



June 19, 2009

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW
Room 10276
Washington, DC 20410-0500

Submitted via www.regulations.gov

RE: Docket No. FR-5319-N-01

**Federal Housing Administration (FHA) Title I Manufactured Home Loan Program:
Notification of Availability of Program Reform Implementation and Request for Comments**

CFED, the Corporation for Enterprise Development, is pleased to submit comments on the Federal Housing Administration (FHA) Title I Manufactured Home Loan Program. We recognize the importance this program plays in providing affordable and responsible homeownership opportunities to low-income Americans.

CFED is a national nonprofit dedicated to expanding economic opportunities for all Americans. Innovations in Manufactured Homes (I'M HOME) is a CFED initiative that works to make sure that families who choose manufactured homes receive the same financial and tax treatment as owners of any other type of home. I'M HOME works to address lingering problems in the manufactured housing industry, as well as to expand the supply of good-quality, affordable housing. Our network of 35 local and regional nonprofits represents urban and rural areas nationwide.

Manufactured housing represents the greatest share of unsubsidized affordable housing in the nation. Most manufactured homes are located in rural areas and are occupied by low-income owners, rather than renters. According to the Government Accountability Office (GAO), manufactured homes offer an affordable housing option to 17 million Americans and are an economical and viable path to homeownership for many low-income individuals and families.

CFED's comments on the FHA Title I Program focus on the following key changes to Title I of the National Housing Act relating to the Manufactured Home Loan program: Loan Limits Increased,

Annual Indexing to Allow for Future Increases, Underwriting Criteria Revised and Three-year Leasehold Agreement Required. CFED also submits suggestions and an offer to collaborate on the development of an FHA Title I Manufactured Home Loan Handbook.

I. Increased Loan Limits and Indexing for Adjustments

CFED supports the proposed increase in loan limits and related indexing for adjustments. Even before the economic crisis, there has been a downward trend in manufactured home sales volume. One likely cause is the reduction in financing available for manufactured home loans due to consolidation in the industry. This significant drop in volume is a symptom of bigger problems in the manufactured housing financing framework. This industry has not developed underwriting guidelines and loan products that adequately assess the true value and risk of manufactured homes. As such, manufactured home buyers face higher pricing than buyers of site-built homes, though the owner of a manufactured home has a median income less than half that of all U.S. homeowners. We hope that by increasing loan values and indexing them for adjustments, more lenders will enter this market as the nation's economy improves.

II. Underwriting Criteria

In the United States GAO Report to Congressional Requesters, Federal Housing Administration *Agency Should Assess the Effects of Proposed Changes to the Manufactured Home Loan Program* dated August 2007 (GAO-07-879), the GAO recommended that the agency "develop detailed proposed changes to its underwriting requirements that account for unique attributes of manufactured housing and the characteristics of FHA's targeted borrower population."

Some of the "unique attributes" being referred to is that rents can be increased indefinitely and with short notice, communities can be closed, community infrastructure can be neglected, rules enforcement can be spotty, if at all, and many homes can be used as transient rental units. All these factors have a direct effect on home values for home owners and adequacy of collateral value for lenders.

In order to meet this recommendation, we support loan products that close the gap between site-built and manufactured home financing, including non-predatory loan terms and underwriting that is safe, sound, reasonable and relevant. The truth is that manufactured housing represents responsible homeownership: it is cost effective and energy efficient. Loan products that address this market gap can be applied in a safe, sound and responsible way that offers reasonable flexibility while not layering excess risk. Specifically, we recommend consideration of the following factors as you revise underwriting guidelines:

Specific suggestions for underwriting criteria that protect land tenure security include:

- A. Long-term land tenure: Either a long-term lease (one that exceeds the mortgage terms at minimum), a lease with a provision of notice (at least 60 days) with opportunity for purchase or a proprietary lease from a homeowner cooperative or other ownership entity. We caution HUD not to define such an entity using the IRC sec. 216 definition, which would exclude

- manufactured housing communities where the “cooperative corporation” leases the homesite, but directly owns the home itself;
- B. Rent controls: Rent caps or adjustments over the life of the lease must be specifically managed in the lease terms and indexed, with pass-through allowed for direct expenses related to utilities and/or real estate taxes;
 - C. Prior project review to assure quality community infrastructure, maintenance and management; and
 - D. Right to sell the home in-place at a market rate: The right of the homeowner or lender to sell the home in-place to a third party at market price (rather than being required to sell the home back to the community owner for a fixed price) must be assured in the lease and community rules.

III. Leasehold Requirements for Manufactured Homes

We applaud the recognition of the importance of land tenure security with FHA’s requirement of a minimum three-year lease, renewable upon expiration and 180 day notice prior to community closure. Land tenure security protects homeowners, lenders and the FHA insurance pool. For a detailed discussion on how land tenure security protects affordability and home values, please read the *Protecting Fundamental Freedoms in Communities* resource guide, available at www.cfed.org/go/mhtoolkit. Key points of this guide include:

- A. Manufactured homes represent a pathway to affordable homeownership for millions of Americans, but their ability to be an investment or wealth-building vehicle remains tenuous in many states, largely due to lack of land tenure security.
- B. The precarious status of a manufactured home on rented land can turn it into a financial disaster instead of an asset. Resident ownership of communities is one of the most effective strategies for helping low-income homeowners build assets.
- C. Land tenure security is essential if residents of manufactured home communities are to have the opportunity to buy their communities. In order to pursue resident ownership, residents must be free to meet, to go door-to-door within the community, to form homeowner associations and to advocate for policies that promote resident ownership, without fearing eviction or other retaliation for these activities.

While we appreciate the recognition placed on land tenure security through the leasehold requirement in the revised program, we encourage the FHA to consider expansion of such safeguards to include:

- A. **Protection of homeowner interests:** The Title I Manufactured Home Loan Handbook should include:
 1. Protections for the residents’ freedom of association and freedom of speech;
 2. Prohibitions against retaliation and requirements for good cause for evictions;
 3. Grace periods for rent payments and the right to cure;
 4. Provision of timely notice of sale for existing owners;
 5. Opportunity to purchase community by homeowners;

6. Prohibitions on arbitrary restrictions on homeowner sale of the home; and
 7. Resident ownership or long-term leases that offer certainty and security (at least five years beyond the mortgage term). An alternative is a lease with advance notice provision and right of first refusal.
- B. **Protection of lender interests:** Loan terms that protect the position of a secured lender also benefit homeowners by encouraging conventional financing in land-lease communities. Best practices that protect the position of a secured lender include:
1. **Requiring notice to the lender and right to cure upon default on the ground lease:** Just as traditional mortgage lenders pay tax or insurance charges to protect their investment, lenders for homes on leased land also need protections, such as notice when a homeowner is dangerously close to eviction, so that the lender may intercede to protect its holding.
 2. **Allowing the lender to sell the home on site after foreclosure or repossession:** Lenders benefit from the ability to sell the home on site, primarily to ensure fair market value.

We further believe that FHA should recognize how **resident-owned cooperative communities** offer long-term affordability while providing homeowners with asset-building opportunities. In this scenario, a homeowner owns his or her home and by virtue of holding a share or membership in the corporation or cooperative that owns the land, has a right to a perpetual/proprietary lease of the home site. Community ownership fosters civic engagement and promotes community investments and infrastructure improvements. Homeowners have every incentive to maintain their communities while keeping housing costs low, thus providing lenders with added security. This was a key finding of a 2006 University of New Hampshire's Carsey Institute study, available at http://www.rocusa.org/3B1_carsey_report_3C7A.pdf. Other key findings of the study include:

- A. In New Hampshire, resident ownership has a more than 25-year history and 22% of the state's communities are in resident ownership. Residents who own their manufactured home communities have significant economic advantages over their counterparts in investor-owned communities, as evidenced by higher average home sales prices, faster home sales and access to fixed-rate home financing.
- B. Residents who own their communities consistently perceive greater control over and stability in their lot rents and governance, and worry less about being displaced because of park closure or sale.

IV. Title I Manufactured Home Loan Handbook

As outlined above, we encourage the inclusion of protections of homeowner and lender interests in a Title I Manufactured Home Loan Handbook. Homeowner and consumer protections should be the same regardless if the home is site-built or manufactured; consistency in protections would go a long way in strengthening this sector and promoting responsible lending. These recommendations offer security not only to homeowners and lenders, but also to the FHA insurance pool – they strengthen the entire sector. We welcome the opportunity to provide input on the development of this

Handbook and would be pleased to connect the FHA with nonprofit affordable housing practitioners across the country that have experience with this sector.

The I'M HOME network stands ready to help you develop FHA Title I program reforms that provide opportunities for the low-income individuals and families who own manufactured homes to attain stable and appreciating homeownership. We support modernization of this program and hope to be active partners with the FHA and HUD as you move forward.

Regards,

A handwritten signature in cursive script that reads "Andrea Levere". The signature is written in black ink on a light-colored background.

Andrea Levere
President