

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Part 206**

[Docket No. FR-4667-F-03]

RIN 2502-AH63

Home Equity Conversion Mortgage (HECM) Program; Insurance for Mortgages To Refinance Existing HECMs and Reduced Initial Mortgage Insurance Premiums (MIP)**AGENCY:** Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.**ACTION:** Final rule.

SUMMARY: On March 25, 2004, HUD published an interim rule implementing certain statutory changes to the Home Equity Conversion Mortgage (HECM) Program made by section 201 of the American Homeownership and Economic Opportunity Act of 2000 (AHEOA). Among other changes, the rule provided for a reduced initial mortgage insurance premium (MIP) on HECM refinancings. The interim rule requested comments on the MIP provision of the rule. This final rule follows publication of the March 25, 2004, interim rule. HUD did not receive any public comments on the interim regulatory change regarding the reduced MIP for HECM refinancings and, therefore, is adopting the interim rule without change.

DATES: *Effective Date:* January 14, 2005.**FOR FURTHER INFORMATION CONTACT:**

Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708-2121 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION**I. Background**

HUD's Home Equity Conversion Mortgage (HECM) Program enables homeowners 62 years of age or older who have paid off their mortgages or have small mortgage balances to stay in their homes while using some of their equity as income. The program enables these homeowners to obtain financing with a Federal Housing Administration (FHA) insured reverse mortgage, which is a mortgage that converts equity into income. The FHA insures HECM loans

to protect lenders against loss. Such a loss could occur if amounts withdrawn exceed equity when the homeowner's property is sold. The statutory authority for the HECM Program is section 255 of the National Housing Act (12 U.S.C. 1715z-20) (NHA). HUD's regulations implementing the HECM Program are located at 24 CFR part 206.

Section 201 of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569, approved December 27, 2000) (AHEOA) made several changes to the HECM Program. Among other amendments, section 201(a) of AHEOA added a new section 255(k) to the NHA. Section 255(k) in part authorizes FHA to offer mortgage insurance for the refinancing of existing HECMs and establishes several homeowner protection and streamlining requirements concerning such refinancings. On June 5, 2001 (66 FR 30278), HUD published a proposed rule to implement certain statutory changes to the HECM Program made by section 201 of the AHEOA. The proposed rule solicited public comments on the proposed changes to the HECM Program regulations. Two commenters wrote that, in addition to implementing the changes contained in the proposed rule, HUD should also implement its statutory authority to reduce the initial mortgage insurance premium (MIP) for HECM refinancings. Specifically, section 201(a) of AHEOA added a new section 255(k)(4) to the NHA which authorizes HUD to reduce the amount of the initial MIP collected on a HECM refinancing.

On March 25, 2004 (69 FR 15586), HUD published an interim rule that considered the public comments received on the proposed rule and made effective the proposed regulatory changes to the HECM Program contained in the June 5, 2001 proposed rule. In response to the public comments requesting that HUD implement section 255(k)(4) of the NHA, the interim rule also established a reduced MIP for HECM refinancings.

The regulatory provisions of the March 25, 2004, interim rule took effect on April 26, 2004. However, in order to provide for public comments on the amount of the MIP, HUD issued the MIP provision on an interim basis and requested public comments for a period of 60 days on the amount of the initial MIP. HUD did not request public comment on the other provisions of the interim rule, since these provisions were contained in the July 5, 2001, proposed rule and were, therefore, already the subject of public comments.

As noted above, certain statutory changes to the HECM Program were already enumerated in the June 5, 2001, proposed rule. For more information on these prior changes, interested persons should refer to the June 5, 2001, proposed rule preamble; for information on the agency's discussion of the public comments received on the June 5, 2001, proposed rule, interested persons should refer to the March 25, 2004, interim rule preamble.

II. This Final Rule

This final rule follows publication of the March 25, 2004, interim rule. The comment period on the initial MIP provision closed on May 25, 2004. HUD did not receive any public comments on the interim regulatory change regarding the reduced initial MIP for HECM refinancings. Accordingly, this final rule adopts the interim rule of March 25, 2004, without changes.

Specifically, this final rule adopts § 206.53(c), which was established by the March 25, 2004, interim rule. New § 206.53(c) implements the statutory authority provided to HUD by section 255(k) of the NHA to reduce the initial MIP for HECM refinancings. The change provides that the initial MIP paid by the mortgagee shall not exceed two percent of the increase in the maximum claim amount (*i.e.*, the difference between the maximum claim amount for the new home equity conversion mortgage and the maximum claim amount for the existing home equity conversion mortgage that is being refinanced).

HUD believes that the initial MIP limit made effective by this rule will result in a lower initial MIP for a refinanced HECM loan than for a comparable "first" HECM secured by a similar property. Also, the initial MIP limit will allow more homeowners to refinance their HECM loans at a lower interest rate, thus allowing homeowners to stay in their homes while using some of their equity.

III. Findings and Certifications*Regulatory Planning and Review*

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled "Regulatory Planning and Review"). OMB determined that this rule is a "significant regulatory action" as defined in section 3(f) of the order (although not economically significant, as provided in section 3(f)(1) of the order). Any changes made to this rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276,

Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Information Collection Requirements

The information collection requirements contained in § 206.53 have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2502-0524. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule does not impose any Federal mandates on any State, local, or tribal government or the private sector within the meaning of UMRA.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C.

4332(2)(C)). The Finding remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The amendments made by this final rule will not impose any economic costs on small lenders and other participants in the HECM Program. Lenders will not be adversely affected by the reductions in the initial MIP established by this final rule, since the initial MIP is payable to HUD and not the lenders. Therefore, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on

State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Catalog of Domestic Assistance Number

The Catalog of Domestic Assistance Number for the HECM Program is 14.871.

List of Subjects in 24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the interim rule for part 206 of subpart B of Title 24 of the Code of Federal Regulations, revising § 206.31(a)(1) and adding § 206.53, published on March 25, 2004, at 69 FR 15586, is promulgated as final, without change.

Dated: November 5, 2004.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

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