§ 203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.

A mortgage covering a one- to four-family residence located on Indian land shall be eligible for insurance pursuant to section 248 of the National Housing Act (12 U.S.C. 1715z–13), notwithstanding otherwise applicable requirements related to marketability of title, if the mortgage meets the requirements of this subpart as modified by this section and is made by an Indian Tribe or on a leasehold estate, by an Indian who will occupy it as a principal residence. Mortgage insurance on cooperative shares is not authorized under this section.

(a) Exemptions. (1) The provisions of subparts I, J, and M of part 200, and §203.30, shall not apply to approval of mortgagors for mortgages insured under this section if the Indian tribe to which the prospective mortgagor belongs is subject to the Indian Civil Rights Act.

(2) In the case of an Indian tribe which is not subject to the Indian Civil Rights Act, the authorities cited in paragraph (a)(1) of this section shall apply, but any preference in the tribe’s approval of the sale or assumption of a lease and mortgage under this section in favor of an eligible Indian over a non-Indian shall not be considered to be a violation of subpart I, J or M.

(b) Eviction procedures. Before HUD will insure a mortgage on Indian land, the tribe having jurisdiction over such property must certify to the HUD Field Office that it has adopted and will enforce procedures for eviction of defaulted mortgagors where the insured mortgage has been foreclosed.

(c) Approval of lease and mortgage. The lease must be on a form prescribed by HUD.

The mortgage must be on a form which meets the requirements of §203.17(a)(2). Before HUD will insure any mortgage under this section, the mortgagor must demonstrate that the Bureau of Indian Affairs, U.S. Department of Interior, has approved both the lease and mortgage.

(d) Construction advances. The Commissioner may issue a commitment for the insurance of advances made during construction and a Direct Endorsement mortgagee may request insurance of a mortgage that will involve the insurance of advances made during construction. The Commissioner will insure advances made by the mortgagee during construction if all of the following conditions are satisfied:

(1) The mortgage shall be a first lien on the leasehold;

(2) The mortgagor and the mortgagee execute a building loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made;

(3) The advances are made only as provided in the commitment or the approval by the Direct Endorsement underwriter;

(4) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor or to his or her creditors as provided in the loan agreement;

(5) The mortgage shall bear interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor; and
§ 203.43i Eligibility of mortgages on Hawaiian Home Lands insured pursuant to section 247 of the National Housing Act.

(a) Eligibility. A mortgage on a home- stead lease granted by the Department of Hawaiian Home Lands covering a one- to four-family residence located on Hawaiian home lands is eligible for insurance pursuant to section 247 of the National Housing Act (12 U.S.C. 1715z-12) if the mortgagor is a native Hawaiian who will occupy it as a principal residence, and if the mortgage meets the requirements of this subpart as modified by this section. Mortgage insurance on cooperative shares under §203.43c on homes in federally impacted areas under §203.43e is not authorized under this section.

(b) Exemptions from other regulations. The provisions of subparts I, J, and M of part 200, and §203.30, to the extent that these provisions would otherwise prohibit preferences in favor of Native Hawaiians in the leasing, sale or other disposition of Hawaiian home lands, do not apply to mortgages insured pursuant to section 247 of the National Housing Act. The first lien requirement contained in §203.17 also does not apply to mortgages insured pursuant to section 247 of the National Housing Act.