(2) An existing insured property improvement loan may be refinanced with an advance of funds for additional improvements only under the following conditions:

(i) The existing insured loan must not be in default; and

(ii) The refinancing shall be subject to all of the requirements of this part applicable to the particular type of loan and to the additional improvements being financed.

(3) An existing uninsured manufactured home loan may be refinanced only for the original borrower and only under the following conditions:

(i) The existing uninsured loan must not be in default;

(ii) Refinancing of an existing uninsured manufactured home purchase loan or combination loan shall be subject to all the requirements of this part applicable to the particular type of loan except §§ 201.23 and 201.26(b)(4);

(iii) Refinancing of an existing uninsured manufactured home lot loan in connection with the purchase of a manufactured home shall be subject to all of the requirements of this part; and

(iv) Refinancing of an existing uninsured manufactured home purchase loan in connection with the purchase of a manufactured home lot shall be subject to all of the requirements of this part except § 201.26(b)(4).

(b) *Note and security requirements for refinanced loans.* (1) Refinancing of a loan requires the execution of a new note and cancellation of the old note.

(2) Refinancing of a loan that was secured when originated, regardless of the principal balance of the note at the time of refinancing, is required to be secured.

(3) Refinancing of a loan that was not secured when originated is not required to be secured if no additional funds are advanced.

(4) When a refinanced loan is secured, the lender shall obtain and record a new security instrument in accordance with § 201.24 and shall release the original lien, unless State law permits a renewal and extension of the original lien.

(5) Copies of all documents pertaining to the original loan must be retained in the loan file for the refinanced loan.

(c) *Assumed loans.* (1) At the option of the lender, an existing insured property improvement loan or manufactured home loan may be assumed, subject to the following conditions:

(i) A determination by the lender that the assumptor is eligible under § 201.20(a) or 201.21(a) and meets the requirements of § 201.22; and

(ii) The execution of an assumption agreement that is satisfactory to the lender and is signed by the assumptor and the original borrower or previous assumptor at the time of assumption.

(2) The lender shall not permit an assumption under any circumstances other than those contained in this section, and shall include appropriate provisions in any note or security agreement to enforce this requirement.

(3) Prior to the execution of the assumption agreement, the lender shall provide the assumptor with a written notice, to be signed by the assumptor and retained in the loan file, that:

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

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

(4) If the other requirements of paragraph (c) of this section are met, the lender at its option may release the original borrower and any intervening assumptors from liability for the repayment of a loan obligation insured under this part. The prior approval of the Secretary under § 201.24(e) is not required. The lender shall retain documentation of the release in the loan file.

[52 FR 33406, Sept. 3, 1987, as amended at 56 FR 52430, Oct. 18, 1991]

Subpart C—Eligibility and Disbursement Requirements

§ 201.20 Property improvement loan eligibility.

(a) *Borrower eligibility.* (1) To be eligible for a property improvement loan (other than a manufactured home improvement loan), the borrower shall have at least a one-half interest in one of the following:

(i) Fee simple title to the real property;

(ii) Lease of the real property for a fixed term which expires not less than six calendar months after the final maturity of the loan; or

(iii) A properly recorded land installment contract for the purchase of the real property.

(2) To be eligible for a manufactured home improvement loan, the borrower shall have at least a one-half interest in the manufactured home, and the home must be the principal residence of the borrower.

(b) *Eligible use of the loan proceeds.* (1) The loan proceeds shall be used only for the purposes disclosed in the loan application. If the borrower plans to use a dealer or contractor to carry out the improvement work, the lender shall obtain a copy of a proposal or contract that describes in detail the work to be performed and the estimated or actual cost. If the borrower plans to carry out the improvement work without the services of a dealer or contractor, the borrower shall be required to furnish a detailed written description of the work to be performed, the materials to be furnished, and their estimated cost.

(2) The loan proceeds shall be used only to finance property improvements that substantially protect or improve the basic livability or utility of the property. The Secretary will establish a list of items and activities that may not be financed with the proceeds of any property improvement loan. If a lender has any doubt as to the eligibility of any item or activity, it shall request a specific ruling by the Secretary before making a loan.

(3) The loan proceeds shall only be used to finance property improvements that are started after loan approval, unless:

(i) The prior approval of the Secretary is obtained for an exception to this requirement; or

(ii) The property is located in a major disaster area declared by the President, and the lender determines that emergency action is needed to repair damage resulting from the disaster.

(c) *Special pre-application requirements.* (1) Where the proceeds are to be used for an historic preservation loan, the proposed improvements shall be reviewed and approved by the State Historic Preservation Officer (or other person authorized by the Secretary of the Interior to make such reviews) prior to making application for a loan. The purpose of the review is to determine that (i) the structure is an historic residential structure listed on the National Register of Historic Places or certified by the Secretary of the Interior as conforming with National Register criteria, and (ii) the proposed improvements comply with criteria set by the Secretary of the Interior for the preservation of historic structures.

(2) Where the proceeds are to be used for a fire safety equipment loan, the proposed improvements shall be reviewed and approved by the State or local agency having primary jurisdiction over the fire safety requirements of health care facilities prior to making application for a loan.

[50 FR 43523, Oct. 25, 1985, as amended at 56 FR 52430, Oct. 18, 1991; 61 FR 19797, May 2, 1996; 62 FR 65181, Dec. 10, 1997]

§ 201.21 Manufactured home loan eligibility.

(a) *Borrower eligibility.* To be eligible for a manufactured home loan (whether a manufactured home purchase loan, a manufactured home lot loan, or a combination loan), the borrower must become the owner of the particular property which is to be financed with such a loan. Where the loan involves a manufactured home which is classified as realty, ownership of the home must be in fee simple. Where the loan involves a manufactured home lot, ownership of the lot must be in fee simple, except where the lot consists of a share in a cooperative association which owns and operates a manufactured home park.

(b) *Eligible use of loan proceeds.* (1) The loan proceeds may be used for the purchase or refinancing of a manufactured home, a suitably developed lot on which to place a manufactured home already owned by the borrower, or a manufactured home and a suitably developed lot for the home in combination. The loan proceeds may also be