

**§ 235.1236**

such period as the Secretary determines to be appropriate.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**§ 235.1236 Recapture of assistance payments.**

The mortgagor shall execute an agreement subordinating the recapture mortgage, if any, to the section 235(r) mortgage. The mortgagor shall also execute a new note for recapture of assistance payments, and amend the recapture mortgage to include in the principal balance the assistance payments made in connection with the mortgage insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**SERVICING RESPONSIBILITIES**

**§ 235.1238 Cross-reference.**

The provisions of subpart G of 24 CFR part 235 shall be applicable to mortgages insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

**PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS**

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AUTHORITY: 12 U.S.C. 1715b and 1715z-1; 42 U.S.C. 3535(d).

SOURCE: 36 FR 24643, Dec. 22, 1971, unless otherwise noted.

**Subpart A—Eligibility Requirements for Mortgage Insurance**

**§ 236.1 Applicability, cross-reference, and savings clause.**

(a) *Applicability.* This section implements the eligibility requirements for mortgage insurance under the Rental and Cooperative Housing For Lower Income Families Program contained in section 236 of the National Housing Act (12 U.S.C. 1701), as amended. The program authorized the Secretary to insure mortgages to support new construction or rehabilitation of real property to be used primarily for residential rental purposes. A moratorium

against issuance of commitments to insure new mortgages under section 236 was imposed January 5, 1973. Section 236(n) prohibits the insurance of mortgages under section 236 after November 30, 1983, except to permit the refinancing of a mortgage insured under section 236, or to finance pursuant to section 236(j)(3), the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under section 236.

(b) The mortgagor must comply with the financial reporting requirements in 24 CFR part 5, subpart H.

(c) *Savings provision.* Any mortgage approved by the Commissioner for insurance pursuant to sections 236(j) or 236(n) of the National Housing Act is governed by subpart A of this part as in effect immediately before May 1, 1996, contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499, and by subparts B through E of this part, except as otherwise provided in this subpart.

[61 FR 14407, Apr. 1, 1996, as amended at 63 FR 46592, Sept. 1, 1998; 65 FR 61074, Oct. 13, 2000]

**§ 236.2 Increased distributions to certain limited distribution mortgagors.**

(a) *Increased distributions.* The Commissioner may permit increased distributions of surplus cash in excess of the amounts otherwise permitted by subpart A of this part to limited distribution mortgagors who participate in a HUD-approved initiative or program to preserve below-market housing stock. The increased distributions will be limited to a maximum amount based on market rents and calculated according to HUD instructions. Funds that the mortgagor is authorized to retain under section 236(g)(2) of the National Housing Act are not considered distributions to the mortgagor.

(b) *Pre-emption.* Any State or local law or regulation that restricts distributions to an amount lower than permitted by subpart A of this part as in effect immediately before May 1, 1996, contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499, or permitted by the Commissioner under this section is preempted to the extent provided by section 524(f) of the Multi-

family Assisted Housing Reform and Affordability Act of 1997.

[65 FR 61074, Oct. 13, 2000]

**§ 236.3 Annual income exclusions.**

The exclusions to annual income described in 24 CFR 5.609(c) apply to those program participants governed by the regulations at subpart A of 24 CFR part 236 in effect immediately before May 1, 1996 (contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499), in lieu of the annual income exclusions described in 236.3(c) (contained in the April 1, 1995 edition of 24 CFR, parts 220 to 499).

[61 FR 54503, Oct. 18, 1996]

**Subpart B—Contract Rights and Obligations for Mortgage Insurance**

**§ 236.251 Cross-reference.**

All of the provisions of subpart B, part 207 of this chapter covering mortgages insured under section 207 of the National Housing Act, apply with full force and effect to mortgages insured under section 236 of the National Housing Act except the following provisions:

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207.252 First, second, and third premiums.

207.252a Premiums—operating loss loans.

207.259 Insurance benefits.

207.262 No vested right in fund.

[37 FR 8664, Apr. 29, 1972, as amended at 42 FR 59675, Nov. 18, 1977]

**§ 236.252 First, second, and third mortgage insurance premiums.**

All of the provisions of § 207.252 of this chapter governing the first, second, and third mortgage insurance premiums shall apply to mortgages insured under this subpart, except:

(a) Where an application for a loan under section 202 of the Housing Act of 1959 has been filed previously in connection with the project, but it is being financed with a mortgage insured under this part because funds are not available to make the section 202 loan, the mortgage insurance premium due and payable between the dates of initial and final insurance endorsement shall be at the rate of one-fourth of one