



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

February 12, 2016

Mortgage Letter 2016-05

To All Approved Mortgagees

Subject *Additional Guidance related to Mortgage Letter 2015-15, Mortgage Optional Election (MOE) Assignment for Home Equity Conversion Mortgages (HECMs) with an FHA Case Number assigned prior to August 4, 2014*

Purpose FHA has been advised that certain states' probate procedures may impede a Non-Borrowing Spouse's ability to obtain legal title or establish the legal right to remain in a property securing a HECM prior to the deadline for a mortgagee to complete its assessment following its MOE Assignment election (required by Mortgage Letter 2015-15). Therefore, the purpose of this Mortgage Letter is to provide mortgagees with instructions on requesting an extension of time where factors (i.e., wholly outside of the control of a Non-Borrowing Spouse and a mortgagee) prevent the timely securing of a right to remain by the Non-Borrowing Spouse and result in the mortgagee's inability to complete the abovementioned assessment timely.

Additionally, FHA has been advised that, due to the application of certain state-specific laws, mortgagees are unable to truthfully certify to two of the statements set forth in the Mortgage Certification published in Mortgage Letter 2015-15. To accommodate mortgagees wishing to pursue the MOE Assignment in affected states, FHA is providing alternative certification language.

Effective Date This Mortgage Letter is effective immediately.

Extension for Assessment and Proof of Title or Other Legal Right to Remain A mortgagee may request an extension of 60 days for the following reasons: (1) for the Non-Borrowing Spouse to demonstrate that legal title or the legal right to remain has been secured; and (2) for the mortgagee to complete its required 60-day assessment, after making an election to proceed with the MOE Assignment in accordance with Mortgage Letter 2015-15 provided that:

- The inability to timely obtain legal title or some other legal right to remain is wholly outside of the Non-Borrowing Spouse's control; and

- The mortgagee has no reason to believe that the Non-Borrowing Spouse will be unable to obtain either legal title or some other legal right to remain in the property securing the HECM.

To request a 60-day extension, mortgagees must upload into FHA's Home Equity Reverse Mortgage Information Technology (HERMIT) system documentation which demonstrates that the inability to timely obtain legal title or the legal right to remain in the property was wholly outside of the Non-Borrowing Spouse's control. Any extension granted will terminate immediately upon the mortgagee becoming aware of any information that indicates the Non-Borrowing Spouse will be unable to obtain either legal title or some other legal right to remain. In the event that the extension is terminated, the mortgagee must adhere to the guidance delineated in Mortgagee Letter 2015-15, where appropriate.

**Optional
Revision to
Mortgagee
Certification in
Mortgagee
Letter 2015-15**

Where a mortgagee is unable, due to state law requirements, to truthfully certify to item number 3 in the Mortgagee Certification, the optional language that may be used is as follows:

3. "At assignment, there is a valid, legally enforceable first lien with no impediments to securing good, marketable title; and upon assignment, the Secretary will have a valid, legally enforceable first lien with no impediments to securing good and marketable title".

Additionally, where a mortgagee is unable, due to state law, to certify using the aforementioned language as is written, the mortgagee may use the language below in lieu of the last sentence in the Mortgagee Certification:

- "Further, I hereby agree on behalf of the Mortgagee that it will indemnify the Secretary for any amounts paid pursuant to this election in the event the Secretary is subsequently impeded from obtaining good and marketable title as a result of the Secretary's inability to enforce a valid, legally enforceable first lien".
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**Information
Collection
Requirements**

Paperwork reduction information collection requirements contained in this Mortgagee 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 2502-0059, 2502-0429, 2502-0524, and 2502-0611. 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 Mortgagee 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 Relay Service at (800) 877-8339. For additional information on this Mortgagee Letter, please visit www.hud.gov/answers.

Signature

Edward L. Golding
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