

Office of the Assistant Secretary, HUD

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who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets.

§ 1007.5 Definitions.

The following definitions apply in this part:

Department of Hawaiian Home Lands (DHHL) means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 *et seq.*).

Eligible entity means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

Family means one or more persons maintaining a household, and includes, but is not limited to, a family with or without children, an elderly family, a near-elderly family, a disabled family, or a single person.

Guarantee Fund means the Native Hawaiian Housing Loan Guarantee Fund under this part.

Hawaiian Home Lands means lands that:

(1) Have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

(2) Are acquired pursuant to that Act.

HUD means the Department of Housing and Urban Development.

Native Hawaiian means any individual who is:

(1) A citizen of the United States; and
(2) A descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by:

(i) Genealogical records;
(ii) Verification by kupuna (elders) or kama'aina (long-term community residents); or
(iii) Birth records of the State of Hawaii.

Native Hawaiian family means a family with at least one member who is a Native Hawaiian.

Office of Hawaiian Affairs means the entity of that name established under the constitution of the State of Hawaii.

§ 1007.10 Eligible borrowers.

A loan guaranteed under this part may only be made to the following borrowers:

- (a) A Native Hawaiian family;
- (b) The Department of Hawaiian Home Lands;
- (c) The Office of Hawaiian Affairs; or
- (d) A private, nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

§ 1007.15 Eligible uses.

(a) *In general.* A loan guaranteed under this part may only be used to construct, acquire, or rehabilitate eligible housing.

(b) *Construction advances.* Advances made by the lender during construction are eligible if:

(1) The mortgagor and the mortgagee execute a building loan agreement, approved by HUD, setting forth the terms and conditions under which advances will be made;

(2) The advances are made only as provided in the building loan agreement;

(3) The principal amount of the mortgage is held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor, pending advancement to the mortgagor or to his or her creditors as provided in the loan agreement; and

(4) The mortgage bears interest on the amount advanced to the mortgagor or to his or her creditors and on the amount held in an account or trust for the benefit of the mortgagor.

§ 1007.20 Eligible housing.

(a) A loan guaranteed under this part may only be made for one to four-family dwellings that are standard housing, in accordance with paragraph (b), of this section. The housing must be located on Hawaiian Home Lands for which a housing plan that provides for the use of loan guarantees under this

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part has been submitted and approved under part 1006 of this chapter.

(b) Standard housing must meet housing safety and quality standards that:

(1) Provide sufficient flexibility to permit the use of various designs and materials; and

(2) Require each dwelling unit to:

(i) Be decent, safe, sanitary, and modest in size and design;

(ii) Conform with applicable general construction standards for the region in which the housing is located;

(iii) Contain a plumbing system that:

(A) Uses a properly installed system of piping;

(B) Includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

(C) Uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

(iv) Contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

(v) Be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that HUD, upon request of the DHHL may waive the size requirements under this paragraph; and

(vi) Conform with the energy performance requirements for new construction established by HUD under section 526(a) of the National Housing Act (12 U.S.C.A. 1735f-4), unless HUD determines that the requirements are not applicable.

(c) The relevant requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, and R of this title and §§200.805 and 200.810 of this title apply to housing eligible for a loan guaranteed under this part.

(d) Housing that meets the minimum property standards for Section 247 mortgage insurance (12 U.S.C. 1715z-12)

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is deemed to meet the required housing safety and quality standards.

[67 FR 40776, June 13, 2002, as amended at 68 FR 66985, Nov. 28, 2003]

§ 1007.25 Eligible lenders.

(a) *In general.* To qualify for a guarantee under this part, a loan shall be made only by a lender meeting qualifications established in this part and approved by HUD, including any lender described in paragraph (b), of this section, except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the DHHL from amounts borrowed from the United States shall not be eligible for a guarantee under this part.

(b) *Approval.* The following lenders shall be considered to be lenders that have been approved by HUD:

(1) Any mortgagee approved by HUD for participation in the single family mortgage insurance program under title II of the National Housing Act (12 U.S.C.A. 1707 *et seq.*);

(2) Any lender that makes housing loans under chapter 37 of title 38, United States Code, that are automatically guaranteed under section 3702(d) of title 38, United States Code;

(3) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 (42 U.S.C.A. 1441 *et seq.*);

(4) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government; and

(5) Any other lender approved by HUD under this part.

§ 1007.30 Security for loan.

(a) *In general.* A loan guaranteed under section 184A of the Housing and Community Development Act of 1992 and this part may be secured by any collateral authorized under and not prohibited by Federal or State law and determined by the lender and approved by HUD to be sufficient to cover the amount of the loan. Eligible collateral may include, but is not limited to, the following:

(1) The property and/or improvements to be acquired, constructed, or rehabilitated, to the extent that an interest in such property is not subject