

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 200, 207, 213, 215, 219, 220, 221, 222, 231, 232, 233, 234, 236, 237, 241, 242, 244, 248, 265, and 267

[Docket No. FR-3966-F-01]

RIN 2502-AG58

Office of the Assistant Secretary for Housing—Federal Housing Commissioner; Streamlining of the FHA Single Family Housing, and Multifamily Housing and Health Care Facility Mortgage Insurance Programs Regulations

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule amends HUD's regulations for certain of the FHA Single Family Housing, Multifamily Housing, and Health Care Facility Mortgage Insurance Programs. In an effort to comply with the President's regulatory reform initiatives, this rule will streamline certain Single Family Housing, and Multifamily Mortgage Insurance Program regulations by eliminating regulatory provisions that are redundant of statutes, are obsolete, or are otherwise unnecessary.

EFFECTIVE DATE: May 1, 1996.

FOR FURTHER INFORMATION CONTACT: Eliot Horowitz, Office of Housing, Development of Housing and Urban Development, Room 9110, 451 Seventh Street SW., Washington, DC 20410, telephone number (202) 708-0579 (this not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD conducted a page-by-page review of its regulations to determine which regulations could be eliminated, consolidated, or otherwise improved. HUD has determined that the regulations for certain of the FHA programs can be improved and streamlined by eliminating obsolete and unnecessary provisions, and by consolidating provisions that are repeated throughout several of the FHA program regulations.

Several provisions in the regulations repeat statutory language from the National Housing Act, as amended. It is unnecessary to maintain statutory

requirements in the Code of Federal Regulations (CFR), since those requirements are otherwise fully binding. Furthermore, if regulations merely repeat statutory language, HUD must amend the regulations whenever Congress amends the statute. Therefore, this final rule will remove repetitious statutory language and replace it with a citation to the specific statutory section for easy reference.

Several other provisions in the regulations apply to more than one program, and therefore HUD repeated these provisions in different subparts. This repetition is unnecessary, and updating these scattered provisions is cumbersome and often creates confusion. Therefore, this final rule will consolidate these duplicative provisions, maintaining appropriate cross-references for the reader's convenience.

Some provisions in the regulations are now obsolete and these will be removed.

Lastly, some provisions in the regulations are not regulatory requirements. For example, several sections in the regulations contain nonbinding guidance or explanations. While this information is very helpful to recipients, HUD will more appropriately provide this information through handbook guidance or other materials rather than maintain it in the CFR.

Specifically, the following changes are made by this rulemaking:

Part 200, Subpart A. Part 200 is amended to include a new subpart A that will consolidate those requirements that are common to all of HUD's Multifamily and Hospital Mortgage Insurance Programs.

Part 200, Regulatory Provisions Concerning Multifamily Processing Fees. Certain provisions pertaining to multifamily processing fees, § 200.40 (HUD fees) and § 200.45 (Processing of applications), are set forth in a final rule published elsewhere in today's Federal Register.

Part 200, Subpart E. Part 200 is also amended to make the following changes to subpart E.

Sections 200.140-200.152 concerning underwriting requirements are not needed in this general part, except for § 200.145(c)(1). The provisions being removed are either obsolete or better addressed in program-specific regulations. Section 200.145(c)(1) is retained in modified form. Section 200.145 provides that HUD's underwriting requirement for an appraisal and inspection, including environmental, in no way constitutes a guarantee by HUD as to the value or condition of the property.

Section 200.153 pertaining to presentation of claim is revised to remove obsolete reference to location of claim application forms and to update the reference to what may occasion a claim, since certain types of claims are occasioned by events other than the borrower's default.

Section 200.154 pertaining to notice of default is removed because requirements for notifying HUD of a default are more appropriately covered in the program-specific parts; for example, see §§ 203.332 and 207.256.

Section 200.155 pertaining to claim requirements is removed because there is no one general rule; program-specific parts cover these requirements. (See §§ 203.350 and following of the Single Family Mortgage Insurance Program regulations and §§ 207.258 and 207.259 for Multifamily Mortgage Insurance Program regulations.)

Section 200.156 pertaining to settlement of claims is revised to remove unnecessary detail and to retain only the appropriate general language. In addition, a provision is added to address the infrequent claims in negative amounts and to provide that the mortgagee may settle a claim in a negative amount by payment of cash or surrender of debentures, just as mortgagees may pay mortgage insurance premiums in cash or debentures (see §§ 203.259 and 207.252(f)).

Sections 200.157-200.162 are retained without revision because they contain necessary general information not contained elsewhere.

Part 200, Subpart K. Part 200 is also amended to remove subpart K. Subpart K, which pertains to Correction of Structural Defects, contains provisions that are outdated and no longer in use. Subpart K also contains non-binding guidance that is more appropriately provided through means other than codification in the CFR, which would allow HUD to more easily update and keep this information current.

Part 207 is amended by revising subpart A to remove the existing regulatory provisions and to provide for cross-referencing to new subpart A in part 200. New subpart A now contains the eligibility provisions for HUD's Multifamily and Health Care Facility Mortgage Insurance Program. Part 207 is also amended by revising subpart B to remove § 207.51 which contains definitions. The definitions are now in new subpart A of part 200. Additionally, subpart B of part 207 is amended to remove the following sections: § 207.254 (Insurance Endorsement), now incorporated in § 200.1; and §§ 207.260 (Protection of Mortgage Security), 207.261 (Assignment of Insured

Mortgages), 207.261a (Actions To Be Taken by Mortgagee), 207.262 (No Vested Right in Fund), and 207.270 (Special Reinsurance Provisions), all of which are now obsolete or provide non-binding guidance that can be provided through more accessible means, such as mortgagee letters.

Part 213. Part 213, which pertains to Cooperative Housing Mortgage Insurance, is amended by revising subpart A to remove the regulatory provisions pertaining to eligibility requirements and to provide a cross-reference to new subpart A in part 200.

Part 215. Part 215 which pertains to the Rent Supplement Payments Program will be removed. New rent supplement contracts are no longer authorized under this program. Reference to the regulations of part 215 and a savings clause will be included in new § 200.1301 of subpart W in part 200. This new section was added by HUD's final rule published on September 11, 1995 (60 FR 47260, see 47262). All of the existing projects and rent supplement contracts will remain subject to the part 215 regulations that were in existence immediately prior to the effective date of this final rule.

Part 219. Part 219 which pertains to HUD's Flexible Subsidy Program will be removed. HUD's Flexible Subsidy is an expiring program. Funding formerly available under the Flexible Subsidy Program is gradually being replaced by comprehensive needs assessment funding. The current regulations merely repeat the statutory requirements and the guidance which is contained in HUD's Handbook applicable to the Flexible Subsidy Program. The existing regulatory provisions in part 219 will be removed and replaced with a savings clause.

Part 220. Part 220, which pertains to Mortgage Insurance and Insured Improvement Loans for Urban Renewal and Concentrated Development Areas, is amended by revising subpart C to remove the regulatory provisions pertaining to eligibility requirements and to provide a cross-reference to new subpart A in part 200.

Part 221. Part 221, which pertains to Low Cost and Moderate Income Mortgage Insurance, is amended by revising subpart C to remove the regulatory provisions pertaining to eligibility requirements for multifamily projects and to provide a cross-reference to new subpart A in part 200.

Part 222. Part 222 which pertains to Servicepersons Mortgage Insurance Program is an expired program. No more mortgages are insured under this program. The part will be removed and a savings clause will be retained.

Part 231. Part 231, which pertains to Housing Mortgage Insurance for the Elderly, is amended by revising subpart A to remove the regulatory provisions pertaining to eligibility requirements and to provide a cross-reference to new subpart A in part 200.

Part 232. Part 232, which pertains to Mortgage Insurance for Nursing Homes, Intermediate Care Facilities and Board and Care Homes, is amended by revising subpart A to remove the regulatory provisions concerning eligibility requirements and to provide a cross-reference to new subpart A in part 200.

Part 233. Part 233 which pertains to Experimental Housing Mortgage Insurance is being amended to remove the outdated cross-references provided in certain of the regulatory sections.

Part 234. Part 234, which pertains to Condominium Ownership Mortgage Insurance, is amended by revising subpart C to remove the regulatory provisions pertaining to eligibility requirements for project blanket mortgages and to provide a cross-reference to new subpart A in part 200. In addition, the reservation of §§ 234.11, 234.12, and 234.13 is removed.

Part 236. Part 236, which pertains to Mortgage Insurance and Interest Reduction Payments for Rental Projects, is amended by revising subpart A to advise that a moratorium against issuance of commitments to insure new mortgages under section 236 was imposed January 5, 1973. Accordingly, the eligibility requirements in subpart A will be removed and replaced by a savings clause.

Part 237. Part 237 which pertains to Special Mortgage Insurance for Low and Moderate Income Families is removed. Reference to the regulations of part 237 and a savings clause will be included in new § 200.1301 of subpart W in part 200.

Part 241. Part 241, which pertains to Supplemental Financing for Insured Project Mortgages, is amended by revising subpart A to remove the regulatory provisions pertaining to eligibility requirements and to provide a cross-reference to new subpart A in part 200.

Part 242. Part 242, which pertains to Mortgage Insurance for Hospitals, is amended by revising subpart A to remove the regulatory provisions pertaining to eligibility requirements and to provide a cross-reference to new subpart A in part 200.

Part 244. Part 244, which pertains to Mortgage Insurance for Group Practice facilities (Title XI), is amended by revising subpart A to remove the regulatory provisions pertaining to eligibility requirements and to provide a

cross-reference to new subpart A in part 200.

Part 248. Part 248 pertaining to Prepayment of Low Income Housing Mortgage is amended by removing § 248.7. This section contains waiver authority which authority for all programs is contained in new part 5.

Part 265. Part 265, which pertains to "Transfer from Nonprofit to Profit-Motivated Ownership for Multifamily Housing Projects with HUD-Insured or HUD-Held Mortgages" is removed. Part 265 does not involve a loan or insurance program. This part merely sets out in the regulation administrative guidelines for the transfer of physical assets from a nonprofit owner to a for-profit owner. These guidelines, which are not regulations, will be made available through means other than the CFR.

Part 267. Part 267, which pertains to Appraisal and Property Valuation, will be removed. The standards and requirements that are applicable to HUD insured single family and multifamily properties are set forth in contracts or handbooks, and need not be repeated in the CFR. However, the nondiscrimination provisions in part 267 which pertain to the selection of the appraiser, and the appraisal of the property will be retained in § 200.35 of part 200.

Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely removes obsolete and unnecessary regulatory provisions, and consolidates repetitive requirements, and does not establish or affect substantive policy. Therefore, prior public comment is unnecessary.

Other Matters

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by

removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). This Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development Room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family*, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or general well-being, and thus is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 213

Cooperatives, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 215

Grant programs—housing and community development, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 219

Loan programs—housing and community development, Low and moderate income housing, Reporting and recordkeeping requirements.

24 CFR Part 220

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 231

Aged, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs—health, Loan programs—housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

24 CFR Part 233

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 236

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 237

Grant programs—housing and community development, Low and moderate income housing, Mortgage insurance.

24 CFR Part 241

Energy conservation, Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 242

Hospitals, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 244

Health facilities, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 248

Intergovernmental relations, Loan programs—housing and community development, Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 265

Mortgage insurance.

24 CFR Part 267

Appraisals, Mortgage insurance, Property valuation, Reporting and recordkeeping requirements.

Accordingly, chapter II of title 24 of the Code of Federal Regulations is amended as follows:

PART 200—INTRODUCTION TO FHA PROGRAMS

1. The authority citation for part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 3535(d).

2. The part heading for part 200 is revised to read as set forth above.

§ 200.1 [Redesignated]

3. Undesignated introductory text is added to part 200 to read as follows:

This part sets forth requirements that are applicable to several of the programs of the Federal Housing Administration, an organizational unit within the Department of Housing and Urban Development. Program requirements applicable to FHA programs and other HUD programs also can be found in 24 CFR part 5. The specific program regulations should be consulted to determine which requirements in this part 200 or 24 CFR part 5 are applicable.

4. Subpart A is added to read as follows:

Subpart A—Requirements For Application, Commitment and Endorsement Generally Applicable to Multifamily and Health Care Facility Mortgage Insurance Programs

Sec.

200.3 Definitions.

Eligible Mortgagor

200.5 Eligible mortgagor.

200.6 Employer identification and social security numbers.

Eligible Mortgagee

200.10 Lender requirements.

200.11 Audit requirements for State and local governments as mortgagees.

Eligible Mortgage

200.15 Maximum mortgage.

200.16 Project mortgage adjustments and reduction.

200.17 Mortgage coverage.

200.18 Minimum loan prohibition.

Miscellaneous Project Mortgage Insurance

200.20 Refinancing insured mortgages.

200.21 Reinsurance of Commissioner held mortgages.

200.22 Operating loss loans.

200.23 Projects in declining neighborhoods.

200.24 Existing projects.

200.25 Supplemental loans.

Miscellaneous Cross Cutting Regulations

200.30 Nondiscrimination and equal opportunity.

200.31 Debarment and suspension.

200.32 Participation and compliance requirements.

200.33 Labor standards.

200.34 Property and mortgage assessment.

200.35 Appraisal standards—nondiscrimination requirements.

Fees and Charges

200.40 HUD fees. [Reserved]

200.41 Maximum mortgagee fees and charges.

Commitment Applications

200.45 Processing of applications. [Reserved]

200.46 Commitment issuance.

200.47 Firm commitments.

Requirements Incident to Insured Advances

200.50 Building loan agreement.

200.51 Mortgagee certificate.

200.52 Construction contract.

200.53 Initial operating funds.

200.54 Project completion funding.

200.55 Financing fees and charges.

200.56 Assurance of completion for on-site improvements.

General Requirements

200.60 Assurance of completion for offsite facilities.

200.61 Title.

200.62 Certifications.

200.63 Required deposits and letters of credit.

Property Requirements

200.70 Location and fee interest.

200.71 Liens.

200.72 Zoning, deed and building restrictions.

200.73 Property development.

200.74 Minimum property standards.

200.75 Environmental quality determinations and standards.

200.76 Smoke detectors.

200.77 Lead-based paint poisoning prevention.

200.78 Energy conservation.

Mortgage Provisions

200.80 Mortgage form.

200.81 Disbursement of mortgage proceeds.

200.82 Maturity.

200.83 Interest rate.

200.84 Payment requirements.

200.85 Covenant against liens.

200.86 Covenant for fire and other hazard insurance.

200.87 Mortgage prepayment.

200.88 Late charge.

Cost Certification

200.95 Certification of cost requirements.

200.96 Certificates of actual cost.

200.97 Adjustments resulting from cost certification.

Endorsement

200.100 Insurance endorsement.

200.101 Mortgagor lien certificate.

Regulation of Mortgagors

200.105 Mortgagor supervision.

200.106 Low-income housing tax credits and other program assistance.

Subpart A—Requirements For Application, Commitment and Endorsement Generally Applicable to Multifamily and Health Care Facility Mortgage Insurance Programs

§ 200.3 Definitions.

(a) The definitions “*Department*”, “*Elderly person*”, “*HUD*”, and “*Secretary*”, as used in this subpart A shall have the meanings given these definitions in 24 CFR part 5.

(b) The terms “*first mortgage*”, “*hospital*”, “*maturity date*”, “*mortgage*”, “*mortgagee*”, and “*state*”, as used in this subpart A shall have the meaning given in the section of the National Housing Act (12 U.S.C. 1701), as amended, under which the project mortgage is insured.

(c) As used in this subpart A: *Act* means the National Housing Act, (12 U.S.C. 1701) as amended.

Commissioner means the Federal Housing Commissioner.

FHA means the Federal Housing Administration.

Insured mortgage means a mortgage which has been insured by the endorsement of the credit instrument by the Commissioner, or the Commissioner’s duly authorized representative.

Project means a property consisting of site, improvements and, where

permitted, equipment meeting the provisions of the applicable section of the Act, other applicable statutes and regulations, and terms, conditions and standards established by the Commissioner.

Eligible Mortgagor

§ 200.5 Eligible mortgagor.

The mortgagor shall be a natural person or entity acceptable to the Commissioner, as limited by the applicable section of the Act, and shall possess the powers necessary and incidental to operating the project.

§ 200.6 Employer identification and social security numbers.

The requirements set forth in 24 CFR part 5, regarding the disclosure and verification of social security numbers and employer identification numbers by applicants and participants in assisted mortgage and loan insurance and related programs, apply to these programs.

Eligible Mortgagee

§ 200.10 Lender requirements.

The requirements set forth in 24 CFR part 202 regarding approval, recertification, withdrawal of approval, termination of approval agreement, approval for servicing, report requirements and conditions for supervised mortgagees, nonsupervised mortgagees, investing mortgagees, governmental institutions, national mortgage associations, public housing agencies and State housing agencies, apply to these programs.

§ 200.11 Audit requirements for State and local governments as mortgagees.

Requirements set forth in 24 CFR part 44, Non-Federal Governmental Audit Requirements, apply to State and local governments (as defined in 24 CFR part 44) that receive mortgage insurance as mortgagees.

Eligible Mortgage

§ 200.15 Maximum mortgage.

Mortgages must not exceed either the statutory dollar amount or loan ratio limitations established by the section of the Act under which the mortgage is insured, except that the Commissioner may increase the dollar amount limitations:

(a) By not to exceed 110 percent in any geographical area in which the Commissioner finds that cost levels so require; and

(b) By not to exceed 140 percent where the Commissioner determines it necessary on a project-by-project basis.

§ 200.16 Project mortgage adjustments and reductions.

The principal amount computed in accordance with the applicable section of the Act for the insured mortgage shall be subject to additional adjustments and reductions in accordance with terms and conditions established by the Commissioner.

§ 200.17 Mortgage coverage.

The mortgage shall cover the entire property included in the project.

§ 200.18 Minimum loan prohibition.

A mortgagee may not require that the mortgage exceed a minimum amount established by the mortgagee, as a condition of providing a loan secured by a mortgage insured under this part.

Miscellaneous Project Mortgage Insurance**§ 200.20 Refinancing insured mortgages.**

An existing insured mortgage may be refinanced pursuant to provisions of section 223(a)(7) of the Act and such terms and conditions established by the Commissioner.

§ 200.21 Reinsurance of Commissioner held mortgages.

Any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired under any section or title of the Act, may be insured pursuant to provisions of section 223(c) of the Act and such terms and conditions established by the Commissioner.

§ 200.22 Operating loss loans.

An insured loan to cover the operating losses of a project with an existing Commissioner insured mortgage may be made in accordance with provisions of section 223(d) of the Act and such terms and conditions established by the Commissioner.

§ 200.23 Projects in declining neighborhoods.

A Mortgage financing the repair, rehabilitation or construction of a project located in an older declining urban area shall be eligible for insurance pursuant to provisions of section 223(e) of the Act and such terms and conditions established by the Commissioner.

§ 200.24 Existing projects.

A mortgage financing the purchase or refinance of an existing rental housing project under section 207 of the Act, or for refinancing the existing debt of an existing nursing home, intermediate care facility, assisted living facility or

board and care home, or any combination thereof, under section 232 of the Act, or hospital under section 242 of the Act may be insured pursuant to provisions of section 223(f) of the Act and such terms and conditions established by the Commissioner.

§ 200.25 Supplemental loans.

A loan, advance of credit or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to a project covered by a mortgage insured under any section of the Act or Commissioner held mortgage, or equipment for a nursing home, intermediate care facility, board and care home, assisted living facility, hospital or group practices facility, may be insured pursuant to the provisions of section 241 of the Act and such terms and conditions established by the Commissioner.

Miscellaneous Cross Cutting Regulations**§ 200.30 Nondiscrimination and equal opportunity.**

The requirements set forth in 24 CFR part 5, and subparts I, J, and M of this part pertaining to nondiscrimination and equal opportunity, apply to these programs.

§ 200.31 Debarment and suspension.

The requirements set forth in 24 CFR part 24, except subpart F, apply to these programs.

§ 200.32 Participation and compliance requirements.

The requirements set forth in 24 CFR part 200, subpart H, apply to these programs.

§ 200.33 Labor standards

(a) The requirements set forth in 29 CFR parts 1, 3 and 5 for compliance with labor standards laws apply to projects under these programs to the extent that labor standards apply as provided in section 212 of the Act, provided that:

(1) The labor standards provisions do not apply to projects insured under sections 207 or 232 pursuant to section 223(f) of the Act; and

(2) Supplemental loans under section 241 of the Act are subject to the provisions of section 212 applicable to the section or title pursuant to which the mortgage covering the project is insured or pursuant to which the original mortgage was insured.

(b) The requirements set forth in 24 CFR part 70 apply to those programs with respect to which there is a statutory provision allowing HUD

waiver of Davis-Bacon prevailing wage rates for volunteers.

(c) Project commitments, contracts and agreements, as determined by the Commissioner, and construction contracts and subcontracts, shall include terms, conditions and standards for compliance with applicable requirements set forth in 29 CFR parts 1, 3 and 5 and section 212 of the Act.

(d) No advance under a loan or mortgage that is subject to the requirements of section 212 shall be eligible for insurance unless there is filed with the application for the advance a certificate as required by the Commissioner certifying that the laborers and mechanics employed in construction of the project have been paid not less than the wage rates required under section 212.

§ 200.34 Property and mortgage assessment.

The requirements set forth in 24 CFR part 200, subpart E, regarding the mortgagor's responsibility for making those investigations, analysis and inspections it deems necessary for protecting its interests in the property apply to these programs.

§ 200.35 Appraisal standards—nondiscrimination requirements.

(a) *Nondiscrimination in the selection of appraiser.* In the selection of an appraiser, there shall be no discrimination on the basis of race, color, religion, national origin, sex, age, or disability.

(b) *Nondiscrimination in appraisal determination.* The certification required by the Uniform Standards of Professional Appraisal Practice must include a statement that the racial/ethnic composition of the neighborhood surrounding the property in no way affected the appraisal determination.

Fees and Charges**§ 200.40 HUD fees. [Reserved]****§ 200.41 Maximum mortgagee fees and charges.**

(a) Mortgagee fees and charges included in the mortgage must be for actual required services provided to the mortgagor by the mortgagee, and shall not exceed common market rates for such services as determined by the Commissioner.

(b) Mortgagee charges for prepayment of the mortgage and late mortgage payments shall not exceed that determined appropriate by the Commissioner.

Commitment Applications

§ 200.45 Processing of applications. **[Reserved]**

§ 200.46 Commitment issuance.

Upon approval of an application for insurance, a commitment shall be issued by the Commissioner setting forth the terms and conditions upon which the mortgage will be insured. The commitment term and any extension or reopening of an expired commitment shall be in accordance with standards established by the Commissioner.

§ 200.47 Firm commitments.

A valid firm commitment must be in effect at the time the mortgage instrument is endorsed.

(a) *Insurance upon completion.* The commitment shall provide the terms and conditions for the insurance of the mortgage:

(1) After completion of construction or substantial rehabilitation of the project; or

(2) Upon completion of required work, except as deferred by the Commissioner in accordance with terms, conditions and standards established by the Commissioner, for an existing project without substantial rehabilitation.

(b) *Insured advances.* The commitment shall provide for insurance of the mortgage as provided in paragraph (a) of this section, and for the insurance of mortgage money advanced in accordance with terms and conditions established by the Commissioner during: construction; substantial rehabilitation; or other work acceptable to the Commissioner.

Requirements Incident to Insured Advances

§ 200.50 Building loan agreement.

The mortgagor and mortgagee must execute a building loan agreement approved by the Commissioner, that sets forth the terms and conditions under which progress payments may be advanced during construction, before initial endorsement of the mortgage for insurance.

§ 200.51 Mortgagee certificate.

The mortgagee shall certify to the Commissioner that it will conform with terms and conditions established by the Commissioner for the mortgagee's control of project funds, and other incidental requirements established by the Commissioner.

§ 200.52 Construction contract.

The form of contract between the mortgagor and builder shall be as prescribed by the Commissioner in

accordance with terms and conditions established by the Commissioner.

§ 200.53 Initial operating funds.

The mortgagor shall deposit cash with the mortgagee, or in a depository satisfactory to the mortgagee and under control of the mortgagee, in accordance with terms, conditions and standards established by the Commissioner for:

(a) Accruals for taxes, ground rates, mortgage insurance premiums, and property insurance premiums, during the course of construction;

(b) Meeting the cost of equipping and renting the project subsequent to its completion in whole or part; and

(c) Allocation by the mortgagee for assessments required by the terms of the mortgage in an amount acceptable to the Commissioner.

§ 200.54 Project completion funding.

The mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, carrying charges, and legal and organizational expenses incident to the construction of the project. The Commissioner may accept a lesser cash deposit or an alternative to a cash deposit in accordance with terms and conditions established by the Commissioner, where the required funding is to be provided by a grant or loan from a Federal, State, or local government agency or instrumentality.

(a) An agreement acceptable to the Commissioner shall require that funds provided by the mortgagor under requirements of this section must be disbursed in full for project work, material and incidental charges and expenses before disbursement of any mortgage proceeds, except;

(b) Funds provided by a grant or loan from a Federal, State or local governmental agency or instrumentality under requirements of this section need not be fully disbursed before the disbursement of mortgage proceeds, where approved by the Commissioner in accordance with terms, conditions and standards established by the Commissioner.

§ 200.55 Financing fees and charges.

Fees and charges approved by the Commissioner in excess of the initial service charge shall be deposited with the mortgagee in cash before initial endorsement, except as otherwise preapproved by the Commissioner.

§ 200.56 Assurance of completion for on-site improvements.

The mortgagor shall furnish assurance of completion of the project in the form and amount provided by terms, conditions and standards established by the Commissioner.

General Requirements

§ 200.60 Assurance of completion for offsite facilities.

An assurance of completion for offsite utilities, streets, and other facilities required for a buildable site shall be provided in an amount and form acceptable to the Commissioner, except where a municipality or other public body has, in a manner acceptable to the Commissioner, agreed to install such improvements without cost to the mortgagor.

§ 200.61 Title.

(a) Marketable title to the project must be vested in the mortgagor as of the date the mortgage is filed for record.

(b) Title evidence for the Commissioner's examination shall include a lender's title insurance policy, which title policy provides survey coverage based on a survey acceptable to the title company and the Commissioner; or as the Commissioner may otherwise require, in accordance with terms, conditions and standards established by the Commissioner.

(c) Endorsement of the credit instrument for insurance shall evidence the acceptability of title evidence.

§ 200.62 Certifications.

Any agreement, undertaking, statement or certification required by the Commissioner shall specifically state that it has been made, presented, and delivered for the purpose of influencing an official action of the FHA, and of the Commissioner, and may be relied upon by the Commissioner as a true statement of the facts contained therein.

§ 200.63 Required deposits and letters of credit.

(a) *Deposits.* Where the Commissioner requires the mortgagor to make a deposit of cash or securities, such deposit shall be with the mortgagee or a depository acceptable to the mortgagee. The deposit shall be held by the mortgagee in a special account or by the depository under an appropriate agreement approved by the Commissioner.

(b) *Letter of credit.* Where the use of a letter of credit is acceptable to the Commissioner in lieu of a deposit of cash or securities, the letter of credit shall be issued to the mortgagee by a

banking institution and shall be unconditional and irrevocable:

(1) The mortgagee of record may not be the issuer of any letter of credit without the prior written consent of the Commissioner.

(2) The mortgagee shall be responsible to the Commissioner for collection under the letter of credit. In the event a demand for payment thereunder is not immediately met, the mortgagee shall immediately provide a cash deposit equivalent to the undrawn balance of the letter of credit.

Property Requirements

§ 200.70 Location and fee interest.

The property must be held by an eligible mortgagor, and must conform with requirements pertaining to property location and fee or lease interests of the section of the Act under which the mortgage is insured.

§ 200.71 Liens.

The project must be free and clear of all liens other than the insured mortgage, except that the property may be subject to an inferior lien as provided by terms and conditions established by the Commissioner for an inferior lien:

(a) Made or held by a Federal, State or local government instrumentality;

(b) Required in connection with: an operating loss loan insured pursuant to a section 223(d) of the Act; a supplemental loan insured pursuant to section 241 of the Act; or a mortgage to purchase or refinance an existing project pursuant to section 223(f) of the Act; or

(c) As otherwise provided by the Commissioner.

§ 200.72 Zoning, deed and building restrictions.

The project when completed shall not violate any material zoning or deed restrictions applicable to the project site, and shall comply with all applicable building and other governmental codes, ordinances, regulations and requirements.

§ 200.73 Property development.

(a) The property shall be suitable and principally designed for the intended use, as provided by the applicable section of the Act under which the mortgage is insured, and have long-term marketability. Design, construction, substantial rehabilitation and repairs shall be in accordance with standards established by the Commissioner.

(b) A project may include such commercial and community facilities as the Commissioner deems acceptable.

(c) The improvements shall constitute a single project. Not less than five rental dwelling units or personal care units, 20

medical care beds, or 50 manufactured home pads, shall be on one site, except that such limitations do not apply to group practice facilities.

§ 200.74 Minimum property standards.

The requirements set forth in subpart S of this part apply to these programs, except for hospitals insured under section 242 of the Act and group practice facilities insured under title XI of the Act.

§ 200.75 Environmental quality determinations and standards.

Requirements set forth in 24 CFR part 50, Protection and Enhancement of Environmental Quality, 24 CFR part 51, Environmental Criteria and Standards, 24 CFR part 55, Implementation of Executive Order 11988, Flood Plain Management, and as otherwise required by the Commissioner apply to these programs.

§ 200.76 Smoke detectors.

Smoke detectors and alarm devices must be installed in accordance with standards and criteria acceptable to the Commissioner for the protection of occupants in any dwelling or facility bedroom or other primary sleeping area.

§ 200.77 Lead-based paint poisoning prevention.

Requirements set forth in 24 CFR part 35 apply to these programs.

§ 200.78 Energy Conservation.

Construction, mechanical equipment, and energy and metering selections shall provide cost effective energy conservation in accordance with standards established by the Commissioner.

Mortgage Provisions

§ 200.80 Mortgage form.

The mortgage shall be:

(a) Executed on a form approved by the Commissioner for use in the jurisdiction in which the property securing the mortgage is situated, which form shall not be changed without the prior written approval of the Commissioner.

(b) Executed by an eligible mortgagor.

(c) A first lien on the property securing the mortgage, which property conforms with the property standards prescribed by the Commissioner.

§ 200.81 Disbursement of mortgage proceeds.

The mortgagee shall be obligated, as a part of the mortgage transaction, to disburse the principal amount of the mortgage to the:

(a) Mortgagor or mortgagor's account;

(b) Mortgagor's creditors for the mortgagor's account, subject to the mortgagor's consent.

§ 200.82 Maturity.

The mortgage shall have a maturity satisfactory to the Commissioner, and shall contain complete amortization or sinking-fund provisions satisfactory to the Commissioner.

(a) The maximum mortgage term may not exceed the lesser of:

(1) Any limits included under the applicable section of the Act.

(2) Thirty-five years for existing projects, except that the mortgage term may be up to 40 years under terms and conditions established by the Commissioner, and 40 years for proposed construction and substantial rehabilitation projects.

(3) Seventy-five percent of the estimated remaining economic life of the physical improvements.

(b) The minimum mortgage term shall not be less than 10 years.

§ 200.83 Interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(b) Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

(c) The amount of any increase approved by the Commissioner in the mortgage amount between initial and final endorsement in excess of the amount that the Commissioner had committed to insure at initial endorsement shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

§ 200.84 Payment requirements.

The mortgage shall provide for:

(a) A single aggregate payment each month for all payments to be made by the mortgagor to the mortgagee.

(b) The mortgagor to pay to the mortgagee:

(1) Interest and principal on the first day of each month in accordance with an amortization plan agreed upon by the mortgagor, the mortgagee and the Commissioner.

(i) Date of first payment to interest shall be the endorsement date or, where there are insured advances, the initial endorsement date.

(ii) Date of first payment to principal. The Commissioner shall estimate the time necessary to complete the project and shall establish the date of the first payment to principal so that the lapse of time between completion of the project and commencement of amortization will not be longer than

necessary to obtain sustaining occupancy.

(2) An amount on each interest payment date sufficient to accumulate in the hands of the mortgagee one payment period prior to its due date, the next annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments shall continue only so long as the contract of insurance shall remain in effect.

(3) Equal monthly payments as will amortize the ground rents, if any, and the estimated amount of all taxes, water charges, special assessments, and fire and other hazard insurance premiums, within a period ending one month prior to the dates on which the same become delinquent.

(4) The mortgage shall further provide:

(i) That such payments shall be held by the mortgagee, for the purpose of paying such items before they become delinquent.

(ii) For adjustments in case such estimated amounts shall prove to be more, or less, than the actual amounts so paid therefor by the mortgagor.

(c) The mortgagee to apply each mortgagor payment received to the following items in the order set forth:

(1) Premium charges under the contract of mortgage insurance.

(2) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums.

(3) Interest on the mortgage.

(4) Amortization of the principal of the mortgage.

§ 200.85 Covenant against liens.

(a) The mortgage shall contain a covenant against the creation by the mortgagor of liens against the property superior or inferior to the lien of the mortgage except for such inferior lien as may be approved by the Commissioner in accordance with provisions of § 200.71; and

(b) A covenant against repayment of a Commissioner approved inferior lien from mortgage proceeds other than surplus cash or residual receipts, except in the case of an inferior lien created by an operating loss loan insured pursuant to section 223(d) of the Act, or a supplemental loan insured pursuant to section 241 of the Act.

§ 200.86 Covenant for fire and other hazard insurance.

The mortgage shall contain a covenant binding the mortgagor to maintain fire and extended coverage insurance on the property in accordance with terms and conditions established by the Commissioner.

§ 200.87 Mortgage prepayment.

(a) *Prepayment privilege.* Except as provided in paragraph (c) of this section or otherwise established by the Commissioner, the mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part upon any interest payment date, after giving the mortgagee 30 days' notice in writing in advance of its intention to so prepay.

(b) *Prepayment charge.* The mortgage may contain a provision for such charge, in the event of prepayment of principal, as may be agreed upon between the mortgagor and the mortgagee, subject to the following:

(1) The mortgagor shall be permitted to prepay up to 15 percent of the original principal amount of the mortgage in any one calendar year without any such charge.

(2) Any reduction in the original principal amount of the mortgage resulting from the certification of cost which the Commissioner may require shall not be construed as a prepayment of the mortgage.

(c) *Prepayment of bond-financed or GNMA securitized mortgages.* Where the mortgage is given to secure GNMA mortgage-backed securities or a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipation notes, or both, the mortgage may contain a prepayment restriction and prepayment penalty charge acceptable to the Commissioner as to term, amount, and conditions.

(d) *HUD override of prepayment restrictions.* In the event of a default, the Commissioner may override any lockout, prepayment penalty or combination thereof in order to facilitate a partial or full refinancing of the mortgaged property and avoid a claim.

§ 200.88 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge in accordance with terms, conditions and standards of the Commissioner for each dollar of each payment to interest or principal more than 15 days in arrears to cover the expense involved in handling delinquent payments. Late charges shall be separately charged to and collected from the mortgagor and shall not be deducted from any aggregate monthly payment.

Cost Certification

§ 200.95 Certification of cost requirements.

(a) Before initial endorsement of the mortgage for insurance, the mortgagor, the mortgagee, and the Commissioner

shall enter into an agreement in form and content satisfactory to the Commissioner for the purpose of precluding any excess of mortgage proceeds over statutory limitations. Under this agreement, the mortgagor shall disclose its relationship with the builder, including any collateral agreement, and shall agree:

(1) To enter into a construction contract, the terms of which shall depend on whether or not there exists an identity of interest between the mortgagor and the builder.

(2) To execute a Certificate of Actual Costs, upon completion of all physical improvements on the mortgaged property.

(3) To apply in reduction of the outstanding balance of the principal of the mortgage any excess of mortgage proceeds over statutory limitations based on actual cost.

(b) The provisions of paragraph (a) of this section relating to disclosure and the requirement for a construction contract shall not apply where the mortgagor is the general contractor.

§ 200.96 Certificates of actual cost.

(a) The mortgagor's certificate of actual cost, in a form prescribed by the Commissioner, shall be submitted upon completion of the physical improvements to the satisfaction of the Commissioner and before final endorsement, except that in the case of an existing project that does not require substantial rehabilitation and where the commitment provides for completion of specified repairs after endorsement, a supplemental certificate of actual cost will be submitted covering the completed costs of any such repairs. The certificate shall show the actual cost to the mortgagor, after deduction of any kickbacks, rebates, trade discounts, or other similar payments to the mortgagor, or to any of its officers, directors, stockholders, partners or other entity member ownership, of construction and other costs, as prescribed by the Commissioner.

(b) The Certificate of Actual Cost shall be verified by an independent Certified Public Accountant or independent public accountant in a manner acceptable to the Commissioner.

(c) Upon the Commissioner's approval of the mortgagor's certification of actual cost such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the mortgagor.

§ 200.97 Adjustments resulting from cost certification.

(a) *Fee simple site.* Upon receipt of the mortgagor's certification of actual cost

there shall be added to the total amount thereof the Commissioner's estimate of the fair market value of any land included in the mortgage security and owned by the mortgagor in fee, such value being prior to the construction of the improvements.

(b) *Leasehold site.* In the event the land is held under a leasehold or other interest less than a fee, the cost, if any, of acquiring the leasehold or other interest is considered an allowable expense which may be added to actual cost provided that in no event shall such amount be in excess of the fair market value of such leasehold or other interest exclusive of proposed improvements.

(c) *Adjustment.* If the amount calculated in accordance with paragraphs (a) or (b) of this section exceeds the statutory dollar amount limits or loan ratio limits permitted by the section of Act under which the mortgage is to be insured, or program loan ratio limits established by the Commissioner in the absence of statutory limits, the amount must be reduced to the applicable limits before final endorsement.

Endorsement

§ 200.100 Insurance endorsement.

The credit instrument shall be initially and finally endorsed simultaneously for insurance pursuant to a commitment to insure upon completion. Where the advances of construction funds are to be insured pursuant to a commitment for insured advances, initial endorsement of the credit instrument shall occur before any mortgage proceeds are insured and the time of final endorsement shall be as set forth in paragraph (b) of this section.

(a) *Initial endorsement.* The Commissioner shall indicate the insurance of the mortgage by endorsing the original credit instrument and identifying the section of the Act and the regulations under which the mortgage is insured and the date of insurance.

(b) *Final endorsement.* When all advances of mortgage proceeds have been made and all the terms and conditions of the commitment have been met to the Commissioner's satisfaction the Commissioner shall indicate on the original credit instrument the total of all advances approved for insurance and again endorse such instrument.

(c) *Contract rights and obligations.* The Commissioner and the mortgagee or lender shall be bound from the date of initial endorsement, whether the initial and final endorsement occur

simultaneously or are split, by the provisions of the Contract Rights and Obligations set forth in the respective regulations for each section of the Act, as follows: Section 207 of the Act (24 CFR part 207); Section 213 of the Act (24 CFR part 213); Section 220 of the Act (24 CFR part 220); Section 221 of the Act (24 CFR part 221); Section 231 of the Act (24 CFR part 231); Section 232 of the Act (24 CFR part 232); Section 234 of the Act (24 CFR part 234); Section 241 of the Act (24 CFR part 241); Section 242 of the Act (24 CFR part 242); title XI of the Act (24 CFR part 244).

§ 200.101 Mortgagor lien certificate.

The mortgagor shall certify at the final endorsement of the mortgage for insurance as to each of the following:

(a) That the mortgage is the first lien upon and covers the entire project, including any equipment financed with mortgage proceeds.

(b) That the property upon which the improvements have been made or constructed and the equipment financed with mortgage proceeds are free and clear of all liens other than the insured mortgage and such other liens as may be approved by the Commissioner.

(c) That the certificate sets forth all unpaid obligations in connection with the mortgage transaction, the purchase of the mortgaged property, the construction or rehabilitation of the project or the purchase of the equipment financed with mortgage proceeds.

Regulation of Mortgagors

§ 200.105 Mortgagor supervision.

(a) As long as the Commissioner is the insurer or holder of the mortgage, the Commissioner shall regulate the mortgagor by means of a regulatory agreement providing terms, conditions and standards established by the Commissioner, or by such other means as the Commissioner may prescribe.

(b) The Commissioner may delegate to the mortgagee, or other party, in accordance with terms, conditions and standards established by the Commissioner in any executed Regulatory Agreement or other instrumentality granting the Commissioner supervision of the mortgagor.

§ 200.106 Low-income housing tax credits and other program assistance.

Mortgagors with projects assisted through the Low-Income Housing Tax Credit program or receiving other government assistance (as defined in HUD's regulations implementing the HUD Reform Act) may be regulated by

the Commissioner as limited distribution mortgagors.

Subpart E—Mortgage Insurance Procedures and Processing

§§ 200.140 through 200.144, 200.146 through 200.152, 200.154, and 200.155 [Removed]

5. Sections 200.140 through 200.144, 200.146 through 200.152, 200.154, and 200.155, are removed.

5a. Sections 200.145, 200.153, and 200.156, are revised to read as follows:

§ 200.145 Property and mortgage assessment.

(a) The mortgagor is responsible for making those investigations, analyses and inspections it deems necessary for protecting its interests in the property.

(b) Any appraisals, inspections, environmental assessments, and technical or financial evaluations conducted by or for the Commissioner are performed to determine the maximum insurable mortgage, and to protect the Commissioner and the FHA insurance funds. Such appraisals, inspections, assessments and evaluations neither create nor imply a duty or obligation from HUD to the mortgagor, or to any other party, and are not to be regarded as a warranty by HUD to the mortgagor, or any other party, of the value or condition of the property.

§ 200.153 Presentation of claim.

In the event the insured lender is entitled under the contract of mortgage insurance to receive a claim settlement, the mortgagee presents a claim for insurance benefits in accordance with the Secretary's instructions.

§ 200.156 Settlement of claims.

Upon the Secretary's approval of a claim, the claim will be settled by issuance of cash, debentures or both, and, in certain cases, by issuance of a certificate of claim. However, in the event a final claim is in a negative amount, the claim will be settled by the mortgagee's payment of cash or surrender of debentures at par plus accrued interest to the Secretary.

Subpart K [Removed and Reserved]

6. Subpart K is removed and reserved.

7. In subpart W, § 200.1301 is revised to read as follows:

Subpart W—Administrative Matters

§ 200.1301 Additional Expiring Programs—Savings Clause.

No new loan assistance, additional participation, or new loans are being insured under the programs listed in this section. Any existing loan

assistance, ongoing participation, or insured loans under these programs will continue to be governed by the regulations in effect as they existed immediately before May 1, 1996 (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219, and parts 220 to 400). A list of any amendments to these parts published after the CFR revision date is available from the Office of the Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410.

Part 215 Rent Supplement Payments Program

Part 222 Servicepersons Mortgage Insurance Program

Part 237 Special Mortgage Insurance for Low and Moderate Income Families

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

8. The authority citation for part 207 continues to read as follows:

Authority: 12 U.S.C. 1701z–11(e), 1713, and 1715b; 42 U.S.C. 3535(d).

9. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements

Sec.

207.1 Eligibility requirements.

Subpart A—Eligibility Requirements

§ 207.1 Eligibility requirements.

The eligibility requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 207 of the National Housing Act (12 U.S.C. 1713), as amended.

Subpart B—Contract Rights and Obligations

§§ 207.254, 207.260, 207.261, 207.261a, 207.262, and 207.270 [Removed]

9a. Sections 207.254, 207.260, 207.261, 207.261a, 207.262, and 207.270 are removed.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

10. The authority citation for part 213 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715e; 42 U.S.C. 3535(d).

10a. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements—Projects

Sec.

213.1 Eligibility requirements.

Subpart A—Eligibility Requirements—Projects

§ 213.1 Eligibility requirements.

The eligibility requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 213 of the National Housing Act (12 U.S.C. 1715e), as amended.

PART 215—[REMOVED]

11. Part 215 is removed.

PART 219—FLEXIBLE SUBSIDY PROGRAM FOR TROUBLED PROJECTS

12. The authority citation for part 219 continues to read as follows:

Authority: 12 U.S.C. 1715z–1a; 42 U.S.C. 3535(d).

13. Part 219 is revised to read as follows:

PART 219—FLEXIBLE SUBSIDY PROGRAM FOR TROUBLED PROJECTS

Sec.

219.1 Program operations.

219.2 Savings provision.

§ 219.1 Program operations.

Effective May 1, 1996, the Flexible Subsidy Program for Troubled Projects will be governed and operate under the statutory provisions codified at 12 U.S.C. 1715z–1a, under the administrative policies and procedures contained in any applicable HUD Handbooks, and other administrative bulletins and notices as the Department may issue from time to time.

§ 219.2 Savings provision.

Part 219, as it existed immediately before May 1, 1996, (contained in the April 1, 1995 edition of 24 CFR, parts 200 to 219) will continue to govern the rights and obligations of housing owners, tenants, and the Department of Housing and Urban Development with respect to units and projects assisted under the Flexible Subsidy Program for Troubled Projects prior to May 1, 1996. A list of any amendments to this part published after the CFR revision date is available from the Office of the Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410.

PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS

14. The authority citation for part 220 continues to read as follows:

Authority: 12 U.S.C. 1713, 1715b, and 1715k; 42 U.S.C. 3535(d).

15. Subpart C is revised to read as follows:

Subpart C—Eligibility Requirements—Projects

Sec.

220.501 Eligibility requirements.

Subpart C—Eligibility Requirements—Projects

§ 220.501 Eligibility requirements.

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 220 of the National Housing Act (12 U.S.C. 1715k), as amended.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

16. The authority citation for part 221 continues to read as follows:

Authority: 12 U.S.C. 1707(a), 1715b and 1715i; 42 U.S.C. 3535(d).

17. Subpart C is revised to read as follows:

Subpart C—Eligibility Requirements—Moderate Income Projects

Sec.

221.501 Eligibility requirements.

Subpart C—Eligibility Requirements—Moderate Income Projects

§ 221.501 Eligibility requirements.

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 221 of the National Housing Act (12 U.S.C. 1715l), as amended.

PART 222—[REMOVED]

18. Part 222 is removed.

PART 231—HOUSING MORTGAGE INSURANCE FOR THE ELDERLY

19. The authority citation for part 231 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715v; 42 U.S.C. 3535(d).

20. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements

Sec.

231.1 Eligibility requirements.

Subpart A—Eligibility Requirements**§ 231.1 Eligibility requirements.**

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 231 of the National Housing Act (12 U.S.C. 1715v), as amended.

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

21. The authority citation for part 232 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715w, and 1715z(9); 42 U.S.C. 3535(d).

22. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements

Sec.

232.1 Eligibility requirements.

232.2 License.

232.3 Bathroom.

Subpart A—Eligibility Requirements**§ 232.1 Eligibility requirements.**

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 232 of the National Housing Act (12 U.S.C. 1715w), as amended.

§ 232.2 License.

The Commissioner shall not insure any mortgage under this part unless the facility is regulated by the State, municipality or other political subdivision in which the facility is or is to be located, and the appropriate agency for such jurisdiction provides a license, certificate or other assurances the Commissioner considers necessary, that the facility complies with any applicable State or local standards and requirements for such facility.

§ 232.3 Bathroom.

Not less than one full bathroom must be provided for every four residents of a board and care home or assisted living facility, and bathroom access from any bedroom or sleeping area must not pass through a public corridor or area.

PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE

23. The authority citation for part 233 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715x; 42 U.S.C. 3535(d).

24. In § 233.5, paragraph (a) introductory text is revised to read as follows:

§ 233.5 Cross-reference.

(a) To be eligible for insurance under this subpart, a mortgage or home improvement loan shall meet the eligibility requirements for insurance under parts 203, 213, 220, 221, 234, 235, and 237 of this chapter.

* * * * *

25. In § 233.251, paragraph (b) introductory text is revised to read as follows:

§ 233.251 Cross-reference.

* * * * *

(b) For purposes of this subpart, all the references in parts 203, 213, 220, 221, 234, 235 and 237 of this chapter to:

* * * * *

26. Section 233.401 is revised to read as follows:

§ 233.401 Cross-reference.

(a) *Section 235 type home mortgages.* All of the provisions of 24 CFR part 235 concerning assistance payments pursuant to section 235 of the Act (12 U.S.C. 1715y), apply with full force and effect to a mortgage insured under subparts A and B of this part, if the mortgage is insured as meeting the eligibility requirements of 24 CFR part 235.

(b) *Section 237 type home mortgages.* All of the provisions of 24 CFR part 237 concerning assistance payments in connection with a mortgage insured under section 237, apply with full force and effect to a mortgage insured under subparts A and B of this part, if the mortgage is insured as meeting the eligibility requirements of 24 CFR part 237.

27. In § 233.505, paragraph (a) introductory text is revised to read as follows:

§ 233.505 Cross-reference.

(a) To be eligible for insurance under this subpart, a mortgage or project improvement loan shall meet the eligibility requirements for insurance under parts 207, 213, 220, 221, 231, 234, 235, or 241 of this chapter except that:

* * * * *

28. In § 233.751, paragraph (b) introductory text is revised to read as follows:

§ 233.751 Cross-reference.

* * * * *

(b) For purposes of this subpart, all the references in parts 207, 213, 220, 221, 231, 232, 234, 235, 236 and 241 of this chapter to:

* * * * *

29. Section 233.900 is revised to read as follows:

§ 233.900 Cross-reference.

(a) *Section 235(j) type home mortgages.* All of the provisions of 24 CFR part 235 concerning assistance payments pursuant to section 235(j) of the Act (12 U.S.C. 1701), apply with full force and effect to a mortgage insured under subparts D and E of this part, if the mortgage is insured as meeting the eligibility requirements of 24 CFR part 235.

(b) *Section 236 type home mortgages.* All of the provisions of 24 CFR part 236 concerning interest reduction payments pursuant to section 236 of the Act (12 U.S.C. 1701), apply with full force and effect to a mortgage insured under subparts D and E of this part, if the mortgage is insured as meeting the eligibility requirements of 24 CFR part 236.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

30. The authority citation for part 234 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715y; 42 U.S.C. 3535(d). Section 234.520(a)(2)(ii) is also issued under 12 U.S.C. 1707(a).

31. Subpart C is revised to read as follows:

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

Sec.

234.501 Eligibility requirements.

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.

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

32. The authority citation for part 236 continues to read as follows:

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

33. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements for Mortgage Insurance

Sec.

236.1 Applicability and savings clause.

Subpart A—Eligibility Requirements for Mortgage Insurance**§ 236.1 Applicability 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) *Savings clause.* Any mortgage approved by the Commissioner for insurance pursuant to sections 236(n) and 236(j)(3) of the National Housing Act, as amended, will be governed by subpart A of this part 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. A list of any amendments to this part published after the April 1, 1995 CFR revision date is available from the Office of the Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410.

PART 237—[REMOVED]

35. Part 237 is removed.

PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT MORTGAGES

36. The authority citation for part 241 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z–6; 42 U.S.C. 3535(d).

37. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements

Sec.

241.1 Eligibility requirements.

Subpart A—Eligibility Requirements**§ 241.1 Eligibility requirements.**

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 241 of the National Housing Act (12 U.S.C. 1715z–6), as amended.

PART 242—MORTGAGE INSURANCE FOR HOSPITALS

37a. The authority citation for part 242 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715n(t), and 1715z–7; 42 U.S.C. 3535(d).

38. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements

Sec.

242.1 Eligibility requirements.

242.2 License.

242.3 Eligible hospital.

Subpart A—Eligibility Requirements**§ 242.1 Eligibility requirements.**

The requirements set forth in 24 CFR part 200, subpart A, apply to multifamily project mortgages insured under section 242 of the National Housing Act (12 U.S.C. 1715z–7), as amended.

§ 242.2 License.

The Commissioner shall not insure any mortgage under this part unless the facility is regulated by the State, municipality or other political subdivision in which the facility is or is to be located, and the appropriate agency for such jurisdiction provides a license, certificate or other assurances the Commissioner considers necessary, that the facility complies with any applicable State or local standards and requirements for such facility.

§ 242.3 Eligible hospital.

The hospital to be financed with a mortgage insured under this part shall involve one of the following: the construction and equipping of a new hospital, rehabilitation of a hospital, the addition of new facilities or equipment, or the rehabilitation or replacement of a portion of an existing hospital structure.

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES (TITLE XI)

39. The authority citation for part 244 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1749aaa–5; 42 U.S.C. 3535(d).

40. Subpart A is revised to read as follows:

Subpart A—Eligibility Requirements

Sec.

244.1 Eligibility requirements.

244.2 License.

Subpart A—Eligibility Requirements**§ 244.1 Eligibility requirements.**

The requirements set forth in 24 CFR part 200, subpart A, apply to group practice facilities (title XI) of the National Housing Act (12 U.S.C. 1749aaa), as amended.

§ 244.2 License.

The Commissioner shall not insure any mortgage under this part unless the appropriate licensing agency for the State, municipality or other political subdivision in which a project is or is to be located provides such assurances as the Commissioner considers necessary that the facility will comply with any applicable State or local standards and requirements for such facilities.

PART 248—PREPAYMENT OF LOW INCOME HOUSING MORTGAGES

41. The authority citation for part 248 continues to read as follows:

Authority: 12 U.S.C. 1715l note, 4101 note, and 4101–4124; 42 U.S.C. 3535(d).

§ 248.7 [Removed]

42. Section 248.7 is removed.

PART 265—[REMOVED]

43. Part 265 is removed.

PART 267—[REMOVED]

44. Part 267 is removed.

Dated: March 15, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

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