Loan is delinquent;
- A collection department staff that is familiar with all FHA, RD, VA, MI, and Minnesota Housing procedural and reporting requirements;
- A staff that is familiar with and employs FHA, RD, VA, MI, and Minnesota Housing loss mitigation tools;
- Counseling procedures to advise mortgagors how to avoid or cure delinquencies, including familiarity with the Minnesota Housing Foreclosure Prevention Assistance Program;
- Guidelines for the individual analysis of each delinquency;
- Instructions and adequate controls for sending delinquent notices, assessing late charges, returning partial payments, maintaining collection histories, reporting delinquencies to credit bureaus, etc.;
- A Management review of procedures to evaluate both the mortgagor's actions and the servicer's collection efforts before a final decision is made to accept some form of repayment arrangement or to start liquidation proceedings; and
- A method for comparing the servicer's own delinquency and foreclosure ratios for all loans being serviced by the servicer with those of others in the industry.

The servicer must analyze each delinquent account to determine:

- The reason for the default;
- Whether the reason is a temporary or permanent condition; and
- The mortgagor's attitude toward the debt.

Mortgagors who are experiencing temporary hardships may have difficulty making their Mortgage payments. Servicers should make every effort to assist mortgagors who are cooperative, acting in good faith, and willing to work out a way to prevent or cure their delinquency. The servicer must determine the approach that will be the most effective based upon the individual circumstances. This Chapter discusses some methods that may be used in those situations.

### 7.01 Collection Techniques

The purpose of all collection efforts is to bring the account current. Servicers will determine the most effective form of contact with specific mortgagors during the various stages of delinquency. Servicers are expected to employ a variety of collection techniques. The servicer must document all collection efforts in its permanent Mortgage files.

It is particularly important to address a one-payment delinquency immediately to prevent it from becoming more serious. An early determination of the reason for the delinquency gives the servicer and

the mortgagor time to arrange an acceptable method for curing it. If an agreement cannot be reached, the mortgagor will have time to try to sell the Mortgage Property before foreclosure proceedings are initiated.

### **Late Notices**

There are two types of late notices: a payment reminder notice and a late payment notice.

The payment reminder notice, if used, should be mailed no later than the 10th day of delinquency. This notice can be particularly important to promote good paying habits for new mortgagors and should be used for all early payment delinquencies.

The late payment notice should be sent to the mortgagor for any payment that has not been received by the 16th day after it is due. This notice should state the amount of late charges that are due.

### **Phone Calls**

Phone calls are inexpensive and are highly effective when used properly. The servicer should begin its telephone contacts between the 17th and 20th days of the delinquency, but earlier contact - between the 7th and 10th days of the delinquency - may be warranted for habitual delinquencies. The earlier contact should be made for all early payment delinquencies.

The servicer may dispense with phone contacts for a mortgagor who habitually submits payments late but never misses a payment – if the servicer believes that the call would have no effect on the mortgagor's paying habits.

### **Letters**

Form letters may be useful under certain circumstances. However, an individually written letter that emphasizes how serious a delinquency can be may be a more effective collection technique. Individual letters are the preferred approach after the 20th day of the delinquency.

### **Face-To-Face Interviews**

The servicer should have a face-to-face interview with the mortgagor between the 50th and 60th days of the delinquency, consistent with industry practice and government regulations. The servicer should make every reasonable effort to have at least one face-to-face interview with the mortgagor before beginning any foreclosure proceedings. The servicer should use its judgment to determine whether additional face-to-face interviews with the mortgagor are necessary.

### **Delinquency Counseling**

The servicer should be aware of any government programs that might assist mortgagors in resolving their delinquencies or of any counseling agencies that might help them in their debt management and refer the mortgagors to those agencies when it is appropriate.

Situations that are the most likely to be resolved through counseling are those involving poor debt management, a lack of cash reserves to handle unanticipated expenses, or a temporary reduction in income.



All collection and counseling efforts must comply with requirements of applicable federal and state laws, including the Equal Credit Opportunity Act, Fair Debt Collection Practices Act, and Fair Credit Reporting Act.

Before deciding to use any third party to provide delinquency counseling services, the servicer should take into consideration the limitations that the Fair Credit Reporting Act imposes on the ability of the servicer and a third party to exchange consumer credit information about the mortgagor.

Servicers needing information about counseling agencies specializing in delinquency and default counseling should contact HUD to obtain a list of HUD approved counseling agencies and/or contact the Minnesota Mortgage Foreclosure Prevention Association.

### **Assessing Late Charges**

Imposing late charges to help prevent delinquencies is most effective when the mortgagor is able to pay on time but does not do so. It may not be effective as a collection tool when the mortgagor is simply unable to make the payment because of some unforeseen circumstances.

When the servicer receives a payment that does not include the required late charges, the servicer's handling of the payment depends on the type of Mortgage Loan involved and the situation, as the servicer perceives it.

The servicer may defer late charges to a future date. However, the servicer cannot foreclose the Mortgage if the only delinquent amount is unpaid late charges.

If the servicer is considering return of the payment to the mortgagor, the following guidelines should be used:

- For VA, RD, and conventional Mortgage Loans, the servicer may return the payment if it determines that the mortgagor was able to pay on time but failed to do so.
- For FHA Mortgage Loans, the servicer must process the payments in accordance with HUD's requirements.

In certain hardship cases, the servicer should consider waiving late charges altogether. If the interest rate of a Mortgage Loan has been reduced to 6% under the terms of the Soldiers' and Sailors' Civil Relief Act, the servicer is expected to waive the collection of late charges during the period for which the reduced interest rate remains in effect.

### **Accepting Partial Payments**

The servicer should accept a partial payment, and hold it as 'unapplied funds', if the mortgagor:

- Has a good attitude toward the Mortgage Loan obligation;
- Is not habitually delinquent;
- Does not have a history of remitting NSF checks; and
- Can pay the balance of the payment within the next 30 days.

As a rule, the servicer should accept partial payments only to help cure a delinquency. It should return partial payments when it believes that this action will be an effective collection tool. However, HUD and VA require that partial payments be accepted under certain conditions that they specify.

If a mortgagor indicates that they will be unable to make full payments on a continuing, but temporary basis, the servicer should determine whether some sort of relief provision could be used to bring the account current or at least to keep the delinquency from getting worse.

#### **Housing Choice Voucher (HCV) Homeownership Initiative**

The subsidy portion(s) of the monthly Mortgage payment(s) shall not be applied to the Mortgage without the respective borrower's portion of the monthly Mortgage payment(s).

#### **Reapplying Principal Prepayments**

In some cases, mortgagors that have made additional principal payments toward their accounts at some time in the past may ask that these principal prepayments be reapplied to cure a delinquency. The servicer may do so if:

- The mortgagor submits a written request; and
- The reapplication of the principal prepayment does not result in the Mortgage Loan balance being higher than it would have been had the original amortization schedule for the Mortgage Loan been followed; and
- The mortgagor agrees to submit any additional funds that are needed to supplement the prepayment so that the total delinquency can be cured. If the mortgagor cannot raise the additional funds, the servicer may combine the reapplication of a principal prepayment with a relief provision.

#### **Effect of Credit Reporting**

Servicers should advise mortgagors who have reached the serious delinquency stage that their delinquency will be reported to the major credit repositories. The servicer should point out that the appearance of a delinquency on the mortgagor's credit report might affect his or her ability to obtain other forms of credit. This knowledge may result in the mortgagor bringing the account current when other collection efforts have been unsuccessful.

#### **Listing Property for Sale**

If the reason for the mortgagor's delinquency appears to be permanent, the servicer may suggest that the mortgagor sell the Mortgaged Property. This would allow the mortgagor to pay the Mortgage Loan off and to save any equity they may have in the Mortgaged Property. Some mortgagors may be eligible for a pre-foreclosure sale (see Delinquency Assistance Measures).

#### **Contact with Junior Lienholders**

Throughout the delinquency period, the servicer should maintain contact with any junior lienholders to keep them advised of the status of the account. A junior lienholder may decide to advance funds to bring the Mortgage Loan current if that is necessary to protect its interest in the Mortgaged Property.

## **7.02 Delinquency Assistance Measures**

Minnesota Housing allows several types of assistance to help mortgagors who are delinquent. The servicer must be familiar with the terms of each of these provisions. The servicer should also be aware of any government programs that might assist mortgagors in resolving their delinquencies or of any counseling agencies that might help mortgagors in their debt management.

Minnesota Housing does not want to foreclose a Mortgage Loan if there is any reasonable chance of saving it. Minnesota Housing wants the servicer to use delinquency assistance measures whenever their use is appropriate. Minnesota Housing does not expect the servicer to use these measures unless it will result in either bringing the Mortgage Loan current and keeping it that way or providing the mortgagor with a reasonable opportunity to avoid foreclosure by selling the Mortgaged Property. The servicer must attempt to recover all allowable expenses from the mortgagor when utilizing delinquency assistance measures unless prohibited by local, state or federal law.

Early in the delinquency, the servicer should contact the mortgagor to determine his/her attitude toward the delinquency. If the servicer believes delinquency assistance to be appropriate, it should:

- Explain the delinquency assistance measures and the mortgagor's responsibilities under each;
- Obtain any financial information that will be needed;
- Stress the consequences of not meeting the terms of any assistance measure entered into and make sure that the mortgagor has a complete understanding of the agreement that may be entered into.

The servicer should analyze each case carefully before developing a relief plan. When establishing repayment terms, the servicer should consider the mortgagor's financial condition, other obligations, and anticipated future income to make sure that the plan finally agreed to is realistic. Minnesota Housing's authorization is not needed nor will Minnesota Housing object to any reasonable relief plan the servicer develops as long as it does not jeopardize Minnesota Housing's lien position or reduce the amount of any future claim that might be filed with FHA, RD, VA, or the MI.

### **Temporary Indulgence**

Temporary indulgence is the granting of a 30-day grace period at the end of which the mortgagor is to repay all past-due and currently due installments at once. Temporary indulgence may be appropriate when:

- A sale or rental of the Mortgaged Property is pending;
- An insurance settlement is being negotiated;
- Assistance from a social agency has been arranged, but funds have not been received;
- Additional time is needed to formalize a repayment plan under other relief provisions;
- The Mortgage Loan payments were lost in transit and need to be traced; or
- Time is needed to reapply previous principal prepayments.

### **Special Forbearance**

Under special forbearance, the servicer agrees to reduce or suspend the mortgagor's monthly payments for a specified period of time. When the forbearance concludes, the mortgagor must agree to resume his/her regular payments and to pay additional money toward the delinquency at scheduled intervals. Special forbearance should be considered when the default is the result of:

- The mortgagor's death or the death of a family member who made a significant contribution toward the monthly payment;
- An illness or some natural disaster that the mortgagor was not insured against;
- A substantial reduction in income that the mortgagor could not prevent;
- Some other unusual circumstance that warrants the use of a relief provision and is well-documented; or
- The Mortgaged Property is listed for sale as a means of avoiding foreclosure and the mortgagor has substantial equity in the property.

Special forbearance agreements must always be in writing. They should clearly set out the period of reduced or suspended payments, the schedule for making additional payments when the mortgagor resumes regular monthly payments, the date on which the forbearance will end, and, if the forbearance was granted to enable the mortgagor to sell the Mortgaged Property, the terms and requirements for paying off the Mortgage Loan. When forbearance has been granted to provide the mortgagor the opportunity to sell the Mortgage Property as a means of avoiding foreclosure, the Agreement must include a provision that permits the servicer to initiate foreclosure proceedings at the end of the forbearance period if the Mortgaged Property has not been sold.

Normally, the term of special forbearance should end no later than 18 months from the date of the first reduced or suspended payment. However, the servicer may consider longer terms for special situations.

The servicer must take all measures necessary to assure that benefits provided by the Mortgage insurer or guarantor are in full force and effect - obtaining the Mortgage insurer's or guarantor's written approval of the forbearance, if necessary.

### **Repayment Plan**

Under a repayment plan, the mortgagor immediately makes payments in addition to the regular monthly payments to cure the delinquency. Servicers should consider a repayment plan when the delinquency resulted from a temporary hardship that no longer appears to be a problem.

When the delinquency involves fewer than three monthly payments, repayment plans may be an oral agreement with the servicer documenting the agreement in its Mortgage files. A written repayment agreement, signed by the mortgagor, is required if the delinquency is greater than three months. The agreement should clearly set out the amount and due date of each additional payment and the date by which the total delinquency must be cured.

### **Military Indulgence**

Military Indulgence is available to mortgagors in the military services who qualify under the Soldier's and Sailor's Civil Relief Act of 1940 and the Service members Civil Relief Act of 2003. The servicer is expected to be familiar with and act in accordance with the requirements of these Acts.

Mortgage Loans are covered under the Acts to the extent that the mortgagor was not on active duty at the time the Mortgage Loan originated and the mortgagor was subsequently called to active duty, either voluntarily or involuntarily. The relief begins when the mortgagor receives orders to report for active duty and ends a short time after separation from active duty.

These Acts require the interest rate on the Mortgage Loan be reduced to 6% during the period of active duty – unless the creditor can demonstrate to the court that the mortgagor's ability to make payments at the contractual rate has not been materially affected by their military service. If the service member is still unable to make the full monthly payment based on the lower interest rate, these Acts also allow for additional forbearance measures. Other provisions of the Acts relate to the conduct of foreclosure proceedings or the extension of redemption periods.

The reduction in the interest rate to 6% should be automatically implemented. Under Minnesota Housing programs, the servicer does not need to determine whether the service member's entry into active duty materially affected his/her ability to meet their Mortgage Loan obligation. The servicer may accept the mortgagor's orders to report to full-time active duty as the only evidence of their eligibility to receive the reduced rate. A copy of the orders is to be sent to Minnesota Housing, Portfolio Management.

If the reduced payments still pose a financial hardship to the mortgagor, the servicer should make every effort to arrange maximum relief and forbearance under existing relief measures, without the mortgagor having to seek a court order.

### **MI Loan Reinstatement Program**

On insured conventional Mortgage Loans, some MI companies may advance the borrower all or part of the delinquent amount to stop any pending foreclosure action. In exchange for the payment, the mortgagor must agree to repay the advance to the MI in monthly installments and execute a promissory note. The promissory note will generally be offered at or below market interest rates for similar loans. The servicer should contact the MI if the servicer believes the mortgagor is unable to resolve a delinquency due to unemployment or temporary loss of income but is secure financially and appears to be able to resume making future payments.

### **FHA Loss Mitigation**

In the event Minnesota Housing's guidelines contradict FHA requirements, FHA's requirements should be followed to preserve the mortgage insurance guaranty.

Minnesota Housing requires that HUD guidelines be followed.

### **Modification**

The servicer should consider modification of the Mortgage Loan if a mortgagor has experienced a permanent or long-term reduction in income that affects their ability to continue making the monthly Mortgage Loan payments or has another documented situation in which changing the terms of the Mortgage Loan would cure the delinquency, prevent future delinquencies, or avoid the acquisition of the Mortgaged Property.

When a mortgagor experiences a documented hardship, the servicer has authority to complete modifications on behalf of Minnesota Housing provided the servicer has made a determination that a repayment plan option would be unsuccessful. The modification must meet the following terms as well as remain in compliance with the Mortgage insurer or guarantor's requirements:

- The new housing DTI ratio is between 25-46%
- The mortgagor has residual income (positive monthly surplus)
- The mortgagor has made at least 12 months of payments since loan origination or any previous modification
- A mortgagor granted Military Indulgence cannot cure the delinquency within three months after being discharged from military service

In the event Minnesota Housing's guidelines contradict the insurer's requirements, the insurer's requirements should be followed to preserve the mortgage insurance guaranty.

Modifications may extend the term of the Mortgage Loan or provide for re-amortization of the outstanding debt. The term may be extended up to a maximum of 40 years and interest rates reduced to as low as 2%. Prior approval by the Mortgage insurer or guarantor is required for all proposals to change the terms of the Mortgage Loan and may not impair any contract of insurance or guaranty of the Mortgage Loan.

The servicer should use reasonable discretion in evaluating and approving loan modifications in order to minimize the loss to Minnesota Housing. If the servicer believes a modification is warranted but it does not meet the above guidelines, the servicer must request Minnesota Housing's approval in writing for an exception to these modification guidelines prior to extending the modification option to the mortgagor. Minnesota Housing staff will approve or deny these exceptions in its sole discretion.

The servicer should be aware that if the mortgagor has a non-deferred HAF junior Mortgage Loan, it too would need to be modified.

### **Pre-foreclosure Sales**

- **Uninsured Conventional Mortgage Loans.** When all measures short of foreclosure have been exhausted for an uninsured conventional Mortgage Loan, the servicer should consider a Pre-foreclosure Sale. Under a pre-foreclosure sale, or Short Sale, when the mortgagor cannot sell the Mortgaged Property for the full amount of the indebtedness, Minnesota Housing will consider accepting a payoff of less than the total amount owed on the Mortgage Loan if that will enable Minnesota Housing to reduce the loss it would incur if Minnesota Housing foreclosed and acquired the Mortgaged Property.

The servicer may pursue a pre-foreclosure sale at any time prior to the actual foreclosure sale if acquisition of the Mortgaged Property is the only alternative to the pre-foreclosure sale and the proceeds from the sale would result in a loss that would be less than any loss Minnesota Housing would incur if it had to acquire and dispose of the property. Minnesota Housing's prior approval must be obtained.

The servicer should advise the mortgagor that the foreclosure proceedings will continue and/or not be delayed, but that the terms of the pre-foreclosure sale agreement will be honored as long as the Mortgaged Property is sold before the foreclosure sale date.

The servicer should also advise the mortgagor that there may be possible tax consequences if any portion of the outstanding debt is "forgiven" and refer the mortgagor to IRS Publication 544, Sales and Other Dispositions of Assets, particularly the section captioned "Foreclosure, Repossession, or Abandonment".

- **FHA, VA, RD, and Insured Conventional Mortgage Loans.** Minnesota Housing will agree to pre-foreclosure sales for FHA, VA, RD, or insured conventional Mortgage Loans if they comply with all of the insurer or guarantor's guidelines and the insurer or guarantor's prior written approval is obtained, where necessary.

#### **Deed-In-Lieu of Foreclosure**

Minnesota Housing will consider a deed-in-lieu of foreclosure when the following conditions are met:

- An obvious hardship that caused the default (a deed-in-lieu must be more than convenient);
- All other collection avenues have been exhausted (Mortgaged Property listed for sale at market value for three months or more without a reasonable sales offer; pre-foreclosure sale; forbearance, etc.);
- The Mortgaged Property is presently listed with a realtor;
- It is in the financial best interests of Minnesota Housing to accept the deed-in-lieu;
- The Mortgage Property is vacant;
- The mortgagor can convey acceptable marketable title (determined by a title search);
- The Mortgaged Property is not subject to subordinate liens, judgments, or attachments;
- An inspection indicates the Mortgaged Property has not been abused;
- No delinquent utility bills; and
- The Mortgage insurer or guarantor has agreed to the acceptance of a deed-in-lieu.

In no event will Minnesota Housing accept a deed-in-lieu to relieve a mortgagor from liability as a matter of convenience to the mortgagor when it has not been firmly established that he/she lacks the capacity to make the Mortgage Loan payments.

The servicer should require the mortgagor to submit a letter to request acceptance of a deed-in-lieu and provide documentation related to his/her financial hardship.

- **Insured or Guaranteed Mortgage Loans.** The servicer is to comply with all of the Mortgage insurer/guarantor's guidelines and requirements pertaining to deeds-in-lieu. If the Mortgage insurer or guarantor has agreed to the acceptance of a deed-in-lieu, Minnesota Housing's authorization is not needed. If the Mortgage insurer or guarantor does not agree to the acceptance of the deed-in-lieu, Minnesota Housing will not agree to the acceptance of the deed-in-lieu.
- **Uninsured Mortgage Loans – or if insurer/guarantor approval is not required.** The servicer must obtain Minnesota Housing's prior written approval. A (BPO) – based on both an interior and exterior inspection of the Mortgaged Property and/or an appraisal may be required. If after reviewing all facts and documentation, the servicer believes that a deed-in-lieu should be accepted, the servicer should request Minnesota Housing's written approval by submitting to [MNHousing.Portfolio@state.mn.us](mailto:MNHousing.Portfolio@state.mn.us) a completed Recommendation/Advice of Action form with an advice of action of deed-in-lieu and reasons for the recommendation detailed in the explanation section along with a copy of the BPO or appraisal.

### 7.03 Bankruptcy Procedures

The servicer must have written procedures to effectively control and monitor bankruptcy proceedings. The procedures should cover bankruptcies filed under Chapters 7, 11, 12, and 13. At a minimum, the procedures should address the requirements for:

- Establishing a case status and portfolio performance tracking system to permit the proper reporting and analysis of activity for individual cases and to monitor the servicer's overall bankruptcy management process;
- Promptly referring the case to a bankruptcy attorney;
- Filing a proof of claim (either by the servicer or its attorney) – the circumstances under which it is required, how to prepare it, time frame for filing, etc.;
- Reviewing proposed payment plans and analyzing the results of the attorney's negotiations to determine that they represent adequate bankruptcy resolution provisions;
- Pursuing legal action to obtain early dismissal of the case, stay relief, plan objection, or other relevant proceedings, if negotiations have failed;
- Determining when the prerequisites for filing motions for bankruptcy relief have been met;
- Establishing and maintaining a legal events record to define the status of a case at various times throughout the bankruptcy proceedings and to identify when conditions for additional legal proceedings have been met;
- Establishing and maintaining a payment compliance record to define the mortgagor's and/or bankruptcy trustee's compliance with any payment plan or other court-ordered arrangement, to identify when conditions for additional legal proceedings have been met, and to take appropriate action if the mortgagor fails to make payments under the plan; and
- Initiating foreclosure proceedings or finalizing a loss mitigation alternative, if appropriate, promptly following the completion of the bankruptcy proceedings.



The servicer must maintain an individual file for each case that is involved in bankruptcy proceedings. That file should contain a copy of the following:

- The mortgagor’s petition for bankruptcy proceedings
- The notice of filing
- The notice of the first meeting of creditors
- The proof of claim
- The debtor’s plan, pleadings, notices
- Any appraisal obtained by the bankruptcy court, etc.

The servicer does not need to advise Minnesota Housing of routine bankruptcy cases. However, when the servicer becomes aware that a mortgagor has petitioned the court for a bankruptcy “cramdown,” or some other modification of the terms of the Mortgage Loan, it should immediately contact Minnesota Housing, Portfolio Management.

## Chapter 8 – Foreclosures and REO's

Whenever a mortgagor is unable or unwilling to make the Mortgage Loan payments, the servicer must protect Minnesota Housing's investment by taking prudent action. However, the servicer should not take action to foreclose a Mortgage Loan until it has made every reasonable effort to conduct a personal face-to-face interview with the mortgagor and to cure the delinquency through special relief provisions or delinquency assistance measures. The servicer must also have inspected the Mortgaged Property and analyzed the individual circumstances of the delinquency.

The servicer must process foreclosures, conveyances, and claims in accordance with the provisions of the Mortgage Loan; state law; federal law; the requirements of HUD, VA, RD, or the MI; and any special requirements that Minnesota Housing may have. The servicer must have an effective system for monitoring foreclosure progress. The servicer is fully responsible for any losses that occur due to errors, omissions, or delays by the servicer or its agents.

Minnesota Housing expects the servicer to retain competent, diligent, legal counsel who are highly experienced in conducting foreclosures and possessory actions and agree to perform services for standard, insurer approved fees and costs, or Fannie Mae costs for uninsured loans. The servicer should use only Minnesota Housing approved attorneys for processing foreclosures and possessory actions.

### 8.01 Foreclosure Proceedings

The servicer does not need to obtain Minnesota Housing's approval prior to initiating foreclosure. However, the file must first be reviewed by the servicer's foreclosure review committee and approved, in writing, for foreclosure.

Within 5 business days of the foreclosure review committee's foreclosure approval, the servicer must notify Minnesota Housing, Portfolio Management by submitting to [MNHousing.Portfolio@state.mn.us](mailto:MNHousing.Portfolio@state.mn.us) a completed Recommendation/Advice of Action form ([171 Form](#)).

The servicer is to instruct the foreclosing attorney to send notification of the foreclosure to any ground lease lessors and any junior lienholders.

### Foreclosure Reporting

The servicer is responsible for notifying Minnesota Housing in writing when all major foreclosure milestones are reached. Foreclosure milestones include but are not limited to:

- Referral to foreclosure attorney
- Foreclosure sale scheduled/postponed
- Foreclosure sale held
- Redemption period expires/shortened
- Bankruptcy filed during foreclosure proceedings or redemption period.

### Farm Homestead

If the Mortgage Property is a farm homestead, Minnesota Statue 500.245 "Right of first refusal for agriculture land" may apply. Prior to initiating foreclosure action, the servicer must advise the

insurer/guarantor that the property is a farm homestead and that Minnesota Statue 500.245 may apply. If the Mortgaged Property is worth less than the outstanding balance of the Mortgage Loan, the insurer/guarantor might wish to require a judicial foreclosure. The servicer is to advise Minnesota Housing, Portfolio Management, in writing, that proper notification has been made to the insurer/guarantor. On RD or conventional Mortgage Loans, the servicer should also advise Minnesota Housing of the estimated value of the Mortgaged Property. Minnesota Housing along with RD or the MI will decide if a judicial foreclosure will be required.

### **Power of Attorney**

As Minnesota Housing is the owner of record, the foreclosure must be completed in Minnesota Housing's name and a Power of Attorney will need to be executed by Minnesota Housing for each foreclosure. A Power of Attorney prepared by the foreclosing attorney may be used.

### **Bidding Instructions**

The servicer must issue written bidding instructions to the foreclosing attorney. The servicer must pay particular attention to any bidding requirements imposed by FHA, VA, RD, or the MI to make sure that Minnesota Housing will not be prevented from recovering the full amount due under the guaranty or insurance contract. Any proceeds received from an insurance loss settlement should be considered in the bid amount.

- For VA Mortgage Loans, the bid should be the amount that VA specified as its "upset price". If VA did not specify an "upset price", the bid amount should be the full amount of the indebtedness.
- For FHA Mortgage Loans, the servicer, at its discretion, may utilize FHA's Claims without Conveyance of Title (CWCOT) procedures provided it does not jeopardize Minnesota Housing's mortgage insurance or increase losses to Minnesota Housing. If the servicer elects not to use the CWCOT bid, the bid amount must be the full amount of indebtedness.
- For all other loans, the bid amount should be the full amount of the indebtedness unless doing so would impair any contract of insurance or guaranty of the Mortgage Loan.

### **Shortening the Redemption Period**

Minnesota Housing requires the servicer to take full advantage of the Minnesota Statute Section 582.032 that allows the redemption period to be shortened for certain abandoned properties - from six months to five weeks. For each vacant Mortgaged Property, the servicer should determine if the property meets the eligibility criteria and, if so, take the action necessary to have the redemption period reduced.

### **Notice of Intention to Redeem – Mortgage Loans with a HAF second Mortgage**

If there is a redemption of the first Mortgage by the mortgagor, the servicer should collect the HAF balance along with the first Mortgage redemption amount, whenever possible.

In order to protect the HAF second Mortgage Loan, the foreclosing attorney may file a notice of intention to redeem. The foreclosing attorney should file the notice of intention to redeem only if there is an indication of possible junior lien redemption.

### **Foreclosure Sale Rescission**

All foreclosure sale rescissions must be approved by Minnesota Housing prior to agreeing to and initiating the rescission process. If a rescission is deemed necessary, the servicer must communicate the following information in writing:

- Date foreclosure sale held
- Reason why foreclosure sale rescission is needed
- Estimated timeline to complete sale rescission
- Foreclosure rescission costs

### **Foreclosure Expenses**

The servicer should follow the insurer's fee schedule; however, the maximum allowable foreclosure related attorney fees that Minnesota Housing will pay are as follows:

- Standard Fannie Mae approved:
  - Foreclosure
  - Bankruptcy
  - Unlawful Detainer
  - Proceedings Subsequent
  - Deed-in-lieu
- Standard HUD approved:
  - Reduced redemption

Fees higher than these amounts may be appropriate, but they must be approved, in writing, by Minnesota Housing, Portfolio Management, in advance.

In cases in which the Mortgage Loan is reinstated, the fee should be reasonable and related to the amount of work actually performed by the attorney. It must bear a proportional relationship to the fee that would have been allowed for a completed foreclosure. The fee must be collected from the mortgagor as a condition of the Reinstatement.

The servicer should use any funds remaining in the mortgagor's Escrow Account to pay taxes, insurance premiums, property preservation, and related foreclosure costs. If the escrow balance is not sufficient to cover these expenses, the servicer is to advance its own funds.

### **Property Maintenance**

Throughout the foreclosure process, the servicer is responsible for performing all property maintenance functions to assure that the condition and appearance of the Mortgaged Property is maintained satisfactorily. This includes mowing the grass, removing trash and other debris, snow removal, winterizing the property, etc.

In particular, the servicer should secure a vacant Mortgaged Property, by changing all exterior locks, securing all windows and exterior doors, repairing fences, and otherwise securing potentially dangerous areas and facilities (such as swimming pools) against entry or use by children or others who could be harmed. Mortgaged Properties should not be boarded unless absolutely necessary to prevent vandalism. The servicer must perform only that maintenance necessary to preserve the property and/or meet the insurer's conveyance requirements. The servicer should perform only the minimum amount of trash and debris removal (hazardous waste, city violations, etc.) that is necessary to protect properties that Minnesota Housing will be selling as REO, unless additional preservation work is authorized by Minnesota Housing.

The maintenance of the Mortgaged Property remains the responsibility of the servicer until the property is conveyed or until Minnesota Housing assigns that responsibility to a real estate agent.

### **Hazard Insurance**

The servicer must ensure that proper insurance coverage is in effect at all times – until the Mortgaged Property is either conveyed or sold.

### **Redemptions or Third-Party Sales**

Minnesota Housing may be outbid at the sheriff sale by a third party; the mortgagor may redeem the Mortgaged Property; or the Mortgaged Property may be redeemed by a junior lienholder. When this occurs, the servicer should submit a check for the amount collected less funds owed the servicer to Minnesota Housing, Portfolio Management along with a completed Redemption Statement form. In the case of redemption, the servicer or its attorney should prepare the Certificate of Redemption and forward it to Minnesota Housing, Portfolio Management for execution.

Should there be indications that a mortgagor or a junior lienholder intends to redeem and the servicer has made advances after the sheriff's sale, the servicer must contact the foreclosing attorney and have an affidavit of additional amounts prepared and filed. The filed affidavit will ensure that all funds advanced will be collected should the property be redeemed through the sheriff's office.

### **Notifying Credit Bureaus**

Each month, the servicer must notify the major credit repositories about any deeds-in-lieu that were accepted and any foreclosures that were completed during the previous month. If, for any reason, a previously reported transaction is 'set aside' or overturned, the servicer should update the information it had reported to the credit repositories.

### **Notifying the IRS**

- **1099-A.** The servicer must file an IRS 1099-A form on Minnesota Housing's behalf when a property is acquired. The following events trigger the reporting requirement:
  - Minnesota Housing acquires the Mortgaged Property at the end of the redemption period following a foreclosure sale or by deed-in-lieu of foreclosure;
  - A third party acquires the Mortgaged Property at a foreclosure sale; or
  - The Mortgaged premises are abandoned, three months have passed, and foreclosure proceedings have not begun.

- **1099-C.** The servicer is responsible for accurately completing and filing a Cancellation of Debt, IRS 1099-C form, when \$600 or more of a Mortgage debt is cancelled.

If, in the same calendar year, Mortgage debt is cancelled in connection with the acquisition or abandonment of the same property securing the Mortgage Loan, filing a timely and accurate IRS Form 1099-C will satisfy the requirement to file an IRS Form 1099-A.

The forms are to be filed in Minnesota Housing's name.

### **8.02 Claim Procedures**

The Acquired Property should be turned over to HUD, VA, or the MI as soon as possible after their requirements for conveying properties have been met, however the servicer should maximize the recovery for Minnesota Housing and include all claimable expenses while still meeting the insurer's requirements. Any conveyance documents must be prepared and sent to Minnesota Housing, Portfolio Management for execution and return; at least two weeks prior to when it will be required. If the servicer has not yet requested the original Mortgage insurance certificate/loan guaranty certificate, it should do so at that time, if applicable.

### **8.03 Reconveyance Procedures**

In the event that a property conveyance is rejected by an insurer, the servicer, at its discretion, may deed the property back to Minnesota Housing until the servicer is ready to re-convey the property again. The servicer will be required to advance any funds necessary to maintain mortgage insurance during the reconveyance process. If Minnesota Housing has received final claim payment and the final Statement of Expenses (108 claim) has been paid, Minnesota Housing may require the servicer to retain the reconveyed property at Minnesota Housing's sole discretion.

### **8.04 Real Estate Owned (REO) Management**

(REO) – Mortgaged Properties that are subject to conventional Mortgages, FHA Mortgages/VA Mortgages that will not be conveyed to HUD or VA, and RD Mortgages.

#### **Prior to the end of the redemption period: Properties that are part of a Home Owners Association (HOA).**

To comply with Minnesota State Statutes 515A.3-115 and 515A.3-116, the servicer must contact the management company prior to the end of the redemption.

The servicer should arrange for association dues invoices to be sent to the servicer: appropriate past dues, which become due upon the expiration of the redemption period, and future dues.

All HOA payments must be approved by Minnesota Housing, Portfolio Management prior to disbursement.

#### **Redemption Period Expires**

The servicer should discontinue ordering property inspections and property preservation once the redemption period expires. Minnesota Housing will designate a real estate agent to assume certain property management responsibilities. The servicer will continue to be responsible to:

- Advance funds to pay for taxes, insurance premiums, and utility bills, as they come due.
- Maintain adequate hazard insurance coverage on the Acquired Property and request the tax rolls be changed to reflect Minnesota Housing's ownership of the Acquired Property (specifying the tax bills should continue to be directed to the servicer).
- Contact the utility companies to have all bills for utility services directed to the servicer.
- Reimburse Minnesota Housing's designated brokers or vendors for authorized maintenance and repair expenses.
- Perform some property management functions normally assigned to a real estate agent upon request from Minnesota Housing, Portfolio Management.

If an eviction is necessary, the servicer will provide Minnesota Housing, Portfolio Management with contact information for the attorney to file the eviction. Minnesota Housing will manage and monitor the eviction and notify the servicer when the property becomes vacant.

Minnesota Housing, Portfolio Management will notify the servicer when the Acquired Property has been sold and closed.

#### **8.05 Reimbursement of Expenses**

Minnesota Housing will reimburse the servicer for reasonable expenses incurred during the liquidation process. Minnesota Housing will use the applicable insurer's fee guidance to determine if an expense is reasonable. Fannie Mae allowable fees will be used for uninsured loans. The servicer must request Minnesota Housing's approval in writing if an expense exceeds the reasonable amount prior to incurring the expense.

The servicer should request reimbursement for its advances by submitting a Statement of Expense (108 Claim) form to Minnesota Housing, Portfolio Management. The servicer may not deduct expenses from proceeds due to Minnesota Housing but must submit a Statement of Expenses. On RD and conventional Mortgage Loans, the initial Statement of Expenses form should be submitted within 30 days of acquisition with a final Statement of Expenses form submitted within 30 days of the notification to submit the final Statement of Expenses form. On FHA and VA Mortgage Loans, a final Statement of Expenses form should be submitted at the time of the claim filing. Supporting documentation is required for all expenses submitted. Any expenses missing adequate supporting documentation may be denied reimbursement.

## Chapter 9 – Investor Accounting and Reporting

### 9.01 Custodial Accounting

#### Mortgage Payment Records

The servicer shall maintain permanent Mortgage accounting records for each Mortgage Loan. The records must clearly indicate Minnesota Housing’s ownership of each Mortgage Loan and contain the complete Minnesota Housing loan number.

The servicer’s Mortgage accounting system must be capable of producing an account history for each Mortgage Loan. The account history must be listed in chronological order and provide, at a minimum, the following information:

- The date each payment was received, the amount of the payment, how the payment was applied (ex. principal, interest, etc.), and the date payment was paid through;
- The cumulative amount of interest paid;
- The cumulative amount of interest paid that is reportable to the IRS;
- The transaction date, amount and nature of each disbursement, adjustment, or any other transaction affecting the mortgagor’s current outstanding principal or escrow balance; and
- Any deficiencies in the escrow balance.

The accounts and records relating to a Mortgage Loan shall be maintained in accordance with sound and generally accepted accounting practices, and in such a manner as will permit the representatives or designees of Minnesota Housing, at any time, to examine and audit such accounts and records.

#### Custodial Accounts

The servicer must establish and maintain a separate custodial bank account for Minnesota Housing. The custodial account must be established at a depository institution which is insured by an agency of the United States or another federally insured institution. Each custodial account name must be as follows:

“(Servicer name), Trustee for Minnesota Housing Finance Agency”.

Only one custodial account is required by Minnesota Housing. All funds (principal, interest, and escrow payments) held for the account of Minnesota Housing may be deposited into this one account. All receipts must be credited to the custodial account no later than the first business day following receipt by the servicer.

All funds transferred and/or assigned to the servicer by a participating lender upon Minnesota Housing’s purchase of a Mortgage Loan from said participating lender shall be deposited in the custodial account promptly following notification of the purchase by Minnesota Housing.



## 9.02 Remittance Accounting

### Schedule for Remitting Funds

- **Regular Collections (Scheduled Principal and Interest Payments).** Regular collections must be remitted the first business day following receipt.
- **Payoffs.** Payoffs of both first and second (i.e. HAF) Mortgage Loans must be remitted the first business day following receipt. The servicer will be responsible for any additional interest if funds are not received within the specified time period. In addition, within five (5) business days of receipt of a payoff, Minnesota Housing must receive the corresponding Loan Paid in Full Statement form.
- Remittance Procedures
  - All funds (regular collections and payoffs) should be remitted by wire transfer.
  - All funds should be remitted the first business day following receipt.
  - All wires should be received by 4:00 p.m. CDT.
  - Remittances Summary forms for each wire should be emailed to all of the following:

#### Regular Remittances:

[Bonnie.rons@wellsfargo.com](mailto:Bonnie.rons@wellsfargo.com)  
[Mai.vang@wellsfargo.com](mailto:Mai.vang@wellsfargo.com)  
[See.vang@wellsfargo.com](mailto:See.vang@wellsfargo.com)  
[Sonia.richmond@wellsfargo.com](mailto:Sonia.richmond@wellsfargo.com)  
[Krissy.Moua@state.mn.us](mailto:Krissy.Moua@state.mn.us)  
[Patti.Collier@state.mn.us](mailto:Patti.Collier@state.mn.us)  
[Carol.Kullmann@state.mn.us](mailto:Carol.Kullmann@state.mn.us)  
[Terese.Fritchman@state.mn.us](mailto:Terese.Fritchman@state.mn.us)  
[Clara.Mason@state.mn.us](mailto:Clara.Mason@state.mn.us)

#### Appropriated Remittances:

[Kathy.Heesch@state.mn.us](mailto:Kathy.Heesch@state.mn.us)  
[Patti.Collier@state.mn.us](mailto:Patti.Collier@state.mn.us)  
[Carol.Kullmann@state.mn.us](mailto:Carol.Kullmann@state.mn.us)  
[Terese.Fritchman@state.mn.us](mailto:Terese.Fritchman@state.mn.us)  
[Clara.Mason@state.mn.us](mailto:Clara.Mason@state.mn.us)  
[Krissy.Moua@state.mn.us](mailto:Krissy.Moua@state.mn.us)

#### Payoff Remittances:

[Patti.Collier@state.mn.us](mailto:Patti.Collier@state.mn.us)  
[Carol.Kullmann@state.mn.us](mailto:Carol.Kullmann@state.mn.us)  
[Krissy.Moua@state.mn.us](mailto:Krissy.Moua@state.mn.us)  
[Terese.Fritchman@state.mn.us](mailto:Terese.Fritchman@state.mn.us)  
[Clara.Mason@state.mn.us](mailto:Clara.Mason@state.mn.us)

- Remittances Summary forms for each wire should be received by the recipients on the same day as the wire and by 4:00 p.m. CDT.
- **Foreclosures.** See Chapter 8 for information regarding foreclosure proceeds and reimbursement of related expenses.

Servicers must transfer or move loans when Minnesota Housing has acquired title to the Mortgaged Property through foreclosure, after the redemption period has expired, to a separate inactive category, block, or investor number.

#### Method for Remitting Funds

- **Wire Transfers (bond funds).** The following wiring instructions are to be used for all bond fund wire transfers:

Wells Fargo Bank, N.A.  
San Francisco, CA  
ABA 12100248  
Account number provided by Minnesota Housing  
BNF: Corp Trust Clearing  
RE: Minnesota Housing Finance Agency

Changes to wiring instructions are not to be made unless an authorizing letter is received by the servicer signed by Minnesota Housing's Finance Director or Deputy Commissioner.

All daily remittances, excluding first Mortgage payoffs, must be submitted with the Remittances Summary-Trustee Report form. Loan level detail for HAF payoffs is to be given on the RHFB HAF Payoff Detail Report form.

All first Mortgage payoff remittances must be submitted with the Payoff Remittances Summary-Trustee Report form and clearly state which loan is being paid in full.

The combined totals of the Remittances Summary Trustee Report form and the Payoff Remittances Summary-Trustee Report form should equal the amount wired.

Any wire received with negative remittance amounts in an individual line item will be rejected. Any wires received without the above information will be rejected. These rejected wires are not considered to be received by Minnesota Housing within the specified time period.

- **Wire Transfers (appropriated funds).** The following wiring instructions are to be used for all appropriated funds wired transfers to the State of Minnesota:

US Bank  
ABA 091000022  
Account number provided by Minnesota Housing

Changes to wiring instructions are not to be made unless an authorizing letter is received by the servicer signed by Minnesota Housing's Finance Director or Deputy Commissioner.

All regular scheduled repayments must be submitted with the Appropriated HAF Repayment Remittances Summary-State report form.

All payoff remittances must be submitted with the Appropriated HAF Payoff Remittances Summary-State report form.

The combined totals of the Appropriated HAF Repayment Remittances Summary-State report form and the Appropriated HAF Payoff Remittances Summary-State report form should equal the amount wired.

Any wire received with negative remittance total amounts will be rejected.

- **HAF Assistance Withdrawals.** The following instructions are to be used for all HAF Assistance due from Minnesota Housing:
  - All regular HAF Assistance withdrawals must be submitted on the HAF Assistance Withdrawals Summary Report form.

**NOTE:** Assistance withdrawals must be taken from funds to be determined; they cannot be netted with the first Mortgage remittances.

### **Servicing Fees**

The servicing compensation fee shall be deducted from the amount to be remitted in accordance with the servicing agreement. The servicing fee is calculated as follows (depending on the fee rate stated in the servicing agreement):

- The servicing fee rate divided by the Mortgage Loan interest rate yields a factor.
- The factor multiplied by the interest collected, as shown on the Settlement Remittance form, will determine the servicing fee earned.
- In addition to the above, Minnesota Housing will pay a \$4.00 fee to the servicer for each annual adjustment of principal on loans with HAF, if the servicer deducts that fee from the remittance amount in the month due.
  - All regular HAF service fee withdrawals must be submitted on the HAF Service Fee Withdrawals Summary Report form.

**NOTE:** HAF Service Fee withdrawals must be taken from funds to be determined; they cannot be netted with the first Mortgage remittances.

## **9.03 Inventor Reporting**

### **Portfolio Reconciliation Procedures for HAF and First Mortgages**

Minnesota Housing will send a list of any portfolio reconciliation items each month to the servicer.

Within four weeks of receipt, the servicer must either resolve each reconciling item (by remitting funds, boarding loans, transferring loans, etc.) or inform Minnesota Housing why they believe no action is required by the servicer for that individual reconciling item.

### Daily Reporting

Electronic transmission of Daily transactions must be received the following business day.

The following Daily Reports must be received the following business day via email:

- Remittances Summary-Trustee form
- Payoff Remittances Summary-Trustee form
- RHFB HAF Detail form

Appropriated HAF Repayment Remittances Summary-State form

- Appropriated HAF Payoff Remittances Summary-State form
- HAF Assistance Withdrawals Summary form

### Weekly Reporting

Schedule of Loans Added Report form – submit to Minnesota Housing, Accounting division within five business days of week-end.

### Monthly Reporting Package

Minnesota Housing requires that certain reports be prepared monthly. The cut-off is the close of business on the last business day of each month. All hard copy reports are due within five (5) business days of month-end. Servicer shall make sure all reports required or requested by Minnesota Housing are accurately prepared and submitted in one package as follows:

- Settlement Remittances Report forms– stapled together
- Summary of Loans Paid in Full Report forms – stapled together
- Delinquency Recap (HAF Only) Report forms collated by bond series
- Monthly Trial Balance Report forms together with the Monthly Schedule of Loans Added Report forms, collated by bond series

All hard copy reports are to be delivered to the following address or such other place as Minnesota Housing may designate:

Minnesota Housing Finance Agency  
400 Wabasha Street North, Suite 400  
St. Paul, Minnesota 55102  
Attention: Accounting Division

Electronic transmission of monthly transactions must be received the next business day after the cut-off date. Failure to comply with the reporting schedule is deemed a violation of the servicer's responsibilities and constitutes a violation of the servicing agreement.

- **Reconciliation Reports.** The following is a list of all the monthly reconciliation reports required by Minnesota Housing and a brief description of each.
  - The Settlement Remittance form is designed to summarize the daily remittances and to calculate the final amount due to Minnesota Housing for the reporting period. Form provided – see appendix.

- The Summary of Loans Paid in Full form is servicer system generated and provides a cumulative listing of all loans paid in full or removed through foreclosure during the reporting cycle. A separate report is required for each bond series. The following information is to be provided:
  - Servicer Loan Number
  - Minnesota Housing Loan Number
  - Borrower Last Name
  - Interest Rate
  - Service Fee Rate
  - Paid to Date
  - Principal Applied
  - Interest Applied
  - Service Fee Applied
  - Deposited/Remitted Amount
  - Date Funds Applied
  - Other Trust (HAF)
  
- The Schedule of Loans Added form provides a detailed listing of the loans added to the Minnesota Housing portfolio during the reporting period. Form provided – see appendix. Servicer may use their own computer generated report in lieu of this form if all required information is provided.
  
- The Monthly Trial Balance Report form is servicer system generated and provides a detailed listing of the Minnesota Housing portfolio maintained by the servicer. Includes all first and second Mortgage Loans. A separate report is required for each bond series. The following information is to be provided:
  - Servicer Loan Number
  - Minnesota Housing Loan Number
  - Borrower Last Name
  - Interest Rate
  - Service Fee Rate
  - Remittance Information:
    - ◆ Constant Payment due
    - ◆ Date Interest Paid to
    - ◆ Principal Balance
    - ◆ Principal Amount Applied

- ◆ Interest Amount Applied
  - ◆ Service Fee Applied
  - ◆ Curtailments Applied
  - ◆ Delinquency Information
  - ◆ Principal Amount due
  - ◆ Interest Amount due
  - ◆ Prepaid Information
  - ◆ Principal Amount Prepaid
  - ◆ Interest Amount Prepaid
- **Delinquency Recap Reports.** The Delinquency Recap (HAF Only) Report form is designed to report the aggregate number of delinquent HAF loans and the outstanding principal balance for each bond series as of the last business day of the month. A separate report is required for each bond series. Form provided – see appendix.

#### **Record Retention**

Canceled checks, bank statements, and all other records of the servicer relating to any Mortgage Loan (including any Mortgage Loans that have been paid in full, sold, Foreclosed, or otherwise liquidated) shall not be surrendered or destroyed by the servicer without the prior approval of Minnesota Housing. Notwithstanding the preceding, the servicer may destroy any accounting records, after a period of two years from the date of termination or liquidation of the loan unless a greater period is customary in the jurisdiction in which the Mortgaged Property is located or is required by FHA, RD, VA, or MI.

#### **Payment Application**

- **Application of Regular Payment.** See Chapter 3 – General Servicing, Section I. A.
- **Non-regular Payment Amounts.** See Chapter 3 – General Servicing, Section I. B.
- **Prepayments.** See Chapter 3 – General Servicing, Section I. C.
  - Within five (5) business days of payoff, the servicer must submit the Loan Paid in Full Statement form to Minnesota Housing, Accounting.
  - If there was a HAF loan in conjunction with the first Mortgage Loan, the HAF must be paid in full as well.
  - A HAF loan may also be repaid through the scheduled payments prior to the payoff of the first Mortgage Loan. The Loan Paid in Full Statement form must also be submitted on a HAF only payoff.
- **Reapplication of Prior Prepayments.** See Chapter 3 – General Servicing, Section I. D.
- **Redemptions or Third-Party Sales.** The servicer should submit a check for the amount collected less funds owed the servicer to Minnesota Housing, Portfolio Management along with a completed Redemption Statement form.
- **Discontinuation of HAF Monthly Assistance.** See Chapter 6 – Minnesota Housing Second Mortgages, Section I. C.

## Appendix A: Definitions

TERM	DEFINITION
Acquired Property	A property for which Minnesota Housing has gained title through foreclosure or acceptance of a deed in lieu of foreclosure; often referred to as real estate owned (REO).
Agreement	The Minnesota Housing Finance Agency Home Mortgage Program Servicing Agreement between Minnesota Housing and servicer.
Broker Price Opinion (BPO)	An opinion of the valuation of the property based on marketing comparison with recently sold properties and currently listed properties, usually completed by a real estate agent.
CASA	Minnesota Housing’s Community Activity Set-Aside Program.
Escrow Account	A special account that a servicer establishes to hold monthly installments from the borrower to cover property taxes and insurance.
HAF	Minnesota Housing’s Homeownership Assistance Fund Program.
Housing Choice Voucher (HCV) Homeownership Initiative	An initiative under Minnesota Housing’s CASA program. This initiative allows HUD Section 8 recipients to use their voucher subsidy to meet monthly homeownership expenses.
Military Indulgence	The protection enacted and provided by the Soldier’s and Sailor’s Civil Relief Act to a borrower who is about to enter or is in the military and whose ability to keep a loan current has been materially affected by military service.
Mortgage	A legal document that pledges property to a lender as security for the repayment of the loan. The term also is used to refer to the loan itself.
Mortgage Loan	A loan secured by a valid lien on real estate upon which there is located a structure(s) designed primarily for residential use by not more than four families.
Mortgaged Property	The real property, structure(s), and all other property that is the subject of a Mortgage.

<b>TERM</b>	<b>DEFINITION</b>
Performance Watch	A period of time during which Minnesota Housing will closely monitor the servicer’s performance and compliance.
Power of Attorney	A written document authorizing another to act on his behalf as an Attorney-in-Fact. Such power may be either general or limited.
Short Sale	A sale of real estate in which the proceeds from selling the property will fall short of the balance of debts secured by liens against the property, and the property owner cannot afford to repay the liens' full amounts and where the lien holders agree to release their lien on the real estate and accept less than the amount owed on the debt.
Special Flood Hazard Area	A sale of real estate in which the proceeds from selling the property will fall short of the balance of debts secured by liens against the property, and the property owner cannot afford to repay the liens' full amounts and where the lien holders agree to release their lien on the real estate and accept less than the amount owed on the debt.
Suspense Account	An account used temporarily to hold money that cannot yet be released.



## Appendix B: Federal Purchase Price and Income Limits – Assumptions

The following table provides the current federal purchase price and income limits at which Minnesota Housing may allow assumption of FHA or VA loans under the 1986 Single Family Mortgage Loan Program and under all the mortgage revenue bond programs after that year. These limits are subject to change without notice.

Property purchase price is determined in the same way as acquisition costs under the Minnesota Housing Mortgage Program Procedural Manual.

The income limits refer to total household gross income (unadjusted). Please note that there are two columns of income limits. The first income limit column provides income limits for assumptor households in which two or less persons reside.

### ASSUMPTION PURCHASE PRICE AND INCOME LIMITS

<b>If the property is located in:</b>	<b>Purchase Price Limit</b>	<b>Income Limit Households of 1 or 2 Persons</b>	<b>Income Limit Households of 3 or more Persons</b>
<b>11-County Twin Cities Metro</b>	<b>\$352,300</b>	<b>\$104,900</b>	<b>\$120,600</b>
<b>Dodge and Olmsted Counties</b>	<b>\$311,900</b>	<b>\$101,200</b>	<b>\$116,300</b>
<b>Balance of State</b>	<b>\$311,900</b>	<b>\$93,100</b>	<b>\$107,000</b>

\*Purchase Price limits effective May 3, 2021

## **Appendix C: Forms**

[Acquisition Cost Worksheet – Assumption](#)

### **Forms**

[Appropriated HAF Payoff Remittances Summary-State](#)  
[Appropriated HAF Repayment Remittances Summary-State](#)  
[Assumption Agreement with Release of Liability](#)  
[Assumption Agreement without Release of Liability](#)  
[Assumption Transmittal](#)  
[Assumptor Affidavit](#)  
[Capital Reserve/Affordable Homes Remittances Summary-State](#)  
[HAF Assistance Withdrawals Summary](#)  
[Loan Paid in Full Statement \(106\)](#)  
[Payoff Remittances Summary-Trustee](#)  
[Property Seller Affidavit - Assumption](#)  
[Recommendation/Advice of Action \(171\)](#)  
[Redemption Statement \(114\)](#)  
[Remittances Summary-Trustee](#)  
[RHFB HAF Payoff Detail](#)  
[Schedule of Loans Added](#)  
[Settlement Remittance](#)  
[Statement of Expenses \(108\)](#)

## Appendix D: Frequently Used Numbers

Minnesota Housing Finance Agency  
400 Wabasha Street North, Suite 400  
St. Paul, Minnesota 55102

### Minnesota Single Family Division:

- Kasey Kier, Assistant Commissioner
- Tal Anderson, Manager, Community Development Programs
- Judi Mortenson, Manager, Business Operations
- Kimberly Stuart, Manager, Home Mortgage Programs
- General Information 651-296-8215 or 1-800-710-8871
- Division General Fax Line 651-296-8292
- Minnesota Housing Web Site [www.mnhousing.gov](http://www.mnhousing.gov)

### Portfolio Management:

- Ben Landwehr, [ben.landwehr@state.mn.us](mailto:ben.landwehr@state.mn.us), 651-215-3961
- Justin Obenauer, [Justin.obenauer@state.mn.us](mailto:Justin.obenauer@state.mn.us), 651-296-3029
- Jeramiah Townsend, [Jeramiah.townsend@state.mn.us](mailto:Jeramiah.townsend@state.mn.us), 651-596-8835
- Portfolio Management shared email: [MNHousing.Portfolio@state.mn.us](mailto:MNHousing.Portfolio@state.mn.us)
- Portfolio Management Fax: 651-223-7017