**Section 184 Final Rule**

**Summary of Impacts**

Prepared May 13, 2024

**Introduction**

On March 20, 2024, HUD published the final rule on the Section 184 program. The rule added tribal and lender requirements, including underwriting requirements, and borrower requirements. The rule will become effective on June 18, 2024. The rule may be found at 24 CFR Part 1005.

HUD is in the process of drafting a Handbook to implement the final rule. It is in the process of soliciting tribal comments to the rule. The comments are due May 31, 2024. HUD states that it will provide training to Tribes and lenders.

This summary concentrates on the impacts to tribes. This part of the rule is found in Subpart C of the rule.[[1]](#footnote-1) While this summary contains some lender requirements, it doesn’t contain all the requirements. The Tribal Homeownership Coalition of the Southwest (THCSW) have requested lenders to provide a summary of impacts of the rule on lenders. We will make those comments available when they have been made available to THCSW. However, one lender did state that the impact of the final rule will not be known until HUD publishes its Handbook.

**Eligible Tribal Lands:**

1. Now includes allotted lands and tribal fee lands. Section 1005.413.

**Lender Requirements:**

1. Expanded the type of lenders required to meet Quality Control requirements to participate in the program. Section 1005.217.

**Underwriting Requirements:**

1. Increased the maximum age of loan documents from 60 days to 120 days after closing. 1005.447.
2. Increased flexibility to obtain an appraisal from non-FHA certified appraisers in remote and rural areas. 1000.457(b).

**Servicing Requirements:**

1. Removed default notice requirements. The applicable state or tribal law will apply. Section 1005.731.
2. Lenders are required to inspect the property to confirm occupancy. Section 1005.735.
3. If a property is confirmed to be vacant or abandoned, the lender must take steps to preserve the property. Section 1005.737.
4. Allows HUD to provide for a temporary special forbearance in response to a disaster or national emergency. Section 1005.745.

**Tribal Requirements:**

1. In a default situation, tribes are required to assist, where practical, in facilitating loss mitigation efforts when notified of a borrower’s default. Mitigation efforts could include financial assistance, counseling, assisting in identifying potential purchasers. Section 1005.301(a).
2. Tribes must report any vacant or abandoned home to HUD. Section 1005.301(a)(4).
3. In a default situation, a tribe has 60 days to respond to a first right of refusal. Section 1005.759.
4. Allows HUD to sue for foreclosure in a federal court. Section 1005.301 (b) 1 (i). This HUD practice is now part of the final rule.
5. A Tribe’s foreclosure law must allow a court to assign a Borrower’s property interest to HUD or other holder of the loan. Section 1005.301(b) 1(ii).
6. In the event of default, if a lender assigns the loan to HUD without foreclosing on the property, the tribe may assign the lease to HUD to facilitate disposition of the property. Section 1005.301(b)(1)(iii).
7. If the lease is assigned to a lender or HUD, a tribe or TDHE is required to work with the lender or HUD to sell the property to an eligible borrower. Section 1005.301(b)(2). This used to be an option.
8. A Tribe’s eviction law must allow for eviction not only after foreclosure, but after involuntary termination of the lease, assignment of the lease, or sale of the property. Section 1005.301(b)(3).
9. A mortgage must be recorded by the Tribe and/or BIA to be valid. Section 1005.301(b)(4)(ii).
10. Leases must contain required HUD language relating to default and assignment of the lease. Section 1005.301(b)(5).
11. Tribes must recertify its participation in the Section 184 program and update contact information annually in accordance with a prescribed deadline. Section 1005.307.
12. Tribe must submit proposed changes to its mortgage laws, leases, and contact information to HUD. Section 1005.309.
13. Tribes must report lease defaults to HUD within 30 days of the default. Section 1005.311.

In summary, the new requirements on tribes will require tribes to update their mortgage laws and perhaps their leases, unless HUD agrees to use a lease amendment for Section 184 loans.

1. Subpart C begins at page 20063 of the Federal Register (Docket No. FR-5593-F-02). [↑](#footnote-ref-1)