



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention Of:

NOTICE H 2014-17

All HUD-Approved HECM Counselors

Issued: December 9, 2014

Expires: This Notice remains in effect until amended, superseded or rescinded.

Subject

Guidance for Home Equity Conversion Mortgage (HECM) Program Counselors in providing counseling to prospective HECM mortgagors, their Non-Borrowing Spouses and Heirs.

Purpose

This Housing Notice informs HUD-Approved HECM counselors of recent HECM program changes concerning Non-Borrowing Spouses, the insurability of products with certain payment options, prohibition on misleading and deceptive program descriptions and advertising, and new Principal Limit Factors. These changes were announced in HUD Mortgagee Letters (ML) 2014-07, 2014-10, 2014-11, and 2014-12.

Effective Date

The provisions of this Housing Notice (HN) are effective immediately.

Background

FHA has recognized the need to make improvements to the HECM program in recent months. In ML 2014-11, FHA limited the insurability of fixed rate HECMs to those involving only a single disbursement and eliminated the single lump sum disbursement as an option for adjustable rate mortgages. Additionally, as explained in ML 2014-07, FHA has implemented an alternative interpretation of the National Housing Act subsection 255(j)'s "Safeguard to prevent the displacement of Homeowner" in order to ensure the viability of the HECM program and the Mutual Mortgage Insurance Fund. FHA has now extended the "Safeguard" requirement to both the mortgagor and eligible Non-Borrowing Spouses, including common law spouses, for new HECMs. This new interpretation will obviate the need for these Non-Borrowing Spouses to repay or refinance the HECM loan upon the death of the mortgagor in order to remain in the property, provided all eligibility requirements are met. Because FHA's previous interpretation is embedded in

existing, legally binding contracts, FHA has no authority to alter it with respect to existing loans and this alternative is only available for HECMs originated after the effective date of ML 2014-07.

Finally, as a result of the implementation of this new alternative and other factors, FHA announced, in ML 2014-12, new Principal Limit Factor Tables. Both of these changes will impact the counseling provided to prospective mortgagors and their spouses and heirs.

Changes to Housing Counseling Requirements relating to Fixed-rate products

In ML 2014-11, FHA announced it would no longer insure any fixed rate HECM with any payment type other than a single disbursement. Additionally, FHA removed the single lump sum disbursement as a payment option under adjustable rate HECMs. Counselors must be prepared to discuss the changes set forth in ML 2014-11 with prospective mortgagors, their spouses and heirs. Counselors must ensure the mortgagor and Non-Borrowing Spouse and heirs are fully informed of the options available to him or her and the consequences of selecting a certain type of HECM product. Counselors should review guidance from ML 2014-10 regarding mortgagor's freedom of choice and FHA's prohibition on misleading or deceptive program descriptions or advertisements.

Non-Borrowing Spouse-related Changes to Housing Counseling Requirements

Counselors shall counsel prospective mortgagors and Non-Borrowing Spouses about all the requirements for a Deferral of due and payable status under the HECM after the death of the last surviving mortgagor. The full requirements, including the text of the certifications FHA requires be executed by the mortgagor and his or her spouse, may be found in ML 2014-07. Counselors must emphasize that the failure to meet and continue to meet any of the eligibility criteria for a Deferral of due and payable status at origination and continually thereafter, will result in the HECM loan becoming due and payable and any Non Borrowing Spouse will not receive the deferral as set forth in that Mortgagee Letter.

Counselors must advise the mortgagor that the deferral period is available only for a legal spouse, including any common law spouse, who meets and continues to meet all of the eligibility criteria at origination and that the deferral period will not be extended to any spouse that the mortgagor later marries.

Counselors must continue to obtain the signed statement required by ML 2011-31 from the Non-Borrowing Spouse, including any "common-law" spouse.

Nothing in HUD's guidance authorizes or requires a counselor to opine on any question of state law. Counselors are reminded that if a particular transaction appears to raise any legal questions, the counselor should advise

the prospective mortgagor, any spouse, and heirs to consult with a qualified attorney licensed to practice in the jurisdiction in which the property is located.

**PLF-related
Changes to
Housing
Counseling
Requirements**

As described in ML2014-12, new Principal Limit Factor (PLF) tables have been wholly revised and now also include PLF's for use where the Borrower has a Non-Borrowing Spouse younger than 62. The age of the youngest mortgagor or, if applicable, Non-Borrowing Spouse must be used to calculate the Principal Limit based on these new PLF tables.

Housing Counselors should assist mortgagors, spouses and heirs in understanding the financial impact a HECM may have on their circumstances. Counselors should encourage frank assessment of the available proceeds and their individual needs. Counselors should caution prospective borrowers and Non-Borrowing Spouses that PLFs below 20 percent may or may not actually improve the mortgagor's financial situation or meet their individual needs. Counselors should also recommend that the mortgagor give serious consideration to the total cost of obtaining a HECM versus the potential benefits in the individual mortgagor's situation.

**Information
Collection
Requirements**

Paperwork reduction information collection requirements contained in this Housing Notice Letter have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. §§ 3501-3520) and assigned OMB Control Numbers 2502-0524. Revisions are being made to OMB Control Number 2502-0524. 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.

Questions

Any questions regarding this Housing Notice Letter should be directed to the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may reach this number by calling the Federal Information Relay Service at (800) 877-8339. For additional information on this Mortgage Letter, please visit www.hud.gov/answers.

Signature

Biniam Gebre
Acting Assistant Secretary for Housing-Federal Housing Commissioner
