

or her damaged property, then the mortgagee must apply the compensation in reduction of the outstanding indebtedness of the mortgage.

EFFECTIVE DATE

§ 203.249 **Effect of amendments.**

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment will not adversely affect the interests of a mortgagee under the contract of insurance on any mortgage or loan already insured, and will not adversely affect the interest of a mortgagee on any mortgage or loan to be insured for which either the Direct Endorsement or Lender Insurance mortgagee has approved the mortgagor and all terms and conditions of the mortgage or loan, or the Secretary has issued a firm commitment. In addition, such amendment will not adversely affect the eligibility of specific property if such property is covered by a conditional commitment issued by the Secretary, a certificate of reasonable value issued by the Secretary of Veterans Affairs, or an appraisal report approved by a Direct Endorsement or Lender Insurance underwriter.

[62 FR 30226, June 2, 1997]

Subpart B—Contract Rights and Obligations

DEFINITIONS

§ 203.251 **Definitions.**

As used in this subpart, the following terms shall have the meaning indicated:

(a) *Commissioner* means the Federal Housing Commissioner or his authorized representative.

(b) *Act* means the National Housing Act, as amended.

(c) *FHA* means the Federal Housing Administration.

(d) *Mortgage* is defined at § 203.17(a)(1).

(e) *Mortgagor* means the original borrower under a mortgage and his heirs, executors, administrators and assigns.

(f) *Mortgagee* means the original lender under a mortgage and its successors

and such of its assigns as are approved by the Commissioner.

(g)–(h) [Reserved]

(i) *Insured mortgage* means a mortgage which has been insured as evidenced by the issuance of a Mortgage Insurance Certificate or by the endorsement of the credit instrument for insurance by the Commissioner.

(j) *Contract of Insurance* means the agreement evidenced by the issuance of a Mortgage Insurance Certificate or by the endorsement of the Commissioner upon the credit instrument given in connection with an insured mortgage, incorporating by reference the regulations in this subpart and the applicable provisions of the Act.

(k) *MIP* means the mortgage insurance premium paid by the mortgagee to the Commissioner in consideration of the contract of insurance.

(l)–(m) [Reserved]

(n) *Open-end advance* means an insured advance made by an approved mortgagee in connection with a previously insured mortgage, pursuant to an open-end provision in the mortgage.

(o) *Open-end insurance charge* means the charge paid by the mortgagee to the Commissioner in consideration of the insurance of an open-end advance.

(p) *Beginning of amortization* means the date one month prior to the date of the first monthly payment to principal and interest.

(q) *Maturity* means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(r) *Debentures* means registered, transferable securities in certificated or book entry form which are valid and binding obligations, issued in the name of the Mutual Mortgage Insurance Fund in accordance with the provisions of this part; such debentures are the primary liability of the Mutual Mortgage Insurance Fund and are unconditionally guaranteed as to principal and interest by the United States.

(s) *State* includes the several States, Puerto Rico, the District of Columbia, Guam, the Commonwealth of the

Northern Mariana Islands, American Samoa, and the Virgin Islands.

[36 FR 24508, Dec. 22, 1971, as amended at 37 FR 8661, Apr. 29, 1972; 41 FR 49734, Nov. 10, 1976; 49 FR 12697, Mar. 30, 1984; 53 FR 34282, Sept. 6, 1988; 59 FR 49815, Sept. 30, 1994; 61 FR 36265, July 9, 1996]

ENDORSEMENT AND CONTRACT OF
INSURANCE

§ 203.255 Insurance of mortgage.

(a) *Mortgages with firm commitments.* For applications for insurance involving mortgages not eligible to be originated under the Direct Endorsement program under §203.5, or under the Lender Insurance program under §203.6, the Secretary will either endorse the mortgage for insurance by issuing a Mortgage Insurance Certificate, provided that the mortgagee is in compliance with the firm commitment, or will electronically acknowledge that the mortgage has been insured.

(b) *Endorsement with Direct Endorsement processing.* For applications for insurance involving mortgages originated under the Direct Endorsement program under §203.5, the mortgagee shall submit to the Secretary, within 60 days after the date of closing of the loan or such additional time as permitted by the Secretary, properly completed documentation and certifications as listed in this paragraph (b):

(1) Property appraisal upon a form meeting the requirements of the Secretary, or a HUD conditional commitment (for proposed construction only) or a Department of Veterans Affairs certificate or reasonable value, and all accompanying documents required by the Secretary;

(2) An application for insurance of the mortgage in a form prescribed by the Secretary;

(3) A certified copy of the mortgage and note executed upon forms which meet the requirements of the Secretary;

(4) A warranty of completion, on a form prescribed by the Secretary, for proposed construction cases;

(5) An underwriter certification, on a form prescribed by the Secretary, stating that the underwriter has personally reviewed the appraisal report and credit application (including the analysis

performed on the worksheets) and that the proposed mortgage complies with HUD underwriting requirements, and incorporating each of the underwriter certification items which apply to the mortgage submitted for endorsement, as set forth in the applicable handbook or similar publication that is distributed to all Direct Endorsement mortgagees, except that where an automated underwriting system (AUS) approved by the Secretary or Commissioner is used by the lender, and the AUS has determined that the application represents an acceptable risk under terms and conditions agreed to by the FHA, a Direct Endorsement underwriter shall not be required to certify that he/she has personally reviewed the credit application (including the analysis performed on any worksheets);

(6) Where applicable, a certificate under oath and contract regarding use of the dwelling for transient or hotel purposes;

(7) Where applicable, a certificate of intent to occupy by military personnel;

(8) Where a mortgage for an existing property is to be insured under section 221(d)(2) of the National Housing Act, a letter from the appropriate local government official that the property meets applicable code requirements;

(9) Where an individual water or sewer system is being used, an approval letter from the local health authority indicating approval of the system in accordance with §200.926d(f) of this chapter;

(10) For proposed construction if the mortgage (excluding financed mortgage insurance premium) exceeds a 90 percent loan to value ratio, evidence that the mortgagee qualifies for a higher ratio loan under one of the applicable provisions in the appropriate regulations;

(11) A mortgagee certification on a form prescribed by the Secretary, stating that the authorized representative of the mortgagee (or loan correspondent sponsored by the mortgagee) who is making the certification has personally reviewed the mortgage documents and the application for insurance endorsement, and certifying that the mortgage complies with the requirements of this paragraph (b). The