

II. ORIGINATION THROUGH POST-CLOSING/ENDORSEMENT

A. Title II Insured Housing Programs Forward Mortgages

1. Origination Processing

restrictions listed above and those in 24 CFR § 203.37a do not apply to a builder selling a newly built house or building a house for a Borrower planning to use FHA-insured financing.

(c) Required Documentation

The Mortgagee must obtain a 12 month chain of title documenting compliance with time restrictions on resales.

(4) Restriction on Investment Properties for Hotel and Transient Use

(a) Standard

The Mortgagee must obtain the Borrower's agreement that Investment Properties using FHA-insured financing will not be used for hotel or transient purposes, or otherwise rented for periods of less than 30 Days.

(b) Required Documentation

The Mortgagee must obtain a completed form HUD-92561, *Borrower's Contract with Respect to Hotel and Transient Use of Property*, for each Mortgage where the Borrower owns:

- more than one Dwelling Unit (two to four); or
- a Single Family dwelling that is one of a group of five or more dwellings within a two block radius.

(5) Mixed Use of Property

Mixed Use refers to a Property suitable for a combination of uses including any of the following: commercial, residential, retail, office or parking space. Mixed Use one- to four-unit Single Family Properties are eligible for FHA insurance, provided:

- a minimum of 51 percent of the entire building square footage is for residential use; and
- the commercial use will not affect the health and safety of the occupants of the residential Property.

(6) Property Assessed Clean Energy (PACE)

Property Assessed Clean Energy (PACE) refers to an alternative means of financing energy and other PACE-allowed improvements to residential properties using financing provided by private enterprises in conjunction with state and local governments. Generally, the repayment of the PACE obligation is collected in the same manner as a special assessment tax is collected by the local government rather than paid directly by the Borrower to the party providing the PACE financing.

Generally, the PACE obligation is also secured in the same manner as a special assessment tax against the property. In the event of a sale, including a foreclosure

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sale, of the property with outstanding PACE financing, the obligation will continue with the property causing the new homeowner to be responsible for the payments on the outstanding PACE amount. In cases of foreclosure, priority collection of delinquent payments for the PACE assessment may be waived or relinquished.

Properties which will remain encumbered with a PACE obligation are eligible for FHA-insured financing provided that the Mortgagee determines that the following requirements have been met:

- under the laws of the state where the Property is located, the PACE obligation is collected and secured by the creditor in the same manner as special assessment taxes against the Property;
- the Property may only become subject to an enforceable claim (i.e., lien) that is superior to the FHA-insured Mortgage for delinquent regularly scheduled PACE special assessment payments. The Property shall not be subject to an enforceable claim (i.e., lien) superior to the FHA-insured Mortgage for the full outstanding PACE obligation at any time (i.e., through acceleration of the full obligation). However, a notice of the lien for the full PACE obligation may be recorded in the land records;
- there are no terms or conditions that limit the transfer of the property to a new homeowner. Legal restrictions on conveyance arising from a PACE obligation that could require consent of a third party before the owner can convey the real property are prohibited, unless such provisions may be terminated at the option of, and with no cost to, the homeowner;
- the existence of a PACE obligation on a Property is readily apparent to Mortgagees, Appraisers, Borrowers and other parties to an FHA-insured Mortgage transaction in the public records and must show the obligation amount, the expiration date and cause of the expiration of the assessment, and in no case may default accelerate the expiration date; and
- in the event of a sale, including a foreclosure sale, of the property with outstanding PACE financing, the obligation will continue with the property causing the new homeowner to be responsible for the payments on the outstanding PACE amount.

(B) Property Types

FHA's programs differ from one another primarily in terms of what types of Properties and financing are eligible. Except as otherwise stated in this *SF Handbook*, FHA's Single Family programs are limited to one- to four-family Properties that are owner-occupied Principal Residences. FHA insures Mortgages on Real Property secured by:

- detached or semi-detached dwellings
- Manufactured Housing
- townhouses or row houses
- individual units within FHA-approved Condominium Projects