



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

ASSISTANT SECRETARY FOR HOUSING-
FEDERAL HOUSING COMMISSIONER

September 29, 2008

MORTGAGEE LETTER 2008-28

**TO: ALL HUD-APPROVED MORTGAGEES
ALL HUD-APPROVED HOUSING COUNSELING AGENCIES**

SUBJECT: Prohibition on Mortgagee Funded Home Equity Conversion Mortgage (HECM) Counseling

This Mortgagee Letter informs Federal Housing Administration (FHA) approved Mortgagees and Department of Housing and Urban Development (HUD) approved housing counseling agencies that mortgagees are no longer permitted to pay for HECM counseling on behalf of mortgagors. This new statutory requirement is effective immediately. This ML rescinds paragraph (2) of the section entitled Payment of Counseling Fee in ML 2008-12.

Section 2122 of the "Housing and Economic Recovery Act of 2008" (HERA) (Pub. L. No. 110-289), enacted July 30, 2008, requires that the HECM mortgage must be executed by a mortgagor who received adequate counseling from an independent third party that is not either directly or indirectly associated or compensated by a party involved in 1) originating or servicing the mortgage; 2) funding the loan underlying the mortgage; or 3) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product.

No Permissible Method for Payments

Lenders can no longer pay HUD-approved counseling agencies, directly or indirectly, for counseling services through either a lump-sum payment or on a case-by-case basis. An example of prohibited indirect funding is Lenders funneling payment for HECM counseling through a nonprofit, foundation, association or any other entity or organization that is a branch of, affiliated with or associated with a lending institution.

Funding for Other Housing Counseling Services

Lenders may continue to pay for other types of housing counseling not associated with the HECM program, including pre-purchase and foreclosure prevention counseling, under certain conditions, as addressed in 24 CFR Part 214, regulations for HUD's Housing Counseling Program.

As required by section 214.303(g) of the Housing Counseling regulations, these transactions and relationships, as well as any other financial relationship between the counseling agency and any industry participant, must be disclosed to the counseling recipient.

If you have any questions regarding this Mortgage Letter, please contact the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). [Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD \(1-877-833-2483\).](#)

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing-
Federal Housing Commissioner