

§ 203.28

24 CFR Ch. II (4-1-04 Edition)

(2) A charge to compensate the mortgagee for expenses incurred in originating and closing the loan, the charge not to exceed:

(i) \$20 dollars or one percent of the original principal amount of the mortgage (excluding any one-time mortgage insurance premium paid pursuant to § 203.280), whichever is the greater; or

(ii) \$350 dollars or two and one-half percent of the original principal amount of the mortgage (excluding any one-time mortgage insurance premium paid pursuant to § 203.280), whichever is the greater, with respect to mortgages on property under construction or to be constructed where the mortgagee makes partial disbursements and inspections of the property during the progress of construction.

(iii) If the mortgage involves repair or rehabilitation, and the mortgagee meets the conditions of paragraph (a)(2)(ii) of this section relating to disbursements and inspections, the charge prescribed in paragraph (a)(2)(ii) of this section may be collected in connection with that portion of the mortgage applied to such repair or rehabilitation. The charge with respect to any part of the mortgage not applied to repair or rehabilitation, or any part of the mortgage so applied which does not meet the conditions of paragraph (a)(2)(ii) of this section relating to disbursements and inspections, shall be limited to that provided in paragraph (a)(2)(i) of this section.

(3) Reasonable and customary amounts, but not more than the amount actually paid by the mortgagee, for any of the following items:

(i) Recording fees and recording taxes or other charges incident to recordation;

(ii) Credit Report;

(iii) Survey, if required by mortgagee or mortgagor;

(iv) Title examination; title insurance, if any;

(v) Fees paid to an appraiser or inspector approved by the Commissioner for the appraisal and inspection, if required, of the property. Notwithstanding any limitations in this paragraph (a)(3) if the mortgagee is permitted by applicable regulations to use the services of staff appraisers and inspectors for processing mortgages, and

does so, the mortgagee may collect from the mortgagor the reasonable and customary amounts for such appraisals and inspections.

(vi) Such other reasonable and customary charges as may be authorized by the Commissioner.

(4) Reasonable and customary charges in the nature of discounts.

(5) Interest from the date of closing or the date on which the mortgagee disburses the mortgage proceeds to the account of the mortgagor or the mortgagor's creditors, whichever is later, to the date of the beginning of amortization.

(b)-(c) [Reserved]

(d) Before the insurance of any mortgage, the mortgagee shall furnish to the Secretary a signed statement in a form satisfactory to the Secretary listing any charge, fee or discount collected by the mortgagee from the mortgagor. All charges, fees or discounts are subject to review by the Secretary both before and after endorsement under § 203.255.

(e) Nothing in this section will be construed as prohibiting the mortgagor from dealing through a broker who does not represent the mortgagee, if he prefers to do so, and paying such compensation as is satisfactory to the mortgagor in order to obtain mortgage financing.

[36 FR 24508, Dec. 22, 1971, as amended at 43 FR 19846, May 9, 1978; 45 FR 30602, May 8, 1980; 45 FR 33966, May 21, 1980; 47 FR 29525, July 7, 1982; 48 FR 11940, Mar. 22, 1983; 48 FR 28804, June 23, 1983; 49 FR 19457, May 8, 1984; 57 FR 58347, Dec. 9, 1992; 58 FR 13537, Mar. 12, 1993]

§ 203.28 Economic soundness of projects.

The mortgage must be executed with respect to a project which, in the opinion of the Commissioner, is economically sound, except that this section shall not apply in each of the following instances:

(a) To a mortgage of the character described in § 203.18(d) and with respect to such a mortgage, the Commissioner shall determine that the mortgage is an acceptable risk giving consideration to the need for providing adequate housing for families of low and moderate income, particularly in suburban

and outlying areas or small communities.

(b) To a mortgage of the character described in § 203.18 (e).

(c) To a mortgage of the character described in § 203.43a.

(d) To a mortgage in a federally impacted area described in § 203.43e.

(e) To a rehabilitation loan of the character described in § 203.50.

[36 FR 24508, Dec. 22, 1971, as amended at 42 FR 57434, Nov. 2, 1977; 45 FR 33966, May 21, 1980; 53 FR 8880, Mar. 18, 1988]

§ 203.29 Eligible mortgages in Alaska, Guam, Hawaii, or the Virgin Islands.

(a) *When is an increased mortgage limit permitted for these areas?* For Alaska, Guam, Hawaii or the Virgin Islands, the Commissioner may increase the maximum mortgage amount permitted by section 203(b)(2)(A) of the National Housing Act when authorized by section 214 of that Act, through the procedures described in § 203.18(h).

(b) If a party believes that the otherwise applicable mortgage limit needs to be increased to reflect the extent to which high costs make it infeasible to construct dwellings without sacrificing sound standards of construction, design or livability, the party may submit documentation in support of an alternative mortgage limit. This documentation should include actual or estimated costs of such items as design, construction, materials, and labor. In addition, actual sales prices of new homes may be submitted, together with any other documentation requested by the Commissioner. Requests for alternative mortgage limits, together with supporting documentation should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

(c) If the Alaska Housing Authority, or the Government of Guam, Hawaii, or the Virgin Islands or any agency or instrumentality of those entities, is the mortgagor or the mortgagee, or the mortgagor is regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in

such manner as the Commissioner determines advisable to provide reasonable rental and sales prices and a reasonable return on the investment, any mortgage otherwise eligible for insurance under this subpart may be insured:

(1) In any case where the Alaska Housing Authority, or the government of Guam, Hawaii, the Virgin Islands, or any agency or instrumentality of those entities, is the mortgagor, without regard to any requirement that the mortgagor occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f)), or meet loan-to-value or comparable limitations based on the failure of the mortgagor to meet this occupancy requirement;

(2) Without regard to any requirement that the mortgagor has paid on account of the property a prescribed percentage of the appraised value of the property; or

(3) Without regard to any requirement that the mortgagor certify that the mortgaged property is free and clear of all liens other than the mortgage offered for insurance and that there will not be any unpaid obligations contracted in connection with the mortgage transaction or the purchase of the mortgaged property.

(d) The provisions of § 203.28 requiring economic soundness shall not be applicable to mortgages covering property located in Alaska, in Guam, in Hawaii, or in the Virgin Islands, but the Commissioner shall find that the property or project is an acceptable risk, giving consideration to the acute housing shortage in Alaska, Guam, Hawaii, or the Virgin Islands.

(Approved by the Office of Management and Budget under control number 2502-0302)

[36 FR 24508, Dec. 22, 1971, as amended at 49 FR 14338, Apr. 11, 1984; 55 FR 34804, Aug. 24, 1990; 56 FR 18948, Apr. 24, 1991; 64 FR 14569, Mar. 25, 1999]

§ 203.30 Certificate of nondiscrimination by the mortgagor.

The mortgagor shall certify to the Commissioner as to each of the following points:

(a) That neither he, nor anyone authorized to act for him, will refuse to sell or rent, after the making of a