



NATIONAL ASSOCIATION OF REALTORS®

The Voice For Real Estate®

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Charles McMillan, CIPS, GRI
President

March 20, 2009

The Honorable Shaun Donovan
Secretary of Housing and Urban Development
U. S. Department of Housing and Urban Development
451 Seventh Street SW, Room 10000
Washington, DC 20410

Dear Mr. Secretary:

On behalf of the 1.2 million members of the National Association of REALTORS®, I request that the US Department of Housing and Urban Development (HUD) permit FHA to accept paper copies of documents with electronic signatures as part of the case binder submission for mortgage insurance. The National Association of REALTORS® (NAR) is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.

The Federal Housing Administration (FHA) currently does not allow paper case binders to include electronically signed documents, such as purchase and sale agreements. The use of e-signatures for real estate documents is widely accepted by other financial and lending institutions. Further, the FHA policy seems at odds with the spirit of the 2000 ESIGN Act, which was enacted to facilitate the use of electronic records and signatures by ensuring the validity and legal effect of contracts entered into electronically while preserving consumer protection laws.

Generally, these transactions are completed before FHA receives the application and enforceability is not in dispute. The parties execute the contracts in good faith and in accordance with state and federal statutes designed to support and promote electronic commerce. The practical effect of FHA's rejection of case binders containing electronically signed real estate contracts is to force parties to the sale to re-execute the transaction with manual signatures, despite clear support for the transactions historically and legally.

Thank you for the opportunity to present the views of the National Association of REALTORS®. Mortgage documents are subject to fraud and forgery, and that faxes and photocopies are less reliable than originals. A paper document with an electronic signature is more reliable than a fax or photocopy of a paper contract. Use of electronic signatures in the FHA binders mitigates fraud and enhances consumer protection. If you have any questions or comments regarding this

letter please contact our Senior Policy Representative, Jerry Nagy, at 202.383.1233 or jnagy@REALTORS.org.

Sincerely,

A handwritten signature in cursive script that reads "Charles McMillan". The signature is written in black ink and is positioned above the printed name.

Charles McMillan, CIPS, GRI
2009 President, National Association of REALTORS®