

§ 201.51

24 CFR Ch. II (4-1-03 Edition)

§ 201.51 Proceeding against the loan security.

(a) *Property improvement loans.* (1) After acceleration of maturity on a secured property improvement loan, the lender may either proceed against the loan security under its title I security instrument or make claim under its contract of insurance. If the lender proceeds against the loan security, it may submit an insurance claim only if it complies with the requirements of paragraph (a)(2) of this section.

(2) The lender may proceed against the secured property under its Title I security instrument and later submit a claim under its contract of insurance only with the prior approval of the Secretary. The Secretary's decision will be based upon all relevant factors, including but not limited to the appraised value and the amount of all outstanding loan obligations on the property, the estimated costs of foreclosure and disposition, and the anticipated time to dispose of the property. In proceeding against the secured property, the lender shall comply with all applicable State and local laws, and shall take all actions necessary to preserve its rights, if any, to obtain a valid and enforceable deficiency judgment against the borrower.

(3) After acceleration of maturity on a defaulted unsecured property improvement loan, the lender may submit a claim under its contract of insurance.

(b) *Manufactured home loans.* (1) After acceleration of maturity on a defaulted manufactured home loan, the lender shall proceed against the loan security by foreclosure or repossession, as appropriate, in compliance with all applicable State and local laws, and shall acquire good, marketable title to the property securing the loan. The lender shall also take all actions necessary under State and local law to preserve its rights, if any, to obtain a valid and enforceable deficiency judgment against the borrower.

(2) Prior to foreclosure or repossession, the lender or its agent shall make a visual inspection of the property and prepare a report on its condition for placement in the loan file. If the lender determines that the property has been abandoned, the lender shall take such steps as are permitted under State or

local law to repossess or foreclose upon the property, without waiting for the notice period under § 201.50(b) to run.

(3) The lender shall obtain a HUD-approved appraisal of the property as soon after repossession as possible, or earlier with the permission of the borrower. This appraisal shall be performed on the homesite, unless the site owner requires that the home be removed before the appraisal can be performed, and it should reflect the retail value of comparable manufactured homes in similar condition and in the same geographic area where the repossession occurred. When the manufactured home is without hazard insurance and has sustained, at any time prior to the sale or disposition of the home, damage which would normally be covered by such insurance, the lender shall report this situation in submitting an insurance claim, and the appraised value shall be based upon the retail value of comparable homes in good condition and in the same geographic area, without any deduction for such damage.

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[50 FR 43523, Oct. 25, 1985, as amended at 54 FR 10537, Mar. 14, 1989; 54 FR 36266, Aug. 31, 1989; 56 FR 52435, Oct. 18, 1991]

§ 201.52 Acquisition by voluntary conveyance or surrender.

The lender may accept a voluntary conveyance of title to or ownership of the property securing a manufactured 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]

§ 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 reten-

tion 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