

incurred in connection with the refinancing.

(e) *Eligible mortgagees.* The Secretary shall determine whether this program will be open to all approved Direct Endorsement mortgagees, or only to those approved Direct Endorsement mortgagees that meet certain specified requirements. The Secretary may limit the program to a designated number of Direct Endorsement approved mortgagees if such a limitation will facilitate the most expeditious handling of these refinancing mortgages.

(f) *Eligible mortgagor.* (1) It must be executed by a mortgagor who is eligible for, and receiving, assistance payments with respect to the mortgage being refinanced and from whom a recertification was obtained within the preceding twelve months prior to the application for the 235(r) mortgage, or a new recertification was required prior to the execution of the mortgage credit worksheet by the direct endorsement lender, or the firm commitment was issued by HUD.

(2) The mortgagor must be an occupant of the property securing the mortgage.

(3) The mortgagor has not received payments for the costs of refinancing or the mortgagor's incentive, nor have such payments been made on his behalf, as described in paragraph (d) of this section, for a period of 60 months from the date of the first payment of principal and interest on the mortgage to be refinanced; provided, however, that if the mortgagor pays its own cost to refinance, then this prohibition will not apply.

(4) The mortgagor is eligible to continue to receive assistance in connection with the 235(r) mortgage, or the mortgagee has executed a HUD Notice of Suspension form that suspends the assistance payment contract from the date of disbursement of the mortgage loan.

(5) The mortgagor has agreed to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income in accordance with 24 CFR 235.350.

(6) If the property is subject to a recapture mortgage securing the payment to the Secretary of assistance payments made on behalf of the mort-

gagor, the mortgagor must agree to modify and subordinate such mortgage to the mortgage to be insured under section 235(r) in accordance with instructions of the Secretary.

(7) If the mortgage submitted for insurance requires an increase in the mortgagor's portion of the monthly payments due under the mortgage by more than \$50.00 over the amount the mortgagor was paying on the mortgage being refinanced, then a mortgage credit analysis must be performed on the mortgagor to establish that his income is or will be adequate to meet his portion of the periodic payment due under the new mortgage and that the mortgagor has a general credit standing satisfactory to the Secretary as required by 24 CFR 203.34.

(8) Cooperative members, who are receiving assistance payments, which in all cases are based on the cooperative member's proportionate share of the obligation under the project mortgage, are not eligible for section 235(r) mortgages.

(g) *Monthly Payments.* The mortgage must have monthly principal and interest payments at the 235(r) interest rate that are less than the monthly payments of principal and interest on the mortgage being refinanced.

[60 FR 56500, Nov. 8, 1995]

§ 235.1220 Processing section 235(r) mortgages under the direct endorsement program.

The regulations containing the requirements which a mortgage must meet for the direct endorsement program are contained in 24 CFR 203.5 and 203.255. Under those sections, mortgages to be insured under section 235(r) must be originated through direct endorsement processing. There are several provisions of 24 CFR 203.5 and 203.255 which do not apply to section 235(r) mortgages and there are several additional requirements which are specific to section 235(r) mortgages which are contained in paragraph (b) of this section. Other than those provisions which have been specified in paragraph (a) of this section, the provisions contained in 24 CFR 203.5 and 203.255 apply to mortgages insured under section 235(r).

(a) *Inapplicable Provisions.* (1) The properties, which are to be security for the section 235(r) mortgages, are currently security for mortgages insured under section 235, and are existing properties with no requirement for appraisals. The requirements for an appraisal in 24 CFR 203.5(e) and 203.255(b)(1) and for a review of an appraisal in 24 CFR 203.255(b)(5) shall not apply to a mortgage to be insured under section 235(r) of the National Housing Act.

(2) There is no requirement that the mortgagee perform the mortgage credit analysis described in 24 CFR 203.5(d) for a mortgage insured under section 235(r) unless the mortgagor's portion of the monthly payments due under the mortgage to be insured increase by more than \$50.00 over the amount the mortgagor was paying on the mortgage being refinanced as provided in § 235.1202(b)(6). If the mortgagor's portion of the payment does not increase by more than \$50.00, then the mortgagee shall perform the underwriting requirements in accordance with the instructions contained in a handbook or other similar publication which is provided to all mortgagees approved for the direct endorsement procedure.

(3) Since there are special eligibility requirements for mortgages insured under section 235(r), paragraphs (c)(2) and (c)(3) of 24 CFR 203.255 do not apply to such mortgages, and in lieu thereof specific provisions for section 235(r) mortgages have been substituted as contained in paragraph (b) of this section.

(b) *Special Provisions.* In addition to the review and determinations which must be made of the documents submitted by the mortgagee to the Secretary in accordance with 24 CFR 203.255(c), as revised for mortgages insured under section 235(r) by paragraph (a) of this section, the Secretary shall make the following specific determinations for section 235(r) mortgages:

(1) That the term of the mortgage meets the requirements of 24 CFR 235.120(b)(2).

(2) That the stated mortgage amount does not exceed the maximum dollar limitation under 24 CFR 235.1202(b)(1).

(3) That the interest rate on the mortgage meets the requirements of 24 CFR 235.1202(b)(3).

(c) *Authority to sign.* The mortgagees that have the authority to originate and close mortgages in accordance with § 235.1218(e) shall have the authority to sign for and on behalf of the Secretary, in accordance with procedures established by the Secretary, without further specific approval, the following documents:

(1) *Approval of amount of assistance payments.* The Form HUD 93100, "Application for Homeownership Assistance under section 235 of the National Housing Act," which evidences a review of the information obtained from the mortgagor on the application, a determination of eligibility or ineligibility for assistance payments, and the amount of the assistance payments to which the mortgagor is entitled.

(2) *Subordination and modification agreement.* An agreement, which subordinates a recapture second mortgage or deed of trust (recapture mortgage) held by HUD in accordance with 24 CFR 235.12, to the lien of the mortgage being submitted for insurance so that the recapture mortgage will remain a second lien. If the recapture mortgage is a third lien following a second lien made, held or insured by a Federal, State or local governmental agency, and approved by the Secretary, the direct endorsement mortgagee may sign an agreement subordinating the recapture mortgage to third lien place. The agreement shall also contain a modification of the recapture mortgage to include a new note to be signed by the mortgagor securing repayment of the assistance to be paid under the mortgage to be insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated and amended at 60 FR 56499, 56501, Nov. 8, 1995]

CONTRACT RIGHTS AND OBLIGATIONS

§ 235.1222 Cross-reference.

The provisions of subpart B of title 24 of part 235 shall be applicable to mortgages insured in accordance with section 235(r) of the National Housing Act.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]