

traded-in on a new home and accepted in lieu of full or partial cash downpayment, but without any cash payment to the borrower. The existing manufactured home being traded-in shall be clearly identified, and the borrower's equity in the home shall be based upon the retail value of the home and appurtenances (as determined by a HUD-approved appraisal), less the total of all loans outstanding on the home and appurtenances.

(c) *Manufactured home lot loans.* In the case of a manufactured home lot loan, the borrower shall make a minimum cash downpayment of at least five percent of the total of the purchase price and development costs for the lot.

(d) *Combination loans.* In the case of a combination loan, the borrower shall make a minimum cash downpayment of at least five percent of the purchase price of the manufactured home and lot. If the borrower already owns a manufactured home or a lot on which a manufactured home is to be placed, the borrower's equity in such home or lot may be accepted in lieu of full or partial cash downpayment on a combination loan, but without any cash payment to the borrower.

[61 FR 19798, May 2, 1996]

#### § 201.24 Security requirements.

(a) *Property improvement loans*—(1) *Property improvement loans in excess of \$7,500.* (i) Any property improvement loan in excess of \$7,500 shall be secured by a recorded lien on the improved property. The lien shall be evidenced by a mortgage or deed of trust, executed by the borrower and all other owners in fee simple.

(ii) If the borrower is a lessee, the borrower and all owners in fee simple must execute the mortgage or deed of trust. If the borrower is purchasing the property under a land installment contract, the borrower, all owners in fee simple, and all intervening contract sellers must execute the mortgage or deed of trust.

(iii) The lien need not be a first lien on the property; however, the lien securing the Title I loan must hold no

less than the second lien position. This requirement shall not apply where the first and second mortgages were made at the same time or the second mortgage was provided by a state or local government agency in conjunction with a downpayment assistance program.

(2) *Property improvement loans of \$7,500 or less.* Any property improvement loan for \$7,500 or less (other than a manufactured home improvement loan) shall be similarly secured if, including any such additional loans, the total amount of all Title I loans on the improved property is more than \$7,500.

(3) *Manufactured home improvement loans.* Manufactured home improvement loans need not be secured.

(b) *Manufactured home loans.* Any manufactured home loan shall be secured by a recorded lien on the home (or lot or home and lot, as appropriate), its furnishings, equipment, accessories, and appurtenances. The lien shall be a first lien, superior to any other lien on that property, and shall be evidenced by a properly recorded financing statement, a properly recorded security instrument executed by the borrower and any other owner of the property, or another acceptable instrument, such as a certificate of title issued by the State and containing a recitation of the lender's lien interest in the manufactured home.

(c) *Recording and perfection of security.* The lender shall assure that the legal description of the property as recited in the security instrument is accurate, and that the security instrument creates a valid and enforceable lien on the property in the jurisdiction in which the property is located. The security instrument shall be recorded and perfected in the manner specified by applicable State law in the State where the property is located.

(d) *Substitution or subordination of security.* The Secretary may approve substitution or subordination of security where the security value will not be impaired or reduced.

(e) *Release of liability or lien.* The lender shall not release the borrower or any

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co-maker or co-signer from any liability under a note or from any lien securing a loan insured under this part without the prior approval of the Secretary.

[50 FR 43523, Oct. 25, 1985, as amended at 51 FR 32060, Sept. 9, 1986; 54 FR 36265, Aug. 31, 1989; 61 FR 19798, May 2, 1996; 66 FR 56419, Nov. 7, 2001]

### § 201.25 Charges to borrower to obtain loan.

(a) *Fees and charges that may be financed in a property improvement loan.* The Secretary will establish a list of fees and charges that may be included in a property improvement loan. Such fees and charges shall have been incurred in connection with the origination of the loan, and their inclusion shall not increase the total principal obligation beyond the maximum loan amounts in § 201.10.

(b) *Fees and charges that may be financed in a manufactured home loan.* The Secretary will establish a list of fees and charges that may be included in a manufactured home loan. Such fees and charges shall have been incurred in connection with the origination of the loan, and their inclusion shall not increase the total principal obligation beyond the maximum loan amounts in § 201.10.

(c) *Fees and charges that may not be financed.* The Secretary will establish a list of fees and charges incurred by the lender that may be collected from the borrower in the initial payment, but may not be included in the loan amount or otherwise financed or advanced by the dealer, the manufacturer, or any other party to the loan transaction.

(d) *Fees and charges that may not be paid.* Neither the lender nor the borrower may pay a referral fee to any dealer, home manufacturer, contractor, supplier, real estate broker, loan broker, or any other party in connection with the origination of a loan insured under this part.

[61 FR 19798, May 2, 1996]

### § 201.26 Conditions for loan disbursement.

(a) *Property improvement loans.* The lender shall comply with the following applicable requirements before dis-

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bursing the proceeds of a property improvement loan.

(1) The lender shall ensure that the following conditions are met:

(i) The borrower is eligible for a property improvement loan in accordance with § 201.20(a) (1) or (2); and

(ii) The interest of the borrower in the property is valid, through such title or other evidence as are generally acceptable to prudent lending institutions and leading attorneys in the community in which the property is situated.

(2) The proposed use of the loan proceeds shall be documented in accordance with the requirements of § 201.20(b)(1).

(3) Where the proceeds are to be used for an historic preservation loan, the lender shall ensure that the proposed improvements have been approved by the State Historic Preservation Officer in accordance with § 201.20(c).

(4) Where the proceeds are to be used for a fire safety equipment loan, the lender shall ensure that the proposed improvements have been approved by the State or local agency having jurisdiction over the fire safety requirements of health care facilities in accordance with § 201.20(c).

(5) In the case of a dealer loan, the lender shall obtain a completion certificate, on a HUD-approved form and signed by the borrower and the dealer under applicable criminal and civil penalties for fraud and misrepresentation, certifying that

(i) the improvements are eligible and have been completed in general accordance with the contract or cost estimate furnished to the lender, and

(ii) The borrower has not obtained the benefit of and will not receive any cash payment, rebate, cash bonus, sales commission, or anything of more than nominal value from the dealer as an inducement for the consummation of the transaction.

(6) In the case of a dealer loan made on or after December 7, 2001, the lender may disburse the loan proceeds solely to the borrower, or jointly to the borrower and the dealer or other parties to the transaction.