

§ 27.113

§ 27.113 Foreclosure costs.

A commission may be allowed to the foreclosure commissioner notwithstanding termination of the sale or appointment of a substitute commissioner before the sale takes place.

§ 27.115 Disposition of sales proceeds.

The foreclosure commissioner will keep such records as will permit the Secretary to verify the costs claimed, and otherwise to enable the Secretary to audit the foreclosure commissioner's disposition of the sale proceeds.

§ 27.117 Transfer of title and possession.

(a) If the Secretary is the successful bidder, the foreclosure commissioner shall issue a deed to the Secretary upon receipt of the amount needed to pay the costs of tax liens and prior liens, as set forth in 12 U.S.C. 3762(a)(2) and (a)(3). If the Secretary is not the successful bidder, the foreclosure commissioner shall issue a deed to the purchaser or purchasers upon receipt of the entire purchase price in accordance with the terms of the sale as provided in the Notice of Default and Foreclosure Sale.

(b) The register of deeds or other appropriate official in the county where the property is located shall, upon tendering of the customary recording fees, accept all instruments pertaining to the foreclosure which are submitted by the foreclosure commissioner for recordation. The instruments to be accepted shall include, but not be limited to, the foreclosure commissioner's deed. If the foreclosure commissioner elects to include the recitations required under the Statute (12 U.S.C. 3764) in an affidavit or an addendum to the deed, the affidavit or addendum shall be accepted along with the deed for recordation. The Clerk of the Court or other appropriate official shall cancel all liens as requested by the foreclosure commissioner.

§ 27.119 Redemption rights.

Only for purposes of redemption rights under the Statute, a foreclosure shall be considered completed upon the date and at the time of the foreclosure sale.

24 CFR Subtitle A (4-1-03 Edition)

§ 27.121 Record of foreclosure and sale.

The statements regarding the foreclosed mortgage required to establish a sufficient record shall include the date the mortgage was recorded. The statements regarding the service of the Notice of Default and Foreclosure Sale shall include the names and addresses of the persons to whom the Notice was mailed and the date on which the Notice was mailed, the name of the newspaper in which the Notice was published and the dates of publication, and the date on which service by posting, if required, was accomplished.

§ 27.123 Deficiency judgment.

If the price at which the security property is sold at the foreclosure sale is less than the unpaid balance of the debt secured by such property after disposition of sale proceeds in accordance with the order of priority provided under the Statute, the Secretary may refer the matter to the Attorney General who may commence an action or actions against any and all debtors to recover the deficiency, unless such an action is specifically prohibited by the mortgage.

PART 28—IMPLEMENTATION OF THE PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

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AUTHORITY: 28 U.S.C. 2461 note; 31 U.S.C. 3801; 42 U.S.C. 3535(d).

SOURCE: 61 FR 50213, Sept. 24, 1996, unless otherwise noted.

§ 28.1 Purpose.

This part:

(a) Establishes administrative procedures for imposing civil penalties and assessments against persons who make,

submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to Federal authorities or to their agents; and

(b) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments. Hearings under this part shall be conducted pursuant to 24 CFR part 26, subpart B.

§ 28.5 Definitions.

The terms *ALJ* and *HUD* are defined in 24 CFR part 5.

Benefit means anything of value, including, but not limited to, any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan insurance or guarantee.

Claim means any request, demand, or submission:

(1) Made to HUD for property, services, or money (including money representing grants, loans, insurance, or benefits);

(2) Made to a recipient of property, services, or money from HUD, or to a party to a contract with HUD, for property or services provided by the U.S. Government, purchased with Government funds, or for which the Government will reimburse the recipient or party; or

(3) Made to HUD that has the effect of decreasing an obligation to pay or account for property, services, or money.

Knows or has reason to know means that a person has actual knowledge that a claim or statement is false, fictitious, or fraudulent; acts in deliberate ignorance of the truth or falsity of the claim or statement; or acts in reckless disregard of the truth or falsity of the claim or statement.

Person means any individual, partnership, corporation, association, private organization, or entity.

Respondent means any person alleged to be liable for a civil penalty or assessment under § 28.25.

Statement means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made:

(1) With respect to a claim, to obtain approval or payment of a claim, or re-

lating to eligibility to make a claim; or

(2) With respect to or relating to eligibility for a contract, bid, or proposal for a contract with; or a grant or cooperative agreement, loan, or benefit from; HUD, any State, any political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under the contract or the grant or cooperative agreement, loan, or benefit, or if the Government will reimburse the State, political subdivision, or party for any portion of the money or property under the contract or for the grant or cooperative agreement, loan, or benefit.

§ 28.10 Basis for civil penalties and assessments.

(a) *Claims.* (1) A civil penalty of not more than \$5,500 may be imposed upon a person who makes a claim that the person knows or has reason to know:

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by a written statement that either contains a material fact that is false, fictitious, or fraudulent; or omits a material fact that the person has a duty to include and is false, fictitious, or fraudulent as a result of the omission; or

(iii) Is for payment for the provision of property or services that the person has not provided as claimed.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to HUD, to a recipient, or to a party when the claim actually is made to an agent, fiscal intermediary, or other entity, including any State or political subdivision of a State, acting for or on behalf of HUD, the recipient, or the party.

(4) Each claim for property, services, or money is subject to a civil penalty without regard to whether the property, services, or money actually is delivered or paid.

(5) Liability under this part shall not lie if the amount of money or value of property or services claimed exceeds \$150,000 as to each claim that a person submits. For purposes of paragraph (a)