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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 30 and 206

[Docket No. FR-5353-N-02]
RIN 2502-AI79

Federal Housing Administration (FHA): Strengthening the Home Equity Conversion Mortgage Program

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: On May 19, 2016, HUD published in the Federal Register, a proposed rule that would codify several significant changes to FHA's Home Equity Conversion Mortgage program that were previously issued under the authority granted to HUD in the Housing and Economic Recovery Act of 2008 and the Reverse Mortgage Stabilization Act of 2013, and to make additional regulatory changes. The Home Equity Conversion Mortgage program is FHA's reverse mortgage program that enables seniors who have equity in their homes to withdraw a portion of the accumulated equity. The intent of the Home Equity Conversion Mortgage program is to ease the financial burden on elderly homeowners facing increased health, housing, and subsistence costs at a time of reduced income. This document opens the public comment period solely for the provision addressed in this document to address a suggested change offered during the public comment period for the proposed rule regarding the lender's option to file a claim when the loan balance reaches 98 percent of the maximum claim amount.

DATES: Comment Due Date: **[Insert date 30 days from date of publication]**.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Regulations Division, Office of General Counsel, Department of Housing and Urban

Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0500. Communications must refer to the above docket number and title. There are two methods for submitting public comments. All submissions must refer to the above docket number and title.

1. Submission of Comments by Mail. Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street, SW, Room 10276, Washington, DC 20410-0001.

2. Electronic Submission of Comments. Interested persons may submit comments electronically through the Federal eRulemaking Portal at www.regulations.gov. HUD strongly encourages commenters to submit comments electronically. Electronic submission of comments allows the commenter maximum time to prepare and submit a comment, ensures timely receipt by HUD, and enables HUD to make them immediately available to the public. Comments submitted electronically through the www.regulations.gov website can be viewed by other commenters and interested members of the public. Commenters should follow the instructions provided on that site to submit comments electronically.

Note: To receive consideration as public comments, comments must be submitted through one of the two methods specified above. Again, all submissions must refer to the docket number and title of the document. *No Facsimile Comments.* Facsimile (FAX) comments are not acceptable.

Public Inspection of Public Comments. All properly submitted comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at 202-708-3055 (this is not a toll-free number).

Individuals with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Relay Service at 800-877-8339. Copies of all comments submitted are available for inspection and downloading at www.regulations.gov.

FOR FURTHER INFORMATION, CONTACT: Karin Hill, Senior Policy Advisor, Office of Single Family Housing, Department of Housing and Urban Development, 451 7th Street SW, Room 9282, Washington, DC 20410; telephone number 202–402-3084 (this is not a toll- free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll- free Federal Relay Service at 800–877– 8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. The HECM Program

On May 19, 2016, at 81 FR 31769, HUD published a document that proposed to amend its regulations, at 24 CFR parts 30 and 206, that govern HUD's reverse mortgage program, called the Home Equity Conversion Mortgage (HECM) program. The HECM program allows eligible borrowers, 62 years of age or older, to convert the equity in their homes into liquid assets. The withdrawal of equity may take a variety of forms, as authorized by the National Housing Act (NHA) and selected by the borrower. The home, which serves as security for the FHA-insured mortgage, must be, and must continue to be, the borrower's principal residence during the life of the borrower. For adjustable interest rate HECMs, equity payments to the borrower may be in the form of monthly disbursements for life or a fixed term of years, disbursements from a line of credit advance or a combination of monthly disbursements and a line of credit. For fixed interest rate HECMs, equity payments to the borrower must be in the form of a single lump sum disbursement at closing.

The maximum amount of equity in the home that is available to a borrower under a HECM loan is the “principal limit” that is calculated for that loan. The borrower retains ownership of the property and may sell the home at any time keeping any residual sale proceeds in excess of the outstanding loan balance. Until the mortgage is repaid, and regardless of whether or not additional disbursements under the mortgage are permissible, interest on the mortgage, mortgage insurance premiums, and servicing charges, where applicable, continue to accrue.

The subject of this document regards the mortgagee’s election of the assignment option as provided in § 206.107(a). This section gives the mortgagee an option, before the mortgage is submitted for insurance endorsement, to select either: (1) the assignment option, which allows the mortgagee to assign the HECM to the Secretary if the mortgage balance is equal to or greater than 98 percent of the maximum claim amount; or (2) the shared premium option, which allows the mortgagee to retain a portion of the monthly mortgage insurance premiums (MIP) but does not allow the mortgagee to assign the mortgage unless the mortgagee fails to make payments and the Secretary demands assignment. Under the assignment option, the mortgagee may only assign the mortgage to the Secretary if the following are also true: (1) the mortgagee is current in making the required payments to the mortgagor; (2) the mortgagee is current in making the required MIP payments to the Secretary; (3) the mortgage is not due and payable; and (4) the mortgage is a first lien of record and title to the property securing the mortgage is good and marketable.

B. The Proposed Rule and the Public Comment

The May 19, 2016, proposed rule proposed to codify a number of changes that had been implemented through mortgagee letters under the authority of the Housing and Economic

Recovery Act of 2008 (Public Law 110-289, approved July 30, 2008) (HERA) and the Reverse Mortgage Stabilization Act of 2013 (Public Law 113-29, approved August 9, 2013) (RMSA).

The public comment period on the proposed rule closed on July 18, 2016. All public comments submitted to date can be found at https://www.regulations.gov/document?D=HUD-2016-0052-0001, and each public comment is assigned a number that begins with HUD-2016-0052. On June 23, 2016, a public commenter (HUD-2016-0052-0010) brought to HUD’s attention a suggested change to the HECM program’s policy that grants the mortgagee the option to assign a HECM loan to FHA if the outstanding loan balance is equal to or greater than 98 percent of the maximum claim amount. The commenter stated that, in some cases, a mortgagee may decline to file a claim in this scenario if the property value has risen rapidly and the loan has an above-market rate. The commentator concluded that lenders in this way have a “put option” and “can choose to keep the best loans and make claims for the worst ones”. In order to address this issue, the commenter suggested that HUD require that an assignment claim be made when the loans reach 98 percent of the maximum claim amount. HUD seeks public comment on the feasibility of this proposal as HUD is considering whether to adopt it.

II. Proposed Approach to Require Claims Be Made at 98 Percent of Maximum Claim Amount

Through this document, HUD solicits public comment solely on the issue of requiring mortgagees to file a claim when the HECM loan reaches 98 percent of the maximum claim amount. If HUD were to implement this proposal, HUD would amend § 206.107(a) to require the mortgagee to assign the mortgage to the Commissioner if the mortgage balance is equal to or greater than 98 percent of the maximum claim amount, or the mortgagor has requested a payment which exceeds the difference between the maximum claim amount and the mortgage balance.

By proposing the change to the assignment option suggested by the public commenter, HUD would not alter the other proposed changes to § 206.107(a). The criteria for assigning a HECM loan to the Commissioner in § 206.107(a) would remain, thereby still precluding the mortgagee from assigning the HECM loan if the loan or the mortgagee's servicing of the loan does not meet the criteria. Therefore, the proposal would require the mortgagee to assign the mortgage to the Commissioner at the given threshold unless the loan or the mortgagee's servicing of the loan does not meet the assignment criteria.

HUD is soliciting public comment solely on this proposal for a period of 30 days.

Dated: August 9, 2016.

Genger Charles,
General Deputy Assistant Secretary for Housing.

[FR-5353-N-02]

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