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Part III

Department of Housing and Urban Development

24 CFR Part 221

**Discontinuation of the Section 221(d)(2)
Mortgage Insurance Program; Final Rule**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

24 CFR Part 221

[Docket No. FR-4588-F-02]

RIN 2502-AH50

**Discontinuation of the Section
221(d)(2) Mortgage Insurance Program**

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule discontinues HUD's section 221(d)(2) mortgage insurance program. The section 221(d)(2) program is rarely used by homebuyers, primarily due to its low mortgage limits. Accordingly, HUD will no longer enter into new contracts for mortgage insurance under the program. The final rule removes those provisions of the section 221(d)(2) regulations concerning eligibility for participation in the program, and replaces them with a savings clause. The rule, however, retains those regulatory provisions regarding the contract rights and servicing responsibilities for existing program participants. This final rule follows publication of a September 28, 2000 proposed rule. There were no public comments on the proposed rule, and HUD is adopting the proposed regulatory amendments without change.

DATES: *Effective Date:* February 20, 2001.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-8000; telephone (202) 708-2121 (this is not a toll-free number). Hearing- or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

Section 221(d)(2) of the National Housing Act (12 U.S.C. 1715l(d)(2)), authorizes HUD to insure private lenders against loss from default on mortgage loans made to finance the purchase, construction, or rehabilitation of low-cost, one- to four-family homes. HUD's regulations implementing the section 221(d)(2) program are located in 24 CFR part 221.

On September 28, 2000 (65 FR 58338), HUD published a proposed rule to discontinue the section 221(d)(2)

mortgage insurance program. The program is rarely used by homebuyers, primarily due to its low mortgage limits. Moreover, the section 221(d)(2) program provides few homeownership opportunities not already made available by other HUD mortgage insurance programs, primarily the single family home mortgage insurance programs authorized by section 203 of the National Housing Act (12 U.S.C. 1709) (implemented by HUD in 24 CFR part 203), and the condominium mortgage insurance program authorized by section 234 of the National Housing Act (12 U.S.C. 1715y) (implemented by HUD in 24 CFR part 234). For these reasons, HUD has decided to discontinue the section 221(d)(2) program.

II. This Final Rule

This final rule adopts the policies and procedures of the September 28, 2000 proposed rule. The public comment period for the proposed rule closed on November 27, 2000. By close of business on that date, HUD had not received any public comments on the proposed rule. Accordingly, this final rule adopts the proposed regulatory amendments without change.

The final rule removes HUD's regulations establishing the eligibility requirements for section 221(d)(2) mortgage insurance in subpart A of 24 CFR part 221. A savings clause is retained in subpart A of the part 221 regulations, which provides that the authority to insure section 221(d)(2) mortgages is terminated, except that HUD will endorse for insurance validly processed mortgages under direct endorsement where the credit worksheet was signed by the mortgagee's underwriter before the effective date of the final rule. The savings clause also provides that subpart A, as it existed immediately before the termination date, will continue to govern the rights and obligations of insured mortgage lenders, mortgagors, and HUD with respect to section 221(d)(2) single family loans insured before the effective date of the final rule, and to the aforementioned direct endorsement loans.

III. Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage, in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4223). That finding remains applicable to this

final rule and is available for public inspection between the hours of 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC.

Regulatory Flexibility Act

The Secretary has reviewed this final rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities. As noted above, the section 221(d)(2) program is rarely used by homebuyers. Mortgage lenders eligible to participate in the section 221(d)(2) program are also generally eligible to participate in other, alternative, FHA single family mortgage insurance programs that are preferred by homebuyers (such as the section 203 and section 234(c) programs). Accordingly, HUD's decision to discontinue the section 221(d)(2) program is not anticipated to have a significant economic impact on a substantial number of mortgage lenders participating in these FHA programs.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on State and local governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This final rule would not have federalism implications and would not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This final rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance program number applicable to 24 CFR part 221 is 14.120: Mortgage Insurance—Homes for Low/Moderate Income Families.

List of Subjects in 24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 221 to read as follows:

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

1. The authority citation for part 221 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715l; 42 U.S.C. 3535(d).

2. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements—Low Cost Homes—Savings Clause

§ 221.1 Savings clause.

(a) Effective February 20, 2001, the authority to insure mortgages under section 221(d)(2) of the National Housing Act (12 U.S.C. 1715l(d)(2)) for low cost and moderate income mortgage insurance is terminated, except that HUD will endorse for insurance validly processed mortgages under direct endorsement where the credit worksheet was signed by the mortgagee's underwriter before February 20, 2001.

(b) Subpart A of this part, as it existed immediately before February 20, 2001, will continue to govern the rights and obligations of insured mortgage lenders, mortgagors, and HUD with respect to section 221(d)(2) single family loans insured before February 20, 2001, or in accordance with paragraph (a) of this section, pursuant to the applicable provisions of this subpart.

Dated: January 9, 2001.

William C. Apgar,

Assistant Secretary for Housing-Federal Housing Commissioner.

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