

§ 203.12

24 CFR Ch. II (4-1-11 Edition)

in a mortgagee's informed consumer choice disclosure notice. A mortgagee, however, may include additional elements in an informed consumer choice disclosure notice to better reflect the mortgagee's products or to provide information that the mortgagee believes is meaningful and helpful to the mortgagee's customers.

(3) *Availability of model disclosure notice.* HUD's model informed consumer choice disclosure notice is made available to FHA-approved mortgagees through Mortgagee Letter and is available to the public through the internet at HUD's web site at <http://www.hud.gov> or by contacting: Home Mortgage Insurance Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410-8000; telephone (202) 708-2700 (this is not a toll-free number), or the nearest HUD Homeownership Center (Atlanta, GA (888) 696-4687; Denver, CO (800) 543-9378; Philadelphia, PA (800) 440-8647; or Santa Ana, CA (888) 827-5605). Hearing- or speech-impaired individuals may access these numbers via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

(c) *Timing.* When required under paragraph (a) of this section, a mortgagee must provide an informed consumer choice disclosure notice to a prospective FHA mortgagor not later than three business days after the mortgagee receives the prospective FHA mortgagor's application.

(d) *Revision of notice.* A mortgagee should revise its informed consumer choice disclosure notice periodically to reflect prevailing market conditions. To ensure that the informed consumer choice disclosure notice reflects prevailing market conditions, a mortgagee must revise its informed consumer choice disclosure notice at least once annually.

(e) *Applicability.* This section applies to any application for mortgage insurance authorized under section 203(b) of the National Housing Act (12 U.S.C. 1709) that the mortgagee receives on or after September 2, 1999.

(f) *Definitions.* As used in this section:

Application means the submission of financial information in anticipation of a credit decision.

Conventional mortgage means conventional mortgage as used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable.

Mortgagee means mortgagee as defined in § 202.2 of this chapter.

Prospective FHA mortgagor means a person who submits an application to a mortgagee to obtain mortgage insurance authorized under section 203(b) of the National Housing Act (12 U.S.C. 1709).

[64 FR 29765, June 2, 1999, as amended at 64 FR 34984, June 30, 1999]

§ 203.12 Mortgage insurance on proposed or new construction.

(a) *Applicability.* This section applies to an application for insurance of a mortgage on a one-to four-family dwelling, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct Endorsement Program, was completed more than one year before the date of the appraisal; or

(2) Is being sold to a second or subsequent purchaser.

(b) *Procedures.* (1) Applications for insurance to which this section applies will be processed in accordance with procedures prescribed by the Secretary. These procedures may only provide for endorsement for insurance of a mortgage covering a dwelling that is:

(i) Approved under the Direct Endorsement Program or the Lender Insurance Program; or

(ii) Located in a subdivision approved by the Rural Housing Service.

(2) The mortgagee must submit a signed Builder's Certification of Plans, Specifications and Site (Builder's Certification). The Builder's Certification must be in a form prescribed by the Secretary and must cover:

(i) Flood hazards;
(ii) Noise;
(iii) Explosive and flammable materials storage hazards;

(iv) Runway clear zones/clear zones;
 (v) Toxic waste hazards;
 (vi) Other foreseeable hazards or adverse conditions (i.e., rock formations, unstable soils or slopes, high ground water levels, inadequate surface drainage, springs, etc.) that may affect the health and safety of the occupants or the structural soundness of the improvements. The Builder's Certification must be provided to the appraiser for reference before the performance of an appraisal on the property.

(3) If a builder (or developer) intends to sell five or more properties in a subdivision, an Affirmative Fair Housing Marketing Plan (AFHMP) that meets the requirements of 24 CFR part 200, subpart M must be submitted and approved by HUD no later than the date of the first application for mortgage insurance in that subdivision. Thereafter, applications for insurance on other properties sold by the same builder (or developer) in the same subdivision may make reference to the existing previously approved AFHMP.

[64 FR 56110, Oct. 15, 1999]

§ 203.14 Builders' warranty.

Applications relating to proposed construction must be accompanied by an agreement in form satisfactory to the Secretary, executed by the seller or builder or such other person as the Secretary may require, and agreeing that in the event of any sale or conveyance of the dwelling, within a period of one year beginning with the date of initial occupancy, the seller, builder, or such other person will at the time of such sale or conveyance deliver to the purchaser or owner of such property a warranty in form satisfactory to the Secretary warranting that the dwelling is constructed in substantial conformity with the plans and specifications (including amendments thereof or changes and variations therein which have been approved in writing by the Secretary) on which the Secretary has based on the valuation of the dwelling. Such agreement must provide that upon the sale or conveyance of the dwelling and delivery of the warranty, the seller, builder or such other person will promptly furnish the Secretary with a conformed copy of the warranty

establishing by the purchaser's receipt thereon that the original warranty has been delivered to the purchaser in accordance with this section.

[57 FR 58346, Dec. 9, 1992]

§ 203.15 Certification of appraisal amount.

An application with respect to insurance of mortgages must be accompanied by an agreement satisfactory to the Commissioner, executed by the seller, builder or such other person as may be required by the Commissioner, whereby the person agrees that before any sale of the dwelling, the person will deliver to the purchaser of the property a written statement, in a form satisfactory to the Commissioner, setting forth the amount of the appraised value of the property as determined by the Commissioner.

[58 FR 41001, July 30, 1993]

§ 203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes.

Every application filed with respect to insurance of mortgages on a two-, three-, or four-family dwelling, or a single-family dwelling which is one of a group of 5 or more single-family dwellings held by the same mortgagor, must be accompanied by a contract in form satisfactory to the Commissioner, signed by the proposed mortgagor covenanting and agreeing that so long as the proposed mortgage is insured by the Commissioner the mortgagor will not rent the housing or any part thereof covered by the mortgage for transient or hotel purposes, together with the mortgagor's certification under oath that the housing or any part thereof covered by the proposed mortgage will not be rented for transient or hotel purposes. For the purpose of this subchapter rental for transient or hotel purposes shall mean (a) rental for any period less than 30 days or (b) any rental if the occupants of the housing accommodations are provided customary hotel services such as room service for food and beverages, maid service, furnishing and laundering of linen, and bellboy service.