

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 203

[Docket No. FR-4411-P-01]

RIN 2502-AH30

**Single Family Mortgage Insurance;
Informed Consumer Choice Disclosure
Notice**

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

ACTION: Proposed rule.

SUMMARY: HUD is publishing this proposed rule to implement a recent statutory amendment to HUD's FHA Single Family Mortgage Insurance Program. The statutory amendment requires the original lender to disclose certain information, in the form of a notice, to each prospective borrower who has applied for an FHA-insured home mortgage; and HUD to develop this disclosure notice. Specifically, through the disclosure notice, the lender must provide the borrower with an analysis comparing the mortgage costs of the FHA-insured mortgage to the mortgage costs of other similar conventional mortgage products that the lender offers and for which the borrower might qualify. The disclosure notice must also provide information about when the borrower's requirement to pay FHA mortgage insurance premiums terminates.

DATES: Submit comments on or before March 18, 1999.

ADDRESSES: Submit your comments about this proposed rule to the Office of the General Counsel, Rules Docket Clerk, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-0500. Your comments should refer to the above docket number and title. We do not accept facsimile (FAX) comments. A copy of each communication submitted will be available for public inspection and copying during regular business hours (7:30 a.m. to 5:30 p.m. Eastern time) at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Home Mortgage Insurance Division, Office of Insured Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000, Room

9270; Telephone: (202) 708-2121 (this is not a toll-free number). Hearing or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8399.

SUPPLEMENTARY INFORMATION:

I. Background

Section 225(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (HUD FY 1999 Appropriations Act), Pub. L. 105-276, 112 Stat. 2461, amended sec. 203(b)(2) of the National Housing Act by adding at the end of the section the following language:

In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a one page analysis of mortgage products offered by that lender and for which the borrower would qualify. This notice shall include: (i) a generic analysis comparing note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under this subsection with note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with similar loan-to-value ratio in connection with a conventional mortgage . . . assuming prevailing interest rates; and (ii) a statement regarding when the mortgagor's requirement to pay mortgage insurance premiums for a mortgage insured under this section would terminate or a statement that the requirement will terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

This amendment requires original lenders to provide each prospective FHA-insured mortgage borrower with an analysis comparing the mortgage costs of the FHA-insured mortgage to the mortgage costs of other similar conventional mortgage products that the lender offers and for which the borrower might qualify. The amendment also requires the lender to provide information to the borrower about when the borrower's requirement to pay FHA mortgage insurance premiums terminates.

Section 225(b) of the FY 1999 HUD Appropriations Act directs HUD to develop the disclosure notice document, through which the lender must disclose this information. Section 225(b) also directs HUD to develop this notice within 150 days of enactment of the FY

1999 HUD Appropriations Act and to develop the notice through notice and comment rulemaking.

This proposed rule includes, for comment, a model disclosure notice that contains the consumer information required to be disclosed by section 225(a). The proposed rule also provides a model format for the notice. The proposed rule includes an amendment to HUD's regulations at 24 CFR part 203 that would add a new section, § 203.10. Section 203.10 would conform HUD's regulations to the statutory lender disclosure requirement.

**II. Proposed Informed Consumer
Choice Disclosure Notice**

The following provides HUD's proposal for the informed consumer choice disclosure notice. HUD specifically solicits comments and recommendations on the format of the proposed disclosure notice. FHA anticipates that lenders will develop generic disclosure notices that compare a typical FHA mortgage in the marketplace with typical conventional mortgages offered by that lender, using a \$100,000 sales price (or other such amount as may be typical within the lender's market) and using the suggested format and instructions shown below for guidance.

As conventional mortgage offerings and pricing change over time, lenders will be required to modify their disclosure notices accordingly. HUD believes that a generic disclosure notice (similar to those provided on ARMs) reflects the intent of Congress in enacting sec. 225(a) and does not impose an unreasonable burden on lenders. Therefore, HUD will not require a case-specific disclosure notice for each borrower who may qualify for both a FHA-insured mortgage and conventional financing. To do otherwise would significantly increase mortgage origination costs and be counter to the intent of the Paperwork Reduction Act of 1995.

To complete the generic disclosure format shown below, lenders should use the following instructions. At the lenders discretion, lenders may add additional line items to the disclosure format, shown below, if the conventional financing is so unique or creative that such additions are necessary to make a meaningful comparison.

BILLING CODE 4210-27-P

Line No.	Field Name	Instruction
1	Sales Price	Show \$100,000 Sales Price (or such other amount the lender may wish to use to be more reflective of the market).
2	Mortgage Amount	Compute the mortgage amount in accordance with FHA requirements and in accordance with the investor or lender requirements for the conventional financing.
3	Closing Costs	Show the same amount of closing costs for the FHA financing and the conventional financing. Lenders should use Good Faith Estimates to develop typical costs for the various mortgage programs being offered.
4	Downpayment Needed	Show downpayment amounts exclusive of prepaid expenses.
5	Interest Rate and Term of Loan in Years	Show interest rate and term of loan in years.
6	Monthly Payment (Principal and Interest only)	Show monthly principal and interest only.
7	Loan-to-Value	Compute loan-to-value by dividing mortgage amount exclusive of any upfront mortgage insurance premiums by the lesser of the sales price or appraised value.
8	Monthly Mortgage Insurance Premium (First Year)	Show the monthly mortgage insurance premium, if applicable, based on FHA and private mortgage insurance company fee schedule.
9	Maximum Number of Years of Monthly Insurance Premium Payments	Show the maximum number of years that the monthly mortgage insurance premiums, if applicable, must be paid based on FHA requirements and lender/investor requirements for the conventional financing. (If monthly insurance premiums terminate when the loan balance declines to a certain loan-to-value (LTV) ratio, show the estimated number of years it will take to reach that LTV.)
10	Upfront Mortgage Insurance Premium (if applicable)	Show any upfront mortgage insurance premium charged on either the FHA mortgage, or the conventional mortgage.

Model of Completed Notice:**INFORMED CONSUMER CHOICE DISCLOSURE NOTICE**

In addition to a FHA mortgage, there may be other mortgage products offered by the lender for which you may also qualify. As such, your lender has prepared a comparison of the typical costs of alternative conventional mortgage product(s) for your review (the actual loan amounts and associated costs will vary from your own mortgage loan transaction). You should study the comparison carefully, ask questions, and determine which product is best for you.

Neither the lender nor FHA warrants that you actually qualify for any of the mortgage products listed. However, in your lender's judgment, you may have the credit standing to qualify for more than one mortgage product. This disclosure is not a contract and does not constitute loan approval. Actual mortgage approval can only be made following a full underwriting analysis by your mortgage lender.

		FHA Financing 203(b) Fixed Rate	Conventional Financing 97% with MI
1	Sales Price	\$100,000	\$100,000
2	Mortgage Amount	\$97,750 (\$99,460 w/ Upfront Mortgage Insurance Premium)	\$97,000
3	Closing Costs	\$2000	\$2000
4	Downpayment Needed	\$4250	\$5000
5	Interest Rate and Term of Loan in Years	7.00%/30 Year Loan	7.00%/30 Year Loan
6	Monthly Payment (Principal and Interest only)	\$661	\$645
7	Loan-to-Value	97.75%	97%
8	Monthly Mortgage Insurance Premium (First Year)*	\$41.44	\$76.63
9	Maximum Number of Years of Monthly Insurance Premium Payments	30 Years	Approx. 13 Years
10	Upfront Mortgage Insurance Premium (if applicable)	\$1710 (Included in Mortgage Amount, line 2)	n/a

*Monthly mortgage insurance premiums are calculated on the average annual principal balance, i.e., as the amount you owe on the loan decreases each year, so does the amount of the monthly premium.

FHA Mortgage Insurance Premium Information:

If you paid an upfront mortgage insurance premium, you will also be charged a monthly mortgage insurance premium for the amount of time shown below, based on the initial loan-to-value and term of your mortgage. You are required to make these payments on your FHA-insured loan for the time shown unless you refinance or the mortgage is otherwise paid in full. (If you were *not* charged an upfront premium, as for example on condominiums, you will pay the monthly premium for the life of the mortgage.)

If the term of your mortgage will be greater than 15 years and with a: Loan-to-Value of 89.99 or Less Loan to Value between 90 and 95.00 Loan to Value 95.01 and Greater	You will make payments for: 7 Years 12 Years 30 Years
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If the term of your mortgage will be 15 years or less and with a: Loan-to-Value of 89.99 or Less Loan to Value between 90 and 95.00 Loan to Value 95.01 and Greater	You will make payments for: None Required 4 Years 8 Years
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II. Findings and Certifications

Justification for Shortened Comment Period

Generally, HUD provides a 60-day public comment period on all rules in accordance with 24 CFR part 10. Section 225(b) of the HUD FY 1999 Appropriations Act directs HUD to develop this rule within 150 days of the date of enactment. The HUD FY 1999 Appropriations Act was enacted on October 21, 1998. The deadline to develop this rule, therefore, is March 20, 1999. To assist us in meeting this deadline, we have shortened the public comment period to 30 days.

Paperwork Reduction Act Statement

The proposed information collection requirements contained at § 203.10 of this proposed rule have been submitted to the Office of Management and Budget (OMB) for review under sec. 3507(d) of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35. An agency may not conduct or sponsor, and a person is not required to respond to, a collection

of information unless the collection displays a valid control number.

(a) In accordance with 5 CFR 1320.5(a)(1)(iv), HUD is setting forth the following concerning the proposed collection of information:

(1) *Title of the information collection proposal:* Single Family Mortgage Insurance; Informed Consumer Choice Disclosure Notice

(2) *Summary of the collection of information:* The information collection requires lenders to provide prospective borrowers with a disclosure notice that contains an analysis of the costs of an FHA-insured mortgage compared with the costs of other conventional mortgage products that a lender offers and for which the borrower might qualify. In order to produce this notice, the lender would be required to collect information about any applicable mortgage products, such as interest rates, insurance premiums, and other costs and fees that would be due over the life of the particular mortgage product.

(3) *Description of the need for the information and its proposed use:* The

need for the disclosure notice was mandated by Congress. The notice would be provided to prospective borrowers who have applied for an FHA-insured mortgage so that they would be able to evaluate the overall costs of an FHA-insured mortgage versus a similar conventional mortgage for which the mortgagor might also qualify.

(4) *Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:* Respondents would be HUD-approved lenders participating in the Single Family Mortgage Insurance Program. The estimated number of respondents is described in paragraph (5). The proposed frequency of responses would be variable as lenders would revise their disclosure notices only when their mortgage product offerings change.

(5) Estimate of the total reporting and recordkeeping burden that will result from the collection of information:

REPORTING BURDEN:

Reference	Number of respondents	Freq. of response	Est. Avg. response time (hours)	Est. annual burden (Hrs.)
§ 203.10	9000	Varies	1/2 Hour	4500

RECORDKEEPING BURDEN

Recordkeepers	Hours per recordkeeper	Total annual responses
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There are no recordkeeping burdens associated with this disclosure notice.

(b) In accordance with 5 CFR 1320.8(d)(1), HUD is soliciting comments from members of the public and affected agencies concerning the proposed collection of information in order to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance HUD's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of HUD's estimate of the proposed collection of information's burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the proposed collection of information's burden on respondents, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the proposed information collection requirements. Comments must be received within 60 days from the date of this proposal. Comments must refer to this proposed rule by name and docket number (FR-4411-P-01) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

and Reports Liaison Officer, Office of the Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of HUD's regulations, this proposed rule

does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act, 42 U.S.C. 4321-4347.

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication and by approving it certifies, in accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule simply

implements a statutory disclosure requirement and provides a proposed format for that notice. While HUD does not anticipate that this proposed rule would have a significant economic impact on a substantial number of small entities, HUD specifically requests comments regarding alternatives to compliance that may be less burdensome for small entities.

Federalism

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

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for part 203 is 14.117.

List of Subjects in 24 CFR Part 203

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

Accordingly, 24 CFR part 203 is proposed to be amended as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

2. Add § 203.10 to read as follows:

§ 203.10 Informed consumer choice disclosure notice.

(a) *Applicability.* Before making a mortgage insured under this part, the mortgagee must provide a prospective mortgagor with an informed consumer choice disclosure notice, in a format prescribed by the Commissioner.

(b) *Contents of notice.* The informed consumer choice disclosure notice must provide a generic analysis of the costs of conventional mortgage products, offered by the mortgagee and for which the mortgagor might qualify, that have similar loan-to-value ratios as the prospective FHA-insured mortgage.

(c) *Timing.* The informed consumer choice disclosure notice must be provided to the prospective mortgagor within three days of signing the mortgage loan application for the prospective FHA-insured mortgage.

(d) *Effective date.* This section applies to any application for FHA-insured mortgage insurance under § 203(b) of the National Housing Act (12 U.S.C. 1709) that the mortgagee receives on or after [Insert effective date of the final rule].

Dated: January 29, 1999.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 99-3562 Filed 2-12-99; 8:45 am]

BILLING CODE 4210-27-P