



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Special Attention Of:

NOTICE H 2016-02

All HUD-Approved HECM Counselors
All HUD-Approved Housing Counseling Agencies

Issued: February 5, 2016

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amended, superseded or
rescinded.

Subject

Home Equity Conversion Mortgage (HECM) Program: Non-Borrowing Spouse, Mortgagee Options for Home Equity Conversion Mortgages (HECMs) with FHA Case Numbers assigned prior to August 4, 2014.

Purpose

This Housing Notice informs HUD-Approved HECM counselors of HECM program changes that were announced in HUD Mortgagee Letter 2015-15. The Mortgagee Letter provides mortgagees the ability to modify their contracts of mortgage insurance to take advantage of an alternative for claim payment where the mortgagee can demonstrate that it holds an eligible HECM with an eligible Surviving Non-Borrowing Spouse.

Effective Date

The Guidance in this Housing Notice (N) is effective immediately

Background

Recently, through Mortgagee Letter 2015-15, FHA announced that it was providing all HECM mortgagees the ability to offer a Deferral Period delaying due and payable status in connection with HECM's originated with an FHA Case Number assigned before August 4, 2014, with an Eligible Non-Borrowing Spouses, where the HECMs comply with the Eligibility criteria set forth in Mortgagee Letter 2015-15. FHA does not have the authority to mandate that Mortgagees offer this Deferral Period. Nevertheless, while Mortgagees may proceed under the existing insurance contract and the terms

of the mortgage contract to foreclose, FHA can offer Mortgagees an alternative to foreclosure by allowing the amendment of the mortgage insurance contract. By such amendment, the Mortgagee defers foreclosure and assigns the HECM to FHA under the specific requirements of ML 2015-15.

**Changes to
Housing
Counseling
Requirements**

HECM counselors must familiarize themselves with the specific requirements of Mortgagee Letter 2015-15 and the additional option conveyed to Mortgagees through that Letter. When providing counseling regarding a HECM involving a Non-Borrowing Spouse, the counselor must ensure it determines the applicability of Mortgagee Letter 2015-15 or Mortgagee Letters 2014-07, as modified by 2015-02, as these Mortgagee Letters are mutually exclusive and cannot both apply to a given HECM.

When counseling a borrower whose HECM is subject to Mortgagee Letter 2015-15, or such Borrower's Non-Borrowing Spouse, the counselor must thoroughly discuss the implications of the referenced Mortgagee Letter and its potential impact on an "Eligible Surviving Non-Borrowing Spouse." The counselor shall address the definition of Eligible Surviving Non-Borrowing Spouse as stated in Mortgagee Letter 2015-15, and the requirements for the Deferral Period, including the need for the Mortgagee to elect to provide such Deferral Period.

Specifically, for HECMs subject to Mortgagee Letter 2015-15, a HECM mortgagee may elect to either foreclose in accordance with the contract as endorsed, or may utilize the Mortgagee Optional Election (MOE) Assignment. Housing Counselors should assist Borrowers and Non-Borrowing Spouses in understanding that they are not entitled to a MOE Assignment and that this election is at the sole discretion of the mortgagee. Counselors must also advise Borrowers and Non-Borrowing Spouses that nothing in the Mortgagee Letter or any other document interferes with the rights retained by the mortgagees to exercise their rights under the mortgages and contracts of mortgage insurance as originally entered into.

Counselors shall counsel Borrowers and Non-Borrowing Spouses, that in the event a mortgagee elects to utilize the MOE Assignment, a Non-Borrowing Spouse must obtain ownership of the property or other legal right to remain in the property for life within 90 days of the death of the last surviving borrower. Counselors must also emphasize that the failure to obtain ownership or other legal right to remain in the property will result in the HECM loan becoming ineligible for the MOE Assignment.

Counselors must document in the client files all counseling sessions with a Borrower whose HECM is subject to Mortgagee Letter 2015-15, or such Borrower's Non-Borrowing Spouse. The counselor and counseling agency

may obtain a certification from the client as confirmation that these provisions have been discussed.

Nothing in this Housing Notice shall supersede or in any way amend the provisions of Mortgage Letters 2014-07 and 2015-02 or the Housing Notice H2015-17 relating to those Mortgage Letters.

**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 and OMB control number 2502-0059. 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 Notice should be emailed to the Office of Housing Counseling at housing.counseling@hud.gov

Signature

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