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**To:** Clients and Friends

**From:** David F. Dulock

**Subject:** FHA Proposes to Reduce Seller Concessions on FHA Insured Loans – Request for Comments

In the February 23, 2012, issue of the *Federal Register* (77 FR 10695), the Federal Housing Administration (FHA) published a request for comments on its revised proposal to reduce the amount of closing costs a seller (or other interested third parties) may pay on behalf of a homebuyer purchasing a home with an FHA-insured mortgage for the purposes of calculating the maximum mortgage amount. Comments are due on or before March 26, 2012. All comment submissions must refer to the Docket Number FR-5572-N-01 and the title “Federal Housing Administration (FHA) Risk Management Initiatives: Revised Seller Concessions,” and be submitted through one of the following methods:

1. *Submission of Comments by Mail.* Comments may be submitted by mail to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500.
2. *Electronic Submission of Comments.* Interested persons may submit comments electronically through the Federal eRulemaking Portal at [www.regulations.gov](http://www.regulations.gov). Commenters should follow the instructions provided on that site to submit comments electronically.

Please refer to the following web address for further information on filing comments: <http://www.gpo.gov/fdsys/pkg/FR-2012-02-28/pdf/2012-4696.pdf>.

This revised proposal revises a similar proposal to reduce seller concessions published by the FHA in the July 15, 2010 *Federal Register* (75 FR 41217). Based on the comments received on that proposal, FHA decided to make the following changes and seek comment on these changes:

- Reduce the amount of seller concessions permitted as offsets to actual closing costs to 3 percent (based on the lesser of sales price or appraised value) or \$6,000, whichever is greater, but not allow the offsets to exceed the borrower’s actual costs. This reduction in concession allowances does not apply to HUD’s Real Estate Owned homes and Neighborhood Stabilization programs, for which the allowance remains at 6 percent.

- Limit acceptable uses of seller concessions to payments toward borrower closing costs, prepaid items, discount points, the FHA Up Front Mortgage Insurance Premium, and any Interest Rate Buydown. This revised definition eliminates payment supplements such as homeowner or condominium association fees, mortgage interest payments, and mortgage payment protection plans.

To address potential future increases in closing costs, the \$6,000 cap is tied to an index – *i.e.*, the dollar limitation may increase annually, and at the same percentage rate as the FHA national loan limit floor, rounded up to the nearest \$100 for anything at or above \$50 increments and rounded down to the nearest \$100 for anything below \$50 increments. A mortgagee letter will announce any increase in this dollar limitation.

In addition, seller concession amounts above this revised proposal limit would not be prohibited, but rather would result in a dollar-for-dollar reduction in the sales price for the purpose of calculating the maximum insured loan amount.

We advise our clients who originate or make FHA-insured mortgages to submit written comments on this proposed reduction in seller concessions. In submitting comments, please do not rely solely on this memorandum but read FHA's notice containing the proposal published in the *Federal Register* at: <http://www.gpo.gov/fdsys/pkg/FR-2012-02-23/pdf/2012-3934.pdf>.

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