

an existing home equity conversion mortgage insured under this part, including loans assigned to the Secretary as described in § 206.107(a)(1) and § 206.121(b) under this part.

(b) *Definition of “total cost of the refinancing.”* For purposes of paragraphs (c) and (d) of this section, the term “total cost of the refinancing” means the sum of the allowable charges and fees permitted under § 206.31 and the initial MIP described in § 206.105(a) and paragraph (c) of this section.

(c) *Initial MIP limit.* The initial MIP paid by the mortgagee pursuant to § 206.105(a) shall not exceed two percent of the increase in the maximum claim amount (*i.e.*, the difference between the maximum claim amount for the new home equity conversion mortgage and the maximum claim amount for the existing home equity conversion mortgage that is being refinanced).

(d) *Anti-churning disclosure—(1) Contents of anti-churning disclosure.* In addition to providing the required disclosures under § 206.43, the mortgagee shall provide to the mortgagor its best estimate of:

(i) The total cost of the refinancing to the mortgagor; and

(ii) The increase in the mortgagor’s principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the home equity conversion mortgage that is being refinanced under this section.

(2) *Timing of anti-churning disclosure.* The mortgagee shall provide the anti-churning disclosure concurrently with the disclosures required under § 206.43.

(e) *Waiver of counseling requirement.* The mortgagor may elect not to receive counseling under § 206.41, but only if:

(1) The mortgagor has received the anti-churning disclosure required under paragraph (d) of this section.

(2) The increase in the mortgagor’s principal limit (as provided in the anti-churning disclosure) exceeds the total cost of the refinancing by an amount established by the Secretary through FEDERAL REGISTER notice. HUD may periodically update this amount through publication of a notice in the FEDERAL REGISTER. Publication of any such revised amount will occur at least

30 days before the revision becomes effective.

(3) The time between the date of the closing on the original home equity conversion mortgage and the date of the application for refinancing under this section does not exceed five years (even if less than five years have passed since a previous refinancing under this section).

[69 FR 15591, Mar. 25, 2004, as amended at 73 FR 1436, Jan. 8, 2008]

### Subpart C—Contract Rights and Obligations

#### SALE, ASSIGNMENT AND PLEDGE

#### § 206.101 Sale, assignment and pledge of insured mortgages.

The provisions of §§ 203.430 through 203.435 of this chapter shall be applicable to mortgages eligible for insurance under this part.

#### § 206.102 General Insurance Fund.

Mortgages insured under this part shall be obligations of the General Insurance Fund.

[60 FR 42761, Aug. 16, 1995]

#### MORTGAGE INSURANCE PREMIUMS

#### § 206.103 Payment of MIP.

The payment of any MIP under this subpart shall be made to the Secretary by the mortgagee in cash, until the contract of insurance is terminated.

#### § 206.105 Amount of MIP.

(a) *Initial MIP.* The mortgagee shall pay to the Secretary an initial MIP of two percent of the maximum claim amount.

(b) *Monthly MIP.* Monthly MIP will accrue daily on the mortgage balance at a rate equivalent to one-half of one percent per annum and shall be added to the mortgage balance when paid to the Secretary.

(Approved by the Office of Management and Budget under control number 2528–0133)

#### § 206.107 Mortgage election of assignment or shared premium option.

(a) *Election of option.* Before the mortgage is submitted for insurance endorsement, the mortgagee shall elect

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either the assignment option or the shared premium option.

(1) Under the assignment option, the mortgagee shall have the option of assigning the mortgage to the Secretary if the mortgage balance is equal to or greater than 98 percent of the maximum claim amount, or the mortgagor has requested a payment which exceeds the difference between the maximum claim amount and the mortgage balance and:

(i) The mortgagee is current in making the required payments under the mortgage to the mortgagor;

(ii) The mortgagee is current in its payment of the MIP (and late charges and interest on the MIP, if any) to the Secretary;

(iii) The mortgage is not due and payable under § 206.27(c)(1); and

(iv) The mortgagee has not informed the Secretary of an event described in § 206.27(c)(2), or the Secretary has been so informed but has denied approval for the mortgage to be due and payable. At the mortgagee's option, the mortgagee may forgo assignment of the mortgage and file a claim under any of the circumstances described in § 206.123(a)(2)–(5).

(v) The mortgage is a first lien of record and title to the property securing the mortgage is good and marketable. The provisions of § 203.353 of this chapter pertaining to mortgagee certifications, § 203.387 of this chapter pertaining to title evidence, and § 203.389 of this chapter pertaining to waived title objections also apply.

(2) Under the shared premium option, the mortgagee may not assign a mortgage to the Secretary unless the mortgagee fails to make payments and the Secretary demands assignment (§ 206.123(a)(2)), but the mortgagee shall only be required to remit a reduced monthly MIP to the Secretary. The mortgagee shall collect from the mortgagor the full amount of the monthly MIP provided in § 206.105(b) but shall retain a portion of the monthly MIP paid by the mortgagor as compensation for the default risk assumed by the mortgagee. The portion of the MIP to be retained by a mortgagee shall be determined by the Secretary as calculated in § 206.109. For a particular mortgage, the applicable portion shall be deter-

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mined as of the date of the commitment. The mortgagee retains the right to file a claim under any of the circumstances described in § 206.123(a)(2)–(5).

(b) *No election for shared appreciation.* Shared appreciation mortgages shall be insured by the Secretary only under the shared premium option.

[54 FR 24833, June 9, 1989, as amended at 60 FR 42761, Aug. 16, 1995]

### § 206.109 Amount of mortgagee share of premium.

Using the factors provided by the Secretary, the amount of the mortgagee share of the premium shall be determined for each mortgage based upon the age of the youngest mortgagor and the expected average mortgage interest rate.

### § 206.111 Due date of MIP.

(a) *Initial MIP.* The mortgagee shall pay the initial MIP to the Secretary within fifteen days of closing and as a condition to the endorsement of the mortgage for insurance.

(b) *Monthly MIP.* Each monthly MIP shall be due to the Secretary on the first business day of each month except the month in which the mortgage is closed.

### § 206.113 Late charge and interest.

(a) *Late charge.* Initial MIP remitted to the Secretary after the payment date in § 206.111(a) and monthly MIP remitted to the Secretary 10 days after the payment date in § 206.111(b) shall include a late charge of four percent of the amount paid.

(b) *Interest.* In addition to any late charge provided in paragraph (a) of this section, the mortgagee shall pay interest on any initial MIP remitted to the Secretary more than 30 days after closing, and interest on any monthly MIP remitted to the Secretary more than 30 days after the payment date prescribed in § 206.111(b). Such interest rate shall be paid at a rate set in conformity with the Treasury Financial Manual.

(c) *Paid by mortgagee.* Any late charge owed by the mortgagee shall be paid from the mortgagee's funds and shall