

**§ 213.258**

**§ 213.258 Subsequent annual premiums.**

(a) Until the mortgage is paid in full or until receipt by the Commissioner of an application for insurance benefits, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the mortgagee, on each anniversary of the date of the first principal payment, shall pay an annual mortgage insurance premium equal to one-half of one percent of the average outstanding principal obligation of the mortgage for the year following the date on which such premium becomes payable.

(b) The provisions of paragraph (a) of this section shall apply to operating loss loans and to supplementary loans.

**§ 213.259 Computation of subsequent annual premiums.**

The premiums payable on and after the date of the first principal payment shall be calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

**§ 213.259a Premiums—mortgages insured pursuant to section 238(c) of the Act.**

All of the provisions of §§ 213.253 through 213.259 governing mortgage insurance premiums shall apply to mortgages insured under this subpart pursuant to section 238(c) of the Act, except that all mortgage insurance premiums due on such mortgages in accordance with §§ 213.253 through 213.259 shall be calculated on the basis of one percent.

[42 FR 59675, Nov. 18, 1977]

**§ 213.260 Allowable methods of premium payment.**

Premiums shall be payable in cash or in debentures at par plus accrued interest. All premiums are payable in advance and no refund can be made of any portion thereof except as herein-after provided in this part.

**§ 213.265 Modifications and consolidations.**

Where a mortgage covering an investor sponsored project is modified and consolidated with the mortgage of a purchasing nonprofit cooperative housing corporation or trust, it shall be

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deemed to be paid in full as of the date of such modification and consolidation.

[37 FR 8662, Apr. 29, 1972]

**§ 213.266 Initial insurance endorsement.**

The Commissioner shall indicate his insurance of the mortgage or supplementary loan by endorsing the original credit instrument and identifying the section of the Act and the regulations under which the mortgage or supplementary loan is insured and the date of insurance.

**§ 213.266a Insurance fund obligations.**

A mortgage endorsed for insurance under section 213 of the Act shall be the obligation either of the Cooperative Management Housing Insurance Fund or of the General Insurance Fund. The determination of the applicable fund shall be governed by the following:

(a) A mortgage insured under section 213(a)(1) of the Act or under section 213(a)(3) if the project has been acquired by a cooperative corporation or under section 213 (i) or (j) shall be the obligation of the Cooperative Management Housing Insurance Fund, where it has been insured pursuant to a commitment issued on or after August 10, 1965, or insured pursuant to a commitment issued prior to such date, and transferred to the Cooperative Management Housing Insurance Fund.

(b) A mortgage insured under section 213(a)(2) of the Act or under section 213(a)(3) where the project has not been acquired by a cooperative corporation shall be the obligation of the General Insurance Fund. A mortgage insured prior to August 10, 1965, or insured pursuant to a commitment issued prior to such date, where the project has not been transferred to the Cooperative Management Housing Insurance Fund, shall also be the obligation of the General Insurance Fund.

**§ 213.267 Effect of insurance endorsement.**

From the date of initial endorsement, the Commissioner and the mortgagee or lender shall be bound by the provisions of this subpart to the same extent as if they had executed a contract including the provisions of this

subpart and the applicable sections of the Act.

**§ 213.268 Final insurance endorsement.**

When all advances of mortgage or loan proceeds have been made and all the terms and conditions of the commitment have been complied with to the satisfaction of the Commissioner, he shall indicate on the original credit instrument the total of all advances he has approved for insurance and again endorse such instrument.

**§ 213.269 Endorsement of supplementary loans.**

The provisions of §§ 213.266, 213.267, and 213.268 shall apply to supplementary loans.

**§ 213.270 Supplementary loans; election of action; claims; debentures.**

(a) *Election of action.* Where a real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, lien, judgement, or any other security device has been used to secure the payment of a loan made under the provisions of this section, the lender may not, except with the approval of the Commissioner, both proceed against such security and also make claim under its contract of insurance, but shall elect which method it desires to pursue.

(b) *Maximum claim period.* Notice of intention to file claim on a form prescribed by the Commissioner shall be filed within 45 days after the lender becomes eligible for the benefits of the loan insurance, or within such later time as may be agreed upon by the Commissioner in writing.

(c) *Items to be filed on submitting claim.* Within 30 days after the filing of the notice of intention to file claim, or within such further period as may be agreed upon by the Commissioner in writing, the lender shall file with the Commissioner:

- (1) The fiscal data pertaining to the loan transaction;
- (2) Receipts covering all disbursements as required by the fiscal data form;
- (3) The original note and any security instrument or instruments which shall be assigned to the Commissioner

without recourse or warranty, except that the lender must warrant that no act or omission of the lender has impaired the validity and priority of such security instrument or instruments, that the security instrument or instruments, are prior to all mechanics' and materialmen's liens filed of record subsequent to the recording of such security instrument or instruments regardless of whether such liens attached prior to such recording date, and prior to all liens and encumbrances which may have attached or defects which may have arisen subsequent to the recording of such security instrument or instruments, except such liens or other matters as may be approved by the Commissioner, that the amount stated in the instrument of assignment is actually due and owing under the security instrument or instruments, that there are no offsets or counterclaims thereto, and that the lender has a good right to assign such note and security instrument or instruments;

(4) All hazard insurance policies held on property serving as security for the loan or other evidence of insurance coverage acceptable to the Commissioner, together with a copy of the lender's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the holder of the security instrument;

(5) The assignment to the Commissioner of all rights and interests arising under the note and security instrument or instruments so in default, and all claims of the lender against the borrower or others arising out of the loan transaction;

(6) All policies of title or other insurance or surety bonds, or other guarantees and any and all claims thereunder; including evidence satisfactory to the Commissioner that the original title coverage has been extended to include the assignment of the note and the security instrument or instruments to the Commissioner;

(7) Any balance of the loan not advanced to the borrower;

(8) Any cash or property held by the lender or its agents or to which it is entitled; including deposits made for the account of the borrower and which have not been applied in reduction of