

LAWS AND REGULATIONS

OMB 2502- 0586

Home Equity Conversion Mortgage (HECM) Counseling Standardization, Application for HECM Counselor Roster, and Certificate of HECM Counseling

Housing Act (NHA) section 255(f)(12 U.S.C. 1715z-20(f))

(f) Counseling Services and Information For Mortgagors.

The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of the date of enactment of the Building American Homeownership Act of 2008. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include— –

(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

(3) the financial implications of entering into a home equity conversion mortgage;

(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

(5) any other information that the Secretary may require.

The Secretary shall consult with consumer groups, industry representatives, representatives of counseling organizations, and other interested parties to identify alternative approaches to providing consumer information required by this subsection that may be feasible and desirable for home equity conversion mortgages insured under this section and other types of reverse mortgages.

The Secretary may, in lieu of providing the consumer education required by this subsection, adopt alternative approaches to consumer education that may be developed as a result of such consultations, but only if the alternative approaches provide all of the information specified in this subsection.

24 CFR 206, Subpart E (HECM Counselor Roster Rule)

AUTHORITY: 12 U.S.C. 1715b, 1715z-1720; 42 U.S.C. 3535(d).

SOURCE: 54 FR 24833, June 9, 1989, unless otherwise noted.

§206.1 Purpose.

The purposes of the Home Equity Conversion Mortgage Insurance program are set out in section 255(a) of the National Housing Act, Public Law 73-479, 48 STAT. 1246 (12 U.S.C. 1715z-20) (“NHA”).

[61 FR 49032, Sept. 17, 1996]

§206.41 Counseling.

(a) *List provided.* At the time of the initial contact with the prospective mortgagor, the mortgagee shall give the mortgagor a list of the names, addresses, and telephone numbers of housing counselors and their employing agencies, which have been approved by the Secretary, in accordance with subpart E of this part, as qualified and able to provide the information described in paragraph (b) of this section. The mortgagor must receive counseling.

(b) *Information to be provided.* A counselor must discuss with the mortgagor:

(1) The information required by section 255(f) of the National Housing Act;

(2) Whether the mortgagor has signed a contract or agreement with an estate planning service firm that requires, or purports to require, the mortgagor to pay a fee on or after closing that may exceed amounts permitted by the Secretary or this part; and

(3) If such a contract has been signed under §206.41(b)(2), the extent to which services under the contract may not be needed or may be available at nominal or no cost from other sources, including the mortgagee.

(c) *Certificate.* The counselor will provide the mortgagor with a certificate stating that the mortgagor has received counseling. The mortgagor shall provide the mortgagee with a copy of the certificate.

(Approved by the Office of Management and Budget under control number 2528-0133)

[54 FR 24833, June 9, 1989, as amended at 61 FR 49033, Sept. 17, 1996; 64 FR 2988, Jan. 19, 1999; 74 FR 45316, Sept. 2, 2009]

24 CFR 206, Subpart E (HECM Counselor Roster)

- 12 U.S.C. 1715b, 1715z-20; 42 U.S.C. 3535(d)
- 82 FR 7117, Jan. 19, 2017, unless otherwise noted.

SECTION 206.300-General

SECTION 206.302-Establishment of the HECM Counselor Roster

SECTION 206.304-Eligibility for Placement on the HECM Roster

SECTION 206.306-Removal from the HECM Counselor Roster

SECTION 206.308-Continuing education requirements of counselors listed on the HECM Counselor Roster

§206.300 General.

This subpart provides for the establishment of the HECM Counselor Roster (Roster) and sets forth the requirements for the operation of the HECM Counselor Roster.

§206.302 Establishment of the HECM Counselor Roster.

(a) *HECM Counselor Roster.* HUD maintains a Roster of HECM counselors. Only counselors listed on the Roster are approved to provide HECM counseling. A homeowner applying for an HECM loan to be insured by HUD must receive the required HECM counseling from one of the counselors on the Roster.

(b) *Disclaimer.* The inclusion of a HECM counselor on the Roster does not create or imply a warranty or endorsement by HUD of the listed counselor to a prospective HECM borrower or to any other organization or individual, nor does it represent a warranty of any counseling provided by the listed HECM counselor. The inclusion of a counselor on the Roster means that a listed counselor has met the HUD-prescribed qualifications and conditions for inclusion on the Roster and that the counselor is approved to provide HECM counseling by telephone or face-to-face.

§206.304 Eligibility for placement on the HECM Counselor Roster.

(a) *Application.* To be considered for placement on the Roster, a HECM counselor must apply to HUD in a form and in a manner prescribed by HUD.

(b) *Eligibility.* HUD will approve an application for placement on the Roster if the application demonstrates that the HECM counselor:

- (1) Is employed by a HUD-approved housing counseling agency or an affiliate of a HUD-approved intermediary or State housing finance agency;
- (2) Successfully passed a standardized HECM counseling exam administered by HUD, or a party selected by HUD, within the last 3 years. In order to maintain eligibility, a counselor must successfully pass a standardized HECM counseling exam every 3 years;
- (3) Received training and education related to HECMs within the prior 2 years;
- (4) Has access to and is supported by technology that enables HUD to track the results of the counseling offered to each loan applicant, *e.g.*, what action(s), if any, did the client take after receiving the HECM counseling; and

(5) Is not listed on:

(i) The General Services Administration's Suspension and Debarment List;

(ii) HUD's Limited Denial of Participation List; or

(iii) HUD's Credit Alert Interactive Response System.

(c) “Grandfathering” of counselors who have passed standardized HECM counseling examination. HECM counselors who have passed the standardized HECM counseling exam described in paragraph (b)(2) of this section on or before October 2, 2009 will automatically be placed on the Roster and will remain on the Roster for 3 years. After 3 years, the counselor is required to take the standardized HECM counseling exam again.

§206.306 Removal from the HECM Counselor Roster.

(a) *General.* HUD reserves the right to remove a HECM counselor from the Roster, in accordance with this section.

(b) *Cause for removal.* Cause for removal of a HECM counselor from the Roster includes, but is not limited to:

(1) Failure to comply with the education and training requirements of §206.308;

(2) Failure to respond within a reasonable time to HUD inquiries or requests for documentation;

(3) Misrepresentation or fraudulent statements;

(4) Promotion, representation, or recommendation of any specific lender;

(5) Failure to comply with applicable fair housing and civil rights requirements;

(6) Failure to comply with applicable statutes and regulations;

(7) Failure to comply with applicable statutory counseling requirements found at section 255(f) of the National Housing Act, which include, but are not limited to, providing information about: options other than a HECM, the financial implications of entering into a HECM, the tax consequences of a HECM, and any other information that HUD or the applicant may request;

(8) Failure to maintain any registration, license, or certification requirements of a State or local authority;

(9) Unsatisfactory performance in providing counseling to HECM loan applicants. HUD may determine that a HECM counselor's performance is unsatisfactory based on a review of counseling files or other monitoring activities, or if the counselor fails to employ the minimum competencies, as measured by the HUD-administered HECM counseling exam; or

(10) For any other reason HUD determines to be so serious as to justify an administrative sanction.

(c) *Automatic removal from HECM Counselor Roster for failure to maintain required State or local licensure.* A HECM counselor who is required to maintain a State or local registration, license, or certification and whose registration or certification is revoked, suspended, or surrendered will be automatically suspended from the Roster until HUD receives evidence demonstrating that the local- or State-imposed sanction has been lifted.

(d) *Removal procedure.* Except as provided in paragraph (c) of this section, the following procedures apply to removal of a HECM counselor from the Roster.

(1) HUD will give the HECM counselor written notice of the proposed removal. The notice will state the reasons for and the duration of the proposed removal.

(2) The HECM counselor will have 30 days from the date of receipt of the notice (or such time as described in the notice, but in no event less than a period of 30 days) to submit a written appeal of the proposed removal, along with a written request for a conference.

(3) A HUD official will review the appeal and render a response affirming, modifying, or canceling the removal. The HUD official will not be a person who was involved in HUD's initial removal decision. HUD will respond with a decision within 30 days after the date of receiving the appeal or, if the counselor has requested a conference, within 30 days after the conference was held. HUD may extend the 30-day period by providing written notice to the counselor.

(4) If the counselor does not submit a timely written response, the removal will be effective 31 days after the date of HUD's initial removal notice (or after the period provided in the notice, if longer than 30 days). If a written response is submitted, and the removal decision is affirmed or modified, the removal will be effective on the date of HUD's notice affirming or modifying the initial removal decision.

(e) *Maximum time period of removal.* The maximum time period for removal from the Roster is 12 months from the effective date of removal for all removed counselors. A counselor who has been removed must apply for reinstatement on the Roster.

(f) *Placement on the Roster after removal.* A counselor who has been removed from the Roster must apply for reinstatement on the Roster (in accordance with §206.304) after the period of the counselor's removal from the Roster has expired. HUD may require the counselor to retake and pass the HECM exam for reinstatement when the reason for removal from the Roster was particularly egregious. Typically, the counselor will not be required to take and pass the HECM exam; however, HUD must be ensured by the counselor that the HECM counseling requirements are understood and will be followed. An application from a counselor for reinstatement on the Roster will be rejected if the period of the counselor's removal from the Roster has not expired.

(g) *Voluntary removal.* A HECM counselor will be removed from the Roster upon HUD's receipt of a written request from the counselor.

(h) *Other action.* Nothing in this section prohibits HUD from taking such other action against a counselor or from seeking any other remedy against a counselor available to HUD by statute or other authority.

§206.308 Continuing education requirements of counselors listed on the HECM Counselor Roster.

A counselor listed on the Roster must receive, on a continuing basis, training, education, and technical assistance related to HECMs. The counselor must maintain evidence of the successful completion of such continuing education, and such evidence must be made available to HUD upon request. HUD will consider a HECM counselor's successful completion of a HECM course no less than once every 2 years as satisfying the requirements of this section.