

*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