

591—12.4(455G) Loan default definition and procedures.

12.4(1) “Loan default” means a loan guaranteed by the UST fund for which the loan payment(s) is delinquent 90 days or more.

12.4(2) Lenders that have UST fund guaranteed loans shall follow these specified procedures to ensure that the UST fund guaranty remains in effect:

a. Notify the UST fund administrator in writing when the loan payment(s) is delinquent 60 days.
b. Notify the UST fund administrator in writing when the loan payment(s) is delinquent 90 days. At this time the loan shall be deemed to be in default and the Defaulted Loan Status Report must be completed and sent to the UST fund administrator.

c. After the loan is deemed to be in default, a period of 30 days will be given to cure the default. “Cure” is defined for purposes of this chapter as bringing all delinquent payments current. The lender is responsible for delivering the notice to cure to the borrower.

d. If the loan is still in default after the cure period, the lender shall submit within the next ten business days in writing to the UST fund administrator an action plan on how the lender intends to handle the loan default. The action plan shall include procedures to either restructure the loan or move toward judgment and collection of the loan. The action plan shall be reviewed and approved by the UST fund administrator within ten business days of receipt of the plan. Action plans not approved by the UST fund administrator shall be returned to the lender submitting the plan, and a new action plan will be jointly developed by the lender and the UST fund administrator. If the lender and the UST fund administrator cannot develop and agree on a new action plan, the guaranty is terminated.

If in any case the lender feels such termination is unwarranted, the lender may pursue any administrative remedy as outlined in Iowa Code chapter 17A or as approved by the UST board.

e. The lender shall follow the procedures outlined in the approved action plan and inform the UST fund administrator in writing by the end of each calendar quarter of the status of the defaulted loan until such time as the loan is no longer deemed in default. A loan will be deemed to no longer be in default at that point in time when the loan is restructured according to the approved action plan or terminated.

f. At such time as the loan has been reduced to judgment and a UST fund lien has been filed or, alternatively, when the borrower files for reorganization under Chapter 11, 12 or 13 of the Bankruptcy Code, the lender shall submit to the UST fund administrator an estimated report of loss. The UST fund administrator will pay the lender the estimated loss on the guaranteed portion of the loan from the UST fund. Estimated loss payments must first be applied to the principal portion of the debt and then to the interest. Interest will continue to accrue on the unpaid guaranteed principal until such date of final settlement, provided that the lender proceeds expeditiously with the approved action plan. The lender is responsible for protecting the guaranteed loan debt and all collateral securing the loan in judgment and bankruptcy proceedings.

g. The property shall be sold to satisfy the judgment or bankruptcy order as expeditiously as possible.

h. Upon complete performance of an approved action plan for collection of the loan, the lender shall complete a final report of loss. Within 30 days of receipt of the final report of loss form from the lender, the UST fund will pay to the lender any remaining balance of the loan guaranty and the third-party costs as outlined in 12.4(2) “i.”

i. Third-party costs incurred by the lender in collecting on guaranteed loans in default will be reimbursed to the lender on a percentage basis of the UST loan guaranty with a maximum cap of 10 percent of the principal loan guaranty. The reimbursement scale shall be as follows:

- (1) 90% guaranty 90% third-party cost reimbursement*
- (2) 80% guaranty 80% third-party cost reimbursement*
- (3) 70% guaranty 70% third-party cost reimbursement*
- (4) 60% guaranty 60% third-party cost reimbursement*
- (5) 50% guaranty 50% third-party cost reimbursement*

*Not to exceed 10 percent of the principal loan guaranty.

j. After a loan has been liquidated and a final loss has been paid by the UST fund, any future funds which may be recovered by the lender shall be prorated between the UST fund and the lender in proportion to the guaranty percentage per the loan guaranty agreement.