

§ 203.390

(5) There is included with the documents and information furnished the Commissioner with the application for insurance benefits, a statement by the mortgagee that the requirements of this paragraph have been met.

(o) 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 34508, Dec. 22, 1971, as amended at 41 FR 49736, Nov. 10, 1976]

§ 203.390 Waiver of title—mortgages or property formerly held by the Secretary.

(a) *Mortgages sold by the Secretary.* (1) If the Secretary sells a mortgage and such mortgage is later reassigned to him or the property covered by such mortgage is later conveyed to him, he will not object to title by reason of any lien or other adverse interest that was senior to the mortgage on the date of the original sale of such mortgage.

(2) The Secretary will accept an assignment of a mortgage previously sold by him, where the mortgagee is unable to complete foreclosure because of a defect in the mortgage instrument, a defect in the mortgage transaction, or a defect in title which existed at or prior to the time the mortgage assignment was filed for record. In such instances, the Secretary will not object to title by reason of any such defect.

(b) *Property sold by the Secretary.* (1) If a property held by the Secretary is sold by the Secretary who also insures a mortgage financing the sale, and the mortgage is later reassigned to the Secretary or the property covered by the mortgage is later conveyed to the Secretary, the Secretary will not object to title by reason of any lien or other adverse interest that was senior to the mortgage on the date the mortgage was filed for record, except where

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the lien or other adverse interest arose from a lien or interest that had already been recorded against the mortgagor.

(2) The Secretary will accept an assignment of a mortgage executed in connection with the sale of property by the Secretary, where the mortgagee is unable to complete foreclosure because of a defect in the mortgage instrument, a defect in the mortgage transaction, or a defect in title which existed at or prior to the time the mortgage was filed for record, except where the defect arose from a lien or interest that had already been recorded against the mortgagor on the date that the mortgage was filed for record. Except for the case of a lien or interest that had already been recorded against the mortgagor, the Secretary will not object to title by reason of any of the above defects.

[36 FR 24508, Dec. 22, 1971, as amended at 58 FR 35370, July 1, 1993; 61 FR 36265, July 9, 1996]

§ 203.391 Title objection waiver with reduced insurance benefits.

Payment of an insurance claim will not automatically be refused solely because the title evidence reveals a condition of title not taken into consideration in the original appraisal and not covered by the provisions of § 203.389 of this part, or not otherwise waived in writing by the Secretary. In such instances, the Secretary may, at his or her option, approve the payment of a claim if the mortgagee agrees to accept a reduction in insurance benefits considered adequate by the Secretary to compensate for any anticipated loss to the Mutual Mortgage Insurance Fund as a result of the existence of the title condition at the time of claim.

[57 FR 47974, Oct. 20, 1992]

PAYMENT OF INSURANCE BENEFITS

§ 203.400 Method of payment.

If the application for insurance benefits is acceptable to the Commissioner payment of the insurance claim shall be made in cash, in debentures or in a combination of both, as determined by the Commissioner at the time of payment except that where the mortgage is insured pursuant to section 223(e) of the Act such claim shall be paid in