May 21, 2009

MORTGAGEE LETTER 2009-16

TO: ALL APPROVED MORTGAGEES
ALL APPROVED APPRAISERS

SUBJECT: Manufactured Housing Policy Guidance – Property and Underwriting Eligibility

This Mortgagee Letter provides guidance on manufactured housing eligibility requirements for Federal Housing Administration (FHA) mortgage insurance under Title II of the National Housing Act. Changes to manufactured housing requirements for new and existing construction were made by the Housing and Economic Recovery Act of 2008 (Public Law 110-289, approved July 30, 2008) (HERA). This mortgagee letter addresses those changes that can be implemented immediately.

DEFINITIONS

A. ***Anchorage*** – Connection between superstructure and foundation, by means of welds, bolts, and various light gage metal plates. Anchorage does not refer to any type of soil anchor. [Note: soil anchors are acceptable.]
B. ***Construction – Permanent*** - A construction-permanent (herein, "CP") mortgage combines the features of: a) a construction loan (a short-term interim loan for financing the cost of construction) and b) the traditional long-term permanent residential mortgage.
C. ***Existing Construction*** – The manufactured home has been permanently installed on a site for one year or more prior to the date of the application for mortgage insurance.
D. ***Exterior Foundation Wall*** – Foundation walls placed directly below the exterior perimeter walls of the unit. These walls may or may not be structurally used as: bearing walls under gravity loads and/or shear walls under horizontal loads. If these walls are not used structurally, they are called non-bearing walls or skirt walls.
E. ***Itemized Value*** – the appraised value of the unit and land separately made.
F. ***New Construction*** – The manufactured home has been permanently erected on a site for less than one year prior to the date of the application for mortgage insurance.
G. ***PFGMH*** – Permanent Foundations Guide for Manufactured Housing
H. **Relocation [*of Eligible Manufactured Homes*] -** To be eligible for FHA Title II insurance, the manufactured unit must not have been previously installed or occupied at any other site or location. Manufactured units may be moved only from the manufacturer's or dealer's lot to the site on which the unit will be insured. If a permanent foundation is to be constructed under an existing eligible unit, the unit may be *jacked-up or under pinned* in order to install a new foundation.
I. ***Skirting*** – A term often used to describe a non-structural enclosure of a foundation crawl space. Typically, but not always, it is a lightweight material such as vinyl or metal, attached to the side of the structure, extending to the ground (generally, not installed below frost depth). See also ¶ II. (E) below.

II. PROPERTY ELIGIBILITY

Manufactured Homes: Eligibility and General Requirements - Title II

A manufactured home is a structure that is transportable in one or more sections, and is designed and constructed to the Federal Manufactured Construction and Safety Standards and is so labeled. To be eligible for FHA mortgage insurance, all manufactured homes must comply with the following:

1. have a floor area of not less than 400 square feet;
2. be constructed after June 15, 1976, in conformance with the Federal Manufactured Home Construction and Safety Standards, as evidenced by an affixed certification label in accordance with 24 CFR 3280.11(manufactured homes produced prior to that date are ineligible for insured financing);
3. be classified as real estate (but need not be treated as real estate for purposes of state taxation);
4. the mortgage must cover both the manufactured unit and its site and shall have a term of not more than 30 years from the date amortization begins;
5. built and remains on a permanent chassis;
6. designed to be used as a dwelling with a permanent foundation built to FHA criteria; and
7. the finished grade elevation beneath the manufactured home or, if a basement is used, the grade beneath the basement floor shall be at or above the 100-year return frequency flood elevation.[1]

Modular construction is also a factory-built home, but is treated the same as stick-built housing.

For information on FHA Insurance under the Title II program, see HUD Handbooks 4150.2 Chapter 8; HUD Handbook 4145.1, Rev-2, Section 3-4 and Appendix 11; and Permanent Foundations Guide for Manufactured Housing, (HUD-7584), dated September 1996 (Mortgagee Letter 1997-36). The latter is a revision of HUD Handbook 4930.3G, dated August 1989.

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[1] If the manufactured home is to be located in a coastal high hazard area (1) for new construction, it must meet the current standards for V zones in Federal Emergency Management Agency (FEMA) regulations (44 CFR 60.3); and (2) for existing construction, it must have met FEMA elevation and construction standards as required by HUD regulations in 24 CFR 55.1(c)(ii).

A. Foundation Systems

1. All manufactured home permanent foundation systems must follow the FHA guidelines in effect at the time of the certification. Currently, these guidelines are published in the Permanent Foundations Guide for Manufactured Housing (PFGMH), which is found at ww.huduser.org/publications/destech/permfound.html. The guidelines include submission of a certification from a licensed professional engineer, or registered architect, who is licensed/registered in the state where the manufactured home is located, attesting to compliance with the current guidelines.

2. A copy of the foundation certification, showing that the foundation meets the guidelines published in the PFGMH that were in effect at the time of certification, is acceptable for future FHA loans, provided there are no alterations and/or observable damage to the foundation.

B. Engineer's Certification on Foundations Compliance

1. An Engineer's Certification on Foundation Compliance with the PFGMH must be:

   a) completed by a licensed professional engineer or registered architect, who is licensed/registered in the state where the manufactured home is located;
   b) site specific and contain the engineer's or registered architect's signature, seal, and/or state license/certification number. In states where seals are issued, the seal must be on the certification; and
   c) contained in both the lender's loan file and the insuring binder when submitted to FHA.

2. An Engineer's Certification on Foundation Compliance is not required in the loan file or insuring binder for:

   a) Any FHA-to-FHA transaction provided that no modifications have been made to the foundation or structure from the date of the effective certification.
   b) FHA/HUD Real Estate Owned (REO) Division sales.

C. Flood Zone

All manufactured homes located in Flood Zones A or V are <u>not eligible</u> for FHA mortgage insurance without:

a) FEMA issued Letter of Map Amendment (LOMA);
b) FEMA issued Letter of Map Revision (LOMR); or
c) Acceptable Elevation Certificate – This must be based on the finished construction and prepared by a state licensed/registered engineer or land surveyor and indicate that the finished grade beneath the manufactured home shall be at or above the 100-year return frequency flood elevation. For all manufactured homes with a basement, the grade beneath the basement must be at or above the 100-year flood elevation.

D. Inspections

For newly constructed manufactured homes, initial and final inspections must be completed by FHA Compliance Inspectors, licensed engineers, registered architects, or other qualified construction industry professionals, as determined by the lender. The inspector must have a copy of the FHA required foundation certification and related plans and specifications at the time of the inspection. Also, the inspection must be completed in accordance with requirements set forth in: 1) HUD Handbook 4145.1, REV-2, CHG-1, *Architectural Processing and Inspections for Home Mortgage Insurance;* and 2) reported using form HUD-92051, *Compliance Inspection Report.*

E. Perimeter Enclosures

The space beneath manufactured homes must be properly enclosed. The perimeter enclosure shall be a continuous wall (whether bearing or non-load bearing) that separates the crawl space from backfill, and keeps out vermin and water. The enclosure must be adequately secured to the perimeter of the unit and allow for proper ventilation of the crawl space. Accordingly, for:

a) *New Construction*:

i. The space beneath the home shall be enclosed by a continuous foundation-type construction designed to resist all forces to which it is subject without transmitting forces to the building superstructure.

ii. The enclosure shall be adequately secured to the perimeter of the home and be constructed of materials that conform, accordingly, to HUD *Minimum Property Standards* (MPS) (such as: concrete, masonry, or treated wood) and the PFGMH for foundations.

b) *Existing Construction*:

i. If the perimeter enclosure is non-load bearing skirting comprised of lightweight material, there must be adequate backing (such as: concrete, masonry, or treated wood) to permanently attach and support or reinforce the skirting.

F. Termite Protection for New Construction

The steel chassis under a <u>newly constructed</u> manufactured home unit is not an effective termite barrier as it is neither designed nor approved for any such use. Chemical soil treatment, EPA registered bait treatments, pressure preservative treated wood, naturally termite resistant wood or any combination of these methods is required for maximum protection against termites.

[Note: Termite control on existing manufactured homes is the same as for standard existing site-built homes.]

Existing manufactured homes will be handled in the same manner as stick-built homes with regard to termite protection policies. State or local requirements are to be followed.

G. Condominium Project Approval

Under authority granted by enactment of HERA, individual manufactured housing units in condominium projects are now eligible for FHA insurance. Until updated guidance on the processing of condominium project approvals is published, manufactured housing condominium project approval is subject to the requirements of HUD Handbook 4150.1, Chapter 11. The Spot Loan Approval process as defined in Mortgagee Letter 1996-41 is not applicable. All manufactured housing project approval requests must be processed by the Homeownership Center that has geographical authority over the property to be insured.

H. Title Issues

All manufactured home units and land must be classified as real estate to be eligible for Title II FHA Insurance. When the land is purchased, exclusive of the manufactured housing unit, there may be two deeds, a property deed for the land and a chattel deed or motor vehicle title for the unit. FHA requires one clear title at the time of closing. Therefore, lenders must provide evidence that the title policy specifically states the manufactured home and land are classified as real estate (but need not be treated as real estate for the purposes of state taxation).

The lender may resolve title issues through services such as the website offered by Fannie Mae which includes state-by-state titling information for loans secured by manufactured housing. See:

https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/manufachousing/index.jsp?from=hp

III. DATA QUALITY

The quality of data contained in FHA's databases is important for accurate processing and recordkeeping. Therefore, manufactured housing data must be correct. The following clarifications are provided for data entry on the loan applications and FHA Connection screens:

1. FHA Connection, Case Number Assignment Screen, must contain the appropriate two-digit Program ID Code:

   a). **77** for manufactured housing loans not processed as construction-permanent loans.
   b). **36** for manufactured housing loans processed as construction-to-permanent loans.

2. FHA Connection, Appraisal Logging Screen, must contain the Manufactured Housing indicator (source document – appraisal). Please key in **Y** for Yes.

3. Uniform Residential Loan Application (URLA), Section II, *Property Information and Purpose of Loan*, must indicate:

   a). *Purpose of loan*: i) purchase, ii) refinance, *or* iii) construction-permanent; and
   b). If either refinance or construction-permanent are selected, complete applicable portion of section.

4. URLA, Section VII, *Details of Transaction*, must state whether land was acquired separately – if so, Subparagraph (c) must be completed.

5. Addendum to URLA, page 1, Paragraph 20, Purpose of Loan, must check:

   a). **1**, if the subject loan is for purchase of an existing home previously occupied;
   b). **3**, if the subject loan is a refinance transaction (loans are identified as refinance transactions when there is an outstanding lien that is at least 12 months old);
   c). **6**, if the subject loan is for the purchase of a new home not previously occupied that is not processed under the construction-permanent requirements; and
   d). **7**, if the subject loan is for the purchase of a new home using the construction-permanent requirements.

IV. UNDERWRITING ELIGIBILITY

A. Cash Investment

The borrower is required to have a minimum cash investment in the transaction of 3.5% using the lower of the *Total Cost or Itemized Value* (as is defined below in ¶ IV. (F)(2), Figure F.1 (1) (a), *Maximum Insurable Mortgage*) in an eligible loan insured by FHA. The land equity is a common form of the borrower's cash investment. Accordingly, FHA permits land equity to be used to satisfy the minimum cash investment requirement.

Another form of acceptable borrower cash investment commonly associated with manufactured homes may include sale [or trade-in] of personal property (specifically, a manufactured home not eligible to be considered real property). HUD 4155.1 5.B.6.a-b describes personal property items. However, trade-ins for cash are considered a seller inducement and are not permitted.

B. Gift Funds

Gifts from eligible sources for down payment shall be applied to the permanent financing on the HUD-1, *Settlement Statement*, at the time of closing and not to interim financing for the borrower, in order to receive full benefit of the credit for the CP transaction. For a refinance transaction, the gift funds can only be applied once, to either the construction loan or the permanent loan.

C. Construction-Permanent Mortgage Program

For purposes of underwriting and, in turn, calculation of a mortgage amount, the CP loan on a newly constructed manufactured home should be considered a *purchase loan transaction* that requires a minimum 3.5% cash investment of the *Total Cost or Value* [including land]. Conversely, it should be noted in order to maintain consistency with FHA Connection data requirements (see ¶ III, Data Quality, above) and the Uniform Residential Loan Application, the purposes of the loan transaction is and remains to be designated as "CP." In addition, it should also be noted that until such time as all construction and installation work is complete and the lender has fully accounted for the disbursement of all loan proceeds, the loan may not be endorsed for FHA mortgage insurance.

The loan is made directly to the borrower and there is a single closing ("*one-time close*") that occurs prior to the start of construction. [Note: The program is not available to a borrower acting as his or her own general contractor, unless the borrower is an approved and licensed homebuilder by profession.] Funds are disbursed at closing to cover the purchase of the land and/or the manufactured housing unit, with the balance of the mortgage proceeds to be placed in an escrow account. This escrow will be disbursed through draw requests, until construction is completed. There is a mandatory holdback of not less than ten percent (10%) for all cost components, excluding land.

Documentation must include the standard FHA closing documents and a Construction Rider or Allonge to the Note and Construction Loan Agreement. The Construction Loan Agreement must outline the terms and conditions of the construction loan and its conversion to a permanent loan.

If there are changes to the Note, such as a reduction in: the monthly payment amount, interest rate, the principal balance resulting from the application of excess funds, or change in first payment date, the lender must provide acceptable modification instruments that duly and accordingly modify the mortgage (collateral) and note (debt) instruments.

Lenders must also provide an executed Loan Modification Agreement to confirm the existence of a permanent loan and that the corresponding amortizing interest rate on the mortgage loan shall commence or commenced within 60 days of the property being 100% complete.

D. Cash Back to Borrower

Replenishment of a borrower's own cash invested during construction is not considered cash back, provided the borrower can substantiate all out-of-pocket expenses used for construction with cancelled checks and/or paid receipts for all out-of-pocket expenses incurred for construction.

Lenders are instructed to apply any excess funds from the construction proceeds to reduce the principal of the permanent loan. In general, the borrower is not to receive funds after closing. In the event funds remain after closing from unused prepaid expenses including, but not limited to, per diem interest to the end of the month on the new loan, hazard insurance premium deposits, monthly mortgage insurance premiums, and any real estate tax deposits needed to establish the escrow accounts, the borrower may receive cash back in an amount up to $500 from such origins.

For manufactured homes that have been permanently erected on a site for less than one year prior to the date of the application for mortgage insurance, it is no longer permitted for the borrower to receive cash back at closing - even if the loan-to-value (LTV) is less than 85 percent.

E. Refinances *[Existing Construction]*

For manufactured homes that have been permanently erected on a site for more than one year prior to the date of the application for mortgage insurance, HUD 4155.1 3 (Maximum Mortgage Amounts on Refinance Transactions) shall be followed.

F. Maximum Insurable Mortgage

To determine the maximum insurable mortgage amount for a manufactured housing CP or *refinance* transaction, several items must be considered: 1) property status, 2) length of ownership, and 3) accepted formula to determine value.

- *Property status* refers to whether or not the property is classified or taxed as real property and whether the personal property title has been purged, as applicable to State law requirements.
- *Length of ownership* refers to how long the prospective borrower has held an ownership interest in the manufactured housing unit and land.
- *Accepted formula to determine total cost or itemized value* refers to the actual calculation of value:
  a) Mortgage Amount based on Total Cost or Itemized Value or;
  b) Mortgage Amount based on Maximum Allowable Loan-to-Value Percentages; and
  c) Mortgage Amount Based on Existing Indebtedness.

Set forth below are the *Property Considerations*, *Formulas for Determining Value*, and *Additional Calculation Considerations* necessary to determine and support a given maximum insurable mortgage.

1. *Property Considerations*

In order to calculate the maximum mortgage amount on a manufactured home, the *property status* and *length of ownership* must be determined.

a) the property must be classified or taxed as real property and any personal property titles must be purged, pursuant to applicable State law requirements.

b) the length of time the property was owned in a given *property status* will determine whether a transaction is considered a CP or refinance transaction.

i. CP transactions involve manufactured homes with acceptable property status that are: proposed for construction; under construction; or existing construction less than 12 months old.

ii. Refinance transactions involve manufactured homes with acceptable *property status* that are both complete and 12 months or older.

c) Another aspect to consider in manufactured home transactions is whether to use total cost or itemized value of the property.

i. In a CP transaction, itemized value should be applied when the manufactured home unit; land; or both is/are owned for greater than or equal to six (6) months and less than 12 months.

ii. If either unit or land are owned for less than six (6) months, the lesser of total cost or itemized value should be applied, accordingly.

iii. For refinance transactions, standard FHA mortgage calculations are applicable.

2. *Formula for Determining Value*

Once the *property status, length of ownership, and total cost or itemized value* are determined, the following provides you with the basic depiction of the existing formulas for the applicable formula to arrive at a given maximum insurable mortgage amount:
Figure F.1 Sample Maximum Insurable Mortgage Determination for CP Manufactured Housing

1. Mortgage Amount based on Total Cost or Itemized Value

a. Total Cost or Itemized Value:

Unit	______		
Land	______		______

OR

Combined Construction		______	______
Hard Costs		______	
Soft Costs		______	______

Total Cost or Itemized Value Cost ______

b. Minimum Cash Investment:

Total Cost or Itemized Value from 1a x 3.5% Required Statutory Investment ______

c. Subtract Minimum Cash Investment from Total Cost or Itemized Value

Amount based on Total Cost or Itemized Value (1a-1b) ________

2. Amount based on Maximum Allowable Loan-to-Value Percentages

Lesser of Total Cost or Itemized Value or Appraised Value x Applicable Maximum Loan-to-Value Percentage: 96.5% for purchase transactions

Amount based on Maximum Allowable Loan-to-Value Percentages______

3. Amount Based on Existing Indebtedness

Unit		______
Less Trade-in		(______)
Land		______
Construction		
Hard Costs	______	
Soft Costs	______	
	______	
Borrower Paid:		
Discount Points	______	
Prepaids	______	
Closing Costs	______	

Amount Based on Existing Indebtedness ______

4. Maximum Insurable Mortgage

Lesser of 1; 2; or 3 above ______

5. Additional Calculation Considerations

a) Construction

Financing on a manufactured home being constructed and installed is considered a construction loan or construction line-of-credit. Associated construction financing costs are to be itemized on a draw request or cost breakdown form. The file must include the contract or sales invoice for the manufactured home unit and the contract for the land. Note, the construction loan [hard] costs and construction loan financing [soft] costs must be identified. Lenders may obtain and provide information from the following sources: the general contractor or another party who has knowledge of the related costs for completion of required work items. Also, the major installation charges require supporting documentation and separate invoices for the manufactured unit and the contractor's foundation and set-up costs. Also, razing and removing existing properties is considered as part of the site preparation and may be included in the calculations as component of the construction costs.

If the manufactured home dealer is the general contractor for the foundation and installation, the cost of the unit and additional charges must be itemized on an invoice. Aggregate amounts for [total] costs are not acceptable.

b) Proof of Ownership

Evidence must be provided to certify that the borrower has owned the land and/or manufactured unit as discussed above. Accordingly, evidence must be provided to certify that the borrower has owned the land and/or manufactured unit for more than six months in each case. A contract or payoff statement for the land is required if it is currently encumbered by a lien payable by the borrower.

V. Loan Closing

Certification of purged title of the manufactured home must be provided to evidence the manufactured home has been officially converted from chattel to real property. Once the manufactured home unit is permanently attached to land, filing a request or application to purge the manufactured home title with the appropriate state or local authority (i.e. Department of Motor Vehicle) is required. Mortgagees must comply with all state or local requirements for proper purging of the title [chattel or equivalent debt other instrument] and the subject property must be classified or taxed as real state.

In short, if the original chattel deed or title is not purged, the property does not have marketable real estate title, and as a result, in the event of a foreclosure, HUD will not accept a conveyance nor pay a claim.

VI. Warehouse Lines-of-Credit

Lenders may use warehouse lines-of-credit in connection with FHA-insured loans on manufactured homes when the duration of the construction [installation and/or alternative construction] start to completion can be accomplished within 30 to 60 calendar days. A line-of-credit can expedite the process and reduce the amount of construction fees charged to the borrower.

In addition, recognizing the timeline constraints of many traditional warehouse banking agreements, FHA does not object to lenders utilizing alternative funding arrangements, such as non-traditional warehouse lines, business lines-of-credit or other available sources of interim capital to accommodate requirements for both closing and construction period disbursements. Borrowers are not to be charged or otherwise held responsible for the costs associated with interim financing, unless a separate agreement, acknowledging their responsibility for such costs exists. In such cases, these costs may not result in an increase in the amount of the permanent loan and/or the monthly principal and interest payment at the time any modification to the note takes place.

If you have any questions regarding this Mortgagee Letter, please contact the FHA Resource Center at 1-800-CALL-FHA (1-800-225-5342). Persons with hearing or speech impairments may access this number via TDD/TTY by calling 1-877-TDD-2HUD (1-877-833-2483).

Sincerely,

Brian D. Montgomery
Assistant Secretary for Housing –
Federal Housing Commissioner