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(g) Each Plan issuer must submit a written certification addressed to the Deputy Assistant Secretary for Single Family Housing, 451 Seventh Street, SW., Washington, DC 20410, no later than three weeks before the anniversary date of the Plan's acceptance by HUD, that the insurance company backing its Plan is still an insurance carrier approved by the State insurance commission (or the equivalent entity) in each jurisdiction in which the Plan is offered, or is still a Risk Retention Group meeting the criteria of § 203.208 of this part.

(Approved by the Office of Management and Budget under control number 2502–0343)

[55 FR 41021, Oct. 5, 1990, as amended at 72 FR 73495, Dec. 27, 2007]

§ 203.203 Issuance and nature of insured 10-year protection plans.

(a) Plans may be issued:

(1) By a builder, warranty company, insurance company, or Risk Retention Group (see 15 U.S.C. 3901a(4)(A)–(H) (Supp. IV 1986); or

(2) By a State that guarantees the builder's performance and the State's continuing financial backing throughout the Plan's coverage period.

(b) All Plans must have insurance backing unless backed by the full faith and credit of a State.

(c)(1) Plans backed by the full faith and credit of a State must be in compliance with § 203.200 through § 203.202, § 203.204 through § 203.206, and § 203.209 to be acceptable to HUD. HUD will evaluate these Plans to ensure their compliance with these sections.

(2) HUD will not accept Plans backed by a State agency or a State insurance guaranty fund unless HUD is assured that the full faith and credit of the State is pledged to satisfy any and all obligations of the State agency or guaranty fund that may arise in connection with its financial backing of a Plan.

(d) The functions of a Plan issuer and an insurance backer may be performed by a single corporate entity.

§ 203.204 Requirements and limitations of a plan.

In addition to complying with the criteria set out in § 203.202 and § 203.205, for a Plan to be acceptable to HUD, it must meet the following requirements:

(a) A Plan must assure timely resolution of homeowners' complaints or claims covered under § 203.205. Warranties set forth in a Plan must comply with section 2301(a)(1)–(13) of the Magnuson-Mass Warranty-Federal Trade Commission Improvement Act (15 U.S.C. 2301–2312) along with the requirements and criteria set out in this section.

(b) The entire cost to the homeowner for Plan coverage must be prepaid by the builder, or the Plan issuer must give irrevocable coverage, at the time of settlement. In the case of optional coverage beyond the coverage required under § 203.205, the cost for the optional coverage may be paid by either the builder or the homeowner.

(c) Unexpired Plan coverage must be automatically transferred, without additional cost, to subsequent homeowners.

(d) Issued Plan coverage must be noncancellable by a Plan issuer or by its insurance backer(s).

(e) Exclusions from Plan coverage must not defeat coverage objectives stated in § 203.202 and § 203.205 and must permit normal homeowner use of the covered property, including normal maintenance and emergency property protection measures.

(f) Unless prohibited by applicable law, Plans must, at a minimum, stipulate that all homeowner complaints covered by a Plan, including those regarding construction deficiencies and structural defects claims, will be settled in the amount of their actual cost to correct or for the original sales price of the property, whichever is the lesser, subject to a deductible not to exceed a total of $250 for all claims filed by a homeowner during the first two years of coverage and not to exceed a maximum of $250 per claim during the third through the tenth year of coverage.

(1) In the case of claims filed by a condominium association, the deductible is limited to $250.00 per claim for each affected unit in the structure, not to exceed a maximum of $5,000.00 where the claim relates to the same event that affected several units. Recurrent