



National Reverse Mortgage Lenders Association
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QDAM
Department of Housing and Urban Development
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Re: Docket No. FR-7027-N-30; OMB Control No. 2502-0524; 60-Day Notice of Proposed Information Collection: Home Equity Conversion Mortgage (HECM) Insurance Application for the Origination of Reverse Mortgages and Related Documents

Introduction

The National Reverse Mortgage Lenders Association (“NRMLA”) is the national voice of the reverse mortgage industry. With over 300 member companies and over 2,000 member delegates, NRMLA serves as an educational resource, policy advocate and public affairs center for lenders and related professionals. NRMLA was established in 1997 to enhance the professionalism of the reverse mortgage industry. Our mission includes educating industry participants on best practices, regulatory requirements and market dynamics; providing helpful information to consumers about reverse mortgages; enforcing our Code of Ethics and Professional Responsibility;¹ and offering insight to policymakers working on reverse mortgage matters and related issues. NRMLA members make over 90% of the reverse mortgages originated today.

Overview

On September 17, 2020, the Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (“HUD”), issued a Notice seeking approval from the Office of Management and Budget (“OMB”) for the collection of information regarding the Home Equity Conversion Mortgage (“HECM”) Insurance Application for the Origination of Reverse Mortgages and Related Documents. In accordance with the Paperwork Reduction Act,² HUD is requesting comment from all interested parties on the proposed collection of information. Comments are due November 16, 2020.

The forms on which information is being collected include Form Number: HUD-92901, HUD-92902, HUD-92051, HUD-92561, HUD-92800.5b, HUD-92900-A, HUD-92300, HUD-1, HUD-1 Addendum, Fannie Mae (“FNMA”)–1009, FNMA–1025, FNMA–1003, FNMA–1004, FNMA–1004c, FNMA–1073, HUD-92541, HUD-92544, NMPA-99A, and NPMA-99B. In the Notice, HUD states that the currently

¹ *Code of Ethics & Professional Responsibility*, NRMLA, <http://www.nrmlaonline.org/nrmla/ethics/conduct.aspx>.

² Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

approved information collection is necessary to screen mortgage insurance applications in order to protect the FHA insurance fund and the interests of consumers and potential borrowers.

The Notice solicits comments from members of the public and affected parties concerning the collection of information described above on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encouraged interested parties to submit comment in response to these questions.

As the national voice of the reverse mortgage industry, and based upon feedback from our membership, we are pleased to submit the comments below, especially in the area of ways to enhance the quality, utility, and clarity of the information to be collected.

Comments

FNMA-1003; FNMA-1009

In August 2013, Congress enacted and President Obama signed into law the Reverse Mortgage Stabilization Act.³ As part of, but even prior to the Act, HUD made substantial changes to the HECM program. Those changes included that mortgagees undertake a Financial Assessment of prospective HECM borrowers (or applicants), with the possibility of required Life Time Property Charge Set Aside (i.e., real estate tax and hazard insurance) accounts with some HECM loans, and additional protections for Non-Borrowing Spouses of HECM borrowers. With such changes, utility of the FNMA-1009 for HECMs has become less suitable and, as a result, we recommend that HUD, instead of requiring mortgagees to use the FNMA-1009, permit mortgagees to use the FNMA-1003 for HECMs with an addendum accommodating the following additional information:

Borrower Information:

- Co-Borrower Social Security Number and Date of Birth;
- Alternate Contact Person (Name, Address, and Phone Number)

Primary Residence Information:

Property Title Held As:

- Fee Simple, Life Estate, Leasehold
- Leasehold Expiration Date

³ See Pub. L. No. 113-29.

- Property held by Inter Vivos (Living) Revocable Trust, Irrevocable Trust

Liens Against Property:

- Address of Creditor

Declarations

- We recommend adding a declaration addressing whether the borrower intends to use the HECM to purchase or invest in financial products, stating by way of example, “Do you intend to use the reverse mortgage to purchase or invest in financial products such as insurance, mutual funds or annuities? If yes, provide name of financial product and cost to purchase or invest below: Example: long-term care insurance \$10,000”
- In addition, we request an additional declaration directed at whether the applicant has an additional FHA insured loan, stating in substance as follows: “Do you have an existing FHA insured loan? If “yes” provide property address, account number, name of creditor, amount of mortgages and liens, and unpaid loan balance below.”

HUD-92902 – Counseling Certificate

As the HECM program has changed, the Counseling Certificate has not evolved to fully address program changes that impact counseling. We propose the following revisions to the Counseling Certificate to better meet the needs of HECM borrowers, counselors, and mortgagees:

- The current Counseling Certificate form offers only two options for counseling type, Face-to-Face and Telephonic. Since HECM counseling can be performed by video conferencing sessions, we recommend adding a check box in the Counselor Certification to designate that the counseling interview was held by video conference.
- Homeowners frequently have multiple attorneys-in-fact which must act jointly. In view of the foregoing, we recommend adding an additional signature line for a second POA/Guardian at the end of the document.
- Non-Borrowing Owners, which differ from Non-Borrowing Spouses, are required under the HECM regulations to receive HECM counseling.⁴ Accordingly, we recommend adding a signature line for a Non- Borrowing Owner to allow the Non- Borrowing Owner to properly acknowledge that he/she attended the HECM counseling..
- Our members report that the font size of the Counseling Certificate is difficult for elderly homeowners to read. We recommend that HUD increase the font size and revert to a two-page form to enhance its readability.

HUD-1\GFE

HUD has confirmed in the past that a Good Faith Estimate (“GFE”) is not required with HECMs structured as open-end credit, as that term is defined under Regulation Z, the implementing regulation of the federal

⁴ 24 C.F.R. § 206.41(c).

Truth-in-Lending Act.⁵ While authority for the Real Estate Settlement Procedures Act (“RESPA”) was transferred to the Consumer Financial Protection Bureau under the Dodd-Frank Act, RESPA continues to exempt the use of GFE’s and HUD-1s for open end credit loans as defined under Regulation Z. Variable rate HECMs are structured as open end credit as defined under Regulation Z. HUD should clarify that, with HECMs structured as open-end credit, a HUD-1 need not be contained in the HECM case binder. Such a change would greatly reduce the paperwork collection efforts of HECM mortgagees.

HUD-92900-A

We respectfully request, as described in more detail below, that Part IV of Form 92900-A be revised to allow non-borrowing spouses of HECM borrowers to provide their consent for the Social Security Administration (“SSA”) to verify their Social Security Number (“SSN”) since HECM mortgagees are required to verify the SSN of non-borrowing spouses. Further, in order to provide accurate information to HECM borrowers, we request that the “Caution: Delinquencies, Defaults, Foreclosures and Abuses” section in Part III of Form 92900-A be revised because certain statements provided in that section do not apply to HECM borrowers and could potentially mislead seniors.

Verification of Non-Borrowing Spouse’s SSN

Part IV of Form 92900-A only allows the borrower to give his or her consent for the SSA to verify his or her SSN to the mortgagee. However, under the HECM regulations and guidelines, HECM mortgagees are required to verify the SSN of HECM borrowers and their non-borrowing spouses.⁶ We request that Part IV of Form 92900-A be revised to allow non-borrowing spouses of HECM borrowers to provide their consent for the SSA to verify their SSN to the mortgagee.

We note that Section 1.8 of the HECM Financial Assessment and Property Charge Guide states that HECM mortgagees may manually revise the current Form 92900-A in order to obtain the non-borrowing spouse’s signature and verify his or her SSN with the SSA. Based on such guidance, since HUD already requires mortgagees to use Form HUD-92900-A to verify non-borrowing spouses’ SSN, rather than instructing mortgagees to manually modify the language in Form HUD-92900-A (or attach an addendum to Form HUD-92900-A, which the non-borrowing spouse must sign), we simply request that Part IV of Form HUD-92900-A be revised to allow non-borrowing spouses of HECM borrowers to provide their consent for the SSA to verify their SSN to the mortgagee.

⁵ See Mortgagee Letter 2004-18 (April 23, 2004) (“... other disclosure forms ... can be provided in lieu of the GFE under HUD’s RESPA regulations at 24 C.F.R. 3500.7(f), i.e., disclosures required under the Truth-in-Lending Act (TILA) and Regulation Z.”). See also HUD HECM revised rules, published at 69 Fed. Reg. 15586, at 15589 (Mar. 25, 2004), wherein HUD stated that: “HECM loans may be either open-end or closed-end lines of credit. [...]the RESPA regulations provide that lenders and mortgage brokers may satisfy RESPA disclosure requirements for open-end lines of credit if they provide borrowers with the disclosures required under the Truth in Lending Act (TILA) and Regulation Z. Therefore, for HECM loans that are open-end lines of credit, lenders and mortgage brokers may satisfy RESPA disclosure requirements if they provide the disclosures required by TILA and Regulation Z. The RESPA Good Faith Estimate is only required for those HECM loans that are closed-end lines of credit.” These provisions have not changed under the current RESPA regulations, Regulation X. See 12 C.F.R. §1024.7(h).

⁶ 24 C.F.R. § 206.40; HECM Financial Assessment and Property Charge Guide, Section 1.8.

Borrower Disclosures

Part III of Form HUD-92900-A provides various important disclosures, notices, and information to borrowers. However, we note that certain statements in Part III, under the section entitled “Caution: Delinquencies, Defaults, Foreclosures and Abuses,” do not apply to HECM borrowers and could potentially be misleading to seniors. Specifically, that section provides as follows

“Caution. Delinquencies, defaults, foreclosures and abuses of mortgage loans involving programs of the Federal Government can be costly and detrimental to your credit, now and in the future. The lender in this transaction, its agents and assigns as well as the Federal Government, its agencies, agents and assigns, are authorized to take any and all of the following actions in the event loan payments become delinquent on the mortgage loan described in the attached application: (1) Report your name and account information to a credit bureau; (2) Assess additional interest and penalty charges for the period of time that payment is not made; (3) Assess charges to cover additional administrative costs incurred by the Government to service your account; (4) Offset amounts owed to you under other Federal programs; (5) Refer your account to a private attorney, collection agency or mortgage servicing agency to collect the amount due, foreclose the mortgage, sell the property and seek judgment against you for any deficiency; (6) Refer your account to the Department of Justice for litigation in the courts; (7) If you are a current or retired Federal employee, take action to offset your salary, or civil service retirement benefits; (8) Refer your debt to the Internal Revenue Service for offset against any amount owed to you as an income tax refund; and (9) Report any resulting written off debt of yours to the Internal Revenue Service as your taxable income. All of these actions can and will be used to recover any debts owed when it is determined to be in the interest of the lender and/or the Federal Government to do so.”

In connection with FHA-insured HECM loans, note that the above provisions are inaccurate and could be potentially misleading to senior borrowers. HECM borrowers are not required to make monthly “loan payments.” In addition, FHA-insured HECM loans are nonrecourse loans. HECM borrowers are not personally liable for the payment of the debt. Further, mortgagees are not permitted to obtain a deficiency judgment against HECM borrowers.

Additionally, in Mortgagee Letter 2014-10, HUD states that “[m]ortgagees must ensure that mortgagors are properly informed of all features available to HECM mortgagors and may not mislead or otherwise cause a mortgagor to believe that the HECM product contains any features or limitations that are inconsistent with FHA’s requirements.” Although HECM mortgagees are prohibited from misleading HECM borrowers or providing them with inaccurate information regarding HECM loans, Form HUD-92900-A, which HUD requires to be used with every HECM loan, contains numerous inaccurate statements that may mislead and confuse HECM borrowers.

Based on the foregoing, we request that the above noted statements in Part III of Form HUD92900-A be revised to accurately reflect the features of FHA-insured HECM loans or, as an alternative, clarified that these statements do not apply to HECM loans.

HUD-92800.5B - Conditional Commitment*Maximum Claim Amount*

The HUD HECM Handbook requires that the HUD-92800.5B indicate the maximum claim amount in the "Specific Commitment Conditions" section.⁷ Thus, the maximum claim amount for a senior's home used to secure HECM loan should be included in the HUD Form 92800.5B.

30 Day Appraisal Extension

The HUD Form 92800.5B should be amended to take into account those instances wherein a 30-day appraisal extension may be granted.⁸

Flood Insurance

A line should be added to the HUD Form 92800.5B to indicate the presence and/or requirement of flood insurance.

Change "Fire Insurance" to "Hazard Insurance"

The references to "fire insurance" in the HUD Form 92800.5B should be changed to "hazard insurance."

Change from Condominium Common Charges to HOA Fees, and include Ground Rents & Other Assessments

The references to Condominium Common Charges (abbreviated as "Condo. Com. Exp." in HUD Form 92800.5B) should be changed to HOA fees and should include Ground Rents and Other Assessments.

A Line Should be Added for Other Assessments

If the change requested immediately above with regard to HOA Fees is not fully implemented, a separate line in HUD Form 92800.5B should be added for "Other Assessment." Alternatively, even if the change requested immediately above with regard to HOA Fees is fully implemented, a separate line in HUD Form 92800.5B should be added for "Other Assessment."

Reduce the Size of HUD Form 92800.5

HUD should reduce HUD Form 92800.5B from a 6 page document to a 2 page document as a significant amount of the information on this form is also contained in the appraisal report, which must be provided to the borrower.

⁷ FHA Single Family HECM Handbook 4235.1 REV-1, ¶ 3-9(D).

⁸ An appraisal is valid for 120 days. The 120 Day validity period for an appraisal may be extended for 30 Days at the option of the mortgagee if (1) the mortgagee approved the mortgagor or HUD issued the firm commitment before the expiration of the original appraisal; or (2) the mortgagor signed a valid sales contract prior to the expiration date of the appraisal.. See HECM Financial Assessment and Property Charge Guide (Rev. July 13, 2016), ¶ 1.13: Appraisal Validity.

Information Field

HUD should remove the "Information" field from the HUD Form 92800.5B because the information referenced therein is not contained on the HUD Form 92900A for taxes and insurance, and, thus, the disclosure of this information on the HUD Form 92800.5B is not relevant.

Conclusion

NRMLA appreciates your consideration of our comments herein. We trust that you will find our comments above helpful and that you will view and act upon them with favor.

Very truly yours,



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