

## **.08 ASSIGNMENT OF RENTS**

If a borrower is 60 days or more delinquent and is collecting rent, the Servicer should consider completing the assignment of rents.

### **A. Conditions**

An assignment of rents may be used as a collection tool if:

1. Other arrangements to repay the delinquency cannot be made;
2. The Deed of Trust provides for an Assignment of Rents and collection of rents under these circumstances is permitted by law;
3. The action will not create any rights for the occupant that would impair the ability to foreclose on the loan documents; and
4. The Servicer's property inspection report indicates the property is free of any evidence of hazardous materials and does not reflect substantial deferred maintenance.

If assigned, the Servicer must aggressively collect on the rents.

### **B. Submission to AHFC**

The Servicer should submit a Notification of Recommended Action ([Form SER-71](#)) to AHFC prior to assigning rents on properties larger than a four-family property, or if one of the above conditions cannot be met. A written waiver should be obtained from AHFC if the Servicer believes an Assignment of Rents is not in the best interest of AHFC. The collected rents should be held and applied by the Servicer.

### **C. Appointment of a Receiver**

The Servicer is cautioned to follow the requirements of the loan documents when placing an Assignment of Rents on a property. If an Assignment of Rents is not in AHFC's best interest, the Servicer should consider the appointment of a Receiver.

### **D. Rental Agreements**

The Servicer should obtain copies of any rental agreements executed by the borrower(s) with the tenants and be familiar with state law regarding landlord/tenant relationships. If the Servicer has taken an Assignment of Rents and the property is subject to Homeowner's Association dues, the Servicer should be aware there might be a responsibility of assuming the payment of the dues, depending upon the terms of the Lease Agreement

executed with the tenant. **Failure to properly assign rents may result in the assessment of penalties by AHFC.**

E. Accounting for Rental Income

The Servicer must keep a record of rental income collections and disbursements so they can be considered when the final claim under the mortgage insurance or guaranty is filed. Refer to Claim for Reimbursement Rents Collected ([Form SER-70-1](#)) for guidelines on remitting collected rents to AHFC.