

Dear Stewart Partners,

We made it through our first official heatwave of the summer. The rain predicted for later this week will be a welcome event, as many towns are experiencing severe water shortages. The rain, however, doesn't look like it will interfere with a gorgeous summer weekend.

In this week's update we want to provide you with a reminder on where to obtain payoffs for the partial claim mortgages to HUD and also provide some background on what these junior mortgages are and why they require a separate payoff.

We also want to alert all of you to an apparent resurgence of a cashier check scam that is making the rounds. We recently learned that one of our New England agents thwarted an attempt by a fraudster who provided an earnest money deposit with a check drawn on a Canadian bank. Find out how this agent identified the red-flags and avoided becoming a victim.



Partial Claim Mortgages and HUD as Mortgagee

When completing your title search, you may discover that the property is encumbered by a Partial Claim Mortgage to HUD. These mortgages are junior mortgages and there will always be a senior mortgage to some other lender which also encumbers the property. Sometimes the senior mortgage will also be affected by a modification that has been recorded, but not always. One particularly confusing aspect is that the Partial Claim Mortgage will identify its loan with the same loan number as the senior mortgage. You might be wondering, what a Partial Claim Mortgage is, and whether it requires a pay-off as it has the same loan number as the senior mortgage. We've received many questions as to whether one payoff for both mortgages is sufficient as the payoff references the one loan number. The short answer is NO, a distinct payoff for the Partial Claim Mortgage is always necessary.

What is a Partial Claim Mortgage? These mortgages were part of loan modification programs offered by lenders when borrowers were facing mortgage payment issues, and eligible borrowers were able to modify their mortgages through various programs. HAMP was the most well-known program, but there were others, particularly during the pandemic. A Partial Claim Mortgage is an interest-free loan from HUD, which allows the borrower to get caught up on overdue mortgage payments. One of the features of the Partial Claim Mortgage is that it need not be paid off until the property is sold or the first mortgage is paid in full. The partial claim debt is not included in the principal balance of the first mortgage and is treated as a distinct payoff. Because many borrowers are not making additional monthly payments, they are unaware that this additional debt is a lien on the property and must be paid and a separate payoff statement must be received.

HUD announced that as of October 9, 2021, Information Systems & Networks Corporation (ISN) will be servicing the majority of FHA Single Family Secretary-Held Mortgages. (Please note, ISN does not service HECM or reverse mortgages.)

All payoff requests, and other inquiries relating to Partial Claim Mortgages must be directed to ISN as follows:

ISN Corporation – Western Operations Center Attention: Secretary-Held Loan Servicing 2
2000 N Classen Blvd Suite #3200
Oklahoma City, OK 73106

Payoff requests can be emailed to: PCPayoffs@hud.gov

To view HUD's announcement and for additional details, follow this link:
https://www.hud.gov/sites/dfiles/SFH/documents/SFH_FHA_INFO_21-84.pdf



ALERT – Foreign Bank Checks and Fraudulent Cashier's Checks

The use of counterfeit checks is not new, and the scam appears to be making the rounds again. The scam is pretty basic, but if you are fooled, the escrow losses can be significant. The basic elements of the scam are that the scammer will reach out to a settlement agent and advise that they are purchasing a home and they want the agent to act as closing agent. The scammer sends the agent the signed offer or purchase and sale agreement along with a check for the earnest money deposit. In many instances the check is drawn on a Canadian Bank, but the scam can easily be penetrated with an out of state bank. The agent deposits the check in their escrow account and the check appears to have cleared. Several days later the buyer contacts the agent and advises that the sale is cancelled and seeks to have their deposit refunded. If the scam is successful, the agent will return funds to the buyer (usually via wire transfer), but learns after they have released funds from their account that the check was fraudulent. It is important to know that even if your bank makes funds available, making it appear the check has cleared, if it is later determined to be fake or fraudulent, the bank will reverse the deposit, leaving the account holder liable.

One of agents reported successfully thwarting such a scam. The agent became suspicious after receiving a check drawn on a Canadian Bank. The agent checked the public record and compared the signature of the seller on the purchase and sale agreement to the signature on a mortgage granted by the seller and the signatures did not match. The agent then did some further research and discovered that the home was for sale but was listed by a broker. A quick inquiry with the broker revealed that the house was not under contract. All these due diligence steps taken by the agent because something seemed just a little bit off avoided a potentially large loss.

Stewart has published several bulleting on this topic. View the most recent and related bulletins here:
https://www.virtualunderwriter.com/en/bulletins/2015-5/sIs2015008.html?mkt_tok=MDY3LVIXTy00MzYAAAGF38nTbeh_P0VPL4Q5bHN2y-BV-emYLfXpiKnVUDWPPq1SODYztUXXMD8kv4gM1nxxXlaJAdVIM98mRSLmG5-rLHUMCC1VNqQOadj4ZT8L1qNa



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