

Waiver of 24 CFR § 206.304(b)(2) requirement for a Home Equity Conversion Mortgage (HECM) counselor to have passed an exam within the prior 3 years to remain on the HECM Counselor Roster

Pursuant to section 7(q) of the Department of Housing and Urban Development Act (42 U.S.C. § 3535(q)), and the waiver authority contained in 24 CFR § 5.110, I hereby waive the 24 CFR § 206.304(b)(2) requirement for a HECM counselor to have successfully passed a standardized HECM counseling exam within the prior 3 years to remain on the HECM Roster. This waiver is being issued to ensure that the 44 client households affected by an FHA Connection exam expiration data error and who received HECM counseling from February 28 through July 14, 2023, are able to use their existing certificates in the origination of HECM financing. Without a waiver, the certificates would be deemed invalid because the counselor did not meet the regulatory requirements for placement on the HECM Counselor Roster at the time counseling was provided.

FINDINGS

1. FHA Connection, which is used to manage the HECM Counselor Roster, was showing an erroneous exam expiration year of 2082 for multiple HECM housing counselors.
2. Due to this system error, FHA Connection continued to show Counselor A0LZ68 as “active” beyond their 3-year exam validity date of February 28, 2023, and did not send the counselor any of the regularly scheduled reminders to retake the exam.
3. As a result of the system error, the counselor was able to continue using FHA Connection to issue HECM counseling certificates. The Counselor immediately took and successfully passed the exam when notified by HUD staff, and they were accordingly reinstated on the Roster.
4. Forty-four HECM certificates were issued during the period of February 28 through July 14, 2023, when the counselor did not meet the 3-year exam requirement.
5. Absent a waiver of the test requirement, these 44 HECM counseling certificates would be deemed invalid, and clients would have to entirely retake HECM counseling, possibly incurring additional counseling fees, to obtain new certificates to proceed with loan origination.

DETERMINATIONS

1. To ensure the validity of the 44 affected certificates for the affected clients, a waiver of 24 CFR § 206.304(b)(2) from the period of February 28 through July 14, 2023, must be granted.
2. Granting this waiver is not contrary to statute.

3. This waiver will ensure that affected client households will not need to attend a repeat counseling session and possibly incur additional counseling fees.
4. All other requirements of 24 CFR § 206.304(b) remain in effect.
5. Pursuant to the authority contained in 24 CFR § 5.110, the above findings constitute good cause for granting the waiver of 24 CFR § 206.304(b)(2) from the period of February 28, 2023, through July 14, 2023.
6. This waiver shall apply to HECM Counseling certificates issued between February 28, 2023, through July 14, 2023.

Issued 3/11/2024
Washington, DC

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Julia R. Gordon
Assistant Secretary for Housing - Federal
Housing Commissioner