

Rural Housing Service, USDA

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§ 3555.205 Special requirements for condominiums.

Loans may be guaranteed for condominium units in condominium projects that meet all the requirements of this part, as well as the standards for condominium standards established by HUD, Fannie Mae, VA, or Freddie Mac, including those related to self-certification, warranty, underwriting, and ineligible condominium projects.

§ 3555.206 Special requirements for community land trusts.

A community land trust must meet the definition in accordance with § 3555.10 and other requirements described in this subpart. Loans may be guaranteed for dwellings on land owned by a community land trust only if:

(a) *Rural Development review.* Rural Development reviews and accepts any restrictions imposed by the community land trust on the property or applicant before loan closing. The Agency may place conditions on the approval of restrictions on resale price and rights of first refusal.

(b) *Foreclosure termination.* The community land trust automatically and permanently terminates upon foreclosure or acceptance by the lender of a deed in lieu of foreclosure.

(c) *Organization.* The organization must meet the definition of a community land trust as defined in the Housing Act of 1949 and the following requirements:

(1) Be organized under State or local laws.

(2) Members, founders, contributors or individuals cannot benefit from any part of net earnings of the organization.

(3) The organization must be dedicated to decent affordable housing for low-and moderate-income people.

(4) Comply with financial accountability.

(d) *Lender documentation.* The lender's file must contain documentation that the community land trust has community support, local market acceptance and 2 years of prior experience in providing affordable housing.

(e) *Appraisals.* A property located on a site owned by a community land trust must be appraised as leasehold

interest and meet the provisions of § 3555.203.

§ 3555.207 Special requirements for Planned Unit Developments (PUDs).

Loans may be guaranteed for PUDs that meet all of the requirements of this part, as well as the criteria for PUDs established by HUD, VA, Fannie Mae, or Freddie Mac.

§ 3555.208 Special requirements for manufactured homes.

Loans may be guaranteed for manufactured homes if all the requirements in this section are met.

(a) *Eligible costs.* In addition to the loan purposes described in § 3555.101, Rural Development may guarantee a loan used for the following purposes related to manufactured homes when a real estate mortgage covers both the unit and the site:

(1) Purchase of a new manufactured home, transportation, permanent foundation, and installation costs of the manufactured home, and purchase of an eligible site if not already owned by the applicant; and

(2) Site development work properly completed to HUD, state and local government standards, as well as, the manufacturer's requirements for installation on a permanent foundation.

(b) *Loan restrictions.* The following loan restrictions are in addition to the loan restrictions contained in § 3555.102:

(1) A loan will not be guaranteed if it is used to purchase a site without also financing a new unit.

(2) A loan will not be guaranteed if it is used to purchase furniture, including but not limited to: movable articles of personal property such as drapes, beds, bedding, chairs, sofas, divans, lamps, tables, televisions, radios, and stereo sets. Furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, washing machines, clothes dryers, heating or cooling equipment, or other similar items.

(3) A loan will not be guaranteed to purchase an existing manufactured home and site unless:

(i) The unit and site are already financed with an Agency direct single family or guaranteed loan;

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(ii) The unit and site are being sold by Rural Development as REO property;

(iii) The unit and site are being sold from the lender's inventory, and the loan for which the unit and site served as security was a loan guaranteed by Rural Development; or

(iv) The unit was installed on its initial installation site on a permanent foundation complying with the manufacturer's and HUD installation standards.

(4) A loan will not be guaranteed for repairs to an existing unit, unless the unit meets the requirements of § 3555.208(b)(3).

(5) A loan will not be guaranteed for the purchase of an existing manufactured home that has been moved from another site.

(c) *Construction and development.* (1) To be an eligible unit, the new unit must have a floor space of not less than 400 square feet.

(2) The unit must be properly installed on a permanent foundation according to HUD standards, and the manufacturer's requirements for installation on a permanent foundation. A certification of proper foundation is required.

(3) All wheels, axles, towing hitches and running gear must be removed from the manufactured home.

(4) Unit construction must conform to the Federal Manufactured Home Construction and Safety Standards (FMHCSS) and be constructed in compliance with the HUD heating and cooling requirements for the State in which the unit will be located. Any alterations, such as garage construction, as a new unit must comply with FMHCSS.

(5) The site development, installation and set-up must conform to the HUD requirements and the manufacturer's requirements for a permanent installation.

(6) The unit must meet or exceed the IECC in effect at the time of construction.

(7) The lender must maintain documentation of construction plans and required certifications.

(d) *Warranty requirements.* (1) The applicant must receive a warranty in accordance with HUD requirements for

new manufactured homes on permanent foundations.

(2) The warranty must identify the unit by serial number.

(3) The lender and applicant must obtain certification that the manufactured home has sustained no hidden damage during transportation and, if manufactured in separate sections that the sections were properly joined and sealed according to the manufacturer's specifications.

(4) The manufactured home must be affixed with a data plate, placed inside the unit, and a certification label, affixed to each transportable section at the tail-light end of each unit which indicates that the home was designed and built in accordance with HUD's construction and safety standards in effect on the date the home was manufactured.

(5) The lender must retain a copy of all manufacturers' warranties in the lender file.

(e) *HUD requirements.* The FMHCSS and HUD requirements may be found at http://www.access.gpo.gov/nara/cfr/waisidx_04/24cfr3280_04.html.

(f) *Title and lien requirements.* To be eligible for the SFHGLP, the following conditions must be met and documented in the lender's file:

(1) A manufactured home loan must be secured by a perfected lien on real property consisting of the manufactured home and the land;

(2) The manufactured home must be taxed as real estate as applicable under State law, including relevant statutes, regulations, and judicial decisions;

(3) The security instrument must be recorded in the land records and must identify the encumbered property as including both the home and the land;

(4) If applicable State law so permits, any certificate of title to the manufactured home must be surrendered to the appropriate State government authority. If the certificate of title cannot be surrendered, the lender must indicate its lien on the certificate;

(5) The mortgage must be covered by a standard real property title insurance policy and any other endorsement required in the applicable jurisdiction for manufactured home ensuring the manufactured home is part of the real property that secures the loan; and

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(6) The borrower must acknowledge the unit is a fixture and part of the real estate securing the mortgage.

§ 3555.209 Rural Energy Plus loans.

Loans guaranteed under Rural Energy Plus provisions are for the purchase of energy-efficient homes. Homes that meet the most current IECC standards including existing homes that are retrofitted to those standards are eligible. Energy-efficient homes result in lower utility bills, conserve energy, and thus, make more income available for monthly debt obligations. For loans guaranteed under this subpart, the lender will certify that the home meets the most current IECC standards. The Handbook will define what further flexibilities can be extended.

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§ 3555.250 OMB control number.

The report and recordkeeping requirements contained in this subpart are currently with the Office of Management and Budget under review and awaiting approval.

Subpart F—Servicing Performing Loans

§ 3555.251 Servicing responsibility.

(a) *Servicing action.* Lenders must perform those servicing actions that a reasonable and prudent lender would perform in servicing its own portfolio of non-guaranteed loans.

(b) *Third party servicer.* A lender may contract with a third party to service its loans, but the servicing lender of record remains responsible for the quality and completeness of the servicing.

(c) *Transfer of servicing.* Rural Development may require a lender to transfer its loan servicing activities to an approved lender if Rural Development determines that the lender has failed to provide acceptable servicing.

(d) *Non-compliance.* Lenders who fail to comply with Agency requirements or program guidelines may be subject to withdrawal of lender approval, denial and/or reduction in loss claims, withdrawal of the loan guarantee and/

or indemnification in accordance with § 3555.108(d).

§ 3555.252 Required servicing actions.

Lender servicing responsibility includes, but is not limited to, the following actions.

(a) *Collecting regularly scheduled payments.* Lender must collect regularly scheduled loan payments and apply them to the borrower's account.

(b) *Payment of taxes and insurance.* Lenders must ensure that real estate taxes, assessments, and flood and hazard insurance premiums for all property that secures a guaranteed loan are paid on schedule.

(1) *Establish escrow account.* Lenders with the capacity to escrow funds must establish escrow accounts for all guaranteed loans for the payment of taxes and insurance. Escrow accounts must be administered in accordance with the Real Estate Settlement and Procedures Act (RESPA) of 1974, and insured by the FDIC or the NCUA.

(2) *Plan and responsibility of lender to ensure payment.* Lenders that do not have the capacity to escrow funds must implement procedures, subject to Agency approval, to ensure the borrower pays such obligations on a timely basis. In addition, such lenders must accept the responsibility for payment of taxes and insurance that comes due prior to liquidation. Rural Development will not include any taxes or insurance amounts that accrued prior to acceleration in any potential loss claim. Rural Development may revoke the acceptance of the lender's plan if loan performance indicates that delinquency and loss rates are being affected by the lender's inability to escrow for taxes, assessment, and insurance. This alternative is not available to lenders who contract for servicing.

(c) *Insurance.* (1) Until the loan is paid in full, lenders must ensure that borrowers maintain hazard and flood insurance as required, on property securing guaranteed loans. The insurance must be issued by companies in amounts, and on terms and conditions, acceptable to Rural Development. Flood insurance through the National Flood Insurance Program must be maintained for all property located in