
Friday
January 26, 1996

Federal Register

Part VI

**Department of
Housing and Urban
Development**

Office of the Assistant Secretary for
Housing—Federal Housing Commissioner

24 CFR Parts 202 and 203
Streamlining Mortgagee Requirements;
Interim Rule

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

Office of the Assistant Secretary for
Housing—Federal Housing
Commissioner

24 CFR Parts 202 and 203

[Docket No. FR-3957-1-01]

RIN 2502-AG57

Streamlining Mortgagee Requirements

AGENCY: Office of the Assistant
Secretary for Housing—Federal Housing
Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: This rule revises FHA's
mortgagee requirements to streamline
and make the FHA process more flexible
for mortgagees and FHA's customers
and clients.

DATES: Effective date: February 26, 1996.
Comment due date: March 26, 1996.

ADDRESSES: Interested persons are
invited to submit comments regarding
this rule to the Rules Docket Clerk,
Office of General Counsel, Room 10276,
Department of Housing and Urban
Development, 451 Seventh Street, SW,
Washington, DC 20410-0500.

Communications should refer to the
above docket number and title.

Facsimile (FAX) comments are not
acceptable. A copy of each
communication submitted will be
available for public inspection and
copying between 7:30 a.m. and 5:30
p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT:
William M. Heyman, Director, Office of
Lender Activities and Land Sales
Registration, Room 9156, Department of
Housing and Urban Development, 451
Seventh Street, SW, Washington, DC
20410, telephone (voice) (202) 708-
1515, (TDD) (202) 708-4594. (These are
not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Earlier this year an FHA Single
Family Business Practices Working
Group was established to develop
recommendations to streamline the FHA
process, reduce or eliminate
unnecessary requirements, promote
greater opportunities for first-time
homebuyers and minorities, and
maintain a responsible risk management
program. The Working Group was
comprised of representatives of
mortgage lenders, State and local
governments, trade associations,
realtors, government-sponsored
enterprises, and other interested parties.

The revisions made by this rule result
from the efforts and recommendations
made by the Working Group. They will
make the FHA process more flexible for
mortgagees, and for State and local
governments and nonprofit associations,
and also expand homeownership
opportunities. They will also assist in
making the FHA a more effective
organization to serve the needs of our
customers and clients. The revisions
should also minimize the differences
between FHA and conventional loan
processing and place greater reliance
and accountability on mortgagees.

A number of recommended changes
did not require rulemaking and,
therefore, were made effective
immediately with the issuance of
Mortgagee Letter 95-36, dated August 2,
1995. However, some of the
recommended changes require either
rulemaking or modification of existing
data systems. This rule sets forth the
changes that require rulemaking for
implementation. Changes effected as a
result of modifications of existing data
systems will be announced later.

This Interim Rule

This interim rule makes the following
changes:

—Section 202.11(a)(5) is revised to
establish uniform requirements on the
use of authorized agents by
supervised and nonsupervised
mortgagees. For conforming reasons,
§§ 202.13(e) and 202.17(d) are
removed.

—Section 202.12(m) is revised to
eliminate the requirement that a
branch office of a mortgagee must be
approved by FHA to originate FHA
mortgages. A branch registry process
is permitted. However, a
nonsupervised loan correspondent
will be required to provide evidence
that it complies with the net worth
requirements for itself and all of its
branches, as set forth in
§ 202.12(n)(3).

—Section 202.15(c)(1) is revised to
eliminate the requirement that loans
must be closed in the name of the
Loan Correspondent, and to permit
such mortgages to be closed in either
the name of the Loan Correspondent
or its Sponsor(s).

—Section 202.15(c)(5) is revised to
eliminate the compliance report and
the report on internal control from
Loan Correspondents' annual audited
financial statements.

—Section 203.3(b)(2) is revised to
eliminate the requirement that FHA
individually approve mortgagees'
Direct Endorsement underwriters and
to establish a registry process for the
underwriter. Also, The requirement

that the technical staff utilized by the
mortgagee be approved by the
Secretary is removed. For conforming
reasons, §§ 203.3(b)(3) and (c) are
eliminated.

Other Matters

Justification for Interim Rule

In general, the Department publishes
a rule for public comment before issuing
a rule for effect, in accordance with its
own regulations on rulemaking, 24 CFR
part 10. However, part 10 does provide
for exceptions from that general rule
where the Department finds good cause
to omit advance notice and public
participation. The good cause
requirement is satisfied when prior
public procedure is "impracticable,
unnecessary, or contrary to the public
interest." (24 CFR 10.1) The Department
finds that good cause exists to publish
this rule for effect without first
soliciting public comment, in that
public procedure is contrary to the
public interest and unnecessary.

No mortgagees or potential mortgagors
will be adversely affected by the
revisions made by this rule without
prior public comment. To the contrary,
the revisions will streamline and make
the FHA processes more flexible for
mortgagees and FHA's customers and
clients.

For these reasons, HUD has
concluded that the public interest
would not be served by the delay that
issuance of a proposed rule would
involve.

Environmental Finding

A Finding of No Significant Impact
with respect to the environment has
been made in accordance with HUD
regulations at 24 CFR Part 50, which
implement section 102(2)(C) of the
National Environmental Policy Act of
1969. The Finding of No Significant
Impact is available for public inspection
between 7:30 a.m. and 5:30 p.m.
weekdays in the Office of the Rules
Docket Clerk, Office of the General
Counsel, Department of Housing and
Urban Development, Room 10276, 451
Seventh Street, SW., Washington, DC
20410.

Executive Order 12612, Federalism

The General Counsel, as the
Designated Official under section 6(a) of
Executive Order 12612, Federalism, has
determined that the policies contained
in this rule will not have substantial
direct effects on States or their political
subdivisions, or the relationship
between the Federal government and
the States, or on the distribution of
power and responsibilities among the

various levels of government. As a result, the rule is not subject to review under the Order. Specifically, the requirements of this rule are directed to insuring mortgages and do not impinge upon the relationship between the Federal government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order because it revises mortgagee requirements.

The Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Secretary by his approval of this rule hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because the changes made by this rule are primarily procedural and will not have a significant economic impact.

List of Subjects in Part 202

Administrative practice and procedure, Home improvement, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

List of Subjects in Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, Subchapter B of Chapter II of title 24 of the Code of Federal Regulations is amended as follows:

CHAPTER II—OFFICE OF THE ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Subchapter B—Mortgage and Loan Insurance Programs Under National Housing Act and Other Authorities

PART 202—APPROVAL OF LENDING INSTITUTIONS AND MORTGAGEES

1. The authority for part 202 continues to read as follows:

Authority: 12 U.S.C. 1703, 1709, and 1715b; 42 U.S.C. 3535(d).

2. Part 202 is amended by revising—
a. In § 202.11, paragraph (a)(5) to read as follows:

§ 202.11 Approval, recertification, withdrawal of approval and termination of approval agreement.

(a) * * *
(5) A mortgagee approved under §§ 202.13, 202.14, or 202.17 may, with the approval of the Secretary, designate another mortgagee approved under §§ 202.13 or 202.14 as authorized agent for the purpose of submitting applications for mortgage insurance in its name and on its behalf.

b. In § 202.12, paragraph (m) to read as follows:

§ 202.12 General approval requirements.

(m) *Branch offices.* A mortgagee approved under §§ 202.13 or 202.14, or a mortgagee that meets the definition of a supervised mortgagee under § 202.13 and applies for approval as a loan correspondent under § 202.15, may maintain branch offices for the submission of applications for mortgage insurance, provided that registration of such branches is maintained with the Secretary. A nonsupervised loan correspondent approved under § 202.15 will be required to provide evidence that it complies with net worth requirements for itself and all of its branches, as set forth in § 202.12(n)(3). The mortgagee shall remain fully responsible to the Secretary for the actions of its branch offices.

§ 202.13 [Removed]

c. In § 202.13, paragraph (e) is removed.

d. In § 202.15, the first sentence of paragraph (c)(1) and paragraph (c)(5) are revised, to read as follows:

§ 202.15 Loan correspondents.

(c) * * *
(1) A loan correspondent shall close all mortgages in its own name or the name of its sponsor(s).

(5) It shall file an audit report with the Secretary within 90 days of the close of its fiscal year (or within an extended time if, at the discretion of the Secretary, an extension is granted), and at such other times as may be requested, unless it meets the definition of a supervised mortgagee in § 202.13(a).

Audit reports shall be based on audits performed by a Certified Public Accountant, or by an Independent Public Accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or before December 31, 1970. The audit report shall include:

(i) A financial statement in a form acceptable to the Secretary, including a balance sheet and a statement of operations and retained earnings and analysis of the loan correspondent's net worth adjusted to reflect only assets acceptable to the Secretary, and an analysis of escrow funds; and

(ii) Such other financial information as the Secretary may require.

e. In § 202.17, paragraph (d) is removed.

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

3. The authority for part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1715b; 42 U.S.C. 3535(d). Subpart C also, is issued under 12 U.S.C. 1715u.

4. In § 203.3, paragraph (b)(2) is revised, and paragraphs (b)(3) and (c) are removed and reserved, to read as follows:

§ 203.3 Approval of mortgagees for Direct Endorsement.

(b) * * *
(2) The mortgagee has on its permanent staff an underwriter that is authorized by the mortgagee to bind the mortgagee on matters involving the origination of mortgages through the Direct Endorsement procedure and that is registered with the Secretary and such registration is maintained with the Secretary. The technical staff may be employees of the mortgagee or may be hired on a fee basis from a roster maintained by the Secretary. The mortgagee shall use appraisers permitted by § 203.5(e).

(3) [Reserved].

(c) [Reserved].

Dated: November 29, 1995.

Nicolas P. Retzinas,
Assistant Secretary for Housing—Federal Housing Commissioner.
{FR Doc. 96-1304 Filed 1-25-96; 8:45 am}
BILLING CODE 4210-27-P



CHECKLIST FOR LOAN CORRESPONDENT APPLICATIONS

- HUD Form 92001-E.
- HUD Form 92001-D.
- HUD form 92001C (or resumes) which reflect a full 3 years mortgage lending experience of a senior corporate officer who will be managing the daily affairs of the Loan Correspondent.
- Copy of Application Fee Check.
- Evidence of either: a Warehouse Line of Credit or an Acceptable Funding Agreement with the sponsoring mortgagee submitting the application
- Certification by the Loan Correspondent that it has not been denied a license nor sanctioned by any State(s) in which it is originating mortgage loans. Include a copy of the State license, if applicable.
- Audited Financial Statement, including a computation of Adjusted Net Worth (prepared by the CPA). The computation must show at least \$50,000 adjusted net worth with at least \$10,000 in liquid assets. If the audit is over 6 months old, a management certified updated balance sheet must be included.
- Photos, floor plan and certification of office space and staffing. This must include photos of outside or lobby signage.
- Credit Report on senior corporate officers, stockholders (over 25% ownership) and the applicant company. (If there is any derogatory credit data, a letter including a satisfactory explanation must be submitted. All credit reports must be evaluated following FHA's mortgage credit underwriting guidelines as noted in HUD Handbook 4155.1 REV-4, including any updates and/or revisions.)
- Quality Control Plan. Submit a copy of the actual Plan or the checklist which was included with Mortgagee Letter 95-36.
- Cover Letter. The sponsoring lender must complete a cover letter (sample contained in Mortgagee Letter 95-36) and include it with the application package.

