



February 18, 2016

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**To:** Clients and Friends

**From:** David F. Dulock

**Subject:** Rural Housing Service, USDA, Publishes Final Rule Amending Single Family Housing Guaranteed Loan Program (81 FR 6418)

In the February 8, 2016, issue of the *Federal Register* ([click here](#)) the Rural Housing Service (RHS) issued a final rule amending its December 9, 2013, interim final rule (78 FR 73928) to the Single Family Housing Guaranteed Loan Program (SFHGLP). The February 8, 2016, final rule makes changes to the December 9, 2013, interim final rule in response to public comment and further consideration of certain issues by the RHS to the SFHGLP. The February 8, 2016, final rule becomes effective on March 9, 2016.

The SFHGLP is codified in 7 CFR Part 3555 and the changes to the December 9, 2013, interim final rule made by the February 8, 2016, final rule amend the following sections of Part 3555, as summarized below:

**Subpart A—GENERAL**

**§3555.5 Environmental requirements.** For existing dwellings in a SFHA, paragraphs (d)(5) and (d)(6) are revised to permit private flood insurance policies approved by the lender that meet the requirements of 42 U.S.C. 4012a(b)(1)(A). Lenders remain responsible to ensure a private flood insurance policy meets the requirements of 42 U.S.C. 4012a(b)(1)(A). For new or proposed homes in a SFHFA, paragraph (d)(7) is revised to additionally require that the lender perform an alternatives analysis in compliance with the Agencies National Environmental Policy Act regulation.

**Subpart C—LOAN REQUIREMENTS**

**§3555.101 Loan purposes.** Paragraph (b)(6)(vi) is revised to permit discount points as an eligible loan purpose for moderate-income applicants in addition to low-income applicants.

**§3555.104 Loan terms.** Paragraph (a)(3) is revised to (i) remove language that requires a comparison of the loan's maximum interest rate to Freddie Mac's Required Net Yield (RNY), because Freddie Mac no longer publishes RNY information, and (ii) corrects the reference to the USDA website containing information relevant to the calculation of the maximum interest rate.

**§3555.105 Combination construction and permanent loans.** Paragraph (b)(6) is removed so that contractors and builders of homes financed with guaranteed combination construction and permanent loans will no longer be limited to 25 units per year unless approved by the RHS. Paragraph (c)(1) is revised to remove manufactured homes from the types of homes ineligible for guaranteed combination construction and permanent loans.

**§3555.107 Application for and issuance of the loan guarantee.** Paragraph (h)(7) is revised to prohibit the lender from passing on to the borrower the late charge assessed by the RHS on the lender when the annual fee imposed on the lender by RHS is not paid by the due date.

## Subpart D—UNDERWRITING THE APPLICANT

**§3555.151 Eligibility requirements.** Paragraph (h)(2) is revised to insert the word “waiver” in the second sentence so that it reads “The handbook will define when a debt ratio *waiver* may be granted.” (Emphasis added.) Paragraph (i)(3)(ii) is revised to allow a lender to give favorable consideration to applicants who have entered into a bankruptcy debt restructuring plan and satisfactorily and timely made 12 months of consecutive payments and the trustee or bankruptcy judge approve of the SFHGLP loan for which the applicant is applying.

## Subpart G—SERVICING NON-PERFORMING LOANS

**§3555.301 General servicing techniques.** Paragraphs (e) and (f) are revised to change the phrase “2 months past due” to “60 days past due” for continuity with the CFPB language when referencing the measurement of delinquent past due amounts.

**§3555.303 Traditional servicing options.** Paragraphs (b)(3) and (c) are revised to confirm that the loan modification must be a written agreement, the interest rate must be fixed, the rate of interest cannot exceed the original rate of the loan note guarantee issued, trial payments for traditional loan servicing loan modifications are not required and to extend the loan guarantee to the loan term of the loan modification when the loan modification meets the eligibility criteria set forth in §3555.303(b)(3). *Note: There is a discrepancy between the preamble to revised paragraph (c) and the text of revised paragraph (c). The preamble explanation on page 6425, first column, lines 4 through 10, conditions the loan guarantee extension on the loan modification meeting the eligibility criteria in §3555.303(b)(3); whereas the text of revised paragraph (c) conditions the loan guarantee extension on the loan modification meeting the eligibility criteria in §3555.303(b)(3)(iv). Paragraph (b)(3)(iv) states: “The lender’s lien priority cannot be adversely affected by providing a loan modification.”*

**§3555.304 Special servicing options.** Paragraph (c) is revised by revising the introductory text and (c)(1) and (c)(2). The introductory text is revised to add a provision that the loan guarantee will apply to loan terms extending beyond the 30 year loan term from the date of origination when an extended-term loan modification meets the criteria set forth §3555.304. Paragraph (c)(1) is revised to add provisions that (i) the interest rate on the extended-term loan modification cannot exceed the interest rate of the loan note guarantee issued, and (ii) when reducing the interest rate, the maximum rate is subject to paragraph (c)(2). Paragraph (c)(2) is revised to (i) correct the reference to the USDA website containing the RHS notice of a change in the maximum allowable interest rate, and (ii) if the maximum allowable interest rate has not been so established, correct the date of establishing the maximum allowable interest rate by the secondary method set out in paragraph (c)(2) to the date the extended-term loan modification is approved.

**§3555.306 Liquidation.** Paragraph (c) is revised by deleting the requirement in (c)(2) that the borrower also must have “the ability to continue making scheduled payments on the guaranteed loan” before the lender may reinstate an accelerated loan.

## **EDITORIAL AND TECHNICAL CHANGES.**

The February 8, 2016, final rule also clarifies terminology, provides editorial and technical changes to correct cross-references, punctuation, grammar and spelling, adds omitted language and deletes language, as applicable, to the following Sections in the December 9, 2013, interim final rule: §§ 3555.5(d)(7); 3555.101(b)(6)(x), (xi) and (d)(3)(vi); 3555.103(a); 3555.105(d)(3); 3555.108(d); 3555.151(i)(2); 3555.208(a)(2); 3555.254; 3555.256(b)(2)(vi); 3555.302; 3555.306(f)(1); and 3555.307(c).

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