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properly closed, and ensuring that all closing costs, financing, and settlement fees meet Agency program requirements.

§ 3555.54 Sale of loans to approved lenders.

Lenders may sell SFHGLP loans only to other Agency-approved lenders, Fannie Mae, Freddie Mac, or the Federal Home Loan Banks. In such a sale, the purchasing lender acquires all rights of the selling lender under the Loan Note Guarantee, and assumes all of the selling lender’s obligations contained in any note, security instrument, or Loan Note Guarantee in connection with the loan purchased. The purchasing lender may be subject to any defenses, claims, or offsets that Rural Development would have had against the selling lender if the selling lender had continued to hold the loan. The lender must notify Rural Development immediately upon the sale or transfer of servicing of a SFHGLP loan.

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§ 3555.100 OMB control number.

The report and recordkeeping requirements contained in this subpart have been approved by the Office of Management and Budget and have been assigned OMB control number 0575–0179.

Subpart C—Loan Requirements

§ 3555.101 Loan purposes.

Loan funds must be used to acquire a new or existing dwelling to be used by the applicant as a principal residence.

(a) Eligible purposes. Loan funds may be used for:

(1) The construction or purchase of a new dwelling;

(2) The cost of acquisition of an existing dwelling;

(3) The cost of repairs associated with the acquisition of an existing dwelling; or

(4) Acquisition and relocation of an existing dwelling.

(b) Eligible costs. Loan funds also may be used to pay for the following items associated with the acquisition of a dwelling:

(1) Purchase and installation of essential household equipment in the dwelling such as wall-to-wall carpeting, ovens, ranges, refrigerators, washing machines, clothes dryers, heating and cooling equipment, and other similar items as long as the equipment is conveyed with the dwelling and such items are typically included in the purchase of similar dwellings in the area.

(2) Purchase and installation of energy-saving measures.

(3) Site preparation including grading, foundation, plantings, seeding or sodding, trees, walks, fences, and driveways to the home.

(4) A supplemental loan to provide funds for seller equity or essential repairs when an existing guaranteed loan is assumed simultaneously.

(5) Special design features or equipment when necessary because of a physical disability of the applicant or a member of the household.

(6) Loan funds may be used to pay for reasonable and customary expenses related to obtaining the loan. Allowable loan expenses include:

(i) Legal, architectural, and engineering fees;

(ii) Title exam, title clearance and title insurance;

(iii) Transfer taxes and recordation fees;

(iv) Appraisal, property inspection, surveying, environmental, tax monitoring, and technical services;

(v) Homeownership education.

(vi) For low-income borrowers only, reasonable and customary loan discount points to reduce the note interest rate from the rate authorized in §3555.104(a).

(vii) Reasonable and customary non-recurring closing costs associated with the mortgage transaction that do not exceed those charged other applicants by the lender for similar transactions such as FHA-insured or VA-guaranteed first mortgage loans. If the lender does not participate in such programs, the loan closing costs may not exceed those charged other applicants by the lender for a similar loan program that requires conventional mortgage insurance or guarantee. Allowable closing costs include the actual cost of credit
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reports, the loan origination fee, settlement fee, deposit verification fees, document preparation fees (if performed by a third party not controlled by the lender), and other reasonable and customary costs as determined by Rural Development. Payment of finder’s fees or placement fees for the referral of an applicant to the lender is prohibited.

(viii) Reasonable connection fees, assessments, or the pro rata installment costs for utilities such as water, sewer, electricity and gas for which the borrower is responsible.

(ix) The prorated portion of real estate taxes that is due and payable on the property at the time of closing and to establish escrow accounts for real estate taxes, hazard and flood insurance premiums, and related costs.

(x) The amount of the loan up-front guarantee fee required by § 3555.107(h).

(xi) The cost of establishing a cushion in the mortgage escrow account for payment of the annual fee required by § 3555.106(g), not to exceed 2 months.

(xii) If the seller or other third party pays any of the costs described in this section, the amount of the costs paid by the seller or other third party may not be included in the loan amount to be guaranteed.

(c) Combination construction and permanent loan. Loan funds may be used and Rural Development will guarantee a “combination construction and permanent loan” as defined at § 3555.10, during the term of construction and prior to the borrower occupying the property, subject to the conditions in § 3555.105.

(d) Refinancing. Refinancing is permitted only in the following situations:

(1) The loan may be used for permanent financing when temporary financing to construct a new dwelling, or to purchase and improve an existing dwelling, is arranged as a part of the loan package.

(2) In the case of loans for a site on which a dwelling is not constructed prior to issuance of the Loan Note Guarantee, refinancing is permitted if:
   (i) The site is free and clear of debt;
   (ii) The debt to be refinanced was incurred for the sole purpose of purchasing the site;
   (iii) The applicant is unable to acquire adequate housing without refinancing; and
   (iv) An appropriate dwelling will be constructed on the site.

(3) The loan is a present Section 502 Direct or guaranteed loan, authorized under the Housing Act of 1949 subject to the following additional requirements:
   (i) The interest rate of the new loan must be fixed. The rate of the new loan must be at least 100 basis points below the original rate of the loan refinanced.
   (ii) The loan security must include the same property as the original loan and be owned and occupied by the borrowers as their principal residence.

(iii) Existing borrowers seeking to refinance must have demonstrated their ability to meet payment demands by maintaining a current account for the 180 days prior to application.

(iv) Borrowers may be added to or deleted from a refinance transaction. At least one of the borrowers (primary or co-borrower(s)) must remain to qualify as a refinance transaction. All applicants who will be a party to the note must meet eligibility requirements.

(v) The maximum loan amount cannot exceed the balance of the loan being refinanced including accrued interest, the guarantee fee, and reasonable and customary closing costs. When a direct loan is refinanced, any recapture amount owed may be included in the loan amount or deferred as long as the recapture amount takes a subordinate lien position to the new SFHGLP loan. A discount on the recapture amount may be offered if the borrower does not defer recapture or includes the recapture amount in the new loan.

(vi) Two options for refinancing can be offered. Lenders may offer a streamlined refinancing for existing Section 502 Guaranteed loans, which does not require a new appraisal. Streamlined financing may not be available for existing Section 502 Direct loans. The lender will pay off the balance of the existing Section 502 Guaranteed loan. The new loan amount cannot include any closing costs or lender fees. The refinance up-front guarantee fee as established by the Agency can be included in the
§ 3555.102 Loan restrictions.

A guarantee will not be issued if loan funds are to be used for:

(a) Existing manufactured homes. Purchase of an existing manufactured home, except as provided in §3555.208(b)(3);

(b) Income producing land or buildings. Purchase of land or buildings that are typically used principally for income-producing purposes;

(c) Business or income-producing enterprise. Purchase or the construction of buildings which are largely or in part specifically designed to accommodate a business or income-producing enterprise;

(d) Loan discount points. Loan discount points, except as provided in §3555.101(b)(6)(vi);

(e) Refinancing. Refinancing, except as provided in §3555.101(d);

(f) Buydown. Establishing a buydown account;

(g) Lease. Payments on a lease; or

(h) Seller concessions. Purchasing a home if the seller, or other interested third party, contributes more than 6 percent, unless otherwise provided by the Agency, of the property’s sales price toward the purchaser’s mortgage financing costs, closing costs, escrow accounts, furniture or other giveaways.

§ 3555.103 Maximum loan amount.

The amount of the loan must not exceed the lesser of:

(a) Market value. The market value of the property as determined by an appraisal that meets Agency requirements plus the amount of the up-front loan guarantee fee required by §3555.107(f), or

(b) Purchase price and acquisition costs. The total of the purchase price and all eligible acquisition costs as permitted by §3555.101.

(c) Newly constructed dwelling—limited to 90 percent. A newly constructed dwelling that does not meet the definition of an existing dwelling, as defined at §3555.10, and cannot meet the inspection and warranty requirements of §3555.202(a) of this subpart is limited to 90 percent of the present market value. The dwelling must meet or exceed the International Energy Conservation Code (IECC) in effect at the time of construction.

§ 3555.104 Loan terms.

(a) Interest rate. The loan must be written at an interest rate that:

(1) Is fixed over the term of the loan;

(2) Shall be negotiated between the lender and borrower to allow the borrower to obtain the best available rate available;

(3) Does not exceed the greater of the Fannie Mae or Freddie Mac rate for 30 year fixed rate conventional loans, as authorized in Exhibit B of subpart A of part 1810 of this chapter (RD Instruction 440.1, available in any Rural Development office) or online at: http://www.rurdev.usda.gov/rd_instructions.html;

(4) If the interest rate increases between the time of the issuance of the conditional commitment and the loan closing, the lender will note the change in the loan closing package and submit appropriate updated documentation