

§ 25.9 Notice of administrative action.

(a) Whenever the Board decides to take an action in accordance with 12 U.S.C. 1708(c)(3), the Chairperson of the Board, or the Chairperson's designee, shall issue a written notice of the action to the mortgagee at the mortgagee's address of record of the determination. Proof of delivery to the mortgagee's address of record shall establish the mortgagee's receipt of the notice.

(b) In actions for probation, suspension, or withdrawal, the notice shall describe the nature and duration of the administrative action, and shall specifically state the reasons for the action. In actions for probation, suspension, or withdrawal, the notice shall inform the mortgagee of its right to a hearing regarding the administrative action and of the manner and time in which to request a hearing.

[73 FR 60541, Oct. 10, 2008]

§ 25.10 Hearings and hearing request.

(a) *Hearing request.* A mortgagee subject to any administrative action under 12 U.S.C. 1708(c), except for a letter of reprimand, may request a hearing, which shall be held on the record before an administrative law judge. The mortgagee shall submit its request for a hearing within 30 days of receiving the Board's notice of administrative action. The request shall be addressed to the Mortgagee Review Board Docket Clerk, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410. The request shall specifically respond to the violations set forth in the notice of administrative action. If the mortgagee fails to request a hearing within 30 days after receiving the notice of administrative action, the Board's action shall become final.

(b) *Hearing by Administrative Law Judge.* Hearings are to be conducted by an Administrative Law Judge (ALJ), as set forth in this part. The ALJ shall commence a de novo hearing within 30 days of HUD's receipt of the mortgagee's request, unless the mortgagee moves for an extension of time. The ALJ may extend this time period for good cause.

(c) *Procedural rules.* The hearing shall be conducted in accordance with the applicable provisions of 24 CFR part 26, with the following modifications:

(1) The mortgagee or its representative shall be afforded an opportunity to appear, submit documentary evidence, present witnesses, and confront any witness the agency presents, except that the parties shall not be allowed to present members of the Board as witnesses.

(2) Discovery of information and/or documents that do not pertain to the appealing mortgagee, including, but not limited to, reviews or audits by the Department or administrative actions by the Board against mortgagees other than the appealing mortgagee, shall not be permitted. Members of the Board shall not be subject to deposition.

(3) The hearing shall generally be held in Washington, DC. However, upon a showing of undue hardship or other cause, the ALJ may, in his or her discretion, order the hearing to be held in a location other than Washington, DC.

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§ 25.11 Modification of Board orders.

No order of an ALJ before whom proceedings are conducted under § 25.10 may modify or otherwise disturb in any way an order or notice by the Board, unless the order of the ALJ becomes final agency action in accordance with subpart B of part 26 of this title.

[73 FR 60542, Oct. 10, 2008]

§ 25.12 Public access to information; publication of actions.

(a) Where a notice of administrative action does not result in a hearing and in any cases in which a settlement is entered into by the Board and a mortgagee, all non-privileged information regarding the nature of the violation and the resolution of the action shall be available to the public.

(b) Publication in the FEDERAL REGISTER. The Secretary shall publish, in the FEDERAL REGISTER, a description of and the cause for each administrative action taken by the Board against a mortgagee.