

Legal Opinion: GHF-0001

Index: 5.410

Subject: Emergency Aid to GNMA Issuers (re Hurricane Andrew)

September 10, 1992

MEMORANDUM FOR: Raoul L. Carroll, President, Government
National Mortgage Association, N

FROM: John J. Daly, Associate General Counsel for Insured
Housing and Finance, GH

SUBJECT: Emergency Aid to GNMA Issuers Affected by Hurricane
Andrew

You have orally requested that we provide an opinion on GNMA's ability to provide emergency assistance to issuers adversely affected by Hurricane Andrew. Specifically, GNMA is contemplating allowing those issuers with a certain percentage of loans in the hurricane damaged area, to request that GNMA assist them in making advances to security holders to cover the shortfall caused by the failure of homeowners to make mortgage payments because of the storm. It is our further understanding that if such a request is approved and, under the terms of its guaranty, funds are advanced by GNMA, the issuer will be declared in default under the Guaranty and/or Contractual Agreements in effect, and the issuer will be allowed to continue to service its GNMA portfolio under a Supervisory Agreement. The issuer will be given the opportunity to remedy the default within a certain time limit by restoring any funds advanced under this emergency measure, plus interest to GNMA.

It is our further understanding that this procedure will be strictly limited in time and scope in order that only those issuers significantly and directly affected by the disaster will benefit. We recognize that the time for repayment of the assistance provided by GNMA may be extended by you in the future. It is anticipated that the emergency conditions necessitating this action will rectify themselves as insurance payments and other relief measures are provided. In exchange for this extraordinary action by GNMA, the issuers will be asked to forbear to the greatest extent possible from taking adverse action against homeowners damaged by the hurricane. These procedures are set forth in an All Participants Letter (copy attached) outlining a uniform policy for issuers affected by the hurricane and attaching a form request for those issuers who may need emergency assistance.

Once an issuer requests that GNMA advance funds on the issuer's portfolio and GNMA complies by making such advance, an

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event of default has occurred. (See Section 8.02 of the Guaranty Agreement and Section 15-2a and b of the GNMA II Mortgage-Backed

Securities guide ("GNMA II Guide").) However, GNMA may, at its discretion, negotiate with the issuer with respect to remedying and correcting the default. Any agreement reached through this process shall be reduced to writing as a supplement to the original agreements. (See Section 8.04 of the Guaranty Agreement and Section 15-3(a)(1) of the GNMA II Guide.) Sections 8.04 and 15-3(a)(1) give GNMA broad authority to fashion an agreement with the defaulted issuer in order for it to gain reinstatement. The proposal to charge reasonable interest on the funds advanced by GNMA as a condition for the correcting of the default is not inconsistent with GNMA's authority.

It is my opinion that, by taking the emergency action contemplated by the attached All Participants Letter, GNMA is, in effect, honoring its guaranty and otherwise taking action within the limits of its authority in order to provide relief in this extraordinary situation.

Attachment