

Seventh Street, SW., Washington, DC 20410-0500.

#### *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 Department's Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500.

#### *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. The reasons for HUD's determination are as follows. The final rule is exclusively concerned with curbing the predatory lending practice of property flipping. The vast majority of lenders participating in the FHA single family mortgage insurance programs fully comply with all program requirements and conduct themselves in an ethical manner. The final rule will only impact the small minority of unscrupulous lenders who participate in the FHA programs and engage in this predatory practice.

#### *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 will 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 will 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*

The Catalog of Federal Domestic Assistance Numbers for 24 CFR part 203 are 14.117 and 14.133.

#### **List of Subjects in 24 CFR Part 203**

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

■ Accordingly, for the reasons described in the preamble, HUD amends 24 CFR part 203 to read as follows:

#### **PART 203—SINGLE FAMILY MORTGAGE INSURANCE**

■ 1. The authority citation for 24 CFR part 203 continues to read as follows:

**Authority:** 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

■ 2. Add § 203.37a to read as follows:

##### **§ 203.37a Sale of property.**

(a) *Sale by owner of record.* (1) *Owner of record requirement.* To be eligible for a mortgage insured by FHA, the property must be purchased from the owner of record and the transaction may not involve any sale or assignment of the sales contract.

(2) *Supporting documentation.* The mortgagee shall obtain documentation verifying that the seller is the owner of record and must submit this documentation to HUD as part of the application for mortgage insurance, in accordance with § 203.255(b)(12). This documentation may include, but is not limited to, a property sales history report, a copy of the recorded deed from the seller, or other documentation (such as a copy of a property tax bill, title commitment, or binder) demonstrating the seller's ownership.

(b) *Time restrictions on re-sales.* (1) *General.* The eligibility of a property for a mortgage insured by FHA is dependent on the time that has elapsed between the date the seller acquired the property (based upon the date of settlement) and the date of execution of the sales contract that will result in the FHA mortgage insurance (the re-sale date). The mortgagee shall obtain documentation verifying compliance with the time restrictions described in this paragraph and must submit this documentation to HUD as part of the

application for mortgage insurance, in accordance with § 203.255(b).

(2) *Re-sales occurring 90 days or less following acquisition.* If the re-sale date is 90 days or less following the date of acquisition by the seller, the property is not eligible for a mortgage to be insured by FHA.

(3) *Re-sales occurring between 91 days and 180 days following acquisition.* (i) If the re-sale date is between 91 days and 180 days following acquisition by the seller, the property is generally eligible for a mortgage insured by FHA.

(ii) However, HUD will require that the mortgagee obtain additional documentation if the re-sale price is 100 percent over the purchase price. Such documentation must include an appraisal from another appraiser. The mortgagee may also document its loan file to support the increased value by establishing that the increased value results from the rehabilitation of the property.

(iii) HUD may revise the level at which additional documentation is required under § 203.37a(b)(3) at 50 to 150 percent over the original purchase price. HUD will revise this level by **Federal Register** notice with a 30 day delayed effective date.

(4) *Authority to address property flipping for re-sales occurring between 91 days and 12 months following acquisition.*

(i) If the re-sale date is more than 90 days after the date of acquisition by the seller, but before the end of the twelfth month after the date of acquisition, the property is eligible for a mortgage to be insured by FHA.

(ii) However, HUD may require that the lender provide additional documentation to support the re-sale value of the property if the re-sale price is 5 percent or greater than the lowest sales price of the property during the preceding 12 months (as evidenced by the contract of sale). At HUD's discretion, such documentation must include, but is not limited to, an appraisal from another appraiser. HUD may exclude re-sales of less than a specific dollar amount from the additional value documentation requirements.

(iii) If the additional value documentation supports a value of the property that is more than 5 percent lower than the value supported by the first appraisal, the lower value will be used to calculate the maximum mortgage amount under § 203.18. Otherwise, the value supported by the first appraisal will be used to calculate the maximum mortgage amount.