

unless otherwise prescribed by the Secretary.

(2) Must have an account in default, for such period as determined by the Secretary, which default is the result of an adverse and unavoidable financial situation.

(3) Must have, at the time application is made to pursue a pre-foreclosure sale, a mortgaged property whose current fair market value, compared to the amount needed to discharge the mortgage, meets the criterion established by the Secretary, unless a variance is granted by the Secretary.

(4) Must have received homeownership counseling, as defined by the Secretary, and have executed a certification to that effect.

[59 FR 50144, Sept. 30, 1994, as amended at 61 FR 35018, July 3, 1996]

§ 203.371 Partial claim.

(a) *General.* Notwithstanding the conveyance, sale or assignment requirements for payment of a claim elsewhere in this part, HUD will pay partial FHA insurance benefits to mortgagees after a period of forbearance, the maximum length of which HUD will prescribe, and in accordance with this section.

(b) *Requirements.* The following conditions must be met for payment of a partial claim:

(1) The mortgagor has been delinquent for at least 4 months or such other time prescribed by HUD;

(2) The amount of the arrearage has not exceeded the equivalent of 12 monthly mortgage payments;

(3) The mortgagor is able to resume making full monthly mortgage payments;

(4) The mortgagor is not financially able to make sufficient additional payments to repay the arrearage within a time specified by HUD; and

(5) The mortgagor is not financially qualified to support monthly mortgage payments on a modified mortgage or on a refinanced mortgage in which the total arrearage is included.

(c) *Repayment of the subordinate lien.* The mortgagor must execute a mortgage in favor of HUD with terms and conditions acceptable to HUD for the amount of the partial claim under

§ 203.414(a). HUD may require the mortgagee to be responsible for servicing the subordinate mortgage on behalf of HUD.

(d) *Application for insurance benefits.* Along with the prescribed application for partial claim insurance benefits, the mortgagee shall forward to HUD the original credit and security instruments required by paragraph (c) of this section.

[61 FR 35018, July 3, 1996, as amended at 62 FR 60130, Nov. 6, 1997]

CONDITION OF PROPERTY

§§ 203.375–203.376 [Reserved]

§ 203.377 Inspection and preservation of properties.

The mortgagee, upon learning that a property subject to a mortgage insured under this part is vacant or abandoned, shall be responsible for the inspection of such property at least monthly, if the loan thereon is in default. When a mortgage is in default and a payment thereon is not received within 45 days of the due date, and efforts to reach the mortgagor by telephone within that period have been unsuccessful, the mortgagee shall be responsible for a visual inspection of the security property to determine whether the property is vacant. The mortgagee shall take reasonable action to protect and preserve such security property when it is determined or should have been determined to be vacant or abandoned until its conveyance to the Secretary, if such action does not constitute an illegal trespass. "Reasonable action" includes the commencement of foreclosure within the time required by § 203.355(b) of this part.

[57 FR 47972, Oct. 20, 1992]

§ 203.378 Property condition.

(a) *Condition at time of transfer.* When the property is transferred, or a mortgage is assigned to the Commissioner, the property shall be undamaged by fire, earthquake, flood, or tornado, except as set forth in this subpart.

(b) *Damage to property by waste.* The mortgagee shall not be liable for damage to the property by waste committed by the mortgagor, its heirs, successors or assigns in connection with