

CHAPTER 13: SPECIAL PROPERTY TYPES

13.1 INTRODUCTION

This chapter describes the requirements for processing loans for special property situations. Section 1 of this Chapter deals with processing requirements for community land trusts and leasehold estates. Section 2 describes the specific processing requirements for loans made for manufactured homes. Section 3 outlines loan processing requirements for modular housing.

SECTION 1: SPECIAL FORMS OF OWNERSHIP

13.2 OVERVIEW

This section discusses processing requirements for guaranteed loans for dwellings that fall under two types of special ownership: Community land trusts and leasehold estates. Unless otherwise indicated in this section, the same basic requirements for loan guarantee approval discussed elsewhere in this Handbook applies to these loans.

13.3 LOANS FOR UNITS IN A COMMUNITY LAND TRUST [7 CFR 3555.206]

Loans to finance the purchase of dwellings located on land owned by a community land trust may be guaranteed if the conditions described in this paragraph are met, and if the applicant and the property otherwise meet the requirements outlined in this Handbook.

A. Definition

A community land trust is defined as a private nonprofit community housing development organization that owns and leases land at affordable prices. A community land trust sells the property improvements (i.e., buildings, streets, sewers) that normally increase the land's value, but leases the land under a long-term ground lease to low- and moderate-income households. The organization must:

- Be organized under State or local laws.
- Have no part of its net earnings benefiting any member, founder, contributor, or individual.
- Comply with financial accountability.

- Maintain, through significant representation on the organization’s governing board, accountability to low-income community residents regarding decisions on the design, siting, development, and management of affordable housing.
- Have its corporate membership open to any adult resident of a geographic area specified in the by-laws of the organization.
- Be established to carry out all the following activities:
 - Acquire parcels of land, held in perpetuity, primarily for conveyance under long-term ground leases.
 - Transfer ownership of any structural improvements located on such leased parcels to the lessees.
 - Retain a pre-emptive option to purchase any such structural improvements at a price determined by a formula that is designed to ensure that the improvement remains affordable to low- and moderate-income people in perpetuity.

The lender must ensure that the lease contains provisions for continued use of the land for low- and moderate-income housing.

- The lender’s mortgage file must contain documentation that the community land trust has received local market acceptance, as evidenced by market acceptance of comparable community land trust projects in the area.
- The lender must verify that the community land trust has broad-based community representation, and that the Community Land Trust has a two-year record of providing affordable housing.

B. Protection of Lender Rights and Lien Position

The relevant legal documents must contain language that ensures that all restrictions relating to community land trusts will automatically and permanently terminate upon foreclosure or lender acceptance of a deed in lieu of foreclosure. Language that merely subordinates the restrictions to the mortgage is not sufficient. The restrictions also cannot be forced upon subsequent purchasers following resale by the lender.

C. Restrictions on Resale Price

Restrictions on the limits to the resale price of the property or recapture of equity are permitted. A maximum sales price may be imposed or the sales proceeds due the

borrower may be limited, with any excess payable to a governmental body or nonprofit organization for reuse in the community land trust. When such restrictions apply, the requirements listed below must be met.

- The borrower must be permitted to recover at least the original purchase price, sales commission, and cost of capital improvements when the borrower sells the property.
 - If the program permits the borrower to sell the property at market value but recaptures part of the equity, the Agency considers a reasonable share of appreciation to be at least 50 percent. The Agency does not object to situations whereby the borrower's share of appreciation is on a sliding scale beginning at zero, provided that within two years the homeowner would be permitted to retain 50 percent of the appreciation.
 - The borrower must be permitted to recover a reasonable amount of appreciation as determined by the lender. Appreciation is measured by the difference between the original purchase price and the actual price at which the property is resold.
 - If the program sets a maximum sales price restriction, the borrower must be permitted to retain 100 percent of the appreciation.

D. Right of First Refusal

One method to ensure that housing remains part of an affordable housing program is for the community land trust to hold a “right of first refusal” or an “option right” that can be exercised when the borrower proposes to sell the home to a purchaser not eligible for the program benefits. Such a provision is permitted if all the requirements listed below are met.

- The rights must be held only by a governmental body or eligible nonprofit organization and exercised by them or someone they have identified as an eligible purchaser.
- Any right must be exercised within 45 days after the holder of these rights may exercise them (for example, the rights are often triggered by a notice of sale from the borrower).
- Any option price must allow the borrowers to recover their investments plus reasonable shares of appreciation.

E. Appraisals

A property located on a site owned by a community land trust must be appraised as a leasehold interest.

13.4 LOANS ON LEASEHOLD ESTATES [7 CFR 3555.203(b)]

Loans to finance the purchase of dwellings located on leasehold estate may be guaranteed if the conditions described in this paragraph are met, and the applicant and the property otherwise meet the requirements outlined in this Handbook.

A. Definition

A leasehold estate is the right to use and occupy real estate for a stated term and under certain conditions that have been conveyed by a lease. In most cases, improvements to real estate are purchased in fee simple, subject to ground rent. Rent is paid for the right to use and occupy the land.

The lender's mortgage file must have documentation indicating that the appropriate legal documents have been reviewed for compliance with Agency regulations.

B. Lease Requirements

Mortgages subject to leasehold estates must meet the following conditions:

- The mortgage must cover both property improvements and the leasehold interest in the land.
- The leasehold estate must constitute real property, be subject to the mortgage lien, and be insured by a title policy.
- The estate's term runs fifteen or more years beyond the maturity date of the loan closing, except in the case of properties located on American Indian restricted land where the lease must have an unexpired term at least equal to the term of the loan. Leases on American Indian land for a period of 25 years which are renewable for a second 25 years are permissible.
- The leasehold estate must be assignable or transferable.
- The lease cannot be terminated except for nonpayment of lease rents.

The lease must:

- Provide for lender notification of any default by the borrower and the option to cure the default.
- Provide that the borrower will pay taxes, insurance, and association dues on the land and retain voting rights in the association.
- Provide that the leasehold can be transferred, mortgaged, and sublet without restriction.
- State rental increases in exact dollar amounts.
- Be recorded and constitute an interest in real estate.
- Permit mortgaging of the leasehold.
- Provide for written notice of default.
- Provide renewal options for the leasehold mortgagee.

SECTION 2: MANUFACTURED HOMES

[7 CFR 3555.208]

13.5 DEFINITION

Manufactured homes are single-or multi-width units constructed partially off-site and transported to a site to be completed and anchored to a permanent foundation. Manufactured homes are structures built to the Federal Manufactured Home Construction and Safety Standards (FMHCSS) and are not the same as a modular home.

Unless, otherwise specified in this section, the guidelines and procedures outlined in Chapters 6 and 12 for new construction should be followed.

13.6 AUTHORIZED LOAN PURPOSES

The following are eligible loan purposes for the financing of manufactured homes:

- Site development work that conforms to the standards imposed by the state and local government.
- Purchase of an eligible new unit, transportation, and set-up costs. The following criteria outlines an eligible manufactured unit for guarantee with the SFHGLP:
 - Must be a new unit in stock that has never been installed or occupied at any other site or location. Manufactured units may be moved only from the manufacturers or dealer's lot to the site on which the unit will be financed.
 - Must have a floor area of not less than 400 square feet.
 - Must be placed on a permanent foundation built to FHA guidelines in effect at the time of certification. Guidelines are presently published in the "Permanent Foundation Guide for Manufactured Housing" (HUD-4930.3G) which is found at <http://www.huduser.org/portal/publications/destech/permfound.html>.
 - Meet or exceed the Federal Manufactured Home Construction and Safety Standard (FMHCSS) Uo Value Zone for the geographic area the unit will be placed. The Uo Value Zone will be indicated on the Comfort Heating and Cooling Certificate. Builder must certify thermal requirements at time of purchase have been met.

- Financing of an existing unit due to a transfer of an existing Section 502 Direct or Guarantee loan or purchase of a Real Estate Owned (REO) property. Repairs associated with these transactions may be included.

13.7 LOAN RESTRICTIONS

The Agency will not guarantee loans to finance the following:

- The purchase of a unit without an eligible site.
- Repairs not associated with a transfer, Real Estate Owned (REO) sale, or unit that is already financed with a Section 502 loan.
- Furniture, including movable articles of personal property such as drapes, beds, bedding, chairs, sofas, divans, lamps, tables, televisions, radios, stereo sets, and other similar items of personal property. Furniture does not include wall-to-wall carpeting, refrigerators, ovens, ranges, washing machines, clothes dryers, heating or cooling equipment, or other similar equipment.
- Additions and modifications on new or existing units are prohibited except for porches, decks, or other structures built to engineered designs and inspected and approved by a local building code official.
- Purchase of a unit to be moved from a site other than the manufacturer/dealer lot to the site securing the mortgage loan.
- Manufactured home units with a manufacture date exceeding 12 months of the purchase agreement contract.
- A unit with a tow hitch or running gear remaining.

13.8 CONSTRUCTION AND SITE REQUIREMENTS

The borrower will contract with a licensed manufactured dealer. Manufactured homes must meet the site and other requirements for new dwellings in accordance with Chapter 12 of this Handbook. The lender's permanent file must contain the following:

- An itemized cost breakdown of the total package, including the base unit, eligible options, site development, installation, set-up, lot costs, and any credit for wheels and axles.
- Dealer certification that any cash payment or rebate as a result of the purchase will be deducted from the price of the unit and not paid directly to the applicant.
- Dealer certification that proposed cost is the full price of the unit. If furniture is being purchased by the applicant with personal funds, a lien will not be filed against the security property.
- Foundation plan designed to meet the HUD Handbook 4960.3 "Permanent Foundations Guide for Manufactured Housing, (PFGMH) guidelines. The PFGMH guide is available at:
<http://www.huduser.org/portal/publications/destech/permfound.html>.
- Plot and site development plans.
- Inspections in accordance with Chapter 12 of this Handbook.
- Contractor certification that multi-sectioned units were properly joined and sealed according to the manufacturer's specifications and the home sustained no damage during transportation and set-up.

13.9 LOAN CLOSING FOR MANUFACTURED HOUSING

Loan closing procedures are the same whether the guarantee is made for the purchase of a manufactured home or another type of single-family home. However, the lender should be aware of the following requirements.

A. Warranty Requirement

A dealer must provide the borrower with a copy of all manufacturer warranties. The warranty must identify the unit by serial number. A copy of all warranties and certifications will be retained in the lender's permanent file.

B. Certification Requirements

Lenders may utilize Attachment 13-A to document manufactured dealer certifications required of this Chapter and Attachment 13-B to document contractor certifications required of this Chapter.

C. Lien Release Requirements

The dealer must furnish a manufacturer's certificate of origin indicating that the unit is free and clear of all legal encumbrances. A copy of the manufacturer's statement or certificate of origin will be retained in the lender's mortgage file.

D. Real Estate Tax Requirement

As required by the local taxing authority, the unit and site must be classified, zoned, and taxed as real estate. Certificate of title to the manufactured home must be surrendered to the appropriate state government authority, if state law permits.

E. Title and Lien Requirements

Both the unit and the site must be evidenced by a recorded mortgage or deed of trust. A combination of a chattel and real estate mortgage is not acceptable. If the certificate of title cannot be surrendered, the lender must indicate its lien on the certificate of title.

SECTION 3: MODULAR HOMES

Modular homes are sectional prefabricated houses that consist of multiple modules or sections which are typically manufactured in a remote facility and delivered to their site of intended use. They differ from manufactured homes largely in their absence of axles or frame. Modular dwellings are commonly transported to their site by means of flat-bed trucks and set in place with the assistance of a crane. Modular homes are considered stick-built homes; therefore, the guidance outlined in Chapter 12 of this Handbook will be followed for new and existing modular homes.

ATTACHMENT 13-A

Dealer Certification – New Manufactured Home

Name(s) of Purchaser/Owner:	Manufactured Home Dealer Name, Address and Telephone:
Property Address:	
Manufacturer, model, data plates of unit purchased:	

The undersigned hereby certifies:

- that any cash payment or rebate as a result of the purchase of the manufactured unit identified has been deducted from the price of the unit and was not paid to the identified purchaser/applicant.
- The proposed cost of the identified unit represents the full price of the unit, excluding any purchase with personal funds by the purchaser for furniture.
- If furniture was purchased in conjunction with this transaction, we certify a lien will not be filed against the security property.
- Thermal requirements in effect at the time of purchase have been met.

Signature:	
Title:	Date:

ATTACHMENT 13-B
Certification of Builder/Contractor

Name(s) of Purchaser/Owner:	Builder/Contractor's Name, Address and Telephone:
Property Address:	
Manufacturer, model, data plates of unit purchased:	

The undersigned hereby warrants:

- The manufactured unit identified has been erected on the subject identified property.
- The property development complies with construction plans.
- The unit, if manufactured in separate sections were properly joined and sealed according to the manufacturer's specifications.
- The manufactured home sustained no hidden damage during transportation and erection.

Signature:	
Title:	Date: