

**§ 257.401**

**24 CFR Ch. II (4-1-10 Edition)**

modifications and partial claims) or as provided in paragraph (b) of this section, a mortgagor shall not, during the first 5 years of the term of the mortgagor's H4H program mortgage, incur any debt, take any action, or fail to take any action that would have the direct result of causing a lien to be placed on the property securing the H4H program mortgage if such lien would be subordinate to the H4H program mortgage.

(b) *Property preservation exception.* Paragraph (a) of this section shall not prevent a mortgagor on the H4H program mortgage from incurring new mortgage debt secured by a lien on the property securing the H4H program mortgage that is subordinate to the H4H program mortgage if:

(1) The proceeds of the new mortgage debt are necessary to ensure the maintenance of property standards, including health and safety standards;

(2) Repair or remediation of the condition would preserve or increase the property's value;

(3) The cost of the proposed repair or remediation is reasonable for the geographic market area;

(4) The results of the repair or remediation are not primarily cosmetic;

(5) The repair or remediation does not represent routine maintenance; and

(6) The new mortgage debt is closed-end credit, as defined in §226.2 of the Federal Reserve Board's Regulation Z (12 CFR 226.2).

**Subpart E—Enforcement  
Mortgagor False Information**

**§ 257.401 Notice of false information from mortgagor-procedure.**

(a) If FHA finds that the mortgagor has made a false certification or provided false information via any means, including but not limited to false documentation, FHA shall inform the mortgagor, in writing or any other acceptable format, of such fact.

(b) The notice shall be sent to the mortgagor's last known address by both certified and ordinary mail. The notice shall state with specificity the misrepresentation or false statement made by the mortgagor. The notice shall include a request for repayment of the Direct Financial Benefit that

the mortgagor is deemed to have received, as determined by FHA, by the refinancing of the eligible mortgage and subordinate mortgages. This does not preclude HUD or the United States from bringing any other action that they may be authorized to bring.

(c) The mortgagor may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, subpart A, except as modified by this section. Requests for a hearing must be made within 45 days from the date of the false information notice.

**§ 257.403 Prohibitions on interested parties in insured mortgage transaction.**

(a) A mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company or employee thereof, and any person with an interest in a real estate transaction involving an appraisal conducted as part of the process for insuring a mortgage under section 257 of the Act shall not improperly influence or attempt to improperly influence through any means, including but not limited to coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the origination, processing, and closing of the mortgage for insurance.

(b) HUD may, pursuant to its authority under section 536(a) of the Act, bring an action to impose a civil money penalty for a violation of paragraph (a) of this section.

(c) The authority to bring a civil money penalty under this section shall not preclude HUD from bringing any other action that HUD may be authorized to bring for a violation of paragraph (a) of this section.

**§ 257.405 Mortgagees.**

(a) HUD will monitor mortgagees to ensure compliance with the requirements of the H4H program. The Mortgagee Review Board at HUD is authorized to impose sanctions and civil money penalties against mortgagees who violates program requirements

under this part. The authority of the Mortgagee Review Board to impose sanctions and civil penalties shall not preclude HUD from bringing any other action that HUD may be authorized to bring.

(b) Nonpayment of mortgage insurance claims for reasons established in §257.16 shall not preclude the Mortgagee Review Board or HUD from bringing any action against the mortgagee that the Mortgagee Review Board or HUD are authorized to bring.

(c) The mortgagee may request a hearing before a Hearing Officer. The hearing will be conducted in accordance with the provisions of 24 CFR part 26, subpart A, except as modified by this section. Requests for a hearing must be made within 45 days from the date of the false information notice.

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