



NATIONAL ASSOCIATION OF REALTORS®

*The Voice For Real Estate®*

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REGULATORY & INDUSTRY  
RELATIONS

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February 22, 2005

Office of the General Counsel  
Regulations Division  
Room 10276  
Department of Housing and Urban Development  
451 Seventh Street, SW  
Washington, DC 20410-0500

COMMENTS RE: DOCKET NO. FR-4911-I-01; HUD 2004-0017

Dear Sir/Madame:

The NATIONAL ASSOCIATION OF REALTORS® (NAR), which represents over 1.1 million professional real estate practitioners, submits the following comments on the Interim rule governing the Prohibition of Property Flipping in HUD's Single Family Mortgage Insurance Programs; Additional Exceptions to Time Restrictions on Sales [Docket No. FR-4911-I-01; HUD 2004-0017, December 23, 2004].

In 2003 HUD published a rule that prohibits FHA insured financing for any property being sold within 90 days after a seller purchases the property. Properties that are sold between 91 and 180 days after the seller purchases the property are subjected to additional documentation requirements in order to support any increase in the purchase price of the property. In the final rule, properties repossessed by HUD or properties acquired by relocation agencies because employees are relocated were exempted from the time restrictions.

The Interim rule broadens the exceptions to the property flipping time restrictions to include repossessed properties of all Federal agencies such as the Veterans Administration and the Rural Housing Service and to properties that have been acquired through inheritance. NAR supports expanding the time restriction exceptions to include other Federal agencies. Federal agencies do not engage in predatory lending practices by inflating the prices of their acquired properties which the flipping rule is intended to address.

HUD should also be cognizant of the fact that there may be other circumstances where an exception to the time restrictions would be appropriate. Based on the feedback we have received from some of our members since the rule went into effect in 2003, the rule has proven to be a disincentive to legitimate contractors who improve houses and resell them at affordable prices. By eliminating the ability of legitimate investors to resell homes using FHA financing, the 90 day restriction has reduced the incentive for investors to buy and rehabilitate properties.

NAR believes that investors, which include REALTORS®, will continue to be discouraged from participating in the property rehabilitation/marketing process utilizing FHA insurance. Investors make legitimate livings purchasing distressed properties, reconditioning them, and returning them to market at fair market prices and within a reasonable amount of time. Additionally, legitimate property rehabilitation/resales is not done overnight. The process entails working with builders, title companies, licensed systems contractors and home remodeling/hardware stores to obtain the appropriate services and building materials. It also requires working with local code officials to gain the proper permits. Investors buy and rehab deteriorating properties that others may pass by and turn them into attractive and affordable housing units that help improve communities. The result is more homeownership and neighborhood revitalization.

HUD should consider granting exceptions, on a case-by-case basis, to the property flipping restrictions where the mortgagee can show that the sales price of the property corresponds to its market value. Such documentation could include evidence that the seller has made improvements that result in a corresponding increase to the value of the property. In this way, HUD can protect FHA borrowers from predatory lending practices while balancing the legitimate business concerns of investors.

NAR believes that one of the unintended consequences of this rule will be the continual curtailment of potential residential real estate investors in the affordable housing market. NAR appreciates the opportunity to submit these comments. If we can provide further information, please contact Peter Morgan at 202-383-1233.

Sincerely,



Joseph M. Ventrone  
Managing Director