



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-8000

ASSISTANT SECRETARY FOR HOUSING-  
FEDERAL HOUSING COMMISSIONER

**October 8, 2010**

**MORTGAGEE LETTER 2010 -35**

**TO: ALL APPROVED MORTGAGEES**

**SUBJECT: Borrower Certification for FHA Refinance of Borrowers in Negative Equity Positions**

On August 6, 2010, FHA published Mortgagee Letter 2010-23, which provides guidance for enhancements to FHA's refinance program in order to support refinances for borrowers who owe more than the current value of their home. Incorporated into the enhancements is Emergency Economic Stabilization Act (EESA) funding through the Department of the Treasury (Treasury) for the payment of incentives to second lien holders and for payment of a portion of insurance claims. Section 1481(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, signed July 21, 2010, prohibits anyone convicted within the last 10 years, in connection with a real estate or mortgage transaction, of any of the following: (a) felony larceny, theft, fraud, or forgery; (b) money laundering; or (c) tax evasion from receiving assistance authorized or funded by EESA.

Effective for case numbers assigned on or after September 19, 2010, the mortgagee is required to review the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Section 1481(d) with the borrowers; and obtain the borrowers' signatures on the attached borrower certification form. The mortgagee is not required to execute a criminal background check on the borrowers. The executed borrower certification must be included in the FHA case binder submitted for insurance endorsement. For electronic case binders, the borrower certification must be placed in Miscellaneous Documents. For paper case binders, the borrower certification must be placed behind the Addendum to the Uniform Residential Loan Application, form HUD-92900-A.

If the mortgagee fails to obtain a signed certification from all of the borrowers on the mortgage, FHA will consider this a serious violation. FHA will take appropriate action which may include indemnification of individual loans, and/or referral to HUD's Mortgagee Review Board for administrative actions and civil money penalties if there is a pattern or practice identified.

If you have any questions regarding this Mortgagee Letter, please call the FHA Resource Center at 1-800-CALLFHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

David H. Stevens  
Assistant Secretary for Housing-  
Federal Housing Commissioner

[Attachment](#)