

FAQ - Permissible FHA Loan Processing Activity

Q: What are the requirements of employees of FHA lenders?

A: An FHA lender may employ staff full time or part time (less than the normal 40 hour work week). They may have other employment including self-employment. However, such outside employment may not be in mortgage lending, real estate, or a related field. DE underwriters are included in this provision. Further, a DE underwriter may not work on a part time basis for any other mortgagee, even underwriting conventional mortgage loans. A DE underwriter may not underwrite loans for a parent or subsidiary of the underwriter's approved employer. A DE underwriter's authority is through the employer and does not extend under any corporate umbrella.

These requirements only apply to those employees of a lender that are involved in the origination, underwriting and/or servicing of FHA loans.

See paragraph 2-9 Handbook 4060.1, Rev-2 for more information. Questions can be directed to the HUD Headquarters Lender and Recertification Division at 202-708-3976 or email at hud@custhelp.com

Since the lending field and real estate field are closely associated, there are members that are "crossovers", that is, past lenders that are current realtors, and current lenders that are past or present realtors. It seems clear that a loan officer working for a Brokerage originating FHA loans cannot be "employed" as a realtor. A realtor can have an "active" or "inactive" license. Inactive means the license has been returned to the State. An active license is one that is on file at a Real estate office. There are many realtors that have active licenses who are not actively employed as realtors, meaning employed in real estate activities to create income.

Q: Does the existence of an active real estate license constitute "employment" under this rule if the license holder is not actively employed in the real estate business? Therefore if such a licensed realtor is an FHA loan originator is there a violation?

A: A person may have an active realtor license and work as an originator of FHA loans for an FHA approved lender. For example, in the state of CA a loan originator must be licensed by the CA Department of Real Estate. The key is that the person who has the active license is not registered with and does not have any relationship with a real estate firm (including self-employment) or with any other entity in the real estate, mortgage lending, or related field. The only relationship permitted is with the FHA approved lender.

Q: Referring to "Staff". It seems that a licensed realtor actually employed in income producing real estate activities can work as an administrator not involved in loan originations, underwriting or servicing of FHA loans without violating this rule. As an example as in an office manager in a Mortgage Brokerage licensed to do FHA mortgages. Is this correct?

A: An office manager for an FHA approved lender may NOT have any other employment (full, part time, or self-employment) in the real estate, mortgage lending, or related field if the office manager has contact with or involvement of any kind with FHA loans (origination, underwriting, or servicing activities) as part of the manager's responsibilities with the FHA approved lender.

Q: Would working as an insurance agent, certified planner that offers security such as mutual funds, stocks, and bonds fall under this category for any licensed FHA office.

A: Refer to ML 2008-24 for the new guidance for HECMs and the applicable restrictions. Regarding all FHA mortgages, anyone in the employ (staff or management) of an FHA approved lender working also as an insurance agent, certified planner offering other securities such as mutual funds, stocks, and bonds, can NOT offer any product involving, or have any relationship with, the real estate, mortgage lending, or related fields, including the FHA lender that employs the insurance agent or certified planner. For example, the insurance agent could not sell property/hazard insurance, mortgage life, and the certified planner could not offer any products related to real estate or mortgages.