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home loan which is in default, provided that (a) the lender accepts the conveyance in full satisfaction of the borrower's obligation, and (b) no claim is submitted under its contract of insurance. The lender may accept voluntary surrender of the property without satisfaction of the borrower's obligation, provided that if the lender intends thereafter to submit a claim under its contract of insurance, the lender shall acquire title to or ownership of the property and then dispose of and sell the property in compliance with State and local law, so as to assure that it can assign a valid and enforceable obligation, including any deficiency against the borrower, to the Secretary when submitting its claim. If the lender accepts a voluntary conveyance of title or a voluntary surrender of the property, the notice of default and acceleration under §201.50(b) shall not be required.

[50 FR 43523, Oct. 25, 1985, as amended at 61 FR 19799, May 2, 1996]

§ 201.53 Disposition of manufactured home loan property.

Where the lender obtains title to property securing a manufactured home loan by repossession or foreclosure, the property shall be sold for the best price obtainable before making an insurance claim. In the case of a combination loan, the manufactured home and lot shall be sold in a single transaction and the manufactured home may not be removed from the lot, unless the prior approval of the Secretary is obtained for a different procedure. The best price obtainable shall be the greater of:

(a) The actual sales price of the property, after deducting the cost of repairs, furnishings, and equipment needed to make the property marketable, and after deducting the cost of transportation, set-up, and anchoring if the manufactured home is moved to a new homesite; or

(b) The appraised value of the property before repairs (as determined by a HUD-approved appraisal obtained in accordance with §201.51(b)(3)).

[50 FR 43523, Oct. 25, 1985, as amended at 61 FR 19799, May 2, 1996]

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§ 201.54 Insurance claim procedure.

(a) *Claim application.* A claim for reimbursement for loss on any eligible loan shall be made on a HUD-approved form, executed by a duly qualified officer of the lender under applicable criminal and civil penalties for fraud and misrepresentation. The insurance claim shall be fully documented and itemized, and shall be accompanied by all documents and materials required by the Secretary for claim review. The claim submission shall contain original copies of all notes, security instruments, assumption agreements, releases of liability for repayment of the loan, judgments obtained by the lender against the borrower, and any related documents and forms, except where State or local law requires their retention by the lender or a governmental body such as a court. As appropriate, the claim application shall be supported by the following:

(1) Documentation of the lender's efforts to effect recourse against any dealer in accordance with any recourse agreement under §201.27(b) between the lender and the dealer and contained in the loan documents;

(2) Certification under applicable criminal and civil penalties for fraud and misrepresentation that the lender has complied with all applicable State and local laws in carrying out any foreclosure or repossession, including copies of all notices served upon the borrower or published in connection with such foreclosure or repossession; and

(3) Where a borrower has declared bankruptcy or insolvency or is deceased, copies of the documentation required to be retained in the loan file under §201.42.

(b) *Maximum claim period.* (1) An insurance claim shall be filed not later than the following dates:

(i) For property improvement loans—nine months after the date of default.

(ii) For manufactured home loans—three months after the date of sale of the property securing the loan, but not to exceed 18 months after the date of default.

(2) The Secretary may extend the claim filing period in a particular case, but only if the lender shows clear evidence that the delay in claim filing was

in the interest of the Secretary or was caused by one of the following:

- (i) Litigation related to the loan;
- (ii) Management control of the lender or the Title I loan portfolio was assumed by a Federal or State agency; or
- (iii) The borrower had experienced a loss of income or other financial difficulties directly attributable to a major disaster declared by the President, and additional time was needed to provide forbearance on a property improvement loan.

(3) If a borrower is a "person in military service" as that term is defined in the Soldiers' and Sailors' Civil Relief Act of 1940 and is in default on a loan insured under this part, any period of military service after the date of default shall be excluded in computing the maximum time period for filing an insurance claim.

(c) *Resubmitted and supplemental claims.* (1) Any insurance claim which is resubmitted with an appeal of a claim denial or a request for a waiver of the regulations in accordance with §201.5(b) shall be filed within six months after the date of the claim denial.

(2) Any supplemental insurance claim shall be filed within six months after the date of payment on the initial claim. A reprocessing fee, in an amount prescribed by the Secretary, will be charged for any supplemental claim.

(d) *Assignment of lender's rights to the United States.* Upon the filing of the insurance claim, the lender shall assign its entire interest in the loan note (or in a judgment in lieu of the note), in any security held, and in any claim filed in probate, bankruptcy or insolvency proceedings, to the United States of America. The assignment shall be made in the form provided in paragraph (f) of this section, provided that if this form is not valid or generally acceptable in the jurisdiction involved, a form which is valid and generally acceptable in the jurisdiction where the judgment or security was taken shall be used. If the security interest has been assigned to the United States, the assignment shall be recorded in that jurisdiction prior to filing the insurance claim, unless the Secretary determines that recordation

by the lender in that jurisdiction is impractical.

(e) *Valid and enforceable obligation when assigned.* The loan obligation evidenced by the note must be both valid and enforceable against the debtor at the time the note is assigned to the United States of America. If the Secretary has reason to believe that the obligation may not be either valid or enforceable against the borrower, the Secretary may either deny the claim and reassign the loan note to the lender, or require the lender to repurchase the paid claim and accept reassignment of the note. The lender will be notified of the reasons for the claim denial or repurchase. If the lender subsequently obtains a valid and enforceable judgment against the borrower for the unpaid balance of the loan, the lender may resubmit the claim with an assignment of the judgment.

(f) *Form of assignment.* A lender shall use the following form of assignment, or one generally acceptable in the jurisdiction involved, properly dated, to assign the lender's entire interest in a loan note, judgment, real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, mechanic's lien, or any security, in making an insurance claim:

All right, title, and interest of the undersigned is hereby assigned (without warranty, except that the loan qualifies for insurance) to the United States of America (HUD).

(Financial Institution) _____
By: _____
Title: _____
Date: _____

If the assignment does not appear on the note or other instrument that is assigned, it shall be duly executed on an allonge which is attached to such note or other instrument.

(g) *Denial of insurance claim.* The Secretary may deny a claim for insurance in whole or in part based upon a violation of these regulations, unless a waiver of compliance with the regulations is granted under §201.5.

(h) *Incontestability of insurance claim payment.* Any insurance claim payment on a title I loan shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the

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part of the lender, unless a demand for repurchase of the loan obligation is made on behalf of the United States prior to the expiration of the two-year period.

(Approved by the Office of Management and Budget under control number 2502-0328)

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§ 201.55 Calculation of insurance claim payment.

The lender will be reimbursed in an amount not to exceed 90 percent of its loss on any eligible loan up to the amount of insurance coverage in the lender's insurance coverage reserve account established by the Secretary under § 201.32, if the insurance claim is made in accordance with the requirements of this part. The amount of the insurance claim payment shall be computed as follows:

(a) *Property improvement loans.* For property improvement loans, the insurance claim payment shall be 90 percent of the following amounts:

(1) The unpaid amount of the loan obligation (net unpaid principal and the uncollected interest earned to the date of default, calculated according to the terms of the note executed for any loan application that is approved prior to the effective date of these regulations, and calculated according to the actuarial method for all loans for which loan applications are approved on or after the effective date of these regulations). Where the lender has proceeded against the secured property under § 201.51(a)(2), the unpaid amount of the loan obligation shall be reduced by the proceeds received from the property's sale or disposition, after deducting the following:

(i) The balances due on any obligations senior to the Title I loan obligation; and

(ii) Customary and reasonable expenses for foreclosure and disposition, as determined by the Secretary.

(2) Interest on the unpaid amount of the loan obligation from the date of default to the date of the claim's initial submission for payment plus 15 calendar days, calculated at the rate of seven percent per annum. However, in-

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terest shall not be paid for any period greater than nine months from the date of default.

(3) The amount of uncollected court costs, including fees paid for issuing, serving, and filing a summons.

(4) The amount of attorney's fees on an hourly or other basis for time actually expended and billed, not to exceed \$500.

(5) The amount of expenses for recording the assignment of the security to the United States.

(b) *Manufactured home loans.* For manufactured home loans, the insurance claim payment shall be 90 percent of the sum of the following amounts:

(1) The unpaid amount of the loan obligation (net unpaid principal and the uncollected interest earned to the date of default, calculated according to the actuarial method), after deducting the following amounts:

(i) The best price obtainable for the property after lawful repossession or foreclosure, as determined in accordance with § 201.53;

(ii) All amounts to which the lender is entitled after the date of default from any source relating to the property, including but not limited to such items as rent, other income, recourse recovery against the dealer, hazard insurance benefits, secured interest protection insurance benefits, and rebates on prepaid insurance premiums; and

(iii) Amounts retained by the lender after the date of default, including amounts held or deposited to the account of the borrower or to which the lender is entitled under the loan transaction, and which have not been applied in reduction of the borrower's indebtedness.

(2) Interest on the unpaid amount of the loan obligation from the date of default to the date of the claim's initial submission for payment plus 15 calendar days, calculated at the rate of seven percent per annum. However, interest shall not be paid for any period greater than nine months from the date of default.

(3) For manufactured home purchase loans, the amount of costs paid to a dealer or other third party to repossess and preserve the manufactured home and other property securing repayment of the loan (including the costs of site