

PART 201

TITLE I PROPERTY IMPROVEMENT

AND MANUFACTURED HOME LOANS

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SUBPART A - GENERAL

201.1 Purpose.

These regulations implement the provisions of section 2 of Title I of the National Housing Act (12 U.S.C. 1703). They contain the requirements under which an approved financial institution may obtain insurance on loans made for the alteration, repair or improvement of property, for the purchase of a manufactured home and/or the lot on which to place such home, for the purchase and installation of fire safety equipment in existing health care facilities, and for the preservation of historic structures. The insurance granted by the Secretary of Housing and Urban Development shall be available only for loans involving property located within a State, as that term is defined in § 201.2. The insurance can cover up to 10 percent of the amount of all insured Title I loans in the financial institution's portfolio, as reflected in the total amount of insurance coverage contained at any time in an insurance coverage reserve account established by the Secretary, less amounts for insurance claims paid. As limited by the amount of insurance coverage in such a reserve account, the insurance can cover up to 90 percent of the loss on any individual loan.

§ 201.2 Definitions.

As used in the regulations in this part, the term:

Act means the National Housing Act, 12 U.S.C. 1703 .

Actuarial method means the method of allocating payments made on a loan between the outstanding balance of the principal amount borrowed and the interest due on a loan obligation, under which a payment is applied first to the accrued interest, and any remainder is subtracted from, or any deficiency is added to, the unpaid balance of the obligation.

Borrower means one who applies for and receives a loan insured under this part. The term may also include any co-maker or co-signer or any assumptor who is obligated for the repayment of a loan obligation insured under this part.

Combination loan means a loan made for the purchase or refinancing in a single transaction of a manufactured home and a manufactured home lot, and may also include a garage, patio, carport, or other comparable appurtenance.

Dealer means, in the case of property improvement loans, a seller, contractor, or supplier of goods or services. In the case of manufactured home loans, "dealer" means one who engages in the business of manufactured home retail sales.

Dealer loan means a loan where a dealer, having a direct or indirect financial interest in the transaction between the borrower and the lender, assists the borrower in preparing the credit application or otherwise assists the borrower in obtaining the loan from the lender. The lender may disburse the loan proceeds solely to the dealer or the borrower, or jointly to the borrower and the dealer or other parties to the transaction.

Debtor means the borrower, any co-maker or co-signer, and any assumptor who is liable for the repayment of a defaulted loan obligation insured under this part.

Default means a failure by the borrower to make any payment due under the note, when such failure continues for a period of 30 days. For the purpose of these regulations, the "date of default" shall be considered as 30 days after the first failure to make an installment payment on the note which is not covered by subsequent payments, when applied to the overdue installments in the order in which they became due.

Direct loan means a loan for which a borrower makes application directly to a lender without any assistance from a dealer. The credit application, signed by the borrower, may be filled out by the borrower or by a person acting at the direction of the borrower who does not have a financial interest in the loan transaction. The lender may disburse the loan proceeds solely to the borrower or jointly to the borrower and other parties to the transaction. If a dealer takes legal action required by State law in order for the lender to obtain a valid and enforceable lien against the property, such action by the dealer will not convert an otherwise direct loan to a dealer loan.

Discount points means a fee charged by the lender, separate from interest but part of the total finance charges on the loan, that is part of the lender's total yield on the loan needed to maintain a competitive position with other types of investments. One discount point equals one percent of the principal amount of the loan. As discount points increase, the interest rate can be expected to decrease in a fairly consistent relationship.

Existing structure means a dwelling, including a manufactured home, that was completed and occupied at least 90 days prior to an application for a Title I loan, or a nonresidential structure that was a completed building with a distinctive functional use prior to an application for a Title I loan.

However, these occupancy and completion requirements shall not apply to:

- (1) loans having a principal obligation of \$1,000 or less; or
- (2) Residential structures which have been damaged by conditions determined by the President to warrant relief under the provisions of Title 42, Chapter 68, of the United States Code.

Fire safety equipment loan means a loan made to finance the purchase and installation of any device or construction feature which is recognized in the latest edition of the Department of Housing and Urban Development's Minimum Property Standards for Care Type Housing (HUD Handbook 4920.1) or the Fire Safety Code of the National Fire Protection Association, and which is designed to reduce the risk of death, personal injury, or property damage resulting from a fire in a health care facility.

Furniture means movable articles of personal property relating to a home or dwelling, such as beds, chairs, sofas, lamps, tables, rugs, etc.; however, furniture does not include:

- (1) Items built into the home or dwelling such as wall-to-wall carpeting or heating or cooling equipment; or
- (2) large appliances such as refrigerators, ovens, ranges, dishwashers, clothes washers or clothes dryers.

Health care facility means a proprietary facility or facility of a private nonprofit corporation or association, licensed or regulated by the State or by the municipality or other political subdivision in which the facility is located, and operated as one or more of the following:

- (1) A nursing home for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care, but who require skilled nursing care and related medical services performed under the general direction of persons licensed by the law of the State where the facility is located to provide such care or services;
- (2) An intermediate health care facility for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care, but not continuous medical care or nursing services;

- (3) An extended health care facility for inpatient care for convalescents or chronic disease patients who require skilled nursing care and related medical services; or

- (4) Other comparable health care facility.

Historic preservation loan means a loan to finance the preservation (restoration or rehabilitation) of an historic residential structure which is listed on the National Register of Historic Places or which is certified by the Secretary of the Interior as conforming with National Register criteria.

Lender means a financial institution that:

- (1) Holds a valid Title I contract of insurance and is approved by the Secretary under 24 CFR Part 202 to originate, purchase, hold, service, and/or sell loans insured under this part; or
- (2) Is under suspension or holds a Title I contract of insurance that has been terminated, but that remains responsible for servicing or selling Title I loans that it holds and is authorized to file insurance claims on such loans.

For purposes of loan origination under subparts A, B and C of this part, the term "lender" also includes a "loan correspondent" as defined in this section.

Loan means a disbursement of proceeds (funds) or an advance of credit to or for the benefit of a borrower who promises to repay the principal amount of such disbursement or advance, plus interest, if any, at a stated annual rate over time, with the borrower's obligation evidenced by the borrower's execution of a note. "Loan" also means a purchase by a lender of a note evidencing such obligation, or a refinancing of an existing obligation with or without an additional disbursement of proceeds or advance of credit.

Loan correspondent means a financial institution approved by the Secretary to originate Title I direct loans for sale or transfer to a sponsoring lending institution which holds a valid Title I contract of insurance and is not under suspension.

Manufacturer's invoice means a document issued by a manufacturer and provided with a manufactured home to a retail dealer which separately details the wholesale (base) prices at the factory for specific models or series of manufactured homes and itemized options (large appliances, built-in items and equipment), plus actual itemized charges for freight

from the factory to the dealer's lot or the homesite (including any rental of wheels and axles) and for any sales taxes to be paid by the dealer. The invoice may recite such prices and charges on an itemized basis or by stating an

aggregate price or charge, as appropriate, for each category. The manufacturer shall certify on the invoice, or on a supplement which is attached to and made a part of the invoice, as follows:

The undersigned certifies under applicable criminal and civil penalties for fraud and misrepresentation that: (1) the wholesale (base) prices for the manufactured home and itemized options, the charges for freight and dealer-paid sales taxes, and all other statements in this invoice are true and accurate; (2) all such prices reflect the actual dealer costs at the factory, as quoted in the applicable current manufacturer's wholesale (base) price list; (3) except for any payments of volume incentives or special benefits related to this transaction, all such prices and charges exclude any costs of trade association fees or charges, discounts, bonuses, refunds, rebates, prizes, loan discount points or other financing charges, or anything else of more than nominal value which will inure to the benefit of the dealer and/or home purchaser at any date; and (4) the manufacturer has not made and will not make any payments to or for the benefit of the dealer and/or home purchaser that are not disclosed on this invoice or invoice supplement.

Manufactured home means a transportable structure, comprised of one or more modules, each built on a permanent chassis, with or without a permanent foundation, designed for occupancy as a principal residence by a single family. A new manufactured home shall comply with the minimum property standards prescribed by the Secretary to assure its livability and durability that are published as the Manufactured Home Construction and Safety Standards implementing the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. 5401-5426, at [24 CFR Part 3280](#). To qualify for a manufactured home loan insured under this part, an existing manufactured home must have been constructed in accordance with standards published at 24 CFR Part 3280 and must meet standards similar to the minimum property standards applicable to existing homes insured under Title II of the Act, as prescribed by the Secretary.

Manufactured home improvement loan means a loan made to finance the alteration, repair or improvement of an existing manufactured home which is classified as personalty by the State or locality in which the property is located. The proceeds of a manufactured home improvement loan may also be used for improvements to the homesite, as long as the borrower is the owner of the home and the underlying real estate.

Manufactured home loan means a loan for the purchase or refinancing of a manufactured home and/or the lot on which to place such home. Unless otherwise indicated, the term includes

manufactured home purchase loans, manufactured home lot loans, and combination loans.

Manufactured home lot loan means a loan for the purchase or refinancing of a portion of land acceptable to the Secretary as a manufactured home lot. A manufactured home lot may consist of platted or unplatted land, a lot in a recorded or unrecorded subdivision or in an improved area of such subdivision, or a lot in a planned unit development. A manufactured home lot may also consist of an interest in a manufactured home condominium project (including any interest in the common areas) or a share in a cooperative association which owns and operates a manufactured home park.

Manufactured home purchase loan means a loan for the purchase or refinancing of a manufactured home exclusive of any lot or site, and may also include a garage, patio, carport, or other comparable appurtenance.

Multifamily property improvement loan means a loan to finance the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families. The multifamily structure may not be owned by a corporation, partnership, or trust, unless the prior approval of the Secretary is obtained for an exception to this requirement.

Nonresidential property improvement loan means a loan made to finance the construction of a new exclusively nonresidential structure or the alteration, repair or improvement of an existing structure that is nonresidential. Such a structure may be temporarily used for residential purposes while the borrower constructs a new dwelling to replace a dwelling previously occupied by the borrower that was destroyed or damaged by conditions determined by the President to warrant relief under the provisions of Title 42, Chapter 68, of the United States Code, provided that the credit application is filed within one year from the date of such a determination.

Note means the written instrument evidencing the borrower's signature to a promise to repay the principal indebtedness and to pay any interest due on a loan, whether the instrument is separate from or included within another document, and unless otherwise specified means also any security instrument with respect to that loan obligation.

Owner means a person, including a borrower, who has title in whole or in part to the property which is the subject of a loan transaction.

Principal residence means a home where the borrower expects to live at least nine months of the year.

Property improvement loan means a loan made to finance actions

or items that substantially protect or improve the basic livability or utility of a property. Unless otherwise indicated, the term includes single family, multifamily and nonresidential property improvement loans; manufactured home improvement loans where the home is classified as personalty; historic preservation loans; and fire safety equipment loans in existing health care facilities.

Rehabilitation means the process of returning an historic residential structure to a state of utility, through repair or alteration, which makes possible an efficient contemporary use. In rehabilitation, those portions of the property important in illustrating historic, architectural and cultural values are preserved or restored.

Restoration means the process of accurately recovering the form and details of an historic residential structure as it appeared at a particular period of time by removing later work and by replacing missing original work.

Security instrument means a properly recorded chattel mortgage, real estate mortgage or deed of trust, or conditional sales contract.

Single family property improvement loan means a loan to finance alterations, repairs and improvements to or in connection with an existing structure, including an existing one-family manufactured home classified as real property by the State or locality in which the property is located, for use as a single family residence.

Solar energy system means any addition, alteration or improvement to an existing structure for single family or multifamily residential use which is designed to utilize wind or solar energy to reduce the energy requirements of that structure from other energy sources, and which complies with standards prescribed by the Secretary.

Special benefits means benefits other than volume incentives for dealers which a home manufacturer funds from general corporate revenues by charging them against corporate overhead and profit without changing the wholesale (base) price of a manufactured home (or series of homes), as reflected in the manufacturer's published wholesale (base) price list, and

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which are limited to payments by the manufacturer directly to:

- (1) A financial institution to "buy down" or reduce the interest rate, discount points, or other fees or charges related to a lending agreement for a dealer's manufactured home inventory or "floor plan" financing needs; or

- (2) One or more advertising media for all or part of the costs of advertising the manufacturer's homes, one or more dealer's services, and related manufactured home materials and products in such media.

State means any State of the United States, Puerto Rico, the District of Columbia, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the United States Virgin Islands.

Volume incentives means specified dollar benefits to dealers under a published marketing and promotional plan, payable by a home manufacturer in cash or in kind in amounts or levels relating to the volume of sales of manufactured homes to dealers, other than benefits of a nominal value of less than \$10 per home, which:

- (1) The manufacturer funds from general corporate revenues by including them in the prices quoted in the manufacturer's wholesale (base) price list and charging them against corporate overhead and profit;
- (2) Whether or not available on an optional basis, do not increase or decrease the wholesale (base) prices for the sale of a specific home or options or the charges for freight and dealer-paid sales taxes as detailed in the manufacturer's invoice, for a specific sale to a retail dealer;
- (3) The manufacturer provides without creating a special product line where the cost of the benefits is the only substantive difference between the special product line and other essentially similar homes;
- (4) Whether or not also of benefit to the ultimate purchaser, do not increase or decrease the retail price of the home;
- (5) Are available to any dealer in a particular market area doing business with the manufacturer;
- (6) The manufacturer provides only for volume sales of manufactured homes to dealers over a specified period of time;

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- (7) The plan provides in escalating and different amounts or levels related to either the number of homes (or modules) sold or the dollar value of such sales to a dealer, or some combination of such elements, in a specified period of time;
- (8) Are structured so that only some of the dealer participants are expected to be paid the maximum benefits under the program with substantial numbers of participants expected to receive less than the maximum

amount or level of benefits; and

- (9) Accrue for volume sales to a dealer over a specified period of time which is at least quarterly in length, and are paid not more frequently than quarterly.

Wholesale (base) price list means the price list or lists, as periodically amended, which are published and distributed by a home manufacturer to all retail dealers in a given marketing area, quoting the actual wholesale (base) prices at the factory for specific models or series of manufactured homes and itemized options offered for sale to such dealers during a specified period of time. The wholesale (base) prices may include the manufacturer's projected costs of providing volume incentives and special benefits related to sales to dealers during the period. All such wholesale (base) prices shall exclude any costs of trade association fees or charges, discounts, bonuses, refunds, rebates, prizes, loan discount points or other financing charges, or anything else of more than nominal value which will inure to the benefit of a dealer and/or home purchaser at any date. Each price list and amendment shall be retained by the manufacturer for a minimum period of six years from the date of publication so as to be available to HUD and other Federal agencies upon request.

§ 201.3 Applicability of the regulations.

The regulations in this part may be amended by the Secretary at any time. Such amendment shall not adversely affect the insurance privileges of a lender on any loan that has been made or for which a loan application has been approved before the effective date of the amendment.

' 201.4 Rules of construction.

As used in this part, and unless the context indicates otherwise, words in the singular include the plural, and words in the plural include the singular.

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' 201.5 Waivers.

The Secretary may waive a lender's noncompliance with any provision of this part, subject to statutory limitations, when it is determined that enforcement of the regulations would impose an injustice upon a lender which has substantially complied with the regulations in good faith and refunded or credited any excess charge made, and when such waiver does not involve an increase in the Secretary's obligation beyond that which would have been involved if the lender was in full compliance with the regulations.

' 201.6 Disclosure and verification of Social Security and Employer Identification Numbers.

To be eligible for loan insurance under this part, the borrower must meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by Part 200, subpart U, of this chapter.