

**§ 235.1208**

**24 CFR Ch. II (4-1-03 Edition)**

(social security, retirement, health insurance, etc.) regardless of the actual amount of such withholdings;

(2) Any unusual income or temporary income, such as overtime pay which will be discontinued, income of a secondary wage earner which will terminate, unemployment compensation which does not occur regularly, or other income of a temporary nature which will be or has been discontinued.

(3) The earnings of each minor in the family who is living with such family, plus the sum of \$300 for each such minor.

(b) [Reserved]

(c) *Family* means: (1) Two or more persons related by blood, marriage, or operation of law, who occupy the same unit;

(2) A handicapped person who has a physical impairment which is expected to be of a continued duration and which impedes his ability to live independently unless suitable housing is available; or

(3) A single person, 62 years of age or older.

(d) *Gross annual income* means the total income, before taxes and other deductions, received by all members of the mortgagor's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and such other income items as the Secretary considers appropriate.

(e) *Minor* means a person under the age of 21. As used in this subpart, minor shall not include a mortgagor or his or her spouse.

(f) *Substantial rehabilitation* means the improvement of a unit in substandard condition to a decent, safe and sanitary level, meeting FHA's standards for mortgage insurance. Units are in substandard condition when, while they may be structurally sound, they do not provide safe and adequate shelter, and in their present condition endanger the health, safety, or well-being of the occupants. Such housing has one or more defects, or a combination of potential defects in sufficient number or extent to require considerable repair or rebuilding, or is of inadequate original

construction. The defects are either so critical or so widespread that the structure should be extensively repaired. The estimated cost of the rehabilitation should normally not be less than 25 percent of the value of the property (including land) after rehabilitation. The rehabilitation should be of such scope that, when completed, all the components in the house are operable and should not be anticipated to require any work or major expense over and above normal maintenance for the first one-fourth to one-third of the mortgage term.

[41 FR 1172, Jan. 6, 1976, as amended at 43 FR 60156, Dec. 26, 1978; 45 FR 62796, Sept. 22, 1980; 46 FR 56422, Nov. 17, 1981; 51 FR 11218, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988. Redesignated at 60 FR 56500, Nov. 8, 1995]

**§ 235.1208 Eligible mortgagors.**

(a) The mortgagor shall agree to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income whenever one of the following events takes place:

(1) Annually, no earlier than 60 days before and no later than 30 days after the anniversary date of the mortgage or at such other anniversary date as set by the Secretary;

(2) No more than 30 days after;

(i) The mortgagor or any adult (21 years or older) member of the family residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification.

(ii) The family income (except earnings of minors) increases at least \$50 per month.

(iii) A new member is added to the family in which case evidence of citizenship or eligible immigration status also shall be submitted, in accordance with part 200, subpart G, of this chapter.

(3) At such other times as the Secretary may require.

(b) Assistance payments may be used to assist a family owning a standard home to purchase a new home, but a family already owning a home must sell its present property and may not rent that property out to another and occupy the subsidized unit.

(c) To be eligible under this part, the mortgagor or cooperative member must meet the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this chapter. For requirements regarding the signing and submitting of consent forms by mortgagors and cooperative members for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter. Eligibility for assistance under this subpart also requires citizenship or eligible immigration status, as determined in accordance with part 200, subpart G, of this chapter, except that citizenship or eligible immigration status shall not be required of a mortgagor whose assistance contract was executed before June 19, 1995 and remains unchanged after that date.

(Approved by the Office of Management and Budget under control numbers 2502-0204, 2502-0267, 2502-0268, and 2577-0083)

[41 FR 1172, Jan. 6, 1976, as amended at 41 FR 51011, Nov. 19, 1976; 43 FR 60156, Dec. 26, 1978; 46 FR 56422, Nov. 17, 1981; 51 FR 11218, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 54 FR 39695, Sept. 27, 1989; 56 FR 7530, Feb. 22, 1991; 60 FR 14832, Mar. 20, 1995. Redesignated and amended at 60 FR 56500, Nov. 8, 1995]

#### § 235.1210 Recapture of assistance payments.

(a) With respect to any mortgage insured under this part pursuant to a firm commitment issued on or after May 27, 1981, the mortgagor shall repay to the Secretary any assistance received under this part in the amount provided in paragraph (b) of this section when the mortgagor:

(1) Disposes of the property or a homeowner not qualified to receive assistance payments, or

(2) Has rented the property (or rented the owner's unit in the case of a two- to four-family property) for more than one year, or

(3) Requests a release of the Secretary's lien on the property.

(b) The amount of assistance to be repaid by the mortgagor shall be the lesser of the amount of assistance actually received under this part (other than handling charges) or 50 percent of the net appreciation of the property.

(c) The term *net appreciation of the property* as used in this section means any increase in the value of the property over the purchase price, as of the time the mortgage is accepted for insurance, less the reasonable costs of sale and the reasonable costs of improvements made to the property.

(d) The mortgagor shall execute such documents as the Secretary shall require to assure repayment to the Secretary of the amounts provided in this paragraph.

[48 FR 40714, Sept. 19, 1983. Redesignated at 60 FR 56500, Nov. 8, 1995]

#### § 235.1212 Mortgage provisions.

(a) *Mortgage form.* (1) The term *mortgage* as used in this part has the same meaning as defined in either § 203.17(a)(1) of this chapter, § 203.43c(b)(1) of this chapter, or § 234.1(d) of this chapter, as applicable, and may refer both to a security instrument creating a lien, whether called a *mortgage*, *deed of trusts*, *security deed* or other term common in a jurisdiction, as well as the credit instrument, or note, secured thereby.

(2) The mortgage shall be in a form meeting the requirements of the Commissioner. For each case in which the Commissioner does not prescribe complete mortgage instruments, the Commissioner shall require specific language in the mortgage which shall be uniform for every mortgage, and may also prescribe the language or substance of additional provisions for all mortgages as well as the language or substance of additional provisions for use only in particular jurisdictions or for particular programs. Each mortgage shall also contain any provisions necessary to create a valid and enforceable secured debt under the laws of the jurisdiction in which the property is located.

(b) *Mortgage multiples.* The mortgage shall involve a principal obligation in multiples of \$50.

(c) *Payments.* The mortgage shall:

(1) Come due on the first of the month.

(2) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.