

Rural Housing Service, USDA

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(1) Preparing for homeownership (evaluate readiness to go from rental to homeownership),

(2) Budgeting (pre and post-purchase),

(3) Credit counseling,

(4) Shopping for a home,

(5) Lender differences (predatory lending),

(6) Obtaining a mortgage (mortgage process, different types of mortgages),

(7) Loan closing (closing process, documentation, closing costs),

(8) Post-occupancy counseling (delinquency and foreclosure prevention),

(9) Life as a homeowner (homeowner warranties, maintenance and repairs),

(e) The provider may tailor the homeownership education training to the needs of the borrower to ensure satisfactory knowledge of the topics listed in paragraph (d) of this section.

[72 FR 5156, Feb. 5, 2007]

§§ 3550.12–3550.49 [Reserved]

§ 3550.50 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1½ hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78329, Dec. 24, 2002]

Subpart B—Section 502 Origination

§ 3550.51 Program objectives.

Section 502 of the Housing Act of 1949, as amended authorizes the Rural Housing Service (RHS) to provide financing to help low- and very low-income persons who cannot obtain credit from other sources obtain adequate

housing in rural areas. Resources for the section 502 program are limited, and therefore, applicants are required to use section 502 funds in conjunction with funding or financing from other sources, if feasible. Sections 3550.52 through 3550.73 set forth the requirements for originating loans on program terms. Section 3550.74 describes the differences for originating loans on non-program (NP) terms.

§ 3550.52 Loan purposes.

Section 502 funds may be used to buy, build, rehabilitate, improve, or relocate an eligible dwelling and provide related facilities for use by the borrower as a permanent residence. In limited circumstances section 502 funds may be used to refinance existing debt.

(a) *Purchases from existing RHS borrowers.* To purchase a property currently financed by an RHS loan, the new borrower must assume the existing RHS indebtedness. Section 502 funds may be used to provide additional financing or make repairs. Loan funds also may be used to permit a remaining borrower to purchase the equity of a departing co-borrower.

(b) *Refinancing non-RHS loans.* Debt from an existing non-RHS loan may be refinanced if the existing debt is secured by a lien against the property, RHS will have a first lien position on the security property after refinancing, and:

(1) In the case of loans for existing dwellings, if:

(i) Due to circumstances beyond the applicant's control, the applicant is in danger of losing the property, the debt is over \$5,000, and the debt was incurred for eligible program purposes prior to loan application or was a protective advance made by the mortgagee for items covered by the loan to be refinanced, including accrued interest, insurance premiums, real estate tax advances, or preliminary foreclosure costs; or

(ii) If a loan of \$5,000 or more is necessary for repairs to correct major deficiencies and make the dwelling decent, safe and sanitary and refinancing is necessary for the borrower to show repayment ability, regardless of the delinquency.

(2) In the case of loans for a building site without a dwelling, if:

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(i) The debt to be refinanced was incurred for the sole purpose of purchasing the site;

(ii) The applicant is unable to acquire adequate housing without refinancing; and

(iii) The RHS loan will include funds to construct an appropriate dwelling on the site for the applicant's use.

(3) Debts incurred after the date of RHS loan application but before closing may be refinanced if the costs are incurred for eligible loan purposes and any construction work conforms to the standards specified in this part.

(c) *Refinancing RHS debt.* Under limited circumstances, an existing RHS loan may be refinanced in accordance with §3550.204 to allow the borrower to receive payment assistance.

(d) *Eligible costs.* Improvements financed with loan funds must be on land which, after closing, is part of the security property. In addition to acquisition, construction, repairs, or the cost of relocating a dwelling, loan funds may be used to pay for:

(1) Reasonable expenses related to obtaining the loan, including legal, architectural and engineering, technical, title clearance, and loan closing fees; and appraisal, surveying, environmental, tax monitoring, and other technical services; and personal liability insurance fees for Mutual Self-Help borrowers.

(2) The cost of providing special design features or equipment when necessary because of a physical disability of the applicant or a member of the household.

(3) Reasonable connection fees, assessments, or the pro rata installment costs for utilities such as water, sewer, electricity, and gas for which the borrower is liable and which are not paid from other funds.

(4) Reasonable and customary lender charges and fees if the RHS loan is being made in combination with a leveraged loan.

(5) Real estate taxes that are due and payable on the property at the time of closing and for the establishment of escrow accounts for real estate taxes, hazard and flood insurance premiums, and related costs.

(6) Fees to public and private non-profit organizations that are tax ex-

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empt under the Internal Revenue Code for the development and packaging of loan applications, except for loans related to the purchase of an RHS Real Estate Owned (REO) property.

(7) Purchasing and installing essential equipment in the dwelling, including ranges, refrigerators, washers or dryers, if these items are normally sold with dwellings in the area and if the purchase of these items is not the primary purpose of the loans.

(8) Purchasing and installing approved energy savings measures and approved furnaces and space heaters that use fuel that is commonly used, economical, and dependably available.

(9) Providing site preparation, including grading, foundation plantings, seeding or sodding, trees, walks, yard fences, and driveways to a building site.

(10) Reasonable fees for homeownership education as determined by the State Director under §3550.11 of this subpart. Such fees may be added to the loan amount in excess of the area loan limit and appraised value of the house.

(e) *Loan restrictions.* Loan funds may not be used to:

(1) Purchase an existing manufactured home, or for any other purposes prohibited in §3550.73(b).

(2) Purchase or improve income-producing land or buildings to be used principally for income-producing purposes.

(3) Pay fees, commissions, or charges to for-profit entities related to loan packaging or referral of prospective applicants to RHS.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78329, Dec. 24, 2002; 72 FR 5157, Feb. 5, 2007]

§ 3550.53 Eligibility requirements.

(a) *Income eligibility.* At the time of loan approval, the household's adjusted income must not exceed the applicable low-income limit for the area, and at closing, must not exceed the applicable moderate-income limit for the area (see §3550.544).

(b) *Citizenship status.* The applicant must be a United States citizen or a noncitizen who qualifies as a legal alien as defined in §3550.10.

(c) *Primary residence.* Applicants must agree to and have the ability to occupy the dwelling on a permanent basis.

(1) Because of the probability of transfer, loans will not be approved for military personnel on active duty unless the applicant will be discharged within a reasonable period of time.

(2) Because of the probability of moves after graduation, loans will not be approved for a full-time student unless the applicant intends to make the home a permanent residence and there are reasonable prospects that employment will be available in the area after graduation.

(3) If the home is being constructed or renovated an adult member of the household must be available to make inspections and authorize progress payments as the dwelling is being constructed.

(d) *Eligibility of current homeowners.* Current homeowners are not eligible for initial loans except as follows:

(1) Current homeowners may receive RHS loan funds to:

(i) Refinance an existing loan under the conditions outlined in § 3550.52(b);

(ii) Purchase a new dwelling if the current dwelling is deficient housing as defined in § 3550.10; or

(iii) Make necessary repairs to the property which is financed with an affordable non-RHS loan.

(2) Current homeowners with an RHS loan may receive a subsequent loan.

(e) *Legal capacity.* Applicants must have the legal capacity to incur the loan obligation, or have a court appointed guardian or conservator who is empowered to obligate the applicant in real estate matters.

(f) *Suspension or debarment.* Applications from applicants who have been suspended or debarred from participation in federal programs will be handled in accordance with 7 CFR part 3017.

(g) *Repayment ability.* Repayment ability means applicants must demonstrate adequate and dependably available income. The determination of income dependability will include consideration of the applicant's past history of annual income.

(1) A very low-income applicant is considered to have repayment ability when the monthly amount required for

payment of principal, interest, taxes, and insurance (PITI) does not exceed 29 percent of the applicant's repayment income, and the monthly amount required to pay PITI plus recurring monthly debts does not exceed 41 percent of the applicant's repayment income.

(2) A low-income applicant is considered to have repayment ability when the monthly amount required for payment of PITI does not exceed 33 percent of the applicant's repayment income, and the monthly amount required to pay PITI plus recurring monthly debts does not exceed 41 percent of repayment income.

(3) Repayment ratios may exceed the percentages specified in paragraphs (g)(1) and (g)(2) of this section if the applicant has demonstrated an ability to meet higher debt obligations, or if RHS determines, based on other compensating factors, that the household has a higher repayment ability.

(4) If an applicant does not meet the repayment ability requirements, the applicant can have another party join the application as a cosigner.

(5) If an applicant does not meet the repayment ability requirements, the applicant can have other household members join the application.

(h) *Credit qualifications.* Applicants must be unable to secure the necessary credit from other sources on terms and conditions that the applicant could reasonably be expected to fulfill. Applicants must have a credit history that indicates reasonable ability and willingness to meet debt obligations. An applicant with an outstanding judgment obtained by the United States in a federal court, other than the United States Tax Court, is not eligible for a loan or grant from RHS.

(1) Indicators of unacceptable credit include:

(i) Payments on any account where the amount of the delinquency exceeded one installment for more than 30 days within the last 12 months.

(ii) Payments on any account which was delinquent for more than 30 days on two or more occasions within a 12-month period.

(iii) A foreclosure which has been completed within the last 36 months.

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(iv) An outstanding Internal Revenue Service tax lien or any other outstanding tax liens with no satisfactory arrangement for payment.

(v) A court-created or court-affirmed obligation or judgment caused by non-payment that is currently outstanding or has been outstanding within the last 12 months, except for those excluded in paragraph (i)(2) of this section.

(vi) Two or more rent payments paid 30 or more days late within the last 2 years. If the applicant has experienced no other credit problems in the past 2 years, only 1 year of rent history will be evaluated. Rent payment history requirements may be waived if the RHS loan will reduce shelter costs significantly and contribute to an improved repayment ability.

(vii) Outstanding collection accounts with a record of irregular payment with no satisfactory arrangements for repayment, or collection accounts that were paid in full within the last 6 months.

(viii) Non-agency debts written off within the last 36 months unless paid in full at least 12 months ago.

(ix) Agency debts that were debt settled within the last 36 months or are being considered for debt settlement.

(x) Delinquency on a federal debt.

(2) The following will not be considered indicators of unacceptable credit:

(i) A bankruptcy in which debts were discharged more than 36 months prior to the date of application or where an applicant successfully completed a bankruptcy debt restructuring plan and has demonstrated a willingness to meeting obligations when due for the 12 months prior to the date of application.

(ii) A judgment satisfied more than 12 months before the date of application.

(3) When an application is rejected because of unacceptable credit, the applicant will be informed of the reason and source of information.

(i) *Homeownership education.* Applicants who are first-time homebuyers must agree to provide documentation, in the form of a completion certificate or letter from the provider, that a homeownership education course from a certified provider under §3550.11 has been successfully completed as defined

by the provider prior to loan closing. Requests for exceptions to the homeowner education requirement will be reviewed and granted on an individual case-by-case basis. The State Director may grant an exception the homeownership education requirement for individuals in geographic areas within the State where the State Director verifies that certified homeownership education is not reasonably available in the local area in any of the formats listed in §3550.11(b). Whether such homeownership education is reasonably available will be determined based on factors including, but not limited to: Distance, travel time, geographic obstacles, and cost. On a case-by-case basis, the State Director also may grant an exception, provided the applicant borrower documents a special need, such as a disability, that would unduly impede completing a homeownership course in a reasonably available format.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78330, Dec. 24, 2002; 72 FR 5157, Feb. 5, 2007]

§ 3550.54 Calculation of income and assets.

(a) *Repayment income.* Repayment income is the annual amount of income from all sources that are expected to be received by those household members who are parties to the promissory note, except for any student financial aid received by these household members for tuition, fees, books, equipment, materials, and transportation. Repayment income is used to determine the household's ability to repay a loan.

(b) *Annual income.* Annual income is the income of all household members from all sources except those listed in (b)(1) through (b)(12) of this section:

(1) Earned income of persons under the age of 18 unless they are a borrower or a spouse of a member of the household;

(2) Payments received for the care of foster children or foster adults;

(3) Amounts granted for or in reimbursement of the cost of medical expenses;

(4) Earnings of each full-time student 18 years of age or older, except the head of household or spouse, that are in excess of any amount determined

pursuant to section 501(b)(5) of the Housing Act of 1949, as amended;

(5) Temporary, nonrecurring, or sporadic income (including gifts);

(6) Lump sum additions to family assets such as inheritances; capital gains; insurance payments under health, accident, or worker's compensation policies; settlements for personal or property losses; and deferred periodic payments of supplemental security income and Social Security benefits received in a lump sum;

(7) Any earned income tax credit;

(8) Adoption assistance in excess of any amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended;

(9) Amounts received by the family in the form of refunds or rebates under State or local law for property taxes paid on the dwelling;

(10) Amounts paid by a State agency to a family with a developmentally disabled family member living at home to offset the cost of services and equipment needed to keep the developmentally disabled family member at home;

(11) The full amount of any student financial aid; and

(12) Any other revenue exempted by a Federal statute; a list of which is available from any Rural Development office.

(c) *Adjusted income.* Adjusted income is used to determine program eligibility for sections 502 and 504 and the amount of payment subsidy for which the household qualifies under section 502. Adjusted income is annual income as defined in paragraph (b) of this section less any of the following deductions for which the household is eligible.

(1) For each household member, except the head of household or spouse, who is under 18 years of age, 18 years of age or older with a disability, or a full-time student, the amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended.

(2) A deduction of reasonable expenses for the care of minor 12 years of age or under that:

(i) Enable a family member to work or to further a member's education;

(ii) Are not reimbursed or paid by another source; and

(iii) In the case of expenses to enable a family member to work do not exceed the amount of income earned by the family member enabled to work.

(3) Expenses related to the care of household members with disabilities that:

(i) Enable a family member to work;

(ii) Are not reimbursed from insurance or another source; and

(iii) Are in excess of three percent of the household's annual income.

(4) For any elderly family, a deduction in the amount determined pursuant to section 501(b)(5) of the Housing Act of 1949, as amended.

(5) For elderly households only, a deduction for household medical expenses that are not reimbursed from insurance or another source and which in combination with any expenses related to the care of household members with disabilities described in paragraph (c)(3) of this section, are in excess of three percent of the household's annual income.

(d) *Net family assets.* Income from net family assets must be included in the calculation of annual and repayment income. Net family assets also are considered in determining whether a down payment is required.

(1) Net family assets include the cash value of:

(i) Equity in real property, other than the dwelling or site;

(ii) Cash on hand and funds in savings or checking accounts;

(iii) Amounts in trust accounts that are available to the household;

(iv) Stocks, bonds, and other forms of capital investments including life insurance policies and retirement plans that are accessible to the applicant without retiring or terminating employment;

(v) Lump sum receipts such as lottery winnings, capital gains, inheritances;

(vi) Personal property held as an investment; and

(vii) Any value, in excess of the consideration received, for any business or household assets disposed for less than fair market value during the 2 years preceding the income determination. The value of assets disposed of for less than fair market value shall not be considered if they were disposed of as a

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result of foreclosure or bankruptcy or a divorce or separation settlement.

(2) Net family assets do not include:

(i) Interest in American Indian trust land;

(ii) Cash on hand which will be used to reduce the amount of the loan;

(iii) The value of necessary items of personal property;

(iv) Assets that are part of the business, trade, or farming operation of any member of the household who is actively engaged in such operation;

(v) The value of an irrevocable trust fund or any other trust over which no member of the household has control.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78329, Dec. 24, 2002]

§ 3550.55 Applications.

(a) *Application submissions.* All persons applying for RHS loans must file a complete written application in a format specified by RHS. Applications will be accepted even when funds are not available.

(b) *Application processing.* (1) Incomplete applications will be returned to the applicant specifying in writing the additional information that is needed to make the application complete.

(2) An applicant may voluntarily withdraw an application at any time.

(3) RHS may periodically request in writing that applicants reconfirm their interest in obtaining a loan. RHS may withdraw the application of any applicant who does not respond within the specified timeframe.

(4) Applicants who are eligible will be notified in writing. If additional information becomes available that indicates that the original eligibility determination may have been incorrect, or that circumstances have changed, RHS may reconsider the application and the applicant may be required to submit additional information.

(5) Applicants who are ineligible will be notified in writing and provided with the specific reasons for the rejection.

(c) *Selection for processing.* When funding is not sufficient to serve all program-eligible applicants, applications will be selected for processing using the funding priorities specified in this paragraph. Within priority categories, applications will be processed in the

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order that the completed applications are received. In the case of applications with equivalent priority status that are received on the same day, preference will be extended to applicants qualifying for a veterans preference. After selection for processing, loans are funded on a first-come, first-served basis.

(1) First priority will be given to existing customers who request subsequent loans to correct health and safety hazards.

(2) Second priority will be given to loans related to the sale of an REO property or the transfer of an existing RHS financed property.

(3) Third priority will be given to applicants facing housing related hardships including applicants who have been living in deficient housing for more than 6 months, current homeowners in danger of losing a property through foreclosure, and other circumstances determined by RHS on a case-by-case basis to constitute a hardship.

(4) Fourth priority will be given to applicants seeking, loans for the construction of dwellings in an RHS-approved Mutual Self-Help project or loans that will leverage funding or financing from other sources.

(5) Applications from applicants who do not qualify for priority consideration in paragraphs (c)(1), (c)(2), (c)(3), or (c)(4) of this section will be selected for processing after all applications with priority status have been processed.

(d) *Applicant timeframe.* RHS will specify a reasonable timeframe within which eligible applicants selected for processing must provide the information needed to underwrite the loan.

§ 3550.56 Site requirements.

(a) *Rural areas.* Loans may be made only in rural areas designated by RHS. If an area designation is changed to non-rural:

(1) New conditional commitments will be made and existing conditional commitments will be honored only in conjunction with an applicant for a section 502 loan who applied for assistance before the area designation changed.

(2) REO property sales and transfers with assumption may be processed.

(3) Subsequent loans may be made either in conjunction with a transfer with assumption of an RHS loan or to repair properties that have RHS loans.

(b) *Site standards.* Sites must be developed in accordance with 7 CFR part 1924, subpart C and any applicable standards imposed by a State or local government.

(1) The site must not be large enough to subdivide into more than one site under existing local zoning ordinances;

(2) The site must not include farm service buildings, though small out-buildings such as a storage shed may be included; and

(3) The value of the site must not exceed 30 percent of the as improved market value of the property. The State Director may waive the 30 percent requirement in high cost areas where other lenders permit a higher percentage.

§ 3550.57 Dwelling requirements.

(a) *Modest dwelling.* The property must be one that is considered modest for the area, must not be designed for income producing purposes, must not have an in-ground swimming pool or have a market value in excess of the applicable maximum loan limit, in accordance with § 3550.63, unless RHS authorizes an exception under this paragraph. An exception may be granted on a case-by-case basis to accommodate the specific needs of an applicant, such as to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Any additional loan amount approved must not exceed the amount required to address the specific need.

(1) *Area-wide exception.* Area-wide exceptions may be granted when RHS determines that the section 203(b) limit is too low to enable applicants to purchase adequate housing.

(2) *Individual exceptions.* Individual exceptions may be granted to accommodate the specific needs of an applicant, such as to serve exceptionally large households or to provide reasonable accommodation for a household member with a disability. Any additional loan amount approved must not

exceed the amount required to address the specific need.

(b) *New dwellings.* Construction must meet the requirements in 7 CFR part 1924, subpart A.

(c) *Existing dwellings.* Existing dwellings must be structurally sound; functionally adequate; in good repair, or to be placed in good repair with loan funds; have adequate electrical, heating, plumbing, water, and wastewater disposal systems; and be free of termites and other wood damaging pests and organisms.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78329, Dec. 24, 2002; 72 FR 70222, Dec. 11, 2007]

§ 3550.58 Ownership requirements.

After the loan is closed, the borrower must have an acceptable interest in the property as evidenced by one of the following.

(a) *Fee-simple ownership.* Acceptable fee-simple ownership is evidenced by a fully marketable title with a deed vesting a fee-simple interest in the property to the borrower.

(b) *Secure leasehold interest.* A written lease is required. To be acceptable, a leasehold interest must have an unexpired term that is at least 150 percent of the term of the mortgage, unless the loan is guaranteed, in which case the unexpired term of the lease must be at least 2 years longer than the loan term. In no case may the unexpired term be less than 25 years.

(c) *Life estate interest.* To be acceptable a life estate interest must provide the borrower with rights of present possession, control, and beneficial use of the property. Generally, persons with any remainder interests must be signatories to the mortgage. All of the remainder interests need not be included in the mortgage to the extent that one or more of the persons holding remainder interests are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or if the remainder interests are divided among such a large number of people that it is not practical to obtain the signatures of all of the remainder interests. In such cases, the loan may not exceed the value of the property interests

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owned by the persons executing the mortgage.

(d) *Undivided interest.* All legally competent co-owners will be required to sign the mortgage. When one or more of the co-owners are not legally competent (and there is no representative who can legally consent to the mortgage), cannot be located, or the ownership interests are divided among so large a number of co-owners that it is not practical for all of their interests to be mortgaged, their interests not exceeding 50 percent may be excluded from the security requirements. In such cases, the loan may not exceed the value of the property interests owned by the persons executing the mortgage.

(e) *Possessory rights.* Acceptable forms of ownership include possessory rights on an American Indian reservation or State-owned land and the interest of an American Indian in land held in severalty under trust patents or deeds containing restrictions against alienation, provided that land in trust or restricted status will remain in trust or restricted status.

§ 3550.59 Security requirements.

Before approving any loan, RHS will impose requirements to secure its interests.

(a) *Adequate security.* A loan will be considered adequately secured only when all of the following requirements are met:

(1) RHS obtains at closing a mortgage on all ownership interests in the security property or the requirements of § 3550.58 are satisfied.

(2) No liens prior to the RHS mortgage exist at the time of closing and no junior liens are likely to be taken immediately subsequent to or at the time of closing, unless the other liens are taken as part of a leveraging strategy or the RHS loan is essential for repairs and the senior lien secures an affordable non-RHS loan. Liens junior to the RHS lien may be allowed at loan closing if the junior lien will not interfere with the purpose or repayment of the RHS loan. When the junior lien involves a grant or a forgivable affordable housing product, the total debt may exceed the market value by the

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amount of the forgivable loan or grant up to 5 percent.

(3) The provisions of 7 CFR part 1927, subpart B regarding title clearance and the use of legal services have been followed.

(4) Existing and proposed property improvements are totally on the site and do not encroach on adjoining property.

(b) *Guaranteed payment.* Mortgage insurance guaranteeing payment from a Government agency or Indian tribe is adequate security.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78330, Dec. 24, 2002]

§ 3550.60 Escrow account.

RHS may require that customers deposit into an escrow account amounts necessary to ensure that the account will contain sufficient funds to pay real estate taxes, hazard and flood insurance premiums, and other related costs when they are due in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) (12 U.S.C. 2601, *et seq.*) and section 501(e) of the Housing Act of 1949, as amended.

§ 3550.61 Insurance.

(a) Borrower responsibility. Any borrower with a secured indebtedness in excess of \$15,000 at the time of loan approval must furnish and continually maintain hazard insurance on the security property, with companies, in amounts, and on terms and conditions acceptable to RHS including a "loss payable clause" payable to RHS to protect the Government's interest.

(b) Amount. The borrower is required to insure the dwelling and any other essential buildings in an amount equal to the insurable value of the dwelling and other essential buildings. However, in cases where the borrower's outstanding secured indebtedness is less than the insurable value of the dwelling and other essential buildings, the borrower may elect a lower coverage provided it is not less than the outstanding secured indebtedness. If the borrower fails, or is unable, to insure the secured property, RHS will force place insurance and charge the cost to

the borrower's account. Force place insurance only provides insurance coverage to the Agency and does not provide any direct coverage or benefit to the borrower. The amount of the lender-placed coverage will generally be the property's last known insured value.

(c) *Flood insurance.* Flood insurance must be obtained and maintained for the life of the loan for all property located in a Special Flood Hazard Area (SFHA) as determined by the Federal Emergency Management Agency (FEMA). RHS actions will be consistent with 7 CFR part 1806, subpart B which addressed flood insurance requirements. If flood insurance through FEMA's National Flood Insurance Program is not available in an SFHA, the property is not eligible for federal financial assistance.

(d) *Losses.* (1) Loss deductible clauses for required insurance coverage may not exceed the generally accepted minimums based on current industry standards and local market conditions.

(2) Customers must immediately notify RHS of any loss or damage to insured property and collect the amount of the loss from the insurance company.

(3) Depending on the amount of the loss, RHS may require that loss payments be supervised. All repairs and replacements done by or under the direction of the borrower, or by contract, will be planned, performed, inspected, and paid for in accordance with 7 CFR part 1924, subpart A.

(4) When insurance funds remain after all repairs, replacements, and other authorized disbursements have been made, the funds will be applied in the following order:

(i) Prior liens, including delinquent property taxes.

(ii) Past-due amounts.

(iii) Protective advances due.

(iv) Released to the customer if the RHS debt is adequately secured.

(5) If a loss occurs when insurance is not in force, the borrower is responsible for making the needed repairs or replacements and ensuring that the insurance is reinstated on the property.

(6) If the borrower is not financially able to make the repairs, RHS may take one of the following actions:

(i) Make a subsequent loan for repairs.

(ii) Subordinate the RHS lien to permit the borrower to obtain funds for needed repairs from another source.

(iii) Permit the borrower to obtain funds secured by a junior lien from another source.

(iv) Make a protective advance to protect the Government's interest.

(v) Accelerate the account.

[61 FR 59779, Nov. 22, 1996, as amended at 70 FR 6552, Feb. 8, 2005; 73 FR 49592, Aug. 22, 2008]

§ 3550.62 Appraisals.

(a) *Requirement.* An appraisal is required when the debt to be secured exceeds \$15,000 or whenever RHS determines that it is necessary to establish the adequacy of the security. Appraisals must be made in accordance with the Uniform Standards of Professional Appraisal Practices. When other real estate is taken as additional security, it will be appraised if it represents a substantial portion of the security for the loan.

(b) *Fees.* RHS will charge a fee for each loan application that requires an appraisal, except the appraisal fee is not required on appraisals done for subsequent loans needed to make minimal, essential repairs or in cases where another party provides an appraisal which is acceptable to RHS. Fees collected in connection with a dwelling constructed under an approved conditional commitment will be paid to the contractor at closing to offset the cost of the real estate appraisal that is included in the conditional commitment fee.

§ 3550.63 Maximum loan amount.

Total secured indebtedness must not exceed the area loan limit or market value limitations specified in paragraphs (a) or (b) of this section, whichever is lower. Any loan amount for the RHS appraisal, tax monitoring fee, and the charge to establish an escrow account for taxes and insurance will not be subject to the limitations specified below. This section does not apply to loans on NP terms.

(a) *Area loan limit.* (1) The area loan limit is the maximum value of the property RHS will finance in a given

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locality. Subject to the following, this limit is based on cost data plus the market value of an improved lot, or the State Housing Authority limits, whichever the State Director determines most appropriately reflects the value of modest housing for the area:

(i) The cost of the structure is based upon the cost to construct a modest home and is obtained by RHS from a nationally recognized residential cost provider.

(ii) The market value of an improved site (without the dwelling) is based upon current sales data for typical housing sites and reasonable and typical costs of site improvements.

(iii) The applicable State Housing Authority limit will only be considered if it is within 10 percent of the cost data plus the market value of an improved lot.

(iv) The area loan limit may not exceed the applicable local HUD section 203(b) limit.

(v) All area loan limit data will be updated at least annually and is available in any Rural Development office.

(2) The maximum loan limit calculated under paragraph (a)(1) will be reduced in the following situations:

(i) When the applicant owns the site or is purchasing the site at a sales price below market value, the market value of the lot will be deducted from the maximum loan limit, and

(ii) When an applicant is receiving a housing grant or other form of affordable housing assistance for purposes other than closing costs, the amount(s) of such grants and affordable housing assistance will be deducted from the maximum loan limit.

(3) The maximum loan limit for self-help housing will be calculated by adding the total of the market value of the lot (including reasonable and typical costs of site development), the cost of construction, and the value of sweat equity. The total of these three factors cannot exceed the limit established in paragraph (a)(1) of this section.

(b) *Market value limitation.* (1) The market value limitation is 100 percent of market value for existing housing and for new dwellings for which RHS will receive adequate documentation of construction quality and the source of

such documentation is acceptable to RHS.

(2) The market value limitation is 90 percent of market value for new dwellings for which adequate documentation of construction quality is not available.

(3) The market value limitation can be increased by:

(i) Up to one percent, if RHS makes a subsequent loan for closing costs only, in conjunction with the sale of an REO property or an assumption.

(ii) The amount necessary to make a subsequent loan for repairs necessary to protect the Government's interest, and reasonable closing costs.

(iii) The amount necessary to refinance an existing borrower's RHS loans, plus closing costs associated with the new loan.

[61 FR 59779, Nov. 22, 1996; 61 FR 65266, Dec. 11, 1996, as amended at 67 FR 78330, Dec. 24, 2002]

§ 3550.64 Down payment.

Elderly families must use any net family assets in excess of \$20,000 towards a down payment on the property. Non-elderly families must use net family assets in excess of \$15,000 towards a down payment on the property. Applicants may contribute assets in addition to the required down payment to further reduce the amount to be financed.

[73 FR 49593, Aug. 22, 2008]

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§ 3550.66 Interest rate.

Loans will be written using the applicable RHS interest rate in effect at loan approval or loan closing, whichever is lower. Information about current interest rates is available in any Rural Development office.

[67 FR 78330, Dec. 24, 2002]

§ 3550.67 Repayment period.

Loans will be scheduled for repayment over a period that does not exceed the expected useful life of the property as a dwelling. The loan repayment period will not exceed:

(a) Thirty-three years in all cases except as noted in paragraphs (b), (c), and (d) of this section.

(b) Thirty-eight years:

(1) For initial loans, or subsequent loans made in conjunction with an assumption, if the applicant's adjusted income does not exceed 60 percent of the area adjusted median income and the longer term is necessary to show repayment ability.

(2) For subsequent loans not made in conjunction with an assumption if the applicant's initial loan was for a period of 38 years, the applicant's adjusted income at the time the subsequent loan is approved does not exceed 60 percent of area adjusted median income, and the longer terms is necessary to show repayment ability.

(c) Ten years for loans not exceeding \$2,500.

(d) Thirty years for manufactured homes.

§ 3550.68 Payment subsidies.

RHS administers three types of payment subsidies: interest credit, payment assistance method 1, and payment assistance method 2. Payment subsidies are subject to recapture when the borrower transfers title or ceases to occupy the property.

(a) *Eligibility for payment subsidy.* (1) Applicants or borrowers who receive loans on program terms are eligible to receive payment subsidy if they personally occupy the property and have adjusted income at or below the applicable moderate-income limit.

(2) Payment subsidy may be granted for initial loans or subsequent loans made in conjunction with an assumption only if the term of the loan is 25 years or more.

(3) Payment subsidy may be granted for subsequent loans not made in conjunction with an assumption if the initial loan was for a term of 25 years or more.

(b) *Determining type of payment subsidy.* (1) A borrower currently receiving interest credit will continue to receive it for the initial loan and for any subsequent loan for as long as the borrower is eligible for and remains on interest credit.

(2) A borrower currently receiving payment assistance using payment assistance method 1 will continue to receive it for the initial loan and for any subsequent loan for as long as the bor-

rower is eligible for and remains on payment assistance method 1.

(3) A borrower who has never received payment subsidy, or who has stopped receiving interest credit or payment assistance method 1, and at a later date again qualifies for a payment subsidy, will receive payment assistance method 2.

(4) A borrower may not opt to change payment assistance methods.

(c) *Calculation of payment assistance.* Regardless of the method used, payment assistance may not exceed the amount necessary if the loan were amortized at an interest rate of one percent.

(1) *Payment Assistance Method 2.* The amount of payment assistance granted is the lesser of the difference between:

(i) The annualized promissory note installments for the combined RHS loan and eligible leveraged loans plus the cost of taxes and insurance less twenty-four percent of the borrower's adjusted income, or

(ii) The annualized promissory note installment for the RHS loan less amount the borrower would pay if the loan were amortized at an interest rate of one percent.

(2) *Payment Assistance Method 1.* The amount of payment assistance granted is the difference between the annualized note rate installment as prescribed on the promissory note and the lesser of:

(i) The floor payment, which is defined as a minimum percentage of adjusted income that the borrower must pay for PITI: 22 percent for very low-income borrowers, 24 percent for low-income borrowers with adjusted income below 65 percent of area adjusted median, and 26 percent for low-income borrowers with adjusted incomes between 65 and 80 percent of area adjusted median; or

(ii) The annualized note rate installment and the payment at the equivalent interest rate, which is determined by a comparison of the borrower's adjusted income to the adjusted median income for the area in which the security property is located. The following chart is used to determine the equivalent interest rate.

When the applicant's adjusted income is:

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PERCENTAGE OF MEDIAN INCOME AND THE EQUIVALENT INTEREST RATE

Equal to or more than:	BUT less than:	THEN the equivalent interest rate is*
00%	50.01 of adjusted median income.	1%
50.01%	55 of adjusted median income.	2%
55%	60 of adjusted median income.	3%
60%	65 of adjusted median income.	4%
65%	70 of adjusted median income.	5%
70%	75 of adjusted median income.	6%
75%	80.01 of adjusted median income.	6.5%
80.01%	90 of adjusted median income.	7.5%
90%	100 of adjusted median income.	8.5%
100%	110% of adjusted median income.	9%
110%	Or more than adjusted median income.	9.5%

* Or note rate, whichever is less; in no case will the equivalent interest rate be less than one percent.

(d) *Calculation of interest credit.* The amount of interest credit granted is the difference between the note rate installment as prescribed on the promissory note and the greater of:

(1) Twenty percent of the borrower's adjusted income less the cost of real estate taxes and insurance, or

(2) The amount the borrower would pay if the loan were amortized at an interest rate of 1 percent.

(e) *Annual review.* The borrower's income will be reviewed annually to determine whether the borrower is eligible for continued payment subsidy. The borrower must notify RHS whenever an adult member of the household changes or obtains employment, there is a change in household composition, or if income increases by at least 10 percent so that RHS can determine whether a review of the borrower's circumstances is required.

[72 FR 73255, Dec. 27, 2007]

§ 3550.69 Deferred mortgage payments.

For qualified borrowers, RHS may defer up to 25 percent of the monthly principal and interest payment at 1 percent for up to 15 years. This assistance may be granted only at initial loan closing and is reviewed annually. Deferred mortgage payments are subject to recapture when the borrower

transfers title or ceases to occupy the property.

(a) *Eligibility.* In order to qualify for deferred mortgage payments, all of the following must be true:

(1) The applicants adjusted income at the time of initial loan approval does not exceed the applicable very low-income limits.

(2) The loan term is 38 years, or 30 years for a manufactured home.

(3) The applicant's payments for principal and interest, calculated at a one percent interest rate for the maximum allowable term, plus estimated costs for taxes and insurance exceeds:

(i) For applicants receiving payment assistance, 29 percent of the applicants repayment income by more than \$10 per month; or

(ii) For applicants receiving interest credit, 20 percent of adjusted income by more than \$10 per month.

(b) *Amount and terms.* (1) The amount of the mortgage payment to be deferred will be the difference between the applicants payment for principal and interest, calculated at one percent interest for the maximum allowable term, plus estimated costs for taxes and insurance and:

(i) For applicants receiving payment assistance, 29 percent of the applicants repayment income.

(ii) For applicants receiving interest credit, 20 percent of adjusted income.

(2) Deferred mortgage payment agreements will be effective for a 12-month period.

(3) Deferred mortgage assistance may be continued for up to 15 years after loan closing. Once a borrower becomes ineligible for deferred mortgage assistance, the borrower can never again receive deferred mortgage assistance.

(c) *Annual review.* The borrower's income, taxes, and insurance will be reviewed annually to determine eligibility for continued deferred mortgage assistance. The borrower must notify RHS whenever an adult member of the household changes or obtains employment or if income increases by at least 10 percent so that RHS can determine whether a review of the borrower's circumstances is required.

§ 3550.70 Conditional commitments.

A conditional commitment is a determination by RHS that a dwelling offered for sale will be acceptable for purchase by a qualified RHS loan applicant if it is built or rehabilitated in accordance with RHS-approved plans, specifications, and regulations and priced within the lesser of the property's appraised value or the applicable maximum load limit. The conditional commitment does not reserve funds, does not guarantee funding, and does not ensure that an eligible loan applicant will be available to buy the dwelling.

(a) *Eligibility.* To be eligible to request a conditional commitment, the builder, dealer-contractor, or seller must:

(1) Have an adequate ownership interest in the property, as defined in § 3550.58, prior to the beginning of any planned construction;

(2) Have the experience and ability to complete any proposed work in a competent and professional manner;

(3) Have the legal capacity to enter into the required agreements;

(4) Be financially responsible and have the ability to finance or obtain financing for any proposed construction or rehabilitation; and

(5) Comply with the requirements of 7 CFR part 1901, subpart E and all applicable laws, regulations, and Executive Orders relating to equal opportunity. Anyone who receives 5 or more conditional commitments during a 12-month period must obtain RHS approval of an affirmative marketing plan.

(b) *Limitations.* Conditional commitments for new or substantially rehabilitated dwellings will not be issued after construction has started. RHS may limit the total number of conditional commitments issued in any locality based on market demand.

(c) *Commitment period.* A conditional commitment will be valid for 12 months from the date of issuance. The commitment may be extended for up to an additional 6 months if there are unexpected delays in construction caused by such factors as bad weather, materials shortages, or marketing difficulties. Conditional commitments may be canceled if construction does not begin

within 60 days after the commitment is issued.

(d) *Conditional commitments involving packaging of applications.* A conditional commitment may be made to a seller, builder, or dealer-contractor who packages an RHS loan application for a prospective purchaser. In cases where the dwelling is to be constructed for sale to a specific eligible applicant, all of the following conditions must be met:

(1) The conditional commitment will not be approved until the applicant's loan has been approved;

(2) Construction will not begin until loan funds are obligated for the loan. Exceptions may be made when it appears likely that funding will be forthcoming and as long as the RHS lien priority is not jeopardized. The sales agreement must indicate that the loan has been approved but not funded and must provide that if the loan is not closed within 90 days of the date of approval, the contractor may terminate the sales agreement and sell the property to another party. If the sales agreement is terminated, the conditional commitment will be honored for another eligible loan applicant for the remaining period of the commitment; and

(3) The RHS loan will be closed only after the dwelling is constructed or the required rehabilitation completed and final inspection has been made.

(e) *Fees.* An application for a conditional commitment must include payment of the conditional commitment fee. The fee will be refunded if for any reason preliminary inspection of the property or investigation of the conditional commitment applicant indicates that a conditional commitment will not be issued. Application fees will not be refunded for any property on which the required appraisal has been made.

(f) *Failure of conditional commitment applicant or dwelling to qualify.* The conditional commitment applicant will be informed if the conditional commitment is denied. Conditional commitments will be canceled if the property does not meet program requirements.

(g) *Changes in plans, specifications, or commitment price.* The holder of the conditional commitment must request approval for changes in plans, specifications, and commitment price. RHS

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may approve the changes if the following requirements are met:

(1) The property price does not exceed the maximum loan limit and increases in costs are due to factors beyond the control of the commitment holder; and

(2) The requested changes are justifiable and appropriate.

(h) *Builder's warranty.* The builder or seller, as appropriate, must execute either an RHS-approved "Builder's Warranty," or provide a 10-year insured warranty when construction is completed or the loan is closed.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78330, Dec. 24, 2002]

§ 3550.71 Special requirements for condominiums.

RHS loans may be made for condominium units under the following conditions:

(a) The unit is in a project approved or accepted by U.S. Department of Housing and Urban Development (HUD), the Federal National Mortgage Association (Fannie Mae), or the Federal Home Loan Mortgage Corporation (Freddie Mac).

(b) The condominium project complies with the requirements of the condominium enabling statute and all other applicable laws. Any right of first refusal in the condominium documents will not impair the rights of RHS to:

(1) Foreclose or take title to a condominium unit pursuant to the remedies in the mortgage;

(2) Accept a deed in lieu of foreclosure in the event of default by a mortgagor; and

(3) Sell or lease a unit acquired by RHS.

(c) If RHS obtains title to a condominium unit pursuant to the remedies in its mortgage or through foreclosure, RHS will not be liable for more than 6 months of the unit's unpaid regularly budgeted dues or charges accrued before acquisition of the title to the unit by RHS. The homeowners association's lien priority may include costs of collecting unpaid dues.

(d) In case of condemnation or substantial loss to the units or common elements of the condominium project, unless at least two-thirds of the first

mortgagees or unit owners of the individual condominium units have given their consent, the homeowners association may not:

(1) By act or omission seek to abandon or terminate the condominium project;

(2) Change the pro rata interest or obligations of any condominium unit in order to levy assessments or charges, allocate distribution of hazard insurance proceeds or condemnation awards, or determine the pro rata share of ownership of each condominium unit in the common elements;

(3) Partition or subdivide any condominium unit;

(4) Seek to abandon, partition, subdivide, encumber, sell, or transfer the common elements by act or omission (the granting of easements for public utilities or other public purposes consistent with the intended use of the common elements by the condominium project is not a transfer within the meaning of this clause); or

(5) Use hazard insurance proceeds for losses to any condominium property (whether units or common elements) for other than the repair, replacement, or reconstruction of the condominium property.

(e) All taxes, assessments, and charges that may become liens prior to the first mortgage under local law relate only to the individual condominium units and not to the condominium project as a whole.

(f) No provision of the condominium documents gives a condominium unit owner or any other party priority over any rights of RHS as first or second mortgagee of the condominium unit pursuant to its mortgage in the case of a payment to the unit owner of insurance proceeds or condemnation awards for losses to or taking of condominium units or common elements.

(g) If the condominium project is on a leasehold the underlying lease provides adequate security of tenure as described in § 3550.58(b).

(h) At least 70 percent of the units have been sold. Multiple purchases of condominium units by one owner are counted as one sale when determining if the sales requirement has been met.

(i) No more than 15 percent of the unit owners are more than 1 month delinquent in payment of homeowners association dues or assessments at the time the RHS loan is closed.

§ 3550.72 Community land trusts.

Eligible dwellings located on land owned by a community land trust may be financed if:

(a) The loan meets all the requirements of this subpart; and

(b) Any restrictions, imposed by the community land trust on the property or applicant are:

(1) Reviewed and accepted by RHS before loan closing; and

(2) Automatically and permanently terminated upon foreclosure or acceptance by RHS of a deed in lieu of foreclosure.

§ 3550.73 Manufactured homes.

With the exception of the restrictions and additional requirements contained in this section, section 502 loans on manufactured homes are subject to the same conditions as all other section 502 loans.

(a) *Eligible costs.* In addition to the eligible costs described in § 3550.52(d), RHS may finance the following activities related to manufactured homes when a real estate mortgage covers both the unit and the site:

(1) Purchase of an eligible unit, transportation, and set-up costs, and purchase of an eligible site if not already owned by the applicant;

(2) Site development work in accordance with 7 CFR part 1924, subpart A;

(3) Subsequent loans in conjunction with an assumption or sale of an REO property; or

(4) Subsequent loans for repairs of units financed under section 502.

(b) *Loan restrictions.* In addition to the loan restrictions described in § 3550.52(e), RHS may not use loan funds to finance:

(1) An existing unit and site unless it is already financed with a section 502 loan or is an RHS REO property.

(2) The purchase of a site without also financing the unit.

(3) Alteration or remodeling of the unit when the initial loan is made.

(4) Furniture, including movable articles of personal property such as

drapes, beds, bedding, chairs, sofas, divans, lamps, tables, televisions, radios, stereo sets, and other similar items of personal property. Furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, washing machines, clothes dryers, heating or cooling equipment, or other similar items.

(c) *Dealer-contractors.* No loans will be made on a manufactured home sold by any entity that is not an approved dealer-contractor that will provide complete sales, service, and site development services.

(d) *Loan term.* The maximum term of a loan on a manufactured home is 30 years.

(e) *Construction and development.* Unit construction, site development and set-up must conform to the Federal Manufactured Home Construction and Safety Standards (FMHCSS) and 7 CFR part 1924, subpart A. Development under the Mutual Self-Help and borrower construction methods is not permitted for manufactured homes.

(f) *Contract requirements.* The dealer-contractor must sign a construction contract, as specified in 7 CFR 1924.6 which will cover both the unit and site development work. The use of multi-contracts is prohibited. A dealer-contractor may use subcontractors if the dealer-contractor is solely responsible for all work under the contract. Payment for all work will be in accordance with 7 CFR part 1924, subpart A, except no payment will be made for materials or property stored on site (e.g., payment for a unit will be made only after it is permanently attached to the foundation).

(g) *Lien release requirements.* All persons furnishing materials or labor in connection with the contract except the manufacturer of the unit must sign a Release by Claimants document, as specified in 7 CFR part 1924, subpart A. The manufacturer of the unit must furnish an executed manufacturer's certificate of origin to verify that the unit is free and clear of all legal encumbrances.

(h) *Warranty requirements.* The dealer-contractor must provide a warranty in accordance with the provisions of 7 CFR 1924.12. The warranty must identify the unit by serial number. The dealer-contractor must certify that the

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unit substantially complies with the plans and specifications and the manufactured home has sustained no hidden damage during transportation and, if manufactured in separate sections, that the sections were properly joined and sealed according to the manufacturer's specifications. The dealer-contractor will also furnish the applicant with a copy of all manufacturer's warranties.

§ 3550.74 Nonprogram loans.

NP terms may be extended to applicants who do not qualify for program credit, or for properties that do not qualify as program properties, when it is in the best interest of the Government. NP loans are originated and serviced according to the requirements for program loans except as indicated in this section.

(a) *Purpose.* NP terms may be offered to expedite:

(1) Sale of an REO property.

(2) Assumption of an existing program loan on new rates and terms. If additional funds are required to purchase the property, the applicant must obtain them from another source.

(3) Conversion of a program loan that has received unauthorized assistance.

(4) Continuation of a loan on a portion of a security property when the remainder is being transferred and the RHS debt is not paid in full.

(b) *Terms.* (1) Rate and term:

(i) For an applicant who intends to occupy the property, the term will not exceed 30 years.

(ii) For other applicants, the term will not exceed 10 years. If more favorable terms are necessary to facilitate the sale, the loan may be amortized over a period of up to 20 years with payment in full due not later than 10 years from the date of closing.

(iii) An applicant with an NP loan under paragraph (b)(1)(i) of this section who wishes to retain the property and purchase a new property with RHS credit must purchase the second property according to the terms of paragraph (b)(1)(ii) of this section, even if the new property will serve as the applicant's principal residence.

(2) NP loans are written at the NP interest rate in effect at the time of loan approval.

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(3) NP borrowers are not eligible for payment assistance or a moratorium.

(c) *Additional requirements.* (1) NP applicants other than public bodies and nonprofit organizations must pay a nonrefundable application fee.

(2) NP applicants must make a down payment based upon the purchase price and whether the applicant intends to personally occupy the property or use it for other purposes.

(3) NP applicants cannot finance loan closing costs or escrow, tax service, or appraisal fees.

(d) *Reduced restrictions.* (1) NP applicants need not be unable to obtain other credit in order to receive an NP loan and are not required to refinance with private credit when they are able to do so.

(2) NP applicants are not required to occupy the property.

(3) NP applicants are not subject to leasing restrictions.

(e) *Waiver of costs.* When the purpose of the loan is the conversion of a program loan that has received unauthorized assistance or continuation of a loan on a portion of a security property when the remainder is being transferred, the application fee, appraisal fee, and down payment may be waived.

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§ 3550.100 OMB control number.

The information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 0575-0172. Public reporting burden for this collection of information is estimated to vary from 5 minutes to 3 hours per response, with an average of 1½ hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. You are not required to respond to this collection of information unless it displays a currently valid OMB control number.

[61 FR 59779, Nov. 22, 1996, as amended at 67 FR 78330, Dec. 24, 2002]