

# Supporting Statement for Paperwork Reduction Act Submissions

## Owner of Record and Re-sale Data to Preclude Predatory Lending Practices (Property Flipping) on FHA Insured Mortgages OMB Control Number 2502-0547

### A. Justification

1. Property flipping, a major form of predatory lending, is a practice whereby a recently acquired property is resold for a considerable profit with an artificially inflated value. Victims of predatory lending often default, causing losses to the FHA's Insurance Fund. HUD's Single Family Mortgage Insurance regulations at 24 CFR 203.37a prescribe requirements regarding the eligibility of properties for FHA mortgage insurance, and are designed to protect FHA borrowers from becoming victims of property flipping.

This notice announces that for a 1-year period, FHA has waived its regulation that prohibits the use of FHA financing to purchase properties that are being resold within 90 days of the previous acquisition. Prior to the waiver of this regulation, which took effect for all sales contracts executed on or after February 1, 2010, a mortgage was not eligible for FHA insurance if the contract of sale for the purchase of the property that is the subject of the mortgage is executed within 90 days of the prior acquisition by the seller and the seller does not come under any of the exemptions to this 90-day period that are specified in the regulation. During this period of high foreclosures, FHA seeks to encourage investors that specialize in acquiring and renovating properties to renovate foreclosed and abandoned homes with the objective of increasing the availability of affordable homes for first-time and other purchasers and helping to stabilize real estate prices as well as neighborhoods and communities where foreclosure activity has been high. While the waiver is granted for the purpose of stimulating rehabilitation of foreclosed and abandoned homes, the waiver is applicable to all properties being resold within the 90-day period after prior acquisition, and is not limited to foreclosed properties.

The waiver, however, has conditions, and eligible mortgages must meet the conditions specified in this notice. Additionally, the waiver is not applicable to mortgages insured under HUD's Home Equity Conversion Mortgage (HECM) Program.

Although the waiver is currently in effect, HUD seeks comments from industry, potential purchasers, and other interested members of the public on the conditions which must be met for the waiver to be provided. Comments will be taken into consideration in determining whether any modifications should be made to the waiver eligibility conditions.

2. The respondents are the approximately 13,000 FHA lenders making loans for purchase money mortgages. HUD uses the information collected to ensure that properties are not involved in property flipping schemes. Lenders must obtain documentation that the seller is the owner of record and that the transaction does not involve any sale or assignment of the sales contract. The lender must submit this documentation to HUD as part of the application for mortgage insurance, in accordance with §203.255(b)(12). This documentation may include, but is not limited to, a property sales history report, a copy of the recorded deed from the seller, or other documentation (such as a copy of a property tax bill, title commitment, or binder) demonstrating the seller's ownership. Appropriate documentation must be maintained in the loan file.

For re-sales more than 90 days from the date of acquisition by the seller, based upon the date of settlement, the lender must obtain additional documentation and submit it to HUD as part of the application for mortgage insurance, in accordance with §203.255(b).

- If the re-sale date is between 91 days and 180 days following acquisition by the seller, the lender must obtain additional documentation if the re-sale price is 100 percent over the purchase price. Such

documentation must include an appraisal from another appraiser. The lender may also document its loan file to support the increased value by establishing that the increased value results from the rehabilitation of the property.

- If the re-sale date is more than 90 days after the date of acquisition by the seller, but before the end of the twelfth month after the date of acquisition, the lender provide additional documentation to support the re-sale value of the property if the re-sale price is 5 percent or more greater than the lowest sales price of the property during the preceding 12 months (as evidenced by the contract of sale). Such documentation must include, but is not limited to, an appraisal from another appraiser.
3. Lenders may avail themselves to new technology, primarily property sales history reports, to determine if the property will be eligible for a mortgage insured by FHA. However, the lender must include the results of such reports in the case binder submitted to FHA for mortgage insurance endorsement. Approximately seven percent of FHA-approved lenders use electronic case binders and submit information electronically to HUD. Most lenders will continue to rely on established procedures such as reviewing the information reported on the preliminary title insurance report.
  4. No similar type of information collection currently exists.
  5. This information has no significant impact on small businesses or other small entities.
  6. Without obtaining the documentation that the seller was the owner of record and that the most recent resale of the property occurred at least 91 days previously, FHA would not be able to determine if violations of the property-flipping rule had occurred. Without the ability to require additional documentation to support the value of the underlying collateral, FHA would not be able to determine if the value was recognized by the marketplace or was inflated by possible collusion among the appraiser, the seller, and the lender.
  7. Lenders are required to keep this information in the loan file for the duration of the mortgage, which in some cases may be as long as 30 years. This is a standard business practice and no burden is ascribed.
  8. In accordance with 5 CFR 1320.8(d), the agency’s notice soliciting comments from the public was published in the *Federal Register* on Monday, March 1, 2010 (Volume 75, Number 39, pages 9244-9245). No comments were received. Consultation with FHA lenders regarding application for loan insurance is continuous.
  9. No payments or gifts are provided to respondents.
  10. No assurances of confidentiality are provided.
  11. There are no questions of a sensitive nature.
  12. FHA insures about 1,150,000 purchase money mortgages annually. There is no specific form or format.

Information Collection	Number of Respondents	Frequency of Response	Total Annual Responses	Burden Hours per Response	Total Annual Burden Hours	Hourly Cost	Total Annual Cost
Ownership and resale documentation	13,000	Varies	1,150,000	0.01	11,500	\$20	\$230,000
Additional appraisals within 180 days	13,000	Varies	11,500	1.00	11,500	\$35	402,500
Additional appraisals within 1 year	13,000	Varies	20,500	1.00	20,500	\$35	717,500
<b>Total</b>	<b>13,000</b>		<b>1,182,000</b>		<b>43,500</b>		<b>\$1,350,000</b>

Hourly costs are based on estimates the annual salaries of lender clerical personnel at \$40,000 and review appraisers/underwriters at \$70,000.

13. There are no additional costs to the respondents.

14. HUD examines one in ten case binders for compliance with the documentation requirements.

	Total Reviews	Burden Hours per Review	Annual Hours	Hourly Cost	Total Annual Cost
Case Binder Review	202,000	1.0	202,000	\$48	\$9,696,000

The number of cases endorsed in 2009 was approximately 2,022,000

Hourly cost is based on the annual salary of a GS-13 midpoint in table for DC-MD-VA-WV-PA.

15. This is a revision of a currently approved collection. The number of respondents has increased to show the actual lenders rather than the number of mortgages made. The number of responses and the resulting burden hours have increased, aligning with the increase in FHA's market share. This submission also includes the number of additional appraisals required.
16. The results of the information collected will not be published.
17. HUD is not seeking approval to avoid displaying the expiration date.
18. There are no exceptions to the certification statement identified in item 19 of the OMB 83-I.

**B. Collections of Information Employing Statistical Methods**

The collection of information does not employ statistical methods.