



U.S. Department of Housing and Urban Development  
Office of Housing

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**Special Attention of:**

Regional Office  
Directors, Multifamily  
Hub Directors,  
Multifamily Program  
Center Directors,  
Operations Officers,  
Project Management  
Directors, Construction  
Analysts, Valuation  
Processors, Multifamily  
Housing Project Managers,  
and Multifamily  
Mortgagees

**Notice H 04-15**

**Issued: August 3, 2004**

**Expires: August 31, 2005**

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**Cross References:**

Multifamily Accelerated Processing  
(MAP) Guide  
HUD Handbook 4600.1 REV 01  
HUD Handbook 4350.1 REV-1  
Notice H01-03  
Notice H04-01

Subject: Professional Liability Insurance for Section 232  
Programs.

**I. BACKGROUND.**

On January 6, 2004, HUD issued Notice H04-01, titled "Professional Liability Insurance for Section 232 Programs". This Notice superseded Notice H01-03, titled "Review of Health Care Facility Portfolios and Changes to the Section 232 Programs", which had been issued on April 10, 2001. Section X of Notice H01-03 established the requirement that HUD-insured healthcare facilities maintain professional liability insurance. Further, the Notice directed Field Office staff in the mortgage underwriting process to require adequate insurance coverage. Notice H04-01 provided instructions on information collection, reviewing, underwriting and approving Professional Liability Insurance for Section 232 Programs.

When the Department issued Notice H04-01, the Notice was effective immediately for all healthcare facilities that did not have an outstanding firm commitment. The position of the Department was subsequently modified so that all applications that were filed prior to January 6, 2004, the effective date of Notice H04-01, may be

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processed under the old Notice H01-03 or Notice H 04-01, at the election of the mortgagee.

In the past five years, many insurance carriers have either withdrawn from states where there is excessive litigation or stopped writing professional liability insurance policies altogether. Furthermore, insurance premiums for professional liability insurance have continued to increase at an alarming rate throughout the nation. The Department seeks to insure that all healthcare facilities with FHA mortgage insurance maintain satisfactory professional liability insurance.

**II. PURPOSE.**

The purpose of this Notice is to provide additional guidance and instructions to HUD Field Offices to assist staff in completing the mortgage underwriting process for professional liability insurance issues for healthcare facilities.

**III. PROFESSIONAL LIABILITY INSURANCE.**

- A. HUD requires health care facilities to maintain professional liability insurance. This insurance shall be obtained from an insurance company with a "B++" rating or higher from A.M. Best Company. Through this Notice, HUD is also establishing the following requirements for professional liability insurance for healthcare facilities. Captive insurance entities, risk retention groups ("RRG"), and risk sharing entities are eligible to provide professional liability insurance if domiciled in the United States of America and if they have "B++" or higher rating by AM Best. The Department may approve additional rating service providers that can demonstrate that they are able to provide rating services comparable to AM Best for insurance entities.
- B. Insurance providers that are authorized by state legislatures, regulated and financially controlled by state governmental entities will be considered by HUD to be eligible providers of professional liability insurance for healthcare facilities under Notice H 04-01 REV-1 subject to the following conditions. For the purposes of this Notice, these state insurance providers will be referred to as Joint Underwriting Associations ("JUA").

Initial considerations for "JUA" approval are as follows. The JUA must have:

1. *Been created by the state legislature and must be regulated by the state government in the state where the professional liability insurance policy is issued. In addition, the JUA must have been in continuous operation for four years or more,*
2. *Experienced and highly skilled claims and risk managers,*
3. *Strong financial foundation with audited statements that have been reviewed and accepted by HUD,*
4. *Annual premium and investment income that is consistently adequate to meet claims expenses while increasing surplus,*
5. *Capital or surplus that is at least 4 times the amount of annual claims, and*
6. *HUD may consider other factors at its sole discretion in order to make a reasonable determination regarding the acceptability of a JUA.*

If the JUA has been in operation under four years, HUD Headquarters ("HHQ") may approve the acceptability of insurance policies or financial commitments to meet claims expenses of the "JUA" if the surplus is at least two and one-half (2.5) times annual claims. The JUA must demonstrate that capital surplus has increased year over year. If the JUA does not provide evidence of annual incremental increases to surplus, HUD will not accept the "JUA" as a provider of professional liability insurance.

HUD may withdraw approval of a JUA if the JUA is determined by HUD to be in jeopardy of meeting its financial obligations or in meeting anticipated claims due to declines in surplus below the allowable levels, or if claims expenses significantly exceed income derived from premiums and investments. HUD may also withdraw eligibility at any time if the JUA is found to have negligence in its operations or if its operations are

terminated by an act of the state legislature or by the Governor.

The JUA shall provide a three-year projected analysis of all potential claims and any additional information needed to assure HUD that the JUA will have sufficient income and surplus to meet any anticipated future financial obligations.

C. Housing's Requirements

1. Housing's professional liability insurance requirements apply to the following:
  - a. All healthcare facilities seeking mortgage insurance under Section 232 for new construction or substantial rehabilitation of a facility,
  - b. All healthcare facilities seeking mortgage insurance under Section 232 pursuant to Section 223(f) for the purchase or refinance of an existing facility,
  - c. All healthcare facilities currently insured under Section 232 and seeking to refinance the facility using the Section 223(a)(7) program. This requirement may be waived. See Section III.C.11,
  - d. All owners and/or lessees proposing to replace the operator/manager of a Section 232 healthcare facility, *and*
  - e. All transfers of physical assets ("TPA") involving Section 232 healthcare facilities. This requirement may be waived. See Section III.C.11.
2. As part of the mortgagee's application for firm commitment, all healthcare facilities will be required to submit the following documentation from operators/managers:

Definition of Operator/Manager

The "operator/manager" is the entity that actually performs and oversees the operation of the facility and can be the operator or

manager or owner or any combination of those three groups; specifically, any operators or managers that have staff involved in the day-to-day operation or are physically located in the healthcare facility are deemed operator/managers. Typically, the operator/manager will be the entity that is contractually bound to provide a full range of services to the residents.

All operator/managers must have professional liability insurance that covers their employees. If the operator/manager is a subsidiary or an affiliate of another entity or in a corporate structure where more than one healthcare facility is owned and/or operated, then the term operator/manager shall refer to the parent or controlling entity. The parent or controlling entity must have professional liability insurance meeting HUD requirements on all entities that it controls or manages irrespective of how its facilities are financed.

The terms "parent or controlling" entity refers only to business concerns such as corporate or partnership entities, and does not refer to natural persons operating in their individual capacities unless the owning entity is a sole proprietorship.

- a. Current list of healthcare facilities where the entity is the operator or manager.
- b. The most recent audited financial statements or operator/manager certified financial statements will be required as evidence of financial viability for the operator/ manager. The most recent year's financial statements of the operator/manager should be audited by a CPA or IPA. However, if the operator/manager does not maintain audited financial statements, an operator/manager certified financial statement for the most recent year is acceptable.

The operator/manager must submit Medicare and Medicaid Cost Reports for

the last three years. In addition an updated interim financial statement will be required if more than 3 months have expired since the closing date of the latest unaudited statement, or six months have passed since the statements were audited by a CPA/IPA.

- c. A six-year loss history of claims filed against the operator/manager for all facilities of the operator/manager. It should include all claims where the operator/manager was found liable. All claims should include either the actual award amount or the potential award amounts including compensatory damages, medical expenses, and punitive damages. The claims history shall also address the various State statutes of limitations for filing claims of negligence, injuries, wrongful death, and/or improper care based the law where the various healthcare facilities are located.
- d. Current inventory of all inquiries made or claims threatened based on occurrences of negligence, injuries, wrongful death, and/or improper care where a claim has not been filed but could still be filed based on the statute of limitations for the State where the occurrence occurred. The inventory should also include an estimate of the potential award amounts including compensatory damages, medical expenses, and punitive damages.

The primary source of information for potential claims is "incident reports" from healthcare administrators and staff that may provide a basis for future claims and/or litigation. These incidents reports detail accidents or instances of improper care, injury and/or death, and are reported to federal, state and/or local agencies.

State and federal regulators have systems in place in every state that require administrators of healthcare

facilities to file written incident reports to governmental agencies. Insurance companies also require that all operators of insured facilities submit required reports to governmental agencies as well as insurance loss reports to the insurance company. Insurance loss reports must also be submitted to HUD along with any incident report that provides information of serious injuries or harm to residents.

An additional source of potential claims is written correspondence to the operator or manager of the healthcare facility, or to state or local agencies where complaints have been registered and statements have been made that claimants will file a claim regarding negligent care, injury and/or death of residents of the healthcare facility. The mortgagee should advise the applicant that any activity or issue that has been brought to the attention of the operator/manager indicating a potential claim must be provided to HUD.

The operator/manager must certify to the accuracy of this documentation. The certification must be signed, and dated by the operator/manager, and include the following statement:

*"HUD will prosecute false claims and statements. Convictions may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)"*

- e. The most recent actuarial study of inquires and claims of negligence, injuries, wrongful death, and/or improper care made against the operator/manager as follows.
  - 1) If available for any operator/manager with 50 or fewer healthcare facilities; and
  - 2) Required of any operator/manager of more than 50 healthcare facilities.

**Note: This information is considered proprietary and is exempt from Freedom of Information Act requests.**

- f. For a substantial rehabilitation or existing healthcare facility seeking FHA mortgage insurance, provide evidence that the facility had professional liability insurance coverage for a period equal to the State's statute of limitations for filing claims of negligence, injuries, wrongful death, and/or improper care.

If during the statute of limitations period there was no insurance coverage or the coverage failed to provide for events that could lead to claims filed in later years, the operator/ manager must provide an estimate of the extent of unfunded insurance liability by occurrence.

If the healthcare facility has been purchased by a new owner, and the new owner and/or operator/manager had any direct or indirect liability for operations of the healthcare facility prior to the date of sale, the operator/manager must provide an estimate of the extent of unfunded insurance liability by occurrence.

*Note: Prior claims information should be provided regardless of who may have owned or operated the facility prior to seeking FHA mortgage insurance. This information is important because it provides historical information on the previous operator/manager and can indicate the quality of care and management capability that has been present in the facility and identify important operator/manager issues that need to be reviewed during HUD underwriting.*

- g. Credit reports on the following:
- 1) The operator/manager;
  - 2) Operating officers of the operator/manager; and



- 3) Any stockholder with a 10 percent or more interest in the operator/manager.
- h. The operator/manager's certification authorizing the release of banking and credit information similar to the following is required:

"To Whom It May Concern:

Please be advised that the undersigned, as operator/manager, hereby consents to the release of any banking and credit information in connection with the loan application of (project name) to the U. S. Department of Housing and Urban Development, any Delegated Processor or any Technical Discipline Contractor contracted by HUD to process this application.

By: \_\_\_\_\_ Date: \_\_\_\_\_"

- i. A statement whether an identity of interest, as defined by the HUD, exists or will exist between the mortgagor and the operator/manager.
- j. The operator/manager's current resume.
- k. Form HUD-2013 Supplement, listing a sampling of bank and trade references, with disclosure of prior legal action, outstanding delinquent Federal debt and social security number or employer identification number (EIN or TIN) for:
  - 1) The operator/manager; and
  - 2) Operating officers of the operator/manager.
- l. If the sponsor, mortgagor, principal of the mortgagor, general contractor or operator/manager, has any delinquent Federal debt, the information outlined in III.C.2.k. above.

The Office of Management and Budget Circular A-129, "Managing Federal Credit Programs," prescribes policies and procedures for managing Federal credit programs and for collecting loans and other receivables and applies only to the applicant of a HUD-insured mortgage or a Section 202/811 capital advance. However, it has been administratively decided to apply the requirements of this Circular to the operator/manager of a health care facility seeking FHA mortgage insurance.

- m. State licensing surveys [inspection reports] shall be transmitted to HUD for the last three years of all individual facilities of the operator/ manager if the operator manager has less than ten facilities to determine the quality of care provided by the operator/manager. If the operator/manager has ten or more facilities, complete copies of state licensing surveys for all facilities with serious deficiencies (deficiencies where there is actual harm to residents commonly referred to as "G" or higher level deficiencies) shall be transmitted. Electronic URL addresses for all additional state surveys, if any, of the operator/manager for the full three-year period shall be provided to HUD electronically.
  - n. For items III.C.2.b. and III.C.2.c. above, the Hub/Program Center Director or the Director of Multifamily Development, as appropriate, may modify either or both of these requirements only if the operator/manager has not been in business for a sufficient period of time to meet the requirement(s).
3. HUD will determine if the operator/manager *does or does not* represent an acceptable credit and financial risk to the Department based on an analysis of:
- a. The credit investigation of the entity;
  - b. The financial capacity of the entity;

- c. The entity's claims history; and
- d. The entity's operating history.

At the request of the mortgagee, the HUB, or HHQ at the request of the HUB, may review the information required in III.C.2 from the mortgagee prior to submission of an application to provide guidance on the acceptability of the proposed professional healthcare insurance.

- 4. An operator/manager with 50 or fewer healthcare facilities including facilities which will be seeking HUD mortgage insurance over the next 18-months, shall provide professional liability insurance with a blanket policy that meets the following requirements:

- a. The Hub/Program Center will establish a level of professional liability insurance that is acceptable to the Department with a deductible, per occurrence coverage amount, and an aggregate cap to be established by HUD. The insurance company that is providing the professional liability insurance shall administer any escrow if the insurance includes a component of self-insurance.

- b. The minimum required coverage is:

- 1) \$1,000,000 per occurrence and,
- 2) \$3,000,000 aggregate

Note: If the project mortgage financing is infeasible due to the cost of professional liability insurance, applicants may petition the HUB to request a HHQ review to reduce the minimum coverage requirement.

- c. The per occurrence deductible for operator/managers with 50 or fewer healthcare facilities shall not exceed \$100,000. For operator/managers with 50 or fewer healthcare facilities, HUD may

require a lower deductible if the Department determines that the lower deductible is necessary after reviewing claims history, anticipated claims, the financial statements of the operator/manager, and other information required by this Notice.

- d. The operator/manager may acquire the insurance on a "cash front basis" (sometimes known as "administered self-insurance"). The term "cash front basis" means the posting of insurance backed by liquid assets (i.e. cash, cash equivalents, or readily marketable securities) or by letter-of-credit.
  - 1) The escrow cannot be pledged for any other outside purpose. It must be pledged exclusively for the professional liability insurance.
  - 2) The liquid assets escrow must either be placed with, or the letter-of-credit issued by, an acceptable financial institution.
  - 3) An acceptable financial institution is one that:
    - a) Has assets of not less than \$100,000,000;
    - b) Is organized under the laws of the United States or a State thereof and is regulated and examined by the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Reserve Board; and
    - c) Has a long-term bank deposit rating of "A-1" or better by Moody's Investor Services or "A+" by Standard and Poor's.
- e. Higher amounts of coverage may be required based on the review performed in III.C.2. above of the operator/manager's claim history and/or

current inventory of all inquiries made and occurrences, along with loss history of claims filed against the operator/manager, and an actuarial study.

5. An operator/manager of more than 50 healthcare facilities including facilities which will be seeking HUD mortgage insurance over the next 18-months, shall be submitted by the Hub to Headquarters for prior review and approval before the Hub/Program Center can issue a firm commitment or authorize a change in operator or manager. Following the guidance of Section IV of this Notice, the staff within the Office of Multifamily Development in HHQ will analyze the information and recommend to a Professional Liability Insurance Committee of senior Housing Officials, the following:
  - a. Establish a level of professional liability insurance for a blanket policy that is acceptable to the Department with a deductible of up to \$1,000,000 per occurrence with an aggregate cap to be established by HUD. The insurance company that is providing the professional liability insurance shall administer any escrow.
  - b. The operator/manager may acquire the insurance on a "cash front basis." See III.C.4.d. above.
6. The Hub/Program Center Director may refer an operator/manager listed in III.C.4. above to the Office of Multifamily Development in HHQ for an evaluation of the professional liability insurance risk and recommendation.
  - a. The referral can occur where the per bed insurance premium for professional liability insurance required in III.C.4.b. or III.C.4.c. above makes the proposal infeasible.
  - b. Headquarters may establish alternatives to the deductible, coverage amounts, and other conditions of insurance listed in this document, if underwriting and

financial feasibility analysis provide evidence that additional requirements are warranted. A minimum level of coverage will be required in these cases.

- c. The operator/manager may acquire the insurance on a "cash front basis." (See III.C.4.d. above.)
7. Operators/managers with healthcare facilities in States with government sponsored, regulated and controlled insurance providers known commonly as joint underwriting associations ("JUA") may meet the professional liability insurance requirements by providing separate insurance policies for those states with a JUA (i.e. one policy for the JUA State(s), and for the non-JUA States).
8. HUD requires the professional liability insurance policy to be either:
  - a. An occurrence policy which provides coverage regardless of when the claim is reported, as long as the occurrence giving rise to the claim occurred during the original policy period; or
  - b. A claims-made policy, which provides coverage for claims that are brought to the insurer during the policy period or during a designated, extended reporting period beyond the policy expiration. Since the term of the policy is normally one year, the operator/manager must also purchase an "extended reporting tail." The tail provides coverage for an extended period that shall be based on the maximum statute of limitations for filing claims of negligence, injuries, wrongful death, and/or improper care for the various States where the facilities are located. The tail coverage may be self-insured on a "cash front basis." (See III.C.4.d. above.)
9. If the healthcare facility is already insured and is seeking to lower the level of coverage, the Department must analyze the

information and approve changes to the level of coverage.

10. The insurance company issuing the professional liability insurance must be licensed by the Insurance Commissioner in the State(s) where the healthcare facilities are located or be authorized to provide insurance in that state as a surplus lines carrier.
11. The Department will review all applications under Section 232 that seek to refinance a healthcare facility pursuant to Section 223(a)(7) and all requests for transfers of physical assets ("TPA") involving Section 232 healthcare facilities. The Department will review each request to determine whether potential claims could impair the financial condition of the project in future years. If the Department determines that the professional liability insurance in effect is adequate to meet the cost of expected liability claims, then the Department will not apply the insurance requirements of Notice H 04-01 for that transaction. If the departmental review provides evidence that the current professional liability insurance is inadequate to meet anticipated claims, the insurance requirements of Notice H 04-01 will apply to the transaction.

**IV. THE PROFESSIONAL LIABILITY INSURANCE COMMITTEE.**

- A. Composition of the Professional Liability Insurance Committee ("Committee") is as follows:
  1. The Committee shall consist of five members.
  2. Committee members:
    - a. The Deputy Assistant Secretary ("DAS") for Multifamily Housing or his/her designee shall act as Chairperson of the Committee.
    - b. Three HUD Multifamily Housing Officials shall be designated by the DAS for Multifamily Housing. These Officials will be chosen from among the Multifamily Housing HHQ Office Directors

and the DAS's senior staff. A fourth Official will be a senior member of the field staff.

- c. The Housing Officials may serve on a continuing basis or may be chosen for a particular review, as the DAS for Multifamily Housing determines.
  - d. The Director of the Office making the recommendation cannot serve on the Committee.
3. Non-voting Advisors to the Committee shall include a designee of the Office of General Counsel.
- B. Functions, Duties and Powers of the Committee.
- 1. The Committee shall set an appropriate level of professional liability coverage after:
    - a. An impartial review of all information submitted to the Committee; and
    - b. After making a factual determination that the Department's financial interests are protected.
- C. Support staff for the Committee.
- 1. The Office of Multifamily Development will supply the support staff for the Committee. Support duties include:
    - a. Coordinate Committee activities with other HUD offices and government agencies.
    - b. Develop the agenda and policy issues for Committee meetings.
    - c. Keeps the official minutes of the Committee and the case files on all Committee actions.
    - f. Draft all notices, orders, letters and directives on behalf of the Committee.
    - g. Perform other duties assigned by the



Chairman or directed by the Committee.

2. The Director of the Office of Multifamily Development or the Office of Asset Management, as appropriate, will present the findings and recommendations to the Committee for its approval. In this capacity, the Director(s) shall:
  - a. Collect, analyze, prepare and submit to the Committee the recommendation concerning the professional liability insurance.
  - b. Refer cases for Committee consideration.

D. Office of General Counsel

1. Advises the Committee as to the legal sufficiency of actions it proposes to take.
2. Assists the Committee in reviewing the Committee's drafts of decisions and orders.
3. Provides other legal advice as requested by the Committee.

V. **PROFESSIONAL LIABILITY INSURANCE FOR UNDERWRITING THE HEALTHCARE FACILITY.**

- A. Reference is made to Form HUD-92264-HCF, Health Care Facility Summary Appraisal Report.

Line 3, Insurance and Liability, of Section F, Estimated Annual Operating Expense, of Form HUD-92264-HCF, includes general liability insurance, Directors and Officers insurance and operator/manager's professional liability insurance. Compute the estimated annual cost of the professional liability insurance policy as follows:

1. If the operator/manager has a blanket policy covering more than one healthcare facility:
  - a. Divide the current cost of the insurance policy by the number of beds in the various facilities covered. Multiply this per bed cost by the number of beds in the subject facility.

- b. Compute the cost of a facility-specific professional liability insurance policy using the current prevailing premium rates in the subject State for the required coverage in Section III.C.4. or determined by Headquarters on Section III.C.5.

Note: Underwriting calculations for state average cost or current prevailing premium for professional liability insurance should be calculated in conformity with the following. If the state is split into rural/urban cost centers, staff should use the estimated cost that is most appropriate. For determining the average state cost of professional liability insurance, it is permissible to break down intra-state costs into urban/rural, or high cost/low cost ranges. For instance, if the average cost of insurance in urban areas is \$1500 per bed per year and the average cost in rural areas is \$750 per bed per year, then projects being processed for rural areas may use the \$750 per bed estimate. A detailed cost quote from a reputable and experienced insurance broker with extensive experience with healthcare facilities may be used in lieu of the state average if information on the state average is unavailable.

- c. Use the greater of a. or b. above in computing Line 3 of the form.
2. In the case of new construction or substantial rehabilitation, the estimated cost must be adjusted to reflect the cost at the estimated date that the coverage will be bound.
- B. If a healthcare facility were purchased by a new owner and a new operator/manager is contracted to manage and operate the healthcare facility, the new owner would not generally be responsible for providing insurance coverage prior to the date of the sale. If both the for the period new owner and the new operator/manager cannot be held accountable for prior activities in the healthcare facilities

by state law, it would not be necessary to purchase "extended tail coverage".

- C. Before sending a case to Counsel's Office prior to closing, the Hub or the Program Center Director shall assure the Counsel's Office in writing that the healthcare facility meets the required professional liability insurance requirements.

## **VI. ANNUAL REVIEW.**

At the same time as the submission of the Financial Assessment Subsystem (FASS) compliant annual financial statements, the mortgagor must insure that the operator or manager of any healthcare facility subject to this Notice provides to the Department evidence of compliance with the professional liability insurance requirements.

- A. The evidence shall include but is not limited to:
  - 1. The information required in III.C.2. above; and
  - 2. A duplicate copy of professional liability insurance policy, certificate or memorandum of insurance or other evidence of the required insurance coverage.
- B. Based on a review of the above-listed evidence, the Department may require a higher level of coverage. Examples of what may trigger a higher level of coverage include but are not limited to:
  - 1. Increased claims;
  - 2. Operator/manager advances from controlling 50 or fewer facilities to more than 50 facilities; or
- C. If the Department determines a higher level of coverage is required they will notify the mortgagor and/or lessee, the operator, and the mortgagee of record by certified mail.
- D. The owner's Regulatory Agreement, either Form HUD-92466 or Form HUD-92466-E, and the lessee's Regulatory Agreement, Form HUD-92466-NHL, will be amended to include the annual review requirements and the operator's maintenance of an acceptable level of professional liability insurance.

1. In HUD-92466-NHL (1/92), add the following new provision as "(a)" after section "(5)":

(a) The Mortgagor and/or Lessee and/or Operator and/or Management Agent, as applicable, shall maintain the requisite level of professional liability insurance, as determined by the Commissioner. Annually, the mortgagor shall ensure that the Lessee/Operator/Management Agency, as applicable, provides to HUD a certification of compliance with HUD's professional liability insurance requirements.
2. In HUD-92466 (11/02), add the following new provision as "(4)" after section "9(h)":

(4) The Mortgagor and/or Lessee and/or Operator and/or Management Agent, as applicable, shall maintain the requisite level of professional liability insurance as determined by the Commissioner. Annually, the mortgagor shall ensure that the Lessee/Operator/Management Agency, as applicable, provides to HUD a certification of compliance with HUD's professional liability insurance requirements.
3. In HUD-92466-E (3/92), add the following new provision as "(k)" after section "(9)":

(k) The Mortgagor and/or Lessee and/or Operator and/or Management Agent, as applicable, shall maintain the requisite level of professional liability insurance as determined by the Commissioner. Annually, the mortgagor shall ensure that the Lessee/Operator/Management Agency, as applicable, provides to HUD a certification of compliance with HUD's professional liability insurance requirements.

**VII. THE MORTGAGEE OF RECORD.**

Nothing in this Notice can be construed as relieving the lender of its requirement to enforce all of HUD's insurance requirements.

**VIII. FOR FURTHER INFORMATION.**

If you have questions concerning this Notice feel free to contact the Office of Multifamily Development at (202) 708-1142.

**IX. PAPERWORK REDUCTION ACT.**

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3520). Once an OMB approval number has been assigned, FHA will announce the approval number. In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. HUD has submitted the information collection requirements contained in this document to OMB for review, but those requirements have not yet been approved by OMB.

***Note: Only HUD Headquarters may waive the requirements outlined in this Notice.***

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John C. Weicher  
Assistant Secretary for Housing -  
Federal Housing Commissioner