

ATTACHMENT 39

From: MDB
Sent: 13 Sep 2018 12:23:27 +0000
To: Brown, Amy L;Roget, Gisele G;Gormley, Joseph M
Subject: Fwd: DACA - FHA-INSURED MORTGAGES - BRIAN MONTGOMERY

Read below. We should all discuss this topic as it comes up all the time. I think under their definition any foreign National hereBon a passport would qualify for an FHA mortgage since they are “legally” here.
Joe: please schedule a meeting.
Thanks.
Brian

Sent from my iPhone

Begin forwarded message:

From: Diego Hernandez <dhernandez@financeofamerica.com>
Date: September 12, 2018 at 5:50:11 PM EDT
To: "Laura.A.Thrower@Hud.Gov" <Laura.A.Thrower@Hud.Gov>, "Brian.d.montgomery@hud.gov" <Brian.d.montgomery@hud.gov>, "ben.s.carson@hud.gov" <ben.s.carson@hud.gov>
Subject: DACA - FHA-INSURED MORTGAGES - BRIAN MONTGOMERY

Good Afternoon all,

The purpose of this email is regarding Deferred Action of Childhood Arrivals and the availability of insurability by FHA.

Question submitted to FHA
Number CAS ^{(b)(6)}
May 25,2018
The response from HUD was the following, “DACA- Individuals with employment authorizations under DACA are NOT ELIGIBLE for FHA insured financing. DACA allows individuals to work legally in the U.S. but they are NOT considered to have legal residency status.”
HUD’s Handbook 4000.1 II. A. 1.b.ii.(A)(9)(c) states: “Non-U.S. citizens without lawful residency in the U.S. are not eligible for FHA-insured Mortgages.”

I asked the question again for further clarification and to see if HUD had changed its stance, this time I included the definitions of USCIS (DHS) for DACA applicants.

Question submitted to FHA
Number CAS ^{(b)(6)}
August 9 ,2018
<u>This time the response from HUD was in the form of a phone call and I spoke to the representative of HUD who informed me that DACA was still not eligible because LEGAL RESIDENCY was not acceptable to HUD, I asked the HUD representative if there were any written memo's or bulletins that have been issued in this regard, I was told that this was not the case, the FHA Commissioner has given guidance. I assume that this is verbal guidance from FHA Commissioner Brian Montgomery.</u>

Has the FHA Commissioner issued verbal guidance? If this is the case is it common place for the FHA commissioner to issue verbal guidance on 4000.1 Handbook guidelines?

USCIS does not have a definition of **LEGAL RESIDENCY STATUS**, this is inconsistent with being **LAWFULLY PRESENT** as determined by USCIS. I have included the definition from their FAQ website.

Q1: What is deferred action?

A1: Deferred action is a discretionary determination to defer a removal action of an individual as an act of prosecutorial discretion. For purposes of future inadmissibility based upon **unlawful presence**, an individual whose case has been deferred is not considered to be unlawfully present during the period in which deferred action is in effect. **An individual who has received deferred action is authorized by DHS to be present in the United States, and is therefore considered by DHS to be lawfully present during the period deferred action is in effect.**

Also for considerations:

Definitions of the Term Lawfully Present in the United States for purposes of Applying for Title II Benefits

under Section 401(b)(2) of Public Law 104-193 [61 FR 47039] [FR56-96]

<https://www.uscis.gov/ilink/docView/FR/HTML/FR/0-0-0-1/0-0-0-22452/0-0-0-25044/0-0-0-25404.html>

Please reconsider the stance FHA has taken with regards toward DACA applicants, also the repercussions this has for existing insured financing by FHA for previously closed DACA clients.

You may contact me directly



Diego Hernandez

Mortgage Advisor
NMLS-1097859

p: (925) 964-5505

f: (855) 617-5979

dhernandez@financeofamerica.com


Elk Grove Branch | 9250 Laguna Springs Drive | Suite 210 | Elk Grove, CA 95758

FOAmortgage.com/dhernandez

APPLY NOW! >



FINANCE of AMERICA
- MORTGAGE -

©2017 Finance of America Mortgage LLC is licensed nationwide |  | NMLS ID #1071 (www.nmlsconsumeraccess.org) | 300 Welsh Road, Building 5, Horsham, PA 19044 | (800) 355-5626 | AZ Mortgage Banker License #0910184 | Licensed by the Department of Business Oversight under the California Residential Mortgage Lending Act | Georgia Residential Mortgage Licensee #15499 | Illinois Residential Mortgage Licensee | Kansas Licensed Mortgage Company | Licensed by the N.J. Department of Banking and Insurance | Licensed Mortgage Banker -- NYS Banking Department | Rhode Island Licensed Lender

Disclaimer

This message and any attachments may contain confidential or privileged information and are only for the use of the intended recipient of this message. If you are not the intended recipient, please notify the sender by return email, and delete or destroy this and all copies of this message and all attachments. Any unauthorized disclosure, use, distribution, or reproduction of this message or any attachments is prohibited and may be unlawful.