



This document is scheduled to be published in the Federal Register on 01/28/2016 and available online at <http://federalregister.gov/a/2016-01511>, and on FDsys.gov

Billing Code 4210-67
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5876-N-02]

Changes in Certain Multifamily Mortgage Insurance Premiums

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: On October 2, 2015, HUD published a notice in the Federal Register announcing the mortgage insurance premiums (MIPs) for Federal Housing Administration (FHA) Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in Fiscal Year (FY) 2016. In the October 2, 2015, notice, HUD stated that the FY 2016 MIPs would be the same as those published for FY 2015. Today's notice announces proposed changes to the FY 2016 MIPs for certain FHA Multifamily Housing Insurance programs for commitments issued or reissued beginning April 1, 2016. MIP rates for mortgage insurance programs under FHA's Office of Healthcare Programs, including health care facilities and hospital insurance programs, will not change. These proposed MIP changes reflect the health of the FHA Multifamily portfolio, an effort to simplify the rate structure, and HUD's commitment to promote its mission initiatives.

DATES: Comment Due Date: **[Insert date 30 days after date of publication in the FEDERAL REGISTER].**

ADDRESSES: Interested persons are invited to submit comments regarding this Notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500.

Communications must refer to the above docket number and title and should contain the information specified in the “Request for Comments” section. There are two methods for submitting public comments.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Due to security measures at all federal agencies, however, submission of comments by mail often results in delayed delivery. To ensure timely receipt of comments, HUD recommends that comments submitted by mail be submitted at least two weeks in advance of the public comment deadline.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the <http://www.regulations.gov> website can be viewed by other commenters and interested members of the public. Commenters should follow instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the notice.

No Facsimile Comments. Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications regarding this notice submitted to HUD will be available for public inspection

and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT: Theodore Toon, Director, Office of Multifamily Production, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410-8000; telephone: 202-402-8386 (this is not a toll-free number). Hearing- or speech-impaired individuals may access these numbers through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

Section 203(c)(1) of the National Housing Act authorizes the Secretary to set the premium charge for insurance of mortgages under the various programs in Title II of the National Housing Act. The range within which the Secretary may set such charges must be between one-fourth of one percent per annum and one percent per annum of the amount of the principal obligation of the mortgage outstanding at any time. (See 12 U.S.C. 1709(c)(1)).

On October 2, 2015, HUD published a notice in the Federal Register (80 FR 59809) announcing the MIPs for FHA Multifamily, Health Care Facilities, and Hospital mortgage insurance programs that have commitments to be issued or reissued in FY 2016. Rate reductions are now proposed to promote two of HUD's mission priorities: affordable housing, and energy efficiency. Multiple, recent studies, including the December, 2015, Harvard Joint Center for

Housing Studies’ “America’s Rental Housing” report¹, and the Center for American Progress report, “An Opportunity Agenda for Renters” from December, 2015², illustrate the unprecedented rental affordability crisis facing the country. In response, the proposed MIP rates will promote the preservation and production of affordable housing. In response to the President’s Climate Action Plan, the recent global agreement to combat climate change, and in line with the Department’s and Administration’s goals to reduce energy consumption and utility costs throughout the building sector, rate reductions are also proposed to promote energy efficient housing.

HUD’s Multifamily Housing Mortgage Insurance regulation at 24 CFR 207.254 provides as follows:

Notice of future premium changes will be published in the Federal Register. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate.

Pursuant to this 30-day comment procedure, this Notice announces proposed changes for FY 2016 in the MIP for certain programs authorized under the National Housing Act (the Act) (12 U.S.C. 1709(c)(1)), and certain other multifamily programs. These changes would be effective on April 1, 2016.

II. This Notice

HUD is proposing to change MIPs for FHA-insured loans on properties under specific Multifamily Mortgage Insurance programs. In FY 2013, FHA increased MIPs to compensate for

¹ The America’s Rental Housing” report is available at: <http://www.jchs.harvard.edu/americas-rental-housing>.

² The An Opportunity Agenda for Renters report is available at <https://www.americanprogress.org/issues/poverty/report/2015/12/16/126966/an-opportunity-agenda-for-renters/>.

increased risk to the FHA fund after the housing market crisis. Over the last several years, HUD has implemented underwriting standards for FHA insured mortgage insurance applications in an effort to mitigate risk to the FHA portfolio, and undertaken organizational changes to facilitate risk-based underwriting and asset management.

These proposed MIP changes reflect the health of the FHA Multifamily portfolio, an effort to simplify the rate structure, and HUD's commitment to promote its mission initiatives. The proposed annual multifamily mortgage insurance rates will be structured as four categories, as follows, and as illustrated on the table below. This Notice proposes MIP reductions focused on strategic mission areas: affordable housing, and green and energy efficient housing. Under this proposed rate structure, portfolio and actuarial analysis demonstrates that premium revenues will exceed losses for the foreseeable future.

A. Market Rate Housing

Upfront and annual MIP rates will remain unchanged for all FHA-insured multifamily loan types on market rate properties, except properties that meet the criteria for green and energy efficient housing, below.

B. Broadly Affordable Housing

Annual MIP will change from the current rates generally between 45 and 50 basis points,³ to 25 basis points for all multifamily FHA-insured loan types that meet the criteria in this section.

All loans originated by Housing Finance Agencies under FHA's Section 542(c) Risk Share program, and by Qualified Participating Entities including Fannie Mae and Freddie Mac under FHA's Section 542(b) Risk Share program, will be eligible for this proposed 25 basis

³ Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

points rate, multiplied by the percentage risk assumed by FHA (see table below). For all others to qualify, the property must have Section 8 assistance or another recorded affordability restriction, and/or Low Income Housing Tax Credits.

These projects must either:

- Have at least 90 percent of units covered by a Section 8 Project Based Rental Assistance (PBRA) contract or other federal rental assistance program contract serving very low income residents, with a remaining term of at least 15 years; or
- Have at least 90 percent of its units covered by an affordability use restriction under the Low Income Housing Tax Credit program or similar state or locally sponsored program, with achievable and underwritten tax credit rents at least 10 percent below comparable market rents, and with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To ensure that the benefits of these MIP rates directly benefit the affordable housing properties and residents, lenders submitting applications for loans using this MIP rate are limited in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the Multifamily Accelerated Processing (MAP) Guide⁴, plus (b) trade profit, trade premium or marketing gain earned on the sale of the Government National Mortgage Association (GNMA) security at a value above par, even if the security sale is delayed until after endorsement, minus (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing.

⁴ http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/guidebooks/hsg-GB4430

C. Affordable Housing

Annual MIP will change from current rates generally between 45 and 70 basis points,⁵ to 35 basis points for all multifamily FHA-insured loan types. To qualify, the property must provide a set-aside of affordable units as defined below, and agree to accept voucher holders:

- Inclusionary Zoning, Density Bonus Set-asides, and Other Local Affordability Restrictions: Property owners shall submit with the FHA mortgage insurance application evidence of a deed covenant or housing ordinance on “inclusionary zoning” at the subject property to evidence the requirement for affordable unit set-asides. A minimum of 10 percent of the units must be affordable to, at most, a family at 80 percent AMI, with rents sized to be affordable at 30 percent of the income at that level. The affordability set-aside must be on site, in effect for at least 30 years after final endorsement of the FHA-insured mortgage, be monitored by public authority, and be recorded in a regulatory agreement; or
- Project has between 10 percent and 90 percent of units covered by a Section 8 PBRA contract or other state or federal rental assistance program contract serving very low income residents, with a remaining term of at least 15 years; or
- Project has between 10 percent and 90 percent of its units covered by an affordability use restriction under the Low Income Housing Tax Credit program or similar state or locally sponsored program, with rents sized at no greater than 30 percent of the income eligible for occupancy under the Low Income Housing Tax Credit program, with a recorded regulatory agreement in effect for at least 15 years after final endorsement and monitored by a public entity.

To qualify for this MIP rate:

- The project owner must also agree to accept voucher holders under the Section 8 Housing Choice Voucher program or other federal program voucher holders as residents for vacancies in units not

⁵ Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

covered by project based Section 8, and execute a Rider to the FHA regulatory agreement acceptable to HUD evidencing the owner's agreement to accept Section 8 vouchers for the life of the regulatory agreement.

D. Green and Energy Efficient Housing

Annual MIP will change from current rates generally between 45 and 70 basis points,⁶ to 25 basis points for all multifamily FHA-insured loan types. Projects will access this rate to encourage owners to adopt higher standards for construction, rehabilitation, repairs, maintenance, and property operations that are more energy efficient and sustainable than traditional approaches to such activities. The lower rate will incentivize owners to implement measures that result in projects with greater energy and water efficiency, reduced operating costs, improved indoor air quality and resident comfort, and reduced overall impact on the environment. It is anticipated that mortgage proceeds will be used to retrofit properties to meet the stringent efficiency standards required to access this lower MIP premium. For properties that have already achieved a green building standard and that are refinancing with this lower MIP premium, proceeds may be used to complete further efficiency upgrades, and/or to retrofit to the next-level green certification standards. To qualify:

- Upon application for FHA mortgage insurance, the owner must evidence that the project has achieved, or the owner must certify that it will pursue, achieve and maintain, an industry-recognized standard for green building. Acceptable, independently verified standards include the Enterprise Green Communities Criteria, U.S. Green Building Council's LEED-H, LEED-H Midrise, LEED-NC, ENERGY STAR Certification, EarthCraft House, EarthCraft Multifamily, Earth Advantage New Homes, Greenpoint

⁶ Except in the case of a 207/223(f) refinance or purchase that has a current upfront capitalized MIP basis points of 100.

Rated New Home, Greenpoint Rated Existing Home (Whole House or Whole Building label), and the National Green Building Standard (NGBS), or other industry-recognized green building standards in HUD's sole discretion. Further, the owner must certify that it has achieved, or will pursue and achieve a score of 75 or better on the 1-100 ENERGY STAR score, using EPA's Portfolio Manager (the minimum score required to be recognized as ENERGY STAR). The reasonableness of achieving and maintaining the specified, independent green building standard, and the score of 75 or better in Portfolio Manager, must be verified by the independent conclusion of the qualified assessor preparing the physical condition assessment, and supported by the physical condition assessment report and recommendations, ASHRAE level II energy audit, and plans for new construction, or rehabilitation, repairs, and operations and maintenance. The physical condition assessment report submitted with the mortgage insurance application must include a certification from the architect, engineer, energy auditor, or CNA provider that the planned scope of work is reasonably sufficient to achieve and maintain the specified certification. Additionally, the owner must submit to HUD evidence that the specified, independent green building standard has been achieved, and provide a copy of the Portfolio Manager report showing building performance at or above 75, when those standards have been achieved, and no more than 12 months after completion of new construction, substantial rehabilitation or renovations. If not achieved, HUD may impose protocols to ensure the owner brings the property into compliance, similar to protocols used by REAC for unacceptable property standards.

To ensure that the benefits of these MIP rates directly benefit the affordable housing properties and residents, lenders submitting applications for loans using this MIP rate are limited

in the total loan fees they may charge on any loan greater than \$2 million, to no more than 5 percent of the insured loan amount. Loan fees include (a) origination and placement fees as permitted by the MAP Guide, plus (b) trade profit, trade premium or marketing gain earned on the sale of the GNMA security at a value above par, even if the security sale is delayed until after endorsement, minus (c) loan fees applied by the Mortgagee to its legal expenses incurred in connection with loan closing.

IV. MIPs for FHA's Multifamily Mortgage Insurance Programs for April 1, 2016

HUD is proposing to change MIPs for FHA-insured loans on properties under specific Multifamily Mortgage Insurance programs. The chart below details the proposed MIP rates for each rate category, and each type of FHA multifamily mortgage insurance covered under this Notice. These programs are administered by FHA's Office of Multifamily Housing Programs. This Notice does not change MIP rates for programs under FHA's Office of Healthcare Programs, including health care facilities and the hospital insurance programs.

FHA Multifamily Mortgage Insurance Premiums By Rate Category				
FHA Multifamily Mortgage Insurance Program	Current Upfront Capitalized MIP* Basis Points	Proposed Apr 1, 2016 Upfront Capitalized MIP* Basis Points	Current Annual MIP Basis Points	Proposed Apr 1, 2016 Annual MIP Basis Points
<u>MARKET RATE HOUSING</u>		Unchanged		Unchanged
207 Multifamily New Constr/Sub Rehab w/o LIHTC	70	70	70	70
207 Manufactured Home Parks without LIHTC	70	70	70	70
221(d)(4) NC/SR without LIHTC	65	65	65	65
220 Urban Renewal Housing without LIHTC	70	70	70	70
213 Cooperative	70	70	70	70
207/223(f) Refinance or Purchase for Apts w/o LIHTC	100	100	60	60
223(a)(7) Refinance of Apartments without LIHTC	50	50	50	50
231 Elderly Housing without LIHTC	70	70	70	70
241(a) Supplemental Loans for Apts/coop w/o LIHTC	95	95	95	95
<u>BROADLY AFFORDABLE HOUSING</u>		25		25
207 New Constr/Sub Rehab w 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
207 Manufactured Home Parks with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
221(d)(4) NC/SR with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
220 Urban Renewal Housing with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
207/223(f) Refi or Purchase with 90%+ LIHTC, or 90%+ Section 8	100	25	45	25
223(a)(7) Refi with 90%+ LIHTC, or 90%+ Section 8	50	25	45	25
231 Elderly Housing with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
241(a) for Apartments/coop with 90%+ LIHTC, or 90%+ Section 8	45	25	45	25
Section 542(b) Risk Share**	50	25	50	25
Section 542(c) Risk Share**	50	25	50	25
<u>AFFORDABLE: INCLUSIONARY / VOUCHERS</u>		35		35
207 New Constr/Sub Rehab with Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	45-70	35	45-70	35
207 Manufactured Home Parks w Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	45-70	35	45-70	35

221(d)(4) NC/SR with Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	45-65	35	45-65	35
220 Urban Renewal Housing with Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	45-70	35	45-70	35
207/223(f) Refinance or Purchase with Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	100	35	45-60	35
223(a)(7) Refinance of Apts with Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	50	35	45-50	35
231 Elderly Housing with Inclusionary Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	45-70	35	45-70	35
241(a) Supplementals for Apts/coop with Inclusion Zoning, or 10%-90% LIHTC, or 10%-90% Section 8	45-95	35	45-95	35
GREEN / ENERGY EFFICIENT HOUSING		25		25
207 Multifamily New Construction/Sub Rehab with Green	45-70	25	45-70	25
207 Manufactured Home Parks with Green	45-70	25	45-70	25
221(d)(4) NC/SR with Green	45-65	25	45-65	25
220 Urban Renewal Housing with Green	45-70	25	45-70	25
207/223(f) Refinance or Purchase for Apts with Green	100	25	45-60	25
223(a)(7) Refinance of Apartments with Green	50	25	45-50	25
231 Elderly Housing with Green	45-70	25	45-70	25
241(a) Supplemental Loans for Apts/coop with Green	45-95	25	45-95	25

* Proposed upfront premiums for Multifamily refinancing programs are capitalized and based on the first year's annual MIP. Upfront premiums for Multifamily new construction and substantial rehabilitation programs insuring advances are capitalized and based on the annual MIP for the entire construction period.

** Under the Sections 542(b) and 542(c) Risk Share programs, the MIP collected by HUD is currently, and will continue to be under the proposed structure, proportionate to the percentage of risk assumed by FHA, as follows:

Program	FHA % of Risk Share	Proposed Upfront Capitalized MIP Basis Points	Proposed Annual MIP Basis Points
542(b)	50%	12.5 (25 bps x 50%)	12.5 (25 bps x 50%)
542(c)	50%	12.5 (25 bps x 50%)	12.5 (25 bps x 50%)
	75%	18.75 (25 bps x 75%)	18.75 (25 bps x 75%)
	90%	22.5 (25 bps x 90%)	22.5 (25 bps x 90%)

The proposed MIP rates would become effective for FHA firm commitments issued or reissued on or after April 1, 2016. MIP rates will not be modified for any loans that close or reach initial endorsement prior to March 31, 2016.

Date: January 8, 2016

Edward L. Golding
Principal Deputy Assistant Secretary for Housing

[FR-5876-N-02]

[FR Doc. 2016-01511 Filed: 1/27/2016 8:45 am; Publication Date: 1/28/2016]