

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT****Office of the Assistant Secretary for  
Housing-Federal Housing  
Commissioner****24 CFR Part 202**

[Docket No. FR-4036-F-01]

RIN 2502-AG68

**Approval of Lending Institutions and  
Mortgagees Streamlining**

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

**ACTION:** Final rule.

**SUMMARY:** This final rule amends HUD's regulations at 24 CFR part 202 relating to Approval of Lending Institutions and Mortgagees. In an effort to comply with the President's regulatory reform initiatives, this rule will streamline subparts A & B, which relate to approval of Title I Lending Institutions and Approval of Mortgagees, respectively, because certain provisions are not necessary.

**EFFECTIVE DATE:** April 3, 1996.

**FOR FURTHER INFORMATION CONTACT:** Karen Garner-Wing, Director, Lender Approval and Recertification Division, Office of Lender Activities and Land Sales Registration, Room 9146, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410. Telephone: (202) 708-3976. (This is not a toll-free number.) For hearing- and speech-impaired persons, this number may be accessed via TDD by calling the Federal Information Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:** On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, the Department of Housing and Urban Development conducted a page-by-page review of its regulations to determine which can be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for Approval of Lending Institutions and Mortgagees can be streamlined to remove provisions which are no longer necessary to be codified in the Code of Federal Regulations. This rule will not change the substantive requirements of the part but will eliminate redundant provisions.

**Justification for Final Rulemaking**

HUD generally publishes a rule for public comment before issuing a rule for

effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency 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). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely removes unnecessary regulatory provisions and does not establish or affect substantive policy. Therefore, prior public comment is unnecessary.

**Other Matters****Regulatory Flexibility Act**

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

**Environmental Impact**

This rulemaking does not have an environmental impact. This rulemaking simply amends an existing regulation by eliminating administrative provisions and does not alter the environmental effect of the regulations being amended. A Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) at the time of development of regulations regarding the Approval of Lending Institutions and Mortgagees. That finding remains applicable to this rule and 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 General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC.

**Executive Order 12612, Federalism**

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that 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. No programmatic or policy changes will result from this rule that would affect 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 will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

**List of Subjects in 24 CFR Part 202**

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

Accordingly, 24 CFR part 202 is amended as follows:

**PART 202—APPROVAL OF LENDING  
INSTITUTIONS AND MORTGAGES**

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

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

**Subpart A—Approval of Title I Lending  
Institutions**

2. Section 202.3 is amended by:

- Removing and reserving paragraph (d); and
- Revising paragraph (j) to read as follows:

**§ 202.3 General approval requirements.**

\* \* \* \* \*

(d) [Reserved]

\* \* \* \* \*

(j) Except for Government Institutions as defined in § 202.2, it shall pay an application fee and annual fee, including an additional fee for each branch office authorized by the Secretary to originate Title I loans. These fees shall be in such amounts as the Secretary may require.

\* \* \* \* \*

**§ 202.4 [Amended]**

3. Section 202.4 is amended by removing and reserving paragraph (b).

**§ 202.5 [Amended]**

4. Section 202.5 is amended by removing and reserving paragraph (b).

5. Section 202.9 is revised to read as follows:

**§ 202.9 Administrative actions.**

(a) *General.* The provisions of 24 CFR part 25 shall be applicable to a lender participating in the Title I program. Administrative actions which may be applied are set forth in 24 CFR 25.5. Civil money penalties may also be imposed against Title I lenders pursuant to 24 CFR 25.13 and part 30 of this title. For purposes of this section the term "lender" shall also include loan correspondents as defined in § 202.2(b) of this subpart A.

(b) *Grounds for administrative actions.* Administrative actions shall be based upon both the grounds set forth in 24 CFR 25.9 and as follows:

(1) Failure to properly supervise and monitor dealers under the provisions of 24 CFR part 201;

(2) Exhaustion of the general insurance reserve established under 24 CFR part 201;

(3) Maintenance of a claims/loan ratio representing an unacceptable risk to the Department; or

(4) Transfer of a Title I loan to a party that does not have a valid Contract of Insurance.

**Subpart B—Approval of Mortgagees**

6. Section 202.11 is amended by:

- a. Revising paragraphs (a)(1) introductory text, (a)(1)(i), and (b); and
- b. Removing and reserving paragraphs (a)(3) and (c), to read as follows:

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

(a) *Approval.* (1) A mortgagee may be approved for participation in the mortgage insurance programs authorized by the National Housing Act upon filing a request for approval on a form prescribed by the Secretary and signed by the applicant. The approval form shall be accompanied by such documentation as may be prescribed by the Secretary to support the request for approval. Approval of the application shall constitute:

(i) The Secretary's agreement that the mortgagee shall be considered an approved mortgagee unless suspended or withdrawn pursuant to 24 CFR part 25, or unless the mortgagee voluntarily relinquishes its approval;

\* \* \* \* \*

(3) [Reserved]

\* \* \* \* \*

(b) *Recertification of approval.* On each anniversary of the approval of a mortgagee, the Secretary shall undertake a recertification procedure to determine whether continued approval is appropriate. The Secretary shall review the yearly verification report required by § 202.12(h)(2) and other pertinent documents, determine whether all application and annual fees which are due have been paid, and request any additional information needed to make a determination regarding continuation of approval.

(c) [Reserved]

\* \* \* \* \*

7. Section 202.12 is amended by:

a. Removing and reserving paragraph (e), and

b. Redesignating paragraph (o) as paragraph (n)(5) and revising newly redesignated paragraph (n)(5); and

c. Reserving paragraph (o), to read as follows:

**§ 202.12 General approval requirements.**

\* \* \* \* \*

(e) [Reserved]

\* \* \* \* \*

(n) \* \* \*

(5) Mortgagees shall have the required net worth upon approval, except that supervised and nonsupervised mortgagees may have a net worth of \$250,000 for the first year of approval.

(o) [Reserved]

\* \* \* \* \*

8. Section 202.18 is revised to read as follows:

**§ 202.18 Approval for servicing.**

All mortgagees who wish to service FHA-insured mortgages must be approved by the Secretary under § 202.13, (supervised mortgagees), § 202.14, (nonsupervised mortgagees), or § 202.17 (governmental institutions).

9. Section 202.19 is revised to read as follows:

**§ 202.19 Report requirements.**

(a) *Definitions.* For the purpose of this section:

(1) Normal rate for early serious defaults and early claims means the rate set forth in § 202.11(d)(i).

(2) Early serious defaults or claims higher than the normal rate means the rate set forth in §§ 202.11(d)(ii) and 202.11(d)(iii).

(3) Endorsement means initial endorsement or initial/final

endorsement, as applicable, with respect to multifamily mortgages.

(b) *Requirements.* If a mortgagee approved for participation in the insurance programs under §§ 202.10 through 202.18 is notified by the Secretary that it had a rate of early serious defaults or early claims on HUD-insured mortgages during the preceding year, or during recent years, which was higher than the normal rate for the geographic area or areas in which it does business, it shall submit a report, within 60 days, containing an explanation for the above-normal rate of early serious defaults or early claims and, if required by the Secretary, a plan for corrective action with regard to mortgages in default and its mortgage processing system in general. In determining whether a plan is required, the Secretary may consider relevant information and statements from the mortgagee.

10. Section 202.20 is amended by revising paragraph (i) to read as follows:

**§ 202.20 Tiered Pricing.**

\* \* \* \* \*

(i) Request for determination of compliance. Pursuant to section 539(a) of the National Affordable Housing Act, any person may file a request that the Secretary determine whether a mortgagee or Title I lender is in compliance with this section or with sections implementing sections 223(a)(7) and 535 of the National Housing Act (12 U.S.C. 1701 *et seq.*), such as §§ 201.10(g), 203.18d, and 203.43(c)(5) of this chapter (only Section 535 applies to Title I lenders). The request for determination shall be made to the following address: Department of Housing and Urban Development, Office of Lender Activities and Land Sales Registration, 451 Seventh Street, SW, Washington, DC 20410. The Secretary shall inform the requestor of the disposition of the request. The Secretary shall publish in the Federal Register the disposition of any case referred by the Secretary to the Mortgagee Review Board.

Dated: February 22, 1996.

Nicolas P. Retsinas,  
Assistant Secretary for Housing-Federal  
Housing Commissioner.

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