

the increased value of the property if the re-sale price exceeds an established value between 50 and 150 percent of the purchase price. As a further safeguard against flipping for re-sales up to 12 months following acquisition by the seller, the final rule authorizes HUD to require that the lender obtain additional verification of the value of the property if the re-sale price is 5 percent or greater than the lowest sales price of the property during the preceding 12 months (as evidenced by the contract of sale).

HUD believes that short re-sales executed within 90 days imply pre-arranged transactions that often prove to be among the most egregious examples of predatory lending practices and, thus, will not insure mortgages on these "flipped" properties. Ninety days is also not an unreasonable waiting period if actual rehabilitation and repairs of a property occur before the property is re-sold. HUD agrees that the previously proposed six-month ban on re-sales would have been disruptive to the industry and would have provided a disincentive to legitimate contractors who improve houses—thus increasing the stock of affordable housing. It was never HUD's intention to eliminate the ability of investors and contractors to profit from their actions, but rather to assure that homebuyers are not purchasing overvalued houses and becoming the unwitting victims of predatory practices. To this end, HUD believes that the final rule accomplishes this goal. While the most egregious examples of property flipping consist of nearly immediate re-sales or "flips," HUD also agrees with the commenters who wrote that the six-month restriction was too short to deter longer-term predatory flipping transactions. While an outright ban on FHA mortgage insurance is not warranted for re-sales occurring beyond 90 days, HUD agrees that additional safeguards may be required to ensure that the value of the property has not been fraudulently inflated. Recognizing this, the final rule requires that lenders document the increased value of the property if the re-sale price exceeds an established value for re-sales occurring between 91 and 180 days following acquisition of the property. As an additional protection against flipping, the final rule provides that HUD may require lenders to obtain additional documentation that supports the re-sale price for re-sales within 12 months of the acquisition date if the re-sale price is 5 percent or greater than the purchase price if HUD identifies specific circumstances or locations where property flipping is a problem.

Should HUD exercise this authority, this authority would supersede the higher threshold established for the 91 day to 180 day period. At HUD's discretion, this additional documentation must include, but is not limited to, an appraisal from another appraiser. As an alternative, the lender may document its file to establish that the increased value is the result of rehabilitation to the property.

For re-sales between 91 and 180 days, HUD will establish the level that triggers this documentation requirement at 100 percent above the original purchase price. HUD believes that setting the level at 100 percent above the original purchase price will deter unscrupulous purchasers from attempting to flip property while simultaneously ensuring that legitimate rehabilitation of properties continues. The final rule provides HUD the authority to revise the level. Should HUD determine that the level is not effectively deterring property flipping, HUD may lower the trigger. Similarly, HUD may increase the level if HUD determines that legitimate rehabilitation of properties is adversely affected by the documentation requirement, and that adverse effect is not justified by a significant deterrent effect on property flipping. HUD may revise the trigger level by **Federal Register** notice. In order to provide the public with sufficient time to adjust to the additional documentation procedures, revisions to the standard will be issued at least thirty days before taking effect.

If HUD identifies specific circumstances or locations where property flipping is a problem, HUD may require the lender, for re-sales up to 12 months following acquisition of the property, to provide additional documentation if the re-sale price is 5 percent or greater than the purchase price. Should HUD exercise this authority, this authority would supersede the higher threshold established for the 91 day to 180 day period. HUD will announce its determination to require additional value documentation through issuance of a **Federal Register** notice. The requirement for additional value documentation may be established on a nationwide or regional basis. Further, the **Federal Register** notice will specify the percentage increase in the re-sale price that will trigger the need for additional documentation, and will specify the acceptable types of documentation. The **Federal Register** notice may also exclude re-sales of less than a specific dollar amount from the additional value documentation requirements. In order to provide the

public with sufficient time to adjust to the additional documentation procedures, any such **Federal Register** notice, and any subsequent revisions, will be issued at least thirty days before taking effect.

If the additional documentation supports a value that is more than 5 percent lower than the value supported by the first appraisal, the lower value will be used in calculating the maximum insured mortgage amount. Otherwise, the original value supported by the first appraisal will be used to calculate the maximum mortgage amount.

Comment: Re-sales involving only a modest increase over the previous sales price should be exempt from the time restrictions. Several commenters wrote that when the sale price increases only a small amount between the previous sale and the new sale to be financed with an FHA-insured mortgage, HUD's concern with property flipping is drastically diminished.

HUD Response. HUD agrees that its concerns with property flipping are reduced when the sales price increases only a small amount between the previous sale and the new sale to be financed with an FHA-insured mortgage. As described in more detail in the preceding response, HUD may exclude re-sales of less than a specific dollar amount from any additional valuation requirements.

Comment: The proposed rule could have significant negative consequences on government and corporate employees relocated yearly by their employers. Several commenters wrote that the six-month restriction would have a negative impact on the thousands of government and private sector employees that are relocated each year. The commenters wrote that, from an employer's standpoint, any house purchased from a relocating employee would essentially be unsaleable through the FHA programs because the six-month waiting period would result in unacceptably large carrying costs. Several of the commenters advocated that the final rule exempt properties acquired by an employer in connection with an employee's relocation from the restriction on re-sales.

HUD Response. HUD agrees with the commenters and has revised the proposed rule at the final rule stage accordingly. The final rule exempts properties acquired by an employer or relocation agency in connection with the relocation of an employee from the time restriction on re-sales.

Comment: The final rule should provide clarification regarding the relevant dates for calculating the time