

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 203

[Docket No. FR-4779-F-02]

RIN 2502-AH92

Eligibility of Mortgages on Hawaiian Home Lands Insured Under Section 247

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

ACTION: Final rule.

SUMMARY: This rule makes final a June 15, 2004, interim rule that amended regulations regarding eligibility for mortgages on Hawaiian home lands to reflect a statutory change to the National Housing Act. The June 15, 2004, interim rule solicited public comments. No comments were received by HUD on the interim rule. This final rule adopts the interim rule, therefore, without change.

DATES: *Effective Date:* February 25, 2005.

FOR FURTHER INFORMATION CONTACT:

Vance T. Morris, Office of the Deputy Assistant Secretary for Single Family Housing, 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- and speech-impaired persons may access this number through TTY by calling the toll free Federal Information Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: On June 15, 2004 (69 FR 33524), HUD published an interim rule that implemented section 215 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2002 (Pub. L. 107-73, approved November 26, 2001) (FY2002 HUD Appropriations Act) that amended section 247 of the National Housing Act (12 U.S.C. 1715z-12) relating to single-family insurance on Hawaiian home lands. Section 215 revised the definition of the terms "Hawaiian home lands" and "native Hawaiian." Section 215 also changed the eligibility criterion for the receipt of a mortgage insured under section 247 of the National Housing Act.

In accordance with the statutory amendment referenced above, the interim rule made the following regulatory revisions. The interim rule

amended 24 CFR 203.43i(c)(2) to conform the regulatory definition of the term "Hawaiian home lands" to the revised definition of the term found in section 247(d)(2) of the National Housing Act. The rule also amended 24 CFR 203.43i(c)(3) to conform the definition of the term "native Hawaiian" to the revised definition enacted by section 215 of the FY2002 HUD Appropriations Act. Additionally, the interim rule amended 24 CFR 203.43i(i) relating to eligibility requirements and 24 CFR 203.43i(h) by eliminating the requirement for a certification when a leasehold is assumed.

This final rule follows publication of the June 15, 2004, interim rule. As noted above, HUD received no comments on the interim rule. Accordingly, this final rule adopts the interim rule without change.

Findings and Certifications

Environmental Impact

A Finding of No Significant Impact with respect to the environment for this rule was made 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. 4332(2)(C)). The Finding of No Significant Impact remains available for public inspection between 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of the General Counsel, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-5000.

Unfunded Mandates Reform Act

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 rule does not impose a Federal mandate on any state, local, or tribal government, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial

number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities, and there are no unusual procedures that will have to be complied with by small entities. This rule merely adopts as a final rule the interim rule that conformed the regulatory definition of the terms "Hawaiian home lands" and "native Hawaiian" and eligibility requirements to the statutory revision. The rule would also facilitate FHA insurance of mortgages on leaseholds held by native Hawaiians. As a result, this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

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 rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the executive order.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number is 14.117.

List of Subjects in 24 CFR part 203

Hawaiian Natives, Home improvement, Indian—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, solar energy.

■ Accordingly, the interim rule amending 24 CFR part 203 that was published at 69 FR 33524 on June 15, 2004, is adopted as a final rule without change.

Dated: January 11, 2005.

Sean Cassidy,
General Deputy, Assistant Secretary for Housing.

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