



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: August 31, 2022

Mortgagee Letter 2022-15

To: All FHA-Approved Mortgagees
All Direct Endorsement Underwriters
All Eligible Submission Sources for Condominium Project Approvals
All FHA Roster Appraisers
All FHA-Approved 203(k) Consultants
All HUD-Approved Housing Counselors
All HUD-Approved Nonprofit Organizations
All Governmental Entity Participants
All Real Estate Brokers
All Closing Agents

Subject Update to Home Equity Conversion Mortgage (HECM) Program Requirements for Notice of Due and Payable Status

Purpose This Mortgagee Letter (ML) modifies the requirements for mortgagees to provide notice to a borrower's estate following a HECM becoming due and payable due to the death of the last surviving borrower.

Effective Date The provisions of this ML may be implemented immediately but must be implemented no later than 90 days from the date of this ML for HECMs that become due and payable on or after the publication date of this ML.

Public Feedback HUD welcomes feedback from interested parties for a period of 30 calendar days from the date of issuance. To provide feedback on this policy document, please send feedback to the FHA Resource Center at answers@hud.gov. HUD will consider the feedback in determining the need for future updates.

Affected Programs The provisions of this ML apply to the HECM program.

Background

On April 23, 2015, HUD issued ML 2015-10, which provided HECM servicers with guidance on timeframes for taking certain actions in relation to HECMs that have become due and payable. Among the provisions in this policy is the requirement for servicers to provide notice to the estate or heirs of a deceased HECM borrower that the HECM has become due and payable within 30 days of the death of the borrower. This provision was intended to ensure that heirs and non-borrowing spouses, who may have had no previous knowledge of the HECM, were given notice of the HECM and their options for satisfying the debt. This was particularly important given that at the time of publication of ML 2015-10, a non-borrowing spouse was given 90 days to establish marketable title or the legal right to remain in the property for life in order to qualify for a Deferral Period.

HUD has reviewed this policy considering recent policy changes that removed the firm 90-day deadline for non-borrowing spouses to establish marketable title or the legal right to remain in the property for life. Accordingly, HUD is modifying the requirements in ML 2015-10 to align the notice policy for all HECMs regardless of case number assignment date or due and payable date.

Summary of Changes

This ML:

- modifies the requirement for mortgagees to notify a borrower’s estate, heirs, or other party with legal title to the property that the HECM has become due and payable from within 30 days of the date of the borrower’s death to within 30 days of providing notice of the borrower’s death to the Secretary.
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Notice to Borrower’s Estate or Heirs of HECMs in “Due and Payable” Status due to End of Deferral Period or Death

Where a HECM is due and payable as a result of the death of the borrower, the mortgagee must provide the borrower’s estate, heirs, or other party with legal title to the property securing the HECM with a Due and Payable Notice within 30 days after the date the mortgagee provides notice to the Secretary that the HECM has become due and payable as a result of the death of the last surviving borrower. The notice must state that the borrower’s estate, heirs, or other party with legal title to the property securing the HECM may:

- satisfy the HECM;
- sell the property for at least 95% of the appraised value; or
- provide the mortgagee with a Deed in Lieu of foreclosure.

Notwithstanding the foregoing, for mortgages with a case number issued

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before August 4, 2014, where the last surviving mortgagor has died and there is a Surviving Non-Borrowing Spouse, mortgagees must follow the notice requirements in MLs 2015-15 and 2019-15.

Claim Filing

Until HUD's Home Equity Reverse Mortgage Information Technology (HERMIT) system is updated to incorporate the policy changes described in this ML, mortgagees may include debenture interest that was auto-curtailed for failure to meet notice requirements in a supplemental claim.

Mortgagees may only include debenture interest curtailed for this reason in supplemental claims where the death of the last surviving borrower occurred on or after the publication date of this ML.

Paperwork Reduction Act

The information collection requirements contained in this document have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501-3520) and assigned OMB control numbers 2502-0059; 2502-0189; 2502-0524; and 2502-0611. In accordance with the PRA, 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 ML may be directed to the FHA Resource Center at 1-800-CALL-FHA. Persons with hearing or speech impairments may reach this number by calling the Federal Relay Service at 1-800-877-8339. For additional information on this ML, please visit www.hud.gov/answers.

Signature

Julia R. Gordon
Assistant Secretary for Housing -
FHA Commissioner
