

approved and placed on the list of HUD-approved Condominium Projects.

(3) Unless otherwise specified in writing by HUD, Condominium Projects are approved for a period of 3 years from the date of placement on the list of approved condominiums. HUD may rescind a Condominium Project's approval at any time if the project fails to comply with any requirement for approval.

(4) Eligible parties may request renewal of the approval of an approved Condominium Project by submitting a request for recertification no earlier than 6 months prior to expiration of the approval or no later than 6 months after expiration of the approval. HUD shall specify the format for the recertification request, which shall allow the request to be supported by updating previously submitted information, rather than resubmission of all information. However, if the request for recertification is not submitted within 6 months after the expiration of the Condominium Project's approval, a complete, new approval application is required.

(i) *Single-Unit Approval*—(1) *Single-Unit Approvals*. Mortgagees must ensure that the Condominium Unit is located in a Condominium Project that meets the eligibility requirements for approval as set forth in paragraph (d) of this section as modified by this paragraph, except that HUD may provide that Single-Unit Approvals may be approved by meeting a subset of these standards, or less stringent standards, as stated by notice. In addition, a unit may be eligible for Single-Unit Approval if it:

(i) Is not in a Condominium Project that is on the list of FHA-approved Condominium Projects; and

(ii) Is not in a project that has been identified by HUD as subject to adverse determination for significant issues that affect the viability of the project; and

(iii) Is in a project that is complete under paragraph (d)(4) of this section;

(iv) Is not a manufactured home; and

(v) Is in a project that has at least five (5) dwelling units.

(2) *Limit on Single-Unit Approvals*. HUD may suspend the issuance of new FHA case numbers for mortgages in

Condominium Projects with Single-Unit Approvals where the number of FHA-insured mortgages exceeds the maximum insurance concentration established by HUD. Such acceptable maximum insurance concentration shall be within a range between 0 to 20 percent of units with FHA-insured mortgages for Condominium Projects with 10 or more units, with the exact percentage within that range to be determined by HUD through notice; or shall not exceed two FHA-insured mortgages for Condominium Projects with fewer than 10 units.

(j) *Site Condominium*. Site Condominiums must meet all of the requirements of paragraphs (d)(1) through (d)(5) of this section for approval, except that insurance and maintenance costs of the individual units must be the sole responsibility of the unit owner.

[84 FR 41875, Aug. 15, 2019]

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

A mortgage involving a dwelling unit in a cooperative housing development which meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance under section 203(n) of the National Housing Act.

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.18a, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43h, 203.43i, 203.43j, 203.44, 203.49, and 203.50 of this part do not apply to mortgages insured under section 203(n) of the National Housing Act.

(b) As used in connection with the insurance of mortgages under this section and § 203.437 of this part: (1) The term *mortgage* shall mean a first lien given to secure a loan made to finance the unpaid purchase price of a Corporate Certificate together with the applicable Occupancy Certificate of a cooperative ownership housing corporation in which the permanent occupancy of the dwelling units is restricted to members of such corporation, and may refer both to a security instrument creating a lien, whether called a *mortgage*, *deed of trust*, *security*

deed or another term used in a particular jurisdiction, as well as the credit instrument, or note, secured thereby.

(2) *Corporation* shall mean an organization which holds title to a cooperative housing development which is covered by a blanket mortgage or mortgages insured by FHA under the National Housing Act.

(3) *Corporate Certificate* shall mean such stock certificates, membership certificates, or other instruments which the laws of the jurisdictions in which the cooperative housing development is located require to evidence ownership of a specified interest in the corporation.

(4) *Occupancy Certificate* shall mean a written instrument provided by the corporation to each holder of a Corporate Certificate which grants an exclusive right of possession of a specific dwelling unit in the cooperative housing development.

(5) References in this subpart to a dwelling, residence or property which is sold, conveyed, covered by a mortgage or subject to a lien shall be construed to mean the Corporate Certificate together with the Occupancy Certificate, except that where such references when interpreted in light of section 203(n) of the National Housing Act clearly indicate the intent to be the dwelling unit, such reference shall mean the dwelling unit identified in the Occupancy Certificate.

(c) The organizational documents of the cooperative corporation must provide that: (1) Either the Secretary or a mortgagee under a mortgage insured under this section shall be a member of the cooperative corporation for so long as either owns a Corporate Certificate;

(2) A mortgage insured under this section shall be a first lien upon the property covered by the mortgage;

(3) The Secretary may exercise the voting rights which are attributable to each Corporate Certificate owned by the Secretary;

(4) The Secretary may designate as her proxy an agent for the purpose of exercising the voting rights of the Secretary which are attributable to the corporate Certificate or Certificates owned by the Secretary;

(5) The Secretary may cease making monthly payments attributable to any dwelling unit for which the Secretary owns a Corporate Certificate six months after the Secretary notifies the corporation to sell the Corporate Certificate or upon default by the corporation on the blanket mortgage covering the dwelling unit;

(6) The Secretary or a mortgagee shall not be obligated to make payments to the corporation for any amounts unpaid by a mortgagor under a mortgage insured under this section prior to the date the Secretary or the mortgagee becomes the owner of the Corporate Certificate.

(d) The corporation shall have entered into an agreement with the Secretary and the mortgagee which: (1) Requires that the corporation shall furnish the Secretary with the most recent annual financial report certified to have been based on generally accepted accounting principles and the most recent monthly or quarterly financial report;

(2) Waives any option or right of first refusal the corporation may have to purchase any Corporate Certificate covered by a mortgage insured under section 203(n) of the National Housing Act, unless the corporation pays the full amount due under such mortgage or pays the full amount of the Secretary's investment if the Secretary is the owner of the Corporate Certificate, whichever is greater.

(3) Except with the approval of the Secretary, waives all authority the corporation may have to approve or reject the buyer of a Corporate Certificate owned by the Secretary or the buyer of a Corporate Certificate covered by a mortgage insured under Section 203(n) of the National Housing Act.

(4) Requires the corporation on notice by the Secretary to act as her agent for a fee to be determined by the Secretary for the limited purposes of:

(i) Selling all Corporate Certificates of the corporation owned by the Secretary;

(ii) Renting and collecting rents on any dwelling unit for which the Secretary owns the Corporate Certificate.

(5) Provides that the Secretary shall not be obligated to make payments to

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the corporation for outstanding debts of the mortgagor;

(6) Requires the corporation to furnish to a mortgagee or to the Secretary, on request:

(i) A statement, certified by the officer charged with maintenance of the Corporate Certificate Transfer Book, that such book currently shows that the mortgagee or the Secretary is the owner of any Corporate Certificate transferred to the mortgagee or the Secretary; and

(ii) The Occupancy Certificate in the name of the mortgagee or the Secretary.

(7) Requires the corporation to notify the mortgagee, whose name and address has been provided, of any default in corporation fee payments by the mortgagor within 15 days of such default;

(8) Requires the mortgagee to notify the corporation of any default in mortgage payments by the mortgagor within 15 days of such default;

(9) Requires the corporation upon notice by the Secretary or the mortgagee, when the Secretary or the mortgagee is the owner of the Corporate Certificate, and for a fee to be determined by the Secretary to evict any person or persons from a dwelling unit identified in the Occupancy Certificate.

(10) Contains such other provisions as the Secretary may require.

(e) The mortgagee shall obtain such security and other undertakings as may be required to establish a first lien on the Corporate Certificate and the Occupancy Certificate under the laws of the State where the Cooperative Housing Development is located.

(f) The mortgage involves a one-family dwelling unit in a cooperative housing development which is covered by a blanket mortgage or mortgages insured under the National Housing Act.

(g) The mortgage shall not exceed the balance remaining after subtracting, from the amount determined under §§203.18(a), 203.18(g) and 203.18a of this part, an amount equal to the portion of the unpaid balance of the blanket mortgage covering the cooperative development which is attributable to the dwelling unit the mortgagor is entitled to occupy as of the date the mortgage is accepted for insurance.

(h) The mortgage shall be executed upon a form conforming to the applicable provisions of this part and shall:

(1) Involve a principal obligation in multiples of \$50.

(2) Come due on the first of the month.

(3) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

(4) Be for a term not to exceed 30 years or the remaining term of the blanket mortgage covering the cooperative development or three-quarters of the remaining economic life of the building improvements, whichever is less.

(5) Provide for payments to principal and interest to begin not later than the first day of the month following 60 days from the date the mortgagee's certificate on the commitment was executed.

(6) Contain a provision stating that the failure of the mortgagor to pay the mortgagor's share of the common expenses or assessments and charges imposed by the corporation as provided in the instruments establishing the cooperative shall be considered a default.

(i) The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his creditors for his account and with his consent.

(j) The mortgage must be executed by a mortgagor who intends to be an occupant of the unit.

(k) The mortgagee shall collect from the mortgagor upon the execution of the mortgage: (1) A sum that will be sufficient to pay the mortgage insurance premium for the period beginning on the date of the closing of the loan and ending on the date of the first monthly payment under the mortgage or (2), where applicable, the one-time mortgage insurance premium payable pursuant to §203.280.

(l) The mortgagee shall upon application for a mortgage insurance commitment provide true copies of the following organizational documents of the cooperative corporation for examination and approval by the appropriate HUD Field Office:

(1) Certificate of Incorporation;

(2) Regulatory Agreement;

(3) By-Laws as amended;

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(4) The financial statements required in paragraph (d)(1) of this section;

(5) Proposed Occupancy Certificate;

(6) Proposed Corporate Certificate;

Provided that one or more of the requirements of this paragraph may be waived by the Secretary if the documents have been approved by the Secretary and the mortgagee submits with the application a statement certified by an officer of the cooperative corporation that no changes have been made in the documents since such approval.

[42 FR 40431, Aug. 10, 1977, as amended at 45 FR 29278, May 2, 1980; 45 FR 76377, Nov. 18, 1980; 48 FR 12085, Mar. 23, 1983; 48 FR 28804, June 23, 1983; 49 FR 23584, June 6, 1984; 52 FR 48201, Dec. 21, 1987; 53 FR 8881, Mar. 18, 1988; 53 FR 9869, Mar. 28, 1988; 53 FR 34282, Sept. 6, 1988; 56 FR 24631, May 30, 1991; 58 FR 41002, July 30, 1993]

§ 203.43d Eligibility of mortgages in certain communities.

Notwithstanding any other requirements of this subpart, a mortgage covering a one- to four-family dwelling occupied by the mortgagor as a principal residence (as defined in § 203.18(f)(1)) is eligible for insurance if the following requirements are met:

(a) The property is located in a community where the Secretary determines that:

(1) Temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

(2) Such ownership claims are reasonably likely to be settled, by court action or otherwise;

(3) As a direct result of the community's temporarily impaired economic condition, owners of homes in the community occupied as principal residences (as defined in § 203.18(f)(1)) have been involuntarily unemployed or underemployed and have, thus, incurred substantial reductions in income that significantly impair their ability to continue timely payment of their mortgages;

(4) As a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

(5) Fifty or more individuals were joined as parties defendant or were

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members of a defendant class prior to December 31, 1976 in litigation involving claims to ownership of land in the community by an American Indian tribe, band or Nation.

(b) The mortgagor, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owners ability to continue timely payment of the mortgage.

(c) The mortgagee certifies that the security instrument has been recorded and is a good and valid first lien on the property except for the claims specified in paragraph (a)(1) of this section.

(d) The mortgagee agrees upon insurance of the mortgage to assign such mortgage to the Secretary within 30 days from the date of the issuance of the insurance certificate and if such assignment does not take place, the contract of insurance is terminated and becomes null and void.

(e) Any individual, organization, institution or governmental agency shall be considered a mortgagee for the purposes of this section.

(f) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 203(o) of the National Housing Act. Such mortgages shall be insured under and be the obligation of the Special Risk Insurance Fund.

(g) The mortgage was executed and filed for record on or before October 12, 1977.

[42 FR 57434, Nov. 2, 1977, as amended at 55 FR 34805, Aug. 24, 1990]

§ 203.43e [Reserved]

§ 203.43f Eligibility of mortgages covering manufactured homes.

A mortgage covering a one-family manufactured home (as defined in 24 CFR 3280.2(a)(16)) that meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance pursuant to this subpart.

(a) The manufactured home, when erected on site, shall have floor space area of not less than four hundred