

# DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

## 24 CFR Parts 25, 28, 30, 81, 180, 3282, and 3500

[Docket No. FR-4787-F-01]

RIN 2501-AC91

### Inflation Adjustment of Civil Money Penalty Amounts

**AGENCY:** Office of the Secretary, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule revises HUD's civil money penalty regulations to make inflation adjustments to the civil money penalties imposed by HUD as required by statute. The applicable statute mandates the adjustments and the formula used to calculate them.

**DATES:** Effective Date: April 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Dane Narode, Deputy Chief Counsel for Administrative Proceedings, Departmental Enforcement Center, Department of Housing and Urban Development, 1250 Maryland Avenue, SW., Suite 200, Washington, DC 20024. Telephone (202) 708-2350 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

#### SUPPLEMENTARY INFORMATION:

##### I. This Final Rule

The changes made by this rule will increase the amount of civil money penalties, consistent with statutory authority.

##### A. Inflation Adjustment to the Civil Money Penalties

The Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461) (FCPIA Act), as amended by the Debt Collection Improvement Act of 1996 (31 U.S.C. 3701), requires each federal agency to make inflation adjustments to their maximum civil money penalties. This rule raises the maximum penalties that HUD may impose upon violators with respect to several HUD regulations found in 24 CFR parts 25, 28, 30, 81, 3282, and 3500. For several HUD regulations that address civil money penalties (e.g., 24 CFR 4.28, 30.20, 30.25, 30.36, 30.65, 30.68, and 81.83(b)(2)), no amendment is necessary because application of the statute's formula results in no increase to the penalty. The FCPIA Act provides for a "rounding-off," achieved by using multiples from \$10 to \$25,000, of the increase determined by use of the factor derived from calculating the periodic

increase in the Consumer Price Index (CPI). (See 28 U.S.C. 2461(5)(a).) Consequently, in those instances in which the increased dollar amount is determined to be less than the applicable multiple, the existing penalty is unchanged. The following regulations are revised by this rule.

In § 28.10, the maximum penalty for making a false claim or written statement, as described in the regulation, is increased from \$5,500 to \$6,500.

In § 30.35(c), the maximum penalties that the Mortgagee Review Board may impose for a series of violations identified in the regulations are increased from \$5,500 to \$6,500 per violation, and from \$1,100,000 to \$1,250,000 for all violations committed during any one-year period.

In § 30.40, the maximum penalty that HUD may impose upon a mortgagee or a holder of a guarantee certificate who violates the statutory provisions concerning loan guarantees for Indian housing is increased from \$5,000 to \$6,000 per violation, and from \$1,100,000 to a maximum of \$1,250,000 for all violations committed during any one-year period.

In § 30.45(g), the maximum penalty that may be imposed upon a mortgagor of a multifamily property or on any person in a relationship with the mortgagor as described in the regulations at paragraph (c) of § 30.45 is increased to \$32,500 per violation.

In § 30.50(c), the maximum penalty that may be imposed against a Government National Mortgage Association (GNMA) issuer or custodian for a violation of any provision of 12 U.S.C. 1723i(b) or other authorities cited in the regulations is increased from \$5,500 to \$6,500 per violation, and from \$1,100,000 to \$1,250,000 for all violations committed during any one-year period.

In § 30.55(c), the maximum penalty for each violation of any provision of the Interstate Land Sales Full Disclosure Act remains unchanged at \$1,100, but the one-year maximum per person increases from \$1,100,000 to \$1,250,000.

In § 30.60(c), the maximum penalty that may be imposed upon any dealer or loan correspondent for, among other things, falsifying statements or making false representations in violation of section 2(b)(7) of the National Housing Act (12 U.S.C. 1703(b)(7)) is increased from \$5,500 to \$6,500 for each violation, and from \$1,100,000 to a maximum of \$1,250,000 during any one-year period.

In § 81.83(b)(1), the maximum penalty that the Secretary may impose upon a Government Sponsored Enterprise (GSE) is increased from \$25,000 to

\$30,000 for each day an identified failure occurs.

In §§ 180.670(b)(3)(A)(2) and (3), the maximum penalty that the Administrative Law Judge (ALJ) may impose upon a respondent who is found to have engaged in a discriminatory housing practice is increased from \$27,500 to \$32,500, and from \$55,000 to \$60,000.

In §§ 180.671(a)(2) and (3), the maximum penalty that the ALJ may impose upon a respondent who is found to have engaged in a discriminatory housing practice is increased from \$27,500 to \$32,500, and from \$55,000 to \$60,000.

In § 3282.10, the maximum penalty for each violation of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 *et seq.*) remains unchanged at \$1,100. The one-year maximum for any related series of violations occurring within one year from the date of the first violation is increased from \$1,100,000 to \$1,250,000.

In § 3500.17(m)(1), the penalty for a servicer's failure to submit to a borrower an initial or annual escrow account statement is increased from \$55 to \$65 for each such violation. The total of assessed penalties may not exceed \$120,000 (from the existing total of \$110,000) for violations that occur during any consecutive 12-month period.

##### B. Technical Correction to 24 CFR 25.12

In addition to revising HUD's civil money penalties to make inflation adjustments as required by statute, this rule makes a technical correction to 24 CFR 25.12. Section 25.12 provides that the Mortgagee Review Board is authorized to impose civil money penalties and refers the reader to 24 CFR 30.320 for a list of violations for which a civil money penalty may be imposed. HUD published a final rule on September 24, 1996 (61 FR 50208), that removed § 30.320 from 24 CFR part 30. In part 30, subpart B now contains a separate section identifying each category of user that is subject to civil money penalties (e.g., Federal Housing Administration approved lenders and mortgagees, multifamily and part 202 mortgagors, GNMA issuers and custodians). This rule, therefore, removes the reference to § 30.320 in § 25.12 and replaces it with the appropriate reference to subpart B (Violations) of part 30.

##### II. Justification for Final Rulemaking

In general, HUD publishes a rule for public comment before issuing a rule for effect, in accordance with HUD's