

§ 201.41

(2) The manufactured home and any itemized options and appurtenances included in the purchase price of the home or financed with the loan proceeds have been delivered and installed; and

(3) The placement certificate executed by the borrower and the dealer is in order.

(Approved by the Office of Management and Budget under control number 2502-0328)

[50 FR 43523, Oct. 25, 1985, as amended at 56 FR 52434, Oct. 18, 1991; 61 FR 19799, May 2, 1996]

§ 201.41 Loan servicing.

(a) *Generally.* The lender shall service loans in accordance with accepted practices of prudent lending institutions. It shall have adequate facilities for contacting the borrower in the event of default, and shall otherwise exercise diligence in collecting the amount due. The lender shall remain responsible to the Secretary for proper collection efforts, even though actual loan servicing and collection may be performed by an agent of the lender. The lender shall have an organized means of identifying, on a periodic basis, the payment status of delinquent loans to enable collection personnel to initiate and follow-up on collection activities, and shall document its records to reflect its collection activities on delinquent loans.

(b) *Partial payments.* The lender shall accept any partial payment (inclusive of late charges) under an executed modification agreement or an acceptable repayment plan, and either apply it to the borrower's account or hold it in a trust account pending disposition. When partial payments held for disposition aggregate a full monthly installment, they shall be applied to the borrower's account, thus advancing the date of the oldest unpaid installment. If a partial payment is received more than 60 days after the date of default and was not submitted under a repayment plan or a modification agreement, the partial payment may be re-

24 CFR Ch. II (4-1-13 Edition)

turned to the borrower, with a letter of explanation.

§ 201.42 Bankruptcy, insolvency or death of borrower.

(a) *Bankruptcy or insolvency.* The lender shall file a proof of claim with the court having jurisdiction when the lender has timely information that a borrower is involved in bankruptcy or insolvency proceedings, except that a proof of claim need not be filed if the court notifies the lender that the borrower has no assets and a proof of claim should not be filed. The notice of bankruptcy and a copy of the proof of claim (or the notice from the court that a proof of claim is not required) shall be retained in the loan file.

(b) *Death of a borrower.* The lender shall file a proof of claim with the court having jurisdiction when the lender has timely information that a borrower is deceased, unless the lender determines that there will not be a probate proceeding. A copy of the proof of claim (or documentation as to why a proof of claim was not filed) shall be retained in the loan file.

(c) *Responsibility of the lender after insurance claim is filed.* After the Secretary pays an insurance claim, the Secretary will notify the bankruptcy or probate court, as appropriate, that the loan has been assigned to the United States and will request substitution as the party to whom the claim is owed. Until the insurance claim is paid, the lender shall take all steps necessary to protect the interests of the holder of the note in any bankruptcy or probate proceeding.

[54 FR 36266, Aug. 31, 1989]

§ 201.43 Administrative reports and examinations.

The Secretary may call upon a lender for any reports deemed necessary in connection with the regulations in this part and may inspect the loan files, records, books and accounts of the lender as they pertain to the loans reported for insurance.