

§ 203.369

title by the mortgagee or a third party shall be deducted from the mortgage insurance benefits otherwise payable.

(Approved by the Office of Management and Budget under control number 2502-0347)

[52 FR 1327, Jan. 13, 1987, as amended at 61 FR 36453, July 10, 1996]

§ 203.369 Deficiency judgments.

(a) *Mortgages insured on or after March 28, 1988.* (1) For mortgages insured pursuant to firm commitments issued on or after March 28, 1988, or pursuant to direct endorsement processing where the credit worksheet was signed by the mortgagee's underwriter on or after March 28, 1988, the Secretary may require the mortgagee diligently to pursue a deficiency judgment in connection with any foreclosure. With respect to claims filed for insurance benefits on such mortgages, any judgment obtained by the mortgagee must be assigned to the Secretary.

(2) In cases where the Secretary requires the pursuit of a deficiency judgment and provides the mortgagee with the Secretary's estimate of the fair market value of the property, less adjustments, in accordance with § 203.368(e) of this part, the mortgagee must tender a bid at the foreclosure sale in that amount, and must take all other appropriate steps in accordance with State law to obtain a deficiency judgment.

(b) *Mortgages insured before March 28, 1988.* For mortgages insured pursuant to firm commitments issued before March 28, 1988, or pursuant to direct endorsement processing where the credit worksheet was signed by the mortgagee's underwriter before March 28, 1988, the Secretary may request that the mortgagee diligently pursue a deficiency judgment in connection with the foreclosure. With respect to claims filed for insurance benefits on such mortgages, any judgment obtained by the mortgagee must be assigned to the Secretary.

(c) In cases where pursuit of a deficiency judgment is requested or required under this section, the Commissioner, where the Commissioner determines it appropriate under State law requirements, may extend the otherwise applicable period of time within which a deficiency judgment (and other

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claims against the mortgagor) and related credit documents must be assigned to the Commissioner under § 203.360, § 203.367 or § 203.368 of this subpart.

(d) In addition to meeting the requirements of § 203.356, in cases where the Commissioner determines it necessary because of State law requirements, the Commissioner may also require (or request, as the Commissioner may determine) the mortgagee to provide the Commissioner with notice of the mortgagee's intent to institute foreclosure proceedings a reasonable amount of time before proceedings are instituted, in order that the Commissioner may be able effectively to require or request the mortgagee, in appropriate cases, to seek a deficiency judgment.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 2535-0093)

[53 FR 4387, Feb. 16, 1988, as amended at 57 FR 47972, Oct. 20, 1992; 61 FR 36453, July 10, 1996]

§ 203.370 Pre-foreclosure sales.

(a) *General.* HUD will pay FHA insurance benefits to mortgagees in cases where, in accordance with all regulations and procedures applicable to pre-foreclosure sales, the mortgaged property is sold by the mortgagor, after default and *prior to* foreclosure, at its current fair market value (less adjustments as the Commissioner may deem appropriate) but for less than the mortgage loan amount currently outstanding.

(b) *Notification of mortgagor.* The mortgagee shall give notice, according to prescribed procedures, of the opportunity to be considered for the pre-foreclosure sale procedure to each mortgagor in default. All notices to mortgagors must be in an accessible format, if requested, or if required by the person's known disability, as required by 24 CFR part 9.

(c) *Eligibility for the Pre-foreclosure Sale Procedure.* In order to be considered for the pre-foreclosure sale procedure, a mortgagor:

(1) Must be an owner occupant in a single family residence that is security for a mortgage insured under this part,