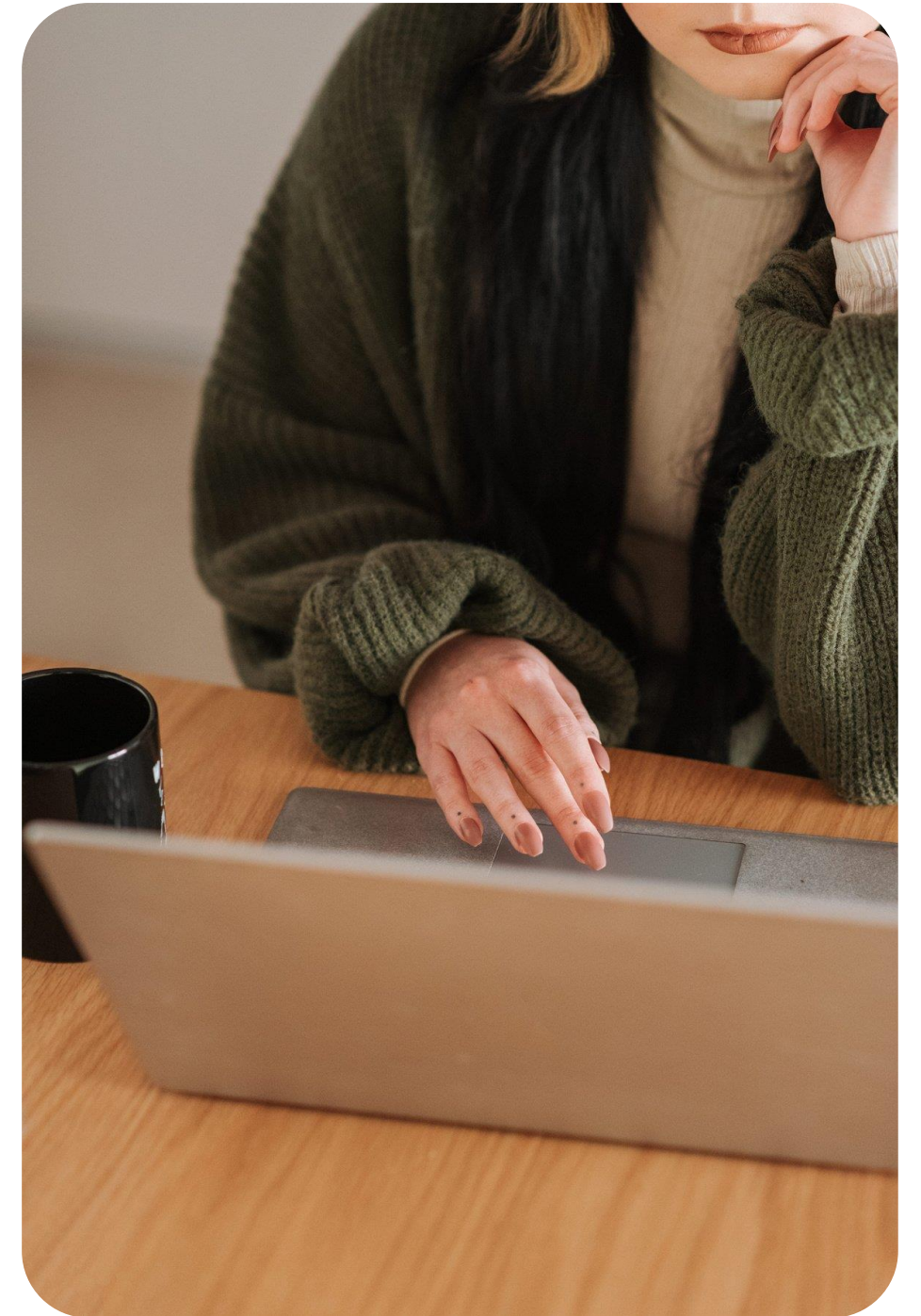


Reverse Mortgage Application Processing Rules

November 4, 2021



Agenda

- **HECM Rules on Application Processing**
- **State Rules on Reverse Mortgage Application Processing**
- **Timing Requirements under RESPA and TILA**
- **Impact of the New HUD HECM Handbook**

HECM Rules

Mortgagee Letter 2004-25

- When a potential HECM mortgagor first contacts or communicates with an FHA-approved mortgagee, the mortgagee must explain that the HECM program requires counseling and refer the client to a list of entities eligible to provide HECM counseling and the lender must provide the potential HECM borrower with information on counseling agencies
- No steering to any particular agency

HECM Rules

Mortgagee Letter 2004-25

Mortgagee Activities Allowed Prior to Counseling

- HUD recommends and urges mortgagees to refer clients to counseling prior to taking initial application.
- However, if a mortgagee decides to discuss the program with a potential mortgagor and/or take initial application prior to counseling, the mortgagee may only undertake the following permissible activities:
 - a) explain the HECM program to the potential client;
 - b) discuss whether the potential borrower is eligible;
 - c) provide information regarding the fees and charges associated with the HECM product;
 - d) describe the potential financial implications of a HECM loan for the client; and e)
 - e) provide the borrower with copies of the mortgage, note, and Loan Agreement.
- The potential HECM borrower is not obligated to pursue a HECM loan from a lender who takes initial application or discusses the HECM program with the potential mortgagor before the potential mortgagor completes the counseling.

HECM Rules

Mortgagee Letter 2004-25

Mortgagee Activities Prohibited Prior to Counseling

- The mortgagee may not order an appraisal, title search, or an FHA case number or in any other way begin the process of originating a HECM loan before the potential mortgagor completes the required counseling.
- The mortgagee may only proceed to process the initial HECM loan application once the counseling is complete, as evidenced by the signed and dated counseling certificate (described below).

Fees and Charges

- Until the mortgagee receives the required HECM counseling certificate indicating the counseling has been completed, the mortgagee may not charge the borrower an application fee, an appraisal fee, or charge for any other HECM-related services.

HECM Rules

Mortgagee Letter 2006-25

- FHA will now permit lenders to use automated valuation models (AVMs) to perform a preliminary estimation of the value of the real estate that will serve as security for the FHA-insured HECM.
- The AVM, however, does not take the place of the FHA appraisal. If the prospective borrower obtains a HECM, then the cost of the AVM should be included in the origination fee.
- In addition, a HECM lender may order a preliminary title search prior to the prospective HECM borrower receiving counseling.
- However, the prospective HECM borrower may choose to seek counseling prior to or after the lender orders a preliminary title search. In other words a prospective HECM borrower does not have to wait until the HECM lender orders and reviews the preliminary title search to receive counseling.
- The costs associated with the preliminary title search will be paid at closing.
- If a prospective HECM borrower does not proceed to closing on the HECM, the borrower may **not** be charged for this service.

Updates and Other Rules

Financial Assessment Guide also added an allowance for ordering a credit report

Issues to consider:

- When is Appraisal ordered and How is it paid for?
- No Assessment of Fees or an [Completed and Final] Application until Counseling has Occurred
- What do Your Disclosures Say?
- How does new Draft HECM Handbook address and Affect these issues?
- Interplay with other laws and regulations

State Laws

- Cooling Off Periods
 - In addition to pre-application counseling in over a dozen states, Nine(9) States have Reverse Mortgage “Cooling Off” Periods, or Similar Waiting Periods
- Overriding Themes
 - Waiting period to take an application
 - Cooling off period after commitment prior to close

Specific State Rules

- **CA** – May not take a Final and Complete Application until 7 Days after receipt of a Counseling Cert.; DOB (now DPFI) Bulletin making CA more or less consistent with FHA rules
 - Also, Counseling Issue in CA
- **IL** - Borrower not bound for 3 full Business Days after Borrower's acceptance, in writing, of Lender's Written Commitment and may not be required to Close or proceed with the Loan during that time period; Non-waive-able
- **MA** - Applicant for the loan shall not be bound for 7 days after Acceptance, in writing, of Lender's Written Commitment to make Loan
- **MN** - Borrower not Bound for 7 days after receipt of Lender's Written Commitment; cannot be required to proceed with Loan during this period
- **NY** - 3-day Cooling-off Period after submission of Application; During this 3-day period; Borrower cannot be required to sign Commitment or proceed with Loan
- **RI** – Similar to HECM Rule
- **SC** – May not accept an Application until Lender has received Statement regarding Advisability on Counseling
- **TX** – Counseling must not have Occurred later than the 5th Day prior to Closing; and 12 day Waiting Period Prior to Close for Important Notice
- **UT** – Before a Applicant signs an Application, must go through Counseling; 7 day Cooling Off Period after Commitment Issued

RESPA

- What is an Application?

- Submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan, which shall include

1. Borrower's name,
2. Borrower's monthly income,
3. Borrower's social security number to obtain a credit report,
4. Property address,
5. Estimate of the value of the property,
6. Mortgage loan amount sought, and
7. Any other information deemed necessary by the loan originator.

- GFE Timing

- Not later than 3 business days after a lender receives an application, or information sufficient to complete an application, Lender must provide the applicant with a GFE

ECOA

Creditor shall notify an Applicant of Action Taken within:

- (i) 30 days after receiving a Completed Application concerning the Creditor's Approval of, Counteroffer to, or Adverse Action on the Application;
- (ii) 30 days after taking Adverse Action on an Incomplete Application, unless Notice of Incompleteness is Provided; or
- (iii) 90 days after notifying the Applicant of a counteroffer if the Applicant does not expressly accept or use the Credit offered.

TILA

- Open End Credit
 - Neither a creditor **Nor any Other Person** may impose a nonrefundable fee in connection with an Application until Three Business Days after the Consumer receives the Disclosures and “Home is on the Line” Brochure (Disclosures and Brochure may be mailed to Consumer and Consumer considered to have received them Three Business Days after Mailed)
- Closed End Credit (MDIA)
 - Creditor shall provide the Consumer with good faith estimates of the TIL disclosures (Closed End, Federal Boxes) no later than the Third Business Day after Creditor receives Application
 - Expect for a Credit Report Fee, neither a Creditor **Nor any Other Person** may impose a Fee on Consumer in connection with the Consumer’s Application before the Consumer has received the above Disclosures

Draft Proposed HECM Handbook on Application Processing

Mortgagee and/or sponsored TPO may perform only the functions listed below before all required HECM counseling has been completed by all individuals required to receive counseling:

- Accept the loan application and provide required disclosures;
- Lock in the Expected Average Mortgage Interest Rate (Expected Rate);
- Explain the HECM program to the Borrower;
- Discuss whether the Borrower is eligible for HECM financing;
- Provide information regarding the fees and charges associated with the HECM product;
- Describe the potential financial implications of a HECM for the Borrower;
- Provide the Borrower with sample copies of the HECM Note, Mortgage, and loan agreement;
- Order preliminary title report;
- Order Automated Valuation Model (AVM); or
- Order credit report to perform a preliminary credit review of the Borrower's financial obligations.

The Mortgagee and sponsored TPO may not collect any fee or the Borrower's banking account and credit card information before closing, or in connection with any function permitted above if the function is performed before receipt of a signed and dated Certificate of Counseling, for each individual required to receive counseling

Takeaways

- Review your Policy and Procedures against the Laws, not against what others are doing
- Understand the Policy Reasons behind the Rules
- Stay up to Date and Get Ready for Changes on the Horizon

Thank you!

Do you have any questions?