

§ 200.60

GENERAL REQUIREMENTS

§ 200.60 Assurance of completion for offsite facilities.

An assurance of completion for off-site utilities, streets, and other facilities required for a buildable site shall be provided in an amount and form acceptable to the Commissioner, except where a municipality or other public body has, in a manner acceptable to the Commissioner, agreed to install such improvements without cost to the mortgagor.

§ 200.61 Title.

(a) Marketable title to the project must be vested in the mortgagor as of the date the mortgage is filed for record.

(b) Title evidence for the Commissioner's examination shall include a lender's title insurance policy, which title policy provides survey coverage based on a survey acceptable to the title company and the Commissioner; or as the Commissioner may otherwise require, in accordance with terms, conditions and standards established by the Commissioner.

(c) Endorsement of the credit instrument for insurance shall evidence the acceptability of title evidence.

§ 200.62 Certifications.

Any agreement, undertaking, statement or certification required by the Commissioner shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the FHA, and of the Commissioner, and may be relied upon by the Commissioner as a true statement of the facts contained therein.

§ 200.63 Required deposits and letters of credit.

(a) *Deposits.* Where the Commissioner requires the mortgagor to make a deposit of cash or securities, such deposit shall be with the mortgagee or a depository acceptable to the mortgagee. The deposit shall be held by the mortgagee in a special account or by the depository under an appropriate agreement approved by the Commissioner.

(b) *Letter of credit.* Where the use of a letter of credit is acceptable to the

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Commissioner in lieu of a deposit of cash or securities, the letter of credit shall be issued to the mortgagee by a banking institution and shall be unconditional and irrevocable:

(1) The mortgagee of record may not be the issuer of any letter of credit without the prior written consent of the Commissioner.

(2) The mortgagee shall be responsible to the Commissioner for collection under the letter of credit. In the event a demand for payment thereunder is not immediately met, the mortgagee shall immediately provide a cash deposit equivalent to the undrawn balance of the letter of credit.

PROPERTY REQUIREMENTS

§ 200.70 Location and fee interest.

The property must be held by an eligible mortgagor, and must conform with requirements pertaining to property location and fee or lease interests of the section of the Act under which the mortgage is insured.

§ 200.71 Liens.

The project must be free and clear of all liens other than the insured mortgage, except that the property may be subject to an inferior lien as provided by terms and conditions established by the Commissioner for an inferior lien:

(a) Made or held by a Federal, State or local government instrumentality;

(b) Required in connection with: an operating loss loan insured pursuant to a section 223(d) of the Act; a supplemental loan insured pursuant to section 241 of the Act; or a mortgage to purchase or refinance an existing project pursuant to section 223(f) of the Act; or

(c) As otherwise provided by the Commissioner.

§ 200.72 Zoning, deed and building restrictions.

The project when completed shall not violate any material zoning or deed restrictions applicable to the project site, and shall comply with all applicable building and other governmental codes, ordinances, regulations and requirements.