



06/12/13

TO: ALL HUD-APPROVED HOUSING COUNSELING AGENCIES

SUBJECT: Clarification of HECM Protocol Provisions addressing the “Non-recourse Feature”

This is to clarify and correct the provision of HUD Handbook 7610.1 REV-5, Appendix 4, Section V, page 105, “Non-Recourse Feature” for HECM loans.

The current language in Handbook 7610.1 REV5, page 105 “Non-Recourse Feature” incorrectly states that “if the heirs or the estate wish to keep the property, they are personally liable for the full balance of the loan.” However, when a HECM loan becomes due and payable as a result of the mortgagor’s death and the property is conveyed by will or operation of law to the mortgagor’s estate or heirs (including a surviving spouse who is not obligated on the HECM note) that party (or parties if multiple heirs) may satisfy the HECM debt by paying the lesser of the mortgage balance or 95% of the current appraised value of the property.

HUD’s regulations at 24 CFR 206.125(c) state, in part, that “[i]f the mortgage is due and payable at the time the contract for sale is executed, the borrower may sell the property for at least the lesser of the mortgage balance or five percent under the appraised value” (*i.e.*, 95% of the appraised value of the mortgaged property). HUD interprets the word “sale” to include any **post-death** conveyance of the mortgage property (even by operation of law) to the borrower’s estate or heirs (including a surviving spouse who is not obligated on the HECM note). A loan payoff that occurs simultaneously with or immediately following such a post-death conveyance will be regarded as a sale transaction for purposes of section 206.125(c).

Counselors are advised that they should be adhering to the provisions of 206.125(c) and all other applicable HUD requirements. This is also addressed in the Frequently Asked Questions (FAQ), question 10, dated April 23, 2013 and posted on HUD’s website at the following address:

http://portal.hud.gov/hudportal/documents/huddoc?id=hecm-svg_faqs.pdf

HUD will issue a formal revision to the HECM protocol in the future to insure consistency with 24 CFR 206.125(c) in the future. If you have any question regarding this notification, please email housing.counseling@hud.gov