

Office of Assistant Secretary for Housing, HUD

§ 201.27

(4) For any manufactured home purchase loan or combination loan involving the sale of a manufactured home by a dealer, the lender shall obtain a placement certificate, on a HUD-approved form and signed by the dealer under applicable criminal and civil penalties for fraud and misrepresentation, certifying that:

(i) The manufactured homesite meets the requirements of § 201.21(e);

(ii) The structural integrity of the manufactured home was maintained during the process of transporting the home to the borrower's homesite;

(iii) The manufactured home has been installed or erected on the homesite in accordance with the manufacturer's requirements for anchoring, support, stability and maintenance;

(iv) If the manufactured home is placed on a permanent foundation, such foundation has been constructed in accordance with the requirements of § 201.21(c)(3);

(v) The dealer has performed the inspection and tests required under § 201.21(c)(4) and has determined that the manufactured home has sustained no structural damage or other defects resulting from its transportation or installation, and all plumbing, mechanical and electrical systems are fully operational;

(vi) Any initial payment required under § 201.23 was made by the borrower, and no part of the initial payment was loaned, advanced, or paid to or for the benefit of the borrower by the manufacturer, dealer, or any other party to the loan transaction; and

(vii) The borrower has not obtained the benefit of and will not receive any cash payment, rebate, cash bonus, or anything of more than nominal value from the manufacturer or dealer as an inducement for the consummation of the transaction.

(5) The lender shall obtain and file the certifications by local officials or a civil engineer which are required under § 201.21(e) to document the suitability of the manufactured homesite.

(6) For any direct manufactured home purchase loan or combination loan involving the relocation of the manufactured home to a new homesite owned or leased by the borrower, the lender (or an agent of the lender that is

not a manufactured home dealer) shall conduct a site-of-placement inspection to verify that:

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

(ii) The manufactured home and any itemized options and appurtenances included in the purchase price of the home or to be financed with the loan proceeds have been delivered and installed; and

(iii) The manufactured home has been properly erected or installed on the homesite without any apparent structural damage or other serious defects resulting from its transportation or installation, and all plumbing, mechanical and electrical systems are fully operational.

(7) The lender shall provide the borrower with a written notice, to be signed by the borrower and retained in the loan file, that:

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

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

(8) Where a manufactured home purchase loan involves a manufactured home which is to be located on Indian trust or otherwise restricted lands, the lender shall obtain written permission from the trustee or the tribal authority who controls the site for the lender to repossess the home in the event of default by the borrower and acceleration of the loan.

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§ 201.27 Requirements for dealer loans.

(a) *Dealer approval and supervision.* (1) The lender shall approve only those

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dealers which, on the basis of experience and information, the lender considers to be reliable, financially responsible, and qualified to satisfactorily perform their contractual obligations to borrowers and to comply with the requirements of this part. However, in no case shall the lender approve a dealer that is unable to meet the following minimum qualifications:

(i) *Net worth.* All property improvement and manufactured home dealers shall have and maintain a net worth of not less than \$32,000 and \$63,000, respectively. The required net worth must be maintained in assets acceptable to the Secretary.

(ii) *Business experience.* All property improvement loan and manufactured home dealers must have demonstrated business experience as a property improvement contractor or supplier, or in manufactured home retail sales, as applicable.

(2) The lender's approval of a dealer shall be documented on a HUD-approved form, signed and dated by the dealer and the lender under applicable criminal and civil penalties for fraud and misrepresentation, and containing information supplied by the dealer on its trade name, places of business, type of ownership, type of business, and names and employment history of the owners, principals, officers, and salespersons. The dealer shall furnish a current financial statement prepared by someone who is independent of the dealer and is qualified by education and experience to prepare such statements, together with such other documentation as the lender deems necessary to support its approval of the dealer. The lender shall obtain a commercial credit report on the dealer and consumer credit reports on the owners, principals, and officers of the dealership.

(3) The lender shall require each dealer to apply annually for reapproval. The dealer shall furnish the same documentation as is required under paragraph (a)(2) of this section to support its application for reapproval. In no case shall the lender reapprove a dealer that is unable to meet the minimum net worth requirements in paragraph (a)(1) of this section.

(4) The lender shall supervise and monitor each approved dealer's activities with respect to loans insured under this part. The lender shall visit each approved dealer's places of business at least once in every six months to review its Title I performance and compliance. The lender shall maintain a file on each approved dealer which contains the executed dealer approval form and supporting documentation required under paragraph (a)(2) of this section, together with information on the lender's experience with Title I loans involving the dealer. Each dealer file shall contain information about borrower defaults on Title I loans over time, records of completion or site-of-placement inspections conducted by the lender or its agent, copies of letters concerning borrower complaints and their resolution, and records of the lender's periodic review visits to the dealer's premises. The lender may also require that the dealer furnish records on individual loan transactions, if needed to enable the lender to review the dealer's Title I performance and compliance.

(5) If a dealer does not satisfactorily perform its contractual obligations to borrowers, does not comply with Title I program requirements, or is unresponsive to the lender's supervision and monitoring requirements, the lender shall terminate the dealer's approval and immediately notify the Secretary with written documentation of the facts. A dealer whose approval is terminated under these circumstances shall not be reapproved without prior written approval from the Secretary. The lender may in its discretion terminate the approval of a dealer for other reasons at any time.

(6) The lender shall require each approved (or reapproved) dealer to provide written notification of any material change in its trade name(s), place(s) of business, type of ownership, type of business, or principal individuals who control or manage the business. The dealer shall furnish such notification to the lender within 30 days after the date of any material change.

(7) As a condition of manufactured home dealer approval (or reapproval), the lender may require a manufactured home dealer to execute a written

agreement that, if requested by the lender, the dealer will resell any manufactured home repossessed by the lender under a title I insured manufactured home purchase loan approved by the lender as a dealer loan involving that dealer.

(b) *Provision for full or partial recourse.* In the case of a dealer-originated manufactured home purchase loan or combination loan, the lender and the dealer may agree to a provision in the loan documents for partial or full recourse against the dealer, to reduce or eliminate the lender's loss in the event of foreclosure or repossession. Such recourse provision shall specify that, for a default occurring within a period of not more than three years from the date of the loan, the dealer shall reimburse the lender for a fixed percentage of the unpaid amount of the loan obligation, after deducting the proceeds from the sale of the property and any amounts received or retained by the lender after the date of default. However, the extent of the dealer's liability may not exceed 100 percent of the unpaid amount of the loan obligation prior to such deductions. When a claim is filed, the lender shall notify the Secretary if the loan was subject to a recourse agreement and whether the recourse agreement has been honored. If without the lender's approval a dealer has failed to honor its recourse obligation, the lender shall notify the Secretary and shall assign the recourse obligation to the Secretary in filing an insurance claim.

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§ 201.28 Flood and hazard insurance, and Coastal Barriers properties.

(a) *Flood insurance.* No property improvement loan or manufactured home loan shall be eligible for insurance under this part if the property securing repayment of the loan is located in a special flood hazard area identified by the Federal Emergency Management Agency (FEMA), unless the community in which the area is situated is participating in the National Flood Insurance Program, flood insurance under the Na-

tional Flood Insurance Program (NFIP) is available with respect to such property improvements, and flood insurance on the property is obtained by the borrower in compliance with section 102 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4012a). Such insurance shall be in the form of the standard policy issued under the National Flood Insurance Program (NFIP) or private flood insurance, as defined in 24 CFR 203.16a. Such insurance shall be obtained at any time during the term of the loan that the lender determines that the secured property is located in a special flood hazard area identified by FEMA and shall be maintained by the borrower for the remaining term of the loan, or until the lender determines that the property is no longer in a special flood hazard area, or until the property is repossessed or foreclosed upon by the lender. The amount of such insurance shall be at least equal to the unpaid balance of the Title I loan, and the lender shall be named as the loss payee for flood insurance benefits. A lender may determine that a private flood insurance policy meets the definition of private flood insurance, as defined in 24 CFR 203.16a, without further review of the policy, if the compliance aid statement provided in 24 CFR 203.16a(c) is included within the policy or as an endorsement to the policy.

(b) *Hazard insurance.* No manufactured home purchase loan or combination loan shall be eligible for insurance under this part unless hazard insurance on the manufactured home is obtained by the borrower and the lender is named as a loss payee of insurance benefits. Such insurance shall be maintained by the borrower for the full term of the loan or until the property is repossessed or foreclosed by the lender, and in an amount at least equal to the unpaid balance of the loan, except that the amount of insurance coverage shall be not less than the actual cash value of the home where State law precludes a higher amount. If the borrower fails to maintain such insurance, the lender shall obtain it at the borrower's expense. If the home is not insured against hazards and sustains