

§ 235.225

(b) Provisions applicable to condominiums. Where the mortgage involves a condominium unit, the Secretary shall not object to title by reason of the following matters:

(1) Violations of a restriction based on race, color or creed, even where such restriction provides for a penalty of reversion or forfeiture of title or a lien for liquidated damage.

(2) Easements for public utilities along one or more of the property lines, provided the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the subject property.

(3) Encroachments on the subject property by improvements on adjoining property, provided such encroachments do not interfere with the use of any improvements on the subject property.

(4) Variations between the length of the subject property lines as shown on the application for insurance and as shown by the record or possession lines, provided such variations do not interfere with the use of any of the improvements on the subject property.

(5) Customary buildings or use restrictions for breach of which there is no reversion and which have not been violated to a material extent.

(6) Federal tax liens and rights of redemption arising therefrom if the following conditions are observed. If the mortgagee acquired the property by foreclosure the mortgagee shall give notice to the Internal Revenue Service (IRS) of the foreclosure action. The Commissioner will not object to an outstanding right of redemption in IRS if (i) the Federal tax lien was perfected subsequent to the date of the mortgage lien, and (ii) the mortgagee has bid an amount sufficient to make the mortgagee whole if the property is in fact redeemed by the IRS.

[41 FR 1176, Jan. 6, 1976, as amended at 42 FR 29306, June 8, 1977]

§ 235.225 Changes in plan of apartment ownership.

The mortgagee shall notify the Secretary of any change in the plan of apartment ownership and in the administration of the property. Such notification shall be given either at the time of the conveyance of the property or at the time of the assignment of the

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mortgage. Any change in such plan shall require approval by the Secretary.

§ 235.230 Condition of multifamily structure.

(a) When a family unit is conveyed or a mortgage is assigned to the Secretary, the family unit and the common areas and facilities (including restricted common areas and facilities) designated for the particular unit shall be undamaged by fire, flood, earthquake, tornado, or boiler explosion, or, as to mortgages insured on or after June 8, 1977, due to failure of the mortgagee to take action as required by § 203.377. If the property has been damaged, either of the following actions shall be taken:

(1) The property may be repaired prior to its conveyance or prior to the assignment of the mortgage to the Secretary.

(2) With the prior approval of the Secretary, the property may be conveyed or the mortgage assigned to the Secretary without repairing the damage. In such instances, the Secretary shall deduct from the insurance benefits either his estimate of the decrease in value of the family unit or the amount of any insurance recovery received by the mortgagee, whichever amount is the greater.

(b) If the property has been damaged by fire and such property was not covered by fire insurance at the time of the damage, the mortgagee may convey the property or assign the mortgage to the Secretary without deduction from the insurance benefits for any loss occasioned by such fire if the following conditions are met:

(1) The property shall have been covered by fire insurance at the time the mortgage was insured.

(2) The fire insurance company shall have later canceled or refused to renew the policy.

(3) The mortgagee shall have notified the Secretary within 30 days (or within such further time as the Secretary may approve) of the cancellation of the fire insurance or of the refusal of the insuring company to renew the fire insurance. This notification shall have been accompanied by a certification of the mortgagee that diligent efforts were