



ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

Date: XXXX, 2023

Mortgagee Letter 2023-XX

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 Updates to Home Equity Conversion Mortgage (HECM) Assignment Eligibility

Purpose This Mortgagee Letter (ML) modifies the criteria for assigning a HECM to the Secretary.

Effective Date The provisions of this ML are effective immediately.

All updates will be incorporated into a forthcoming update of the HUD Handbook 4000.1, *FHA Single Family Housing Policy Handbook* (Handbook 4000.1).

FHA will also take actions necessary to update the regulations codified in the Code of Federal Regulations as soon as is practicable to incorporate the changes provided in this ML.

Affected Programs The provisions of this ML apply to all FHA-insured HECMs.

Background The Federal Housing Administration (FHA) is making program changes in an effort to improve the stability of the HECM program and reaffirm its

commitment to the future success of this important program and the senior citizen population it is designed to serve.

Due to many changing market conditions, including rising interest rates and inflation, the costs for HECM Mortgagees to continue covering advances to HECM Borrowers have increased. Additionally, HECM Mortgagees are also facing rising costs associated with the recovery of the value of the property securing the HECM following the death of all Borrowers and eligible Non-Borrowing Spouses (NBS), which must occur before the Mortgagee is able to file a claim for FHA mortgage insurance benefits.

By providing an alternative path to mortgage insurance claim payment for HECMs that are Due and Payable solely because of the death of all Borrowers and Eligible and Ineligible NBSs, this change will help reduce the costs of participation in the HECM program and will also serve to reduce risk to the MMI Fund.

FHA is therefore using the authority provided to it in the Reverse Mortgage Stabilization Act (RMSA) of 2013, codified in Section 255(h)(3) of the National Housing Act, 12 U.S.C. § 1715z-20(h)(3) to issue this ML amending the regulations and requirements applicable to the HECM program as is necessary to improve the fiscal safety and soundness of the HECM program. This ML also sets forth additional administrative criteria for Mortgagees to utilize the new claim option provided through this ML.

Summary of Changes

This ML:

- modifies 24 CFR §206.107 Mortgagee election of assignment or shared premium option to:
- allow for optional assignment claims of mortgages in due and payable status solely based on the death of all Borrowers and Ineligible and Eligible Non-Borrowing Spouses; and
- prescribes administrative criteria for the utilization of this new assignment claim option.

24 CFR § 206.107(a)(1)

Mortgagee election of assignment or shared premium option. (24 CFR § 206.107(a)(1)) is modified as follows:

(iii) The mortgage is not due and payable under § 206.27(c)(1), or, if due and payable under § 206.27(c)(1), its due and payable status either:

- (a) has been deferred pursuant to a Deferral Period; or
- (b) is solely based on the death of all Borrowers and the death of all Eligible or Ineligible Non-Borrowing Spouses, and all other criteria for assignment set by the Commissioner by notice have been met.

**FHA Single
Family Housing
Policy
Handbook
4000.1**

**Servicing of
FHA-Insured
HECMs**

The policy updates will be incorporated into Handbook 4000.1 as follows:

Additional Criteria (III.B.1.r.ii.C)

In addition to all basic eligibility criteria, the Mortgagee must ensure that additional eligibility criteria are met on a case-by-case basis.

(1) Cases Not Involving an Eligible Non-Borrowing Spouse

For cases not involving an Eligible NBS, the Mortgagee must be current in making the required payments under the HECM to the Borrower.

Additionally, the Mortgagee must ensure:

- the Borrower's obligations under the HECM are current;
- HUD has not been informed of a Due and Payable event, or HUD has been so informed but has denied due and payable approval for the HECM; and
- the outstanding HECM balance is greater than or equal to 97 percent of the Maximum Claim Amount (MCA) unless HUD has approved a line-of-credit advance request that would cause the outstanding balance to exceed 100 percent of the MCA.

No assignment claim will be paid until the outstanding HECM balance is greater than or equal to 98 percent of the MCA.

(2) Cases Involving an Eligible Non-Borrowing Spouse and Assigned an FHA Case Number on or after August 4, 2014

For cases that involve an Eligible NBS with an FHA case number assigned on or after August 4, 2014, where the HECM is not within a Deferral Period, the Mortgagee must be current in making the required payments under the HECM to the Borrower. Additionally, the Mortgagee must ensure:

- the Borrower's obligations under the HECM are current;
- HUD has not been informed of a Due and Payable event, other than in the case of the death of the last surviving Borrower or non-occupancy of a Borrower because the Borrower has resided in a health care facility for more than 12 consecutive months, or HUD has been so informed but has denied due and payable approval for the HECM;
- all required certifications have been obtained; and
- the outstanding HECM balance is greater than or equal to 97 percent of the MCA.

No assignment claim will be paid until the outstanding HECM balance is greater than or equal to 98 percent of the MCA.

(3) Cases Involving an Eligible Non-Borrowing Spouse and Assigned an FHA Case Number Before August 4, 2014

For cases involving an Eligible Surviving NBS with an FHA case number assigned prior to August 4, 2014, if a Mortgagee does not elect to utilize the MOE Assignment upon the death of the last surviving Borrower or determines that a HECM is ineligible for MOE Assignment, the Mortgagee must notify HUD through [HERMIT](#) that the HECM has become Due and Payable. The Mortgagee must commence foreclosure within the established [foreclosure time frames](#).

Where the HECM will be assigned to HUD using the [MOE Assignment](#), the Mortgagee must ensure:

- the Secretary has not been informed of a Due and Payable event, other than in the case of the death of the last surviving Borrower or non-occupancy of a Borrower because the Borrower has resided in a health care facility for more than 12 consecutive months, or the Secretary has been so informed but has denied due and payable approval for the HECM;
- the HECM remains a valid and legally enforceable first lien under state law and no statute of limitations or other barrier exists to the exercising of rights to gain good, marketable title under the HECM, which may include a modification to the HECM, if needed; and
- there are no allegations or claims that would invalidate the HECM or any such allegations or claims have been judicially resolved in favor of the Mortgagee.

(4) Cases in Due and Payable Status due to the Death of all Borrowers and there are no Living Eligible or Ineligible NBS on or prior to [XX,XX,XXXX Date of Publication of ML]

Where a HECM is Due and Payable as a result of the death of all Borrowers and there are no living Eligible or Ineligible NBS associated with the HECM, the Mortgagee must ensure:

- the loan balance has reached 98 percent MCA;
- if foreclosure has been initiated, the foreclosure has been terminated;
- both the short sale and the Deed-In-Lieu (DIL) options with incentives have been offered to the Borrower's estate for 60 days. Mortgagees must offer \$5,000.00 as an addition to available Cash for Keys Incentive (III.B.2(d)(vii)) for this timeframe.
 - If the Borrower's estate accepts the Cash for Keys Incentive, then the HECM may be assigned only if the DIL or Short Sale is not completed within 12 months of the acceptance.
 - If the estate declines to pursue both options, or if the option is unsuccessful, the Mortgagee must offer one \$7,500.00 per-

unit Cash for Keys Incentive (III.B.2(d)(vii)) for all occupants in a unit for vacating the property within 30 days of the offer, or \$5,000.00 for vacating within 60 days of the offer. The Mortgagee may immediately upon declination of this incentive proceed with assignment provided all other assignment requirements are met.

(5) Cases in Due and Payable Status due to the Death of all Borrowers and there are no Living Eligible or Ineligible NBS after [XX,XX,XXXX Date of Publication of ML]

Where a HECM is Due and Payable as a result of the death of all Borrowers and there are no living Eligible or Ineligible NBS associated with the HECM, the Mortgagee must ensure:

- all Reasonable Diligence Time Frames have been met;
- the loan balance has reached 98 percent MCA;
- if foreclosure has been initiated, the foreclosure has been terminated; and
- both the short sale and the Deed-In-Lieu (DIL) options with incentives have been offered to the Borrower's estate.
 - If the Borrower's estate accepts the Cash for Keys Incentive, then the HECM may be assigned only if the DIL or Short Sale is not completed within 12 months of the acceptance.
 - If the estate declines to pursue both options, or if the option is unsuccessful, the Mortgagee must offer one \$7,500.00 per-unit Cash for Keys Incentive (III.B.2(d)(vii)) for all occupants in a unit for vacating the property within 30 days of the offer, or \$5,000.00 for vacating within 60 days of the offer. The Mortgagee may immediately upon declination of this incentive proceed with assignment provided all other assignment requirements are met.

Required Documentation (III.B.1.r.iii)

(A) Compliance Package

The compliance package includes the items listed below which must be stacked in the following order:

1. Borrower's payment plan and method if the Borrower has available Principal Limit or receives scheduled payments. If the Borrower is paid via Automated Clearing House (ACH), this must include the ACH information and indicate if the ACH account is a checking account or savings account;
2. copy of the Notice of Assignment letter sent to the Borrower;
3. payment history from the Mortgagee's system through the current month and including the current NPL;

4. current hazard insurance declaration page, or a document from the hazard insurance provider on its letterhead or from its website that contains the following information:
 - a. name of the insured
 - b. address of insured property
 - c. type of coverage
 - d. insurance policy number
 - e. insurance policy limits
 - f. effective date of the insurance policy
 - g. expiration date of the insurance policy
 - h. name and contact information for the insurer
 - i. annual insurance premium;
5. current flood insurance declaration page, if applicable;
6. evidence that any repairs related to a hazard or flood insurance loss have been completed and the insurance proceeds disbursed appropriately, if applicable;
7. all certifications related to an NBS required specifically for HECMs originated on or after August 4, 2014, or those specifically required for HECMs originated prior to August 4, 2014 and being assigned under a MOE Assignment;
8. certification that the Mortgage is not subject to an indemnification agreement entered into by the Mortgagee assigning the HECM;
9. if Due and Payable solely for reason of death of all Borrowers and there are no living Eligible or Ineligible NBS, if any, a copy of a death certificate, or alternative evidence of death such as an obituary or documentation from a health care institution for each Borrower and NBS, if any.
10. If Due and Payable for reason of death of all Borrowers and there are no living Eligible or Ineligible NBS, if any, evidence that the Borrower's estate has been offered Short Sale and DIL with incentives for both but both options have been unsuccessful or declined by the estate and if declined, evidence any occupants were offered pre-foreclosure incentives to vacate the property, and
11. For any HECMs that become Due and Payable after [XX XX, XXXX Date of ML] for reason of death of all Borrowers and there are no living Eligible or Ineligible NBS, if any, certification from the Mortgagee that all Reasonable Diligence Time Frames have been met, and if foreclosure has been initiated, the foreclosure has been terminated.

**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 2502-0005; 2502-0059; 2502-0117; 2502-

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0189; 2502-0302; 2502-0306; 2502-0322; 2502-0358; 2502-0404; 2502-0414; 2502-0429; 2502-0494; 2502-0496; 2502-0524; 2502-0525; 2502-0527; 2502-0538; 2502-0540; 2502-0556; 2502-0561; 2502-0566; 2502-0570; 2502-0583; 2502-0584; 2502-0589; 2502-0595; 2502-0600; 2502-0610; 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.

Signature

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Julia R. Gordon
Assistant Secretary for Housing -
FHA Commissioner

Drafting Table