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New Rules for USDA Rural Housing Loans Take Effect August 1, 2011

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On May 31, 2011, The Department of Agriculture Rural Housing Service issued a final rule to implement two changes in the regulations for the Rural Housing Service (RHS) Section 502, Single Family Housing Guaranteed Loan Program (SFHGLP). The first change eliminates a lender's published Department of Veterans Affairs (VA) rate for first mortgage loans with no discount points as an option for a maximum interest rate on loans. The second change allows the Secretary to seek indemnification from the originating lender if a loss is paid under certain circumstances. The rule published in the Federal Register (7 CFR Part 1980) and takes effect August 1, 2011.

In the spring of 2009, the Inspector General completed an audit of the controls over lending activities in the SFHGLP. The audit evaluated the systems and processes to ensure that lenders a) submit accurate and legitimate borrower eligibility data and b) set interest rates on loans within Agency guidelines. The audit report made

a number of recommendations for what the SFHGLP can do to streamline operations, prevent fraud, and improve efficiency in its mission. As a result of the audit a proposed rule was published in the Federal Register on May 19, 2010.

Under the existing SFHGLP regulation, lenders may set an interest rate for a loan that does not exceed the higher of the Lender's published rate for VA first mortgage loans with no discount points or the current Fannie Mae posted yield for 90-day delivery plus six-tenths of 1 percent for 30-year fixed rate conventional loans, rounded up to the nearest one-quarter of 1 percent. The effect of August 1st change will create a more uniform, simpler standard for interest rates under the SFHGLP, whereby lenders will always use the current Fannie Mae rate as the rate ceiling.

To access the Federal Register Update (76 FR 31217) on All Regs, visit the following link:
<http://www.allregs.com/ao/main.aspx?did2=46cdd473b53a4b8e8229d094929e345e>

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Lender Participation in Guaranteed Rural Housing Loans

Summarized below are the eligibility guidelines for lenders to participate in the USDA Rural Housing Program. These guidelines are published for lender in the Rural Housing Service Policy Guide. The following information is comprised from Section §1980.309.

Qualification

The following Lenders are eligible to participate in the RHS guaranteed RH loan program upon presentation of evidence of said approval and execution of the RHS Lender Agreement.

- (1) Any state housing agency;
- (2) Any Lender approved by HUD as a supervised or non-supervised mortgagee for submission of one to four family housing applications for Federal Housing Mortgage Insurance or as an issuer of Ginnie Mae mortgage backed securities;
- (3) Any Lender approved as a supervised or non-supervised mortgagee for the VA;
- (4) Any Lender approved by Fannie Mae for participation in one to four family mortgage loans;
- (5) Any Lender approved by Freddie Mac for participation in one to four family mortgage loans;
- (6) An FCS institution with direct lending authority; and
- (7) Any Lender participating in other RHS,

Rural Business- Cooperative Service, Rural Utilities Service, and/or Farm Service Agency guaranteed loan programs.

Lender Approval

Lenders meeting the requirements listed above must request a determination of eligibility in order to participate as an originating Lender in the program. Requests may be made to the state office serving the state jurisdiction or to the National office when multiple state jurisdictions are involved.

Lenders must provide the following information to RHS:

- Evidence of approval, as appropriate, for the criteria under paragraph (a) of this section, which the Lender meets.
- The Lender's Tax Identification Number.
- The name of an official of the Lender who will serve as a contact for RHS regarding the Lender's guaranteed loans.
- A list of names, titles, and responsibilities of the Lender's principal officers.
- An outline of the Lender's internal loan criteria for issues of credit history and repayment ability and a copy of the Lender's quality control plan for monitoring production and servicing activities.
- An executed certification regarding debarment, suspension, or other matters-primary covered transactions. The certification will be obtained using a form prescribed by RHS.

Lenders must agree to:

- Obtain and keep itself informed of all program regulations and guidelines including all amendments and revisions of program requirements and policies.
- Process and service RHS guaranteed loans in accordance with Agency regulations.
- Permit RHS employees or its designated representatives to examine or audit all records and accounts related to any RHS loan guarantee.
- Be responsible for the servicing of the loan, or if the loan is to be sold, sell only to an entity which meets the provisions of paragraph (a) of this section.
- Use forms which have been approved by FHA, Fannie Mae, Freddie Mac, or, for FCS Lenders, use the appropriate FCS forms.
- Maintain its approval if qualification as an RHS Lender was based on approval by HUD, VA, Fannie Mae, or Freddie Mac including maintaining the minimum allowable net capital, acceptable levels of liquidity, and any required fidelity bonding and/or mortgage servicing errors and omissions policies required by HUD, VA, Fannie Mae, or Freddie Mac, as appropriate.
- Operate its facilities in a prudent and business-like manner.
- Assure that its staff is well trained and experienced in loan origination and/or loan servicing functions, as necessary, to assure the capability of performing all of the necessary origination and servicing functions.