

have been identified, HUD will pursue those entities and individuals to impose sanctions available to HUD, and HUD will enlist the assistance of applicable federal and local authorities in prosecuting those individuals.

Comment: HUD should target known property flippers. Several commenters wrote that, rather than imposing new restrictions, HUD should focus its regulatory efforts on individuals who are known to have engaged in property flipping. The commenters suggested that HUD should review its claim and default records to identify those persons currently engaged in predatory lending practices. The commenters suggested that those persons should be barred from participating in the FHA programs for a specified period (such as 1–3 years). The commenters wrote that in this way HUD could reduce predatory lending activity without punishing the innocent subsequent buyer.

HUD Response: HUD believes it is better to preclude predatory practices proactively and eliminate opportunities for unscrupulous actors, than to retroactively attempt to find the perpetrators after the damage to the homebuyers has been done. As noted, however, in the response to the preceding comment, where unscrupulous actors have been identified in property flipping schemes, HUD will take action against those individuals and entities.

Comment: HUD already has the enforcement tools necessary to prohibit property flipping. Several commenters wrote that HUD should make better use of its existing sanction and penalty methods to deter property flipping, rather than subject the FHA programs to increased regulation.

HUD Response. HUD agrees in principle that existing procedures exist to protect its interests as well as those of the homebuyers. However, unlike existing enforcement tools, the additional safeguards implemented by this final rule are directly targeted at the problems associated with property flipping. The final rule proactively deals with both the pre-arranged transaction that often results in predatory practices against unwitting homebuyers as well as appraisals that cannot support the value claimed.

B. Suggested Changes to Proposed Rule

Comment: HUD should establish additional safeguards for victims of property flipping. One commenter made this suggestion. The commenter wrote that such procedures should include timely and thorough re-appraisals of properties where flipping is alleged, assistance for all homeowners

victimized by a fraudulent appraisal or other mortgage fraud, and remediation to victimized homeowners.

HUD Response. HUD does not agree that the expansive remedies proposed by the commenter are necessary, since this final rule should preclude the most egregious examples of fraudulent property flips before they occur.

Comment: HUD should expand the scope of the rule to include mortgages insured by other governmental entities. One commenter made this suggestion.

HUD Response. HUD has not revised the proposed rule in response to this comment. HUD has no jurisdiction over mortgages guaranteed or made by other government agencies, such as the Department of Veterans Affairs, and the Rural Housing Service of the Department of Agriculture.

Comment: The final rule should prohibit gifts to potential borrowers that will enable them to pay off debts that would otherwise render them ineligible for FHA mortgage insurance. The commenters wrote that “gifts” made to potential borrowers in order to enable them to pay off debts, including judgments and liens, are often a principal tool of those engaged in property flipping and should be prohibited in the final rule.

HUD Response. HUD does not believe that a change to the rule is required. Mortgagee Letter 2002–02 (issued on January 16, 2002) already addresses gifts for the purpose of paying off obligations and judgments. A copy of this Mortgagee Letter may be downloaded from the HUD Client Information and Policy System (HUDCLIPS) Internet Web site at <http://www.hudclips.org>.

C. Miscellaneous Comments

Comment: HUD should consider modifying the FHA connection appraisal assignment screen to include a field for capturing the seller's name. The commenter wrote that this would allow HUD to more easily determine whether a seller had previously sold a home to an FHA applicant, and if so, whether the history of a prior sale is indicative of possible property flipping.

HUD Response. HUD is considering the change to the FHA connection system suggested by the commenter, and may implement this modification at a later date.

Comment: HUD should create a public database of property sales within neighborhoods and the pricing history of individual homes. Several commenters made this recommendation. The commenters wrote that the names of the lenders, brokers, real estate agents, and appraisers should also be included in

the database. The commenters wrote that the database would allow potential buyers to research the market values of homes in their areas. Additionally, the commenters wrote that because many victims of property flipping may not have access to computers, these services must be advertised and made available, possibly at community home counseling offices. The commenters also recommended that HUD make available to the public lists of lenders and appraisers involved in a high volume of foreclosures.

HUD Response. HUD does not have the capacity to develop such a database for other than FHA-insured mortgages, and does not believe it should compete with private-sector service providers that already have developed property sales history reporting systems. HUD already provides public access to information regarding lenders with high rates of mortgage defaults through its Neighborhood Watch system.

Comment: HUD should focus on educating homebuyers. One commenter wrote that HUD should help ensure that low-income buyers are better educated regarding the risks and responsibilities of purchasing a home, including predatory lending abuses.

HUD Response. HUD has long advocated homeownership counseling and funds many agencies that provide such services.

VII. Findings and Certifications

Public Reporting Burden

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB Control Number 2502–0547. In accordance with the Paperwork Reduction Act, HUD 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 OMB control number.

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *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 an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department’s Rules Docket Clerk, Office of General Counsel, Room 10276, 451