

§ 201.27

24 CFR Ch. II (4-1-99 Edition)

civil engineer which are required under § 201.21(e) to document the suitability of the manufactured homesite.

(6) For any direct manufactured home purchase loan or combination loan involving the relocation of the manufactured home to a new homesite owned or leased by the borrower, the lender (or an agent of the lender that is not a manufactured home dealer) shall conduct a site-of-placement inspection to verify that:

(i) States that the loan will be insured by HUD and describes the actions the Secretary may take to recover the debt if the borrower defaults on the loan and an insurance claim is paid;

(ii) The manufactured home and any itemized options and appurtenances included in the purchase price of the home or to be financed with the loan proceeds have been delivered and installed; and

(iii) The manufactured home has been properly erected or installed on the homesite without any apparent structural damage or other serious defects resulting from its transportation or installation, and all plumbing, mechanical and electrical systems are fully operational.

(7) The lender shall provide the borrower with a written notice, to be signed by the borrower and retained in the loan file, that:

(i) States that the loan will be insured by the HUD and describes the actions the Secretary may take to recover the debt if the borrower defaults on the loan and an insurance claim is paid; and

(ii) Constitutes the borrower's agreement to pay penalties and administrative costs imposed by HUD as authorized by 31 U.S.C. 3717.

(8) Where a manufactured home purchase loan involves a manufactured home which is to be located on Indian trust or otherwise restricted lands, the lender shall obtain written permission from the trustee or the tribal authority who controls the site for the lender to repossess the home in the event of

default by the borrower and acceleration of the loan.

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[50 FR 43523, Oct. 25, 1985, as amended at 51 FR 32060, Sept. 9, 1986; 54 FR 36265, Aug. 31, 1989; 56 FR 52432, Oct. 18, 1991, 57 FR 6480, Feb. 25, 1992; 61 FR 19798, May 2, 1996; 62 FR 65181, Dec. 10, 1997]

§ 201.27 Requirements for dealer loans.

(a) *Dealer approval and supervision.* (1) The lender shall approve only those dealers which, on the basis of experience and information, the lender considers to be reliable, financially responsible, and qualified to satisfactorily perform their contractual obligations to borrowers and to comply with the requirements of this part. However, in no case shall the lender approve a dealer that is unable to meet the following minimum qualifications:

(i) A property improvement dealer shall have and maintain a net worth of not less than \$25,000 in assets acceptable to the Secretary, and shall have demonstrated business experience as a property improvement contractor or supplier; and

(ii) A manufactured home dealer shall have and maintain a net worth of not less than \$50,000 in assets acceptable to the Secretary, and shall have demonstrated business experience in manufactured home retail sales.

(2) The lender's approval of a dealer shall be documented on a HUD-approved form, signed and dated by the dealer and the lender under applicable criminal and civil penalties for fraud and misrepresentation, and containing information supplied by the dealer on its trade name, places of business, type of ownership, type of business, and names and employment history of the owners, principals, officers, and salespersons. The dealer shall furnish a current financial statement prepared by someone who is independent of the dealer and is qualified by education and experience to prepare such statements, together with such other documentation as the lender deems necessary to support its approval of the

dealer. The lender shall obtain a commercial credit report on the dealer and consumer credit reports on the owners, principals, and officers of the dealership.

(3) The lender shall require each dealer to apply annually for reapproval. The dealer shall furnish the same documentation as is required under paragraph (a)(2) of this section to support its application for reapproval. In no case shall the lender reapprove a dealer that is unable to meet the minimum net worth requirements in paragraph (a)(1) of this section.

(4) The lender shall supervise and monitor each approved dealer's activities with respect to loans insured under this part. The lender shall visit each approved dealer's places of business at least once in every six months to review its Title I performance and compliance. The lender shall maintain a file on each approved dealer which contains the executed dealer approval form and supporting documentation required under paragraph (a)(2) of this section, together with information on the lender's experience with Title I loans involving the dealer. Each dealer file shall contain information about borrower defaults on Title I loans over time, records of completion or site-of-placement inspections conducted by the lender or its agent, copies of letters concerning borrower complaints and their resolution, and records of the lender's periodic review visits to the dealer's premises. The lender may also require that the dealer furnish records on individual loan transactions, if needed to enable the lender to review the dealer's Title I performance and compliance.

(5) If a dealer does not satisfactorily perform its contractual obligations to borrowers, does not comply with Title I program requirements, or is unresponsive to the lender's supervision and monitoring requirements, the lender shall terminate the dealer's approval and immediately notify the Secretary with written documentation of the facts. A dealer whose approval is terminated under these circumstances shall not be reapproved without prior writ-

ten approval from the Secretary. The lender may in its discretion terminate the approval of a dealer for other reasons at any time.

(6) The lender shall require each approved (or reapproved) dealer to provide written notification of any material change in its trade name(s), place(s) of business, type of ownership, type of business, or principal individuals who control or manage the business. The dealer shall furnish such notification to the lender within 30 days after the date of any material change.

(7) As a condition of manufactured home dealer approval (or reapproval), the lender may require a manufactured home dealer to execute a written agreement that, if requested by the lender, the dealer will resell any manufactured home repossessed by the lender under a title I insured manufactured home purchase loan approved by the lender as a dealer loan involving that dealer.

(b) *Provision for full or partial recourse.* In the case of a dealer-originated manufactured home purchase loan or combination loan, the lender and the dealer may agree to a provision in the loan documents for partial or full recourse against the dealer, to reduce or eliminate the lender's loss in the event of foreclosure or repossession. Such recourse provision shall specify that, for a default occurring within a period of not more than three years from the date of the loan, the dealer shall reimburse the lender for a fixed percentage of the unpaid amount of the loan obligation, after deducting the proceeds from the sale of the property and any amounts received or retained by the lender after the date of default. However, the extent of the dealer's liability may not exceed 100 percent of the unpaid amount of the loan obligation prior to such deductions. When a claim is filed, the lender shall notify the Secretary if the loan was subject to a recourse agreement and whether the recourse agreement has been honored. If without the lender's approval a dealer

has failed to honor its recourse obligation, the lender shall notify the Secretary and shall assign the recourse obligation to the Secretary in filing an insurance claim.

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[50 FR 43523, Oct. 25, 1985, as amended at 56 FR 52433, Oct. 18, 1991; 61 FR 19799, May 2, 1996]

§201.28 Flood and hazard insurance, and Coastal Barriers properties.

(a) *Flood insurance.* No property improvement loan or manufactured home loan shall be eligible for insurance under this part if the property securing repayment of the loan is located in a special flood hazard area identified by the Federal Emergency Management Agency (FEMA), unless flood insurance on the property is obtained by the borrower in compliance with section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a). Such insurance shall be obtained at any time during the term of the loan that the lender determines that the secured property is located in a special flood hazard area identified by FEMA, and shall be maintained by the borrower for the remaining term of the loan, or until the lender determines that the property is no longer in a special flood hazard area, or until the property is repossessed or foreclosed upon by the lender. The amount of such insurance shall be at least equal to the unpaid balance of the Title I loan, and the lender shall be named as the loss payee for flood insurance benefits.

(b) *Hazard insurance.* No manufactured home purchase loan or combination loan shall be eligible for insurance under this part unless hazard insurance on the manufactured home is obtained by the borrower and the lender is named as a loss payee of insurance benefits. Such insurance shall be maintained by the borrower for the full term of the loan or until the property is repossessed or foreclosed by the lender, and in an amount at least equal to the unpaid balance of the loan, except that the amount of insurance coverage shall be not less than the actual cash value of the home where State law precludes a higher amount. If the borrower fails to maintain such insurance,

the lender shall obtain it at the borrower's expense. If the home is not insured against hazards and sustains damage which would normally be covered by such insurance during the borrower's ownership, the appraised value of the home for claim purposes will be adjusted in accordance with §201.51(b)(3). Upon acquiring title to the property through repossession or foreclosure, the lender shall maintain hazard insurance upon the property in the amount prescribed above until its disposition and sale.

(c) *Coastal barriers properties.* No title I insurance shall be made available under this part for any property improvement loan or manufactured home loan except pursuant to a loan application approved before October 18, 1982, with respect to any property within the Coastal Barriers Resources System established by the Coastal Barriers Resources Act (16 U.S.C. 3501).

[50 FR 43523, Oct. 25, 1985, as amended at 51 FR 32060, Sept. 9, 1986; 53 FR 10537, Mar. 14, 1989; 54 FR 36265, Aug. 31, 1989; 61 FR 19799, May 2, 1996]

§201.29 Ineligible participants.

No loan may be insured under this part where the lender has been advised in writing by HUD or otherwise knows that any participant in the transaction as a dealer, home manufacturer, contractor, supplier, or broker, or as its agent or representative, has been suspended or debarred, or has otherwise been determined by HUD to be ineligible to participate in the title I program.

Subpart D—Insurance of Loans

§201.30 Reporting of loans for insurance.

(a) *Date of reports.* The lender shall transmit a loan report on the prescribed form to the Secretary within 31 days from the date of the loan's origination or purchase from a dealer or loan correspondent. Any loan refinanced under this part shall similarly be reported on the prescribed form within 31 days from the date of refinancing. When a loan insured under