

Office of Assistant Secretary for Housing, HUD

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provide to HUD and the mortgagee, promptly upon request, such additional information relating to any of the foregoing as HUD or the mortgagee may request. The receipt by HUD and/or the mortgagee of notices, reports, surveys, correspondence, and other information shall not in any way impose any obligation or liability on HUD, the mortgagee, or their respective agents, representatives, or designees to take (or refrain from taking) any action; and HUD, the mortgagee, and their respective agents, representatives, and designees shall have no liability for any failure to act thereon or as a result thereof.

(2) The operator shall provide additional and ongoing information as requested by the borrower, mortgagee, or HUD pertaining to matters related to that risk. Controlling documents between or among any of the parties may provide further requirements with respect to such notification and communication.

(b) This section is applicable to all operators as of October 9, 2012.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

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- 234.800 Cross-reference.

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

SOURCE: 36 FR 24628, Dec. 22, 1971, unless otherwise noted.

Subpart A—Eligibility Requirements—Individually Owned Units

SOURCE: 61 FR 60161, Nov. 26, 1996, unless otherwise noted.

§ 234.1 Cross-reference.

(a) All of the provisions of subpart A of part 203 of this chapter concerning eligibility requirements of mortgages covering one- to four-family dwellings under section 203 of the National Housing Act (12 U.S.C. 1709) apply to mortgages on individually owned units insured under section 234 of the National Housing Act (12 U.S.C. 1715y), except the following provisions:

- Sec.
- 203.12 Mortgage insurance on proposed or new construction.
- 203.14 Builders' warranty.
- 203.18a Solar energy system.
- 203.18c One-time or up-front mortgage insurance premium excluded from limitations on maximum mortgage amounts.
- 203.38 Location of dwelling.
- 203.42 Rental properties.
- 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.
- 203.43d Eligibility of mortgages in certain communities.

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(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Direct endorsement.* Requirements for the direct endorsement program are set forth in § 203.258(f) of this chapter.

(f) *Substitute mortgagor* is defined in § 203.258(f) of this chapter.

[55 FR 34814, Aug. 24, 1990, as amended at 57 FR 38352, Dec. 9, 1992; 61 FR 60163, Nov. 26, 1996]

§ 234.259 Claim procedure—graduated payment mortgages.

Section 203.436 of this chapter applies to mortgages under this subpart.

[61 FR 60163, Nov. 26, 1996]

§ 234.260 Assignment of mortgage and certificate by mortgagee.

In addition to the requirements of §§ 203.350 through 203.353 incorporated by reference, the mortgagee shall certify as to any changes in the plan of apartment ownership including the administration of the property. Any changes shall require FHA approval.

[36 FR 24628, Dec. 21, 1971, as amended at 42 FR 29305, June 8, 1977]

§ 234.262 Exception to deed in lieu of foreclosure.

All of the provisions of § 203.357 of this chapter relating to acceptance of a deed in lieu of foreclosure shall apply to mortgages insured under this part only if the mortgagee establishes to the satisfaction of the Commissioner that there are no unpaid assessments owed the Association or Cooperative of Owners.

§ 234.265 Contents of deed and supporting documents.

In addition to the requirements of § 203.367, incorporated by reference, the deed shall comply with the plan of apartment ownership. Any changes therein, including the administration

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of the property, shall require FHA approval.

§ 234.270 Condition of the multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Commissioner, the family unit and the common areas and facilities designated for the particular unit shall be undamaged by fire, flood, earthquake, tornado, or boiler explosion, or, as to mortgages insured on or after January 1, 1977, due to failure of the mortgagee to take action as required by § 203.377. If the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Commissioner.

(2) If the prior approval of the Commissioner is obtained, the damaged property may be conveyed or the mortgage assigned to the Secretary without repairing the damage. In such instances, the Commissioner shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever is the greater.

(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Commissioner without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions are met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance shall have been later cancelled or renewal shall have been refused by the insuring company.

(3) The mortgagee shall have notified the Commissioner within 30 days (or within such further time as the Commissioner may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were made, but it was unable to obtain fire insurance coverage at reasonably competitive rates

and that it will continue its efforts to obtain adequate fire insurance coverage at competitive rates, including coverage under the FAIR Plan. A *reasonable rate* is a rate not more than 25 percent in excess of the rate or the advisory rate filed or used by the principal rating organization doing business in the state. If the property is located in a state which has no rate or advisory rate as provided in the preceding sentence, the mortgagee shall consult the Director of the local HUD office as to a reasonable rate. When hazard insurance coverage cannot be obtained in an amount equal to the unpaid principal balance of the loan but insurance can be obtained in a reduced amount from a FAIR Plan or another insurance carrier, the Secretary will accept the reduced coverage without reduction of mortgage, insurance benefits, if the rates do not exceed the guidelines stated herein. If coverage in any amount is only available at rates in excess of a reasonable rate as defined herein, the mortgagor may but shall not be required to purchase such coverage. If coverage is purchased, the amount of any claim for insurance benefits under this part shall be reduced by the amount of any recovery of hazard insurance benefits by the mortgagee.

(c) The provisions in paragraph (b) of this section shall be applicable with respect to the insurance of all mortgages whether insured prior to May 8, 1968, or insured on or after such date.

(d) The mortgagee shall not be liable for damage to the property by waste in connection with mortgage insurance claims paid on or after July 2, 1968. However, the mortgagee shall be responsible for damage to or destruction of security properties on which the loans are in default and which properties are vacant or abandoned due to the mortgagee's failure to take reasonable action to inspect, protect and preserve such properties as required by § 203.377, as to all mortgages insured on or after June 8, 1977, but such responsibility shall not exceed the amount of its insurance claim as to a particular property.

[36 FR 24628, Dec. 22, 1971, as amended at 42 FR 29305, June 8, 1977]

§ 234.273 Assessment of taxes.

When a family unit is conveyed to the Commissioner or a mortgage is assigned to the Commissioner, the unit shall be assessed and subject to assessment for taxes pertaining only to that unit.

§ 234.274 Certificate of tax assessment.

The mortgagee shall certify, as of the date of filing for record of the deed or assignment of the mortgage to the Commissioner, that the family unit is assessed and subject to assessment for taxes pertaining only to that unit.

§ 234.275 Certificate or statement of condition.

The mortgagee shall either certify that as of the date of the filing of deed for record, or assignment of the mortgage to the Secretary, the property was (a) undamaged by fire, flood, earthquake, tornado or boiler explosion, and (b) as to mortgages insured or for which commitments to insure are issued on or after June 8, 1977, undamaged due to failure of the mortgagee to take action as required by § 203.377, or its claim shall be accompanied by a statement describing any such damage that may still exist together with a copy of the Secretary's authorization to convey the property in damaged condition. In the absence of evidence to the contrary, the mortgagee's certificate or its statement as to damage shall be accepted by the Secretary as establishing the condition of the family unit and the common areas and facilities designated for the particular unit.

[42 FR 29305, June 8, 1977]

§ 234.280 Cancellation of hazard insurance.

The provisions of § 203.382 incorporated by reference shall apply to hazard insurance policies carried solely for the family unit.

§ 234.285 Waived title objections.

The Commissioner shall not object to title by reason of the following matters:

(a) Violations of a restriction based on race, color or creed, even where such restriction provides for a penalty

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of reversion or forfeiture of title or a lien for liquidated damage.

(b) Easements for public utilities along one or more of the property lines, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property.

(c) Encroachment on the subject property by improvements on adjoining property, provided such encroachments do not interfere with the use of any improvements on the subject property.

(d) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property.

(e) Customary building or use restrictions for breach of which there is no reversion and which have not been violated to a material extent.

(f) Federal tax liens and rights of redemption arising therefrom if the following conditions are observed. If the mortgagee acquires the property by foreclosure the mortgagee shall give notice to the Internal Revenue Service (IRS) of the foreclosure action. The Commissioner will not object to an outstanding right of redemption in IRS if: (1) The Federal tax lien was perfected subsequent to the date of the mortgage lien, and (2) the mortgagee has bid an amount sufficient to make the mortgagee whole if the property is in fact redeemed by the IRS.

[36 FR 24628, Dec. 22, 1971, as amended at 42 FR 29305, June 8, 1977]

Subpart C—Eligibility Requirements—Projects—Conversion Individual Sales Units

§ 234.501 Eligibility requirements.

The requirements set forth in 24 CFR part 200, subpart A, apply to blanket mortgages on condominium projects insured under section 234 of the National Housing Act (12 U.S.C. 1715y), as amended.

[61 FR 14406, Apr. 1, 1996]

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Subpart D—Contract Rights and Obligations—Projects

§ 234.751 Cross-reference.

(a) All of the provisions, except § 207.258(b) of subpart B of this chapter, covering mortgages insured under section 207 of the National Housing Act shall apply to mortgages insured under section 234(d) of such Act.

(b) For the purposes of this subpart, all references in part 207 of this chapter to section 207 of the National Housing Act shall be construed to refer to section 234(d) of the act.

[36 FR 24628, Dec. 22, 1971, as amended at 50 FR 38787, Sept. 25, 1985]

Subpart E—Servicing Responsibilities—Individually Owned Units

§ 234.800 Cross-reference.

All of the provisions of subpart C, part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to mortgages insured under section 234(c) of the National Housing Act.

[42 FR 29306, June 8, 1977]

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

Subpart A—Eligibility Requirements for Mortgage Insurance

- Sec.
- 236.1 Applicability, cross-reference and savings clause.
- 236.2 Increased distributions to certain limited distribution mortgagors.
- 236.3 Annual income exclusions.
- 236.60 Excess income.

Subpart B—Contract Rights and Obligations for Mortgage Insurance

- 236.251 Cross-reference.
- 236.252 First, second, and third mortgage insurance premiums.
- 236.253 Premiums—operating loss loans.
- 236.254 Termination of mortgage insurance.
- 236.255 Forbearance relief.
- 236.260 Request by Commissioner for assignment of mortgage.
- 236.265 Payment of insurance benefits.