

File Created by [Blogging Rebirth](#) WP Plugin

# Partial Claim

**Partial Claim** For borrowers with F.H.A. Loans

Partial Claim is an option offered by the F.H.A. that allows a borrower, with help from a lender, to get an interest-free loan from H.U.D. to bring their mortgage payments up to date. The loan amount cannot exceed the equivalent of 12 months worth of payments and you must be able to resume normal payments. Please contact one of our H.U.D. Certified Counselors for more information about your specific case.

**Question 1:** A Loan Modification was completed; the mortgagor then defaults again and has different circumstances; it's been less than 12 months since the Loan Modification was completed; can the mortgagee consider a Partial Claim?

**Answer:** Yes, if the mortgagor meets the qualifying criteria for usage, the mortgagee can consider using a Partial Claim to assist the mortgagor in avoiding foreclosure. The mortgagee should ensure there is a valid documented reason for the default that meets the criteria reflected in Mortgagee Letter 2003-19, page 6, Paragraph N, Limitations on Use. It is up to the mortgagee to fully document the servicing file with the reason a Partial Claim is needed.

**Question 2:** Must a Partial Claim be deducted from the Net Proceeds of a Preforeclosure Sale?

**Answer:** Yes, when using a Preforeclosure Sale after a Partial Claim was provided on an earlier default, you must include the amount of the Partial Claim when calculating total indebtedness for the purpose of a Preforeclosure Sale. In order to be in compliance, mortgagees must include the unpaid principal balance, accrued interest, and the partial claim amount to correctly calculate the total outstanding mortgage indebtedness. HUD must net a minimum 82% of the sales proceeds from the Preforeclosure Sale. Refer to Mortgagee Letter 2003-19, dated November 20, 2003.

**Question 3:** Can the mortgagee collect administrative fees and costs associated with the preparation of the Partial Claim Subordinate Note and Mortgage?

**Answer:** No. Mortgagee Letter 2003-19, Page 6, Paragraph L, "Mortgagee Incentives" states the following: "...The mortgagor may not be charged any additional costs for receiving this loss mitigation workout option, however, it is acceptable that legal costs and fees related to a canceled foreclosure action may be collected directly from the mortgagor..."

**Question 4:** A Partial Claim was executed two years ago, now the mortgagor has re-defaulted on the loan, will HUD subordinate the Partial Claim so the mortgagee can complete a Loan Modification?

**Answer:** Yes, HUD will subordinate the Partial Claim so the mortgagee can complete the Loan Modification. The mortgagee should contact HUD's contractor at (866) 377-8667 to ascertain all language requirements and terms that must be evident within the subordination document.

**Question 5:** Regarding the five (5) business day submittal for recordation and the 60-days from date of execution for filing the claim criteria stipulated in Mortgagee Letter 2003-19, what are the procedures for those Partial Claim properties in jurisdictions that require execution of the subordinate agreement by a HUD official and is there any situation where it would be appropriate for a mortgagee to exceed the five (5) business day requirement?

**Answer:** Mortgagee Letter 2003-19, dated November 20, 2003, states:

"O. Recordation Requirements

Upon execution of a Partial Claim by a mortgagor, the Department requires that the partial claim security

instruments be submitted for recordation to the appropriate jurisdiction within a maximum period of five (5) business days following the execution AND prior to filing a claim with HUD."

"The responsibility for servicing of the Partial Claim remains with the mortgagee until the security interests are legally recorded in the appropriate jurisdiction."

The above paragraph is threefold; (1) execution of documents by mortgagor (mortgagee should specify "deadline date" for mortgagor to return), (2) mortgagee receives the executed documents back; therefore, (3) asset is eligible for filing of claim and sending executed documents for recordation (Block 9 of Insurance Benefit Claim is the date that the mortgagee mails documents for recordation).

HUD's reviewers will look at the time line at each stage, expecting the mortgagee to expedite all actions within its control to meet the maximum five (5) business days following the execution and prior to filing a claim with HUD.

For the Partial Claims that require HUD Official Signature, the following applies - (a.) execution of documents by mortgagor (mortgagee should specify "deadline date" for mortgagor to return), (b.) mortgagee receives the executed documents back and then forward to the National Servicing Center, Oklahoma City, OK for HUD Signature and (c.) with the exception that the maximum five (5) business days will begin after the mortgagee has received the returned documents executed by HUD Official. As of this writing, these states include Louisiana, Oklahoma, Maryland, and three counties in California.

**Question 6:** What is the collection process on a Partial Claim that is not collected from the mortgagor at the time the mortgagor pays off their FHA first mortgage?

**Answer:** The collection process on a Partial Claim that is left "unpaid" at the time the mortgagor pays off their FHA first mortgage is the Department bills the mortgagor directly. The Partial Claim debt is not forgiven and the mortgagor is required to make a lump sum payoff.

**Question 7:** At what point does the mortgagee's responsibility for a Partial Claim end?

**Answer:** The Mortgagee's responsibility for a Partial Claim ends when the following two events occur: (a.) HUD receives the executed subordinate mortgage and (b.) When any requests for payoff of the first lien occur, the mortgagee is obligated to notify HUD to obtain full payoff amount of the Partial Claim and supply that information to the mortgagor.

**Question 8:** Will a mortgagor qualify for a Partial Claim when the FHA asset is less than 12 months old?

**Answer:** Yes, if the financial analysis reflects the mortgagor has the ability to support the normal monthly payment, and the mortgagor is an owner-occupant committed to continuing occupancy of the property as a primary residence. However, in no case may a Partial Claim be used if the mortgagor's surplus income percentage is 0% or less.

**Question 9:** What percent of surplus is considered enough to approve a Partial Claim?

**Answer:** Mortgagee Letter 2003-19, Paragraph D. Financial Analysis, page 3., states in part: "...In no case may a partial claim be used if the mortgagor's surplus income percentage is 0% or less than 0%. If the mortgagor has low surplus income (<5%), mortgagees are encouraged to combine a partial claim with a special forbearance plan allowing the mortgagor to demonstrate the ability to make regular payments for a period of three (3) or more months prior to origination of the partial claim note."

**Question 10:** Can a Partial Claim be used if the mortgagor is 14 months delinquent?

**Answer:** Per Mortgagee Letter 2003-19, under Definition and Existing Guidance, a mortgagee will advance funds on behalf of a mortgagor in an amount necessary to reinstate a delinquent loan (not to exceed the equivalent of 12 months worth of principal, interest, taxes, and insurance (PITI)). Therefore, the mortgagor would have to have

sufficient funds to pay towards the arrearage, so that it is no more than 12 months delinquent

You can also find this article published on [Partial Claim](#), and on the tag pages [F.H.A. Loans](#), [Partial Claim](#).