

evidences such determination by written approval of the forbearance agreement.

(b) The time specified in § 207.258(a) of this chapter, within which a mortgagee shall give the Commissioner written notice of its intention to file an insurance claim, shall be suspended for the period of time specified in the forbearance agreement as long as the mortgagor complies with the requirements of such agreement.

(c) If the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance period, and such failure continues for a period of 30 days, the mortgagee shall notify the Commissioner of such failure. Within 45 days thereafter, unless a modification or extension of the forbearance agreement has been approved by the Commissioner, the mortgagee shall notify the Commissioner of its election to file an insurance claim and of its decision to either assign the mortgage to the Commissioner or to acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 221.763 shall be applicable.

[36 FR 24587, Dec. 22, 1971, as amended at 51 FR 27838, Aug. 4, 1986]

§ 221.762 Payment of insurance benefits.

All of the provisions of § 207.259 of this chapter relating to insurance benefits apply to multifamily project mortgages insured under this subpart, except as provided in this section:

(a) *Method of payment.* All of the insurance benefits provided by § 207.259 (b) or (c) of this chapter shall be paid in cash unless the mortgagee files with the application a written request for payment in debentures. If such a request is made, payment will be made in debentures with a cash payment to adjust any difference between the total amount of the insurance settlement and the amount of the debentures issued.

(b) *Below market interest rate mortgages.* Where the mortgage has been finally endorsed and the special below market interest rate provided in § 221.518(b) is applicable as of the date

of default, the 1 percent deduction from insurance benefits prescribed in § 207.259(b)(2)(iv) of this chapter shall not be applicable.

(c) *Mortgages financed with section 11(b) obligations.* Where the funds for a mortgage loan are provided by obligations that are tax-exempt under section 11(b) of the United States Housing Act of 1937 (24 CFR part 811), the one percent deduction from insurance benefits prescribed in § 207.259(b)(2)(iv) of this chapter shall not be applicable to claims with respect to multifamily rental housing projects for which a firm commitment for mortgage insurance was issued on or after March 12, 1979.

[36 FR 24587, Dec. 22, 1971, as amended at 44 FR 40890, July 13, 1979]

**§ 221.763 Special insurance benefits—
forbearance relief cases.**

(a) In the case of a mortgage that provides for payment of interest at the market rate prescribed in § 221.518(a), if the mortgagor fails to meet the requirements of a forbearance agreement or to cure the default under the mortgage at the expiration of the forbearance agreement, the mortgagee shall be entitled to obtain a special insurance payment in cash, in lieu of the insurance benefits otherwise provided under this subpart. To receive the special insurance payment, the mortgagee shall assign the mortgage to the Commissioner in compliance with the requirements of § 207.258(b) of this chapter.

(b) The special insurance benefit to the mortgagee shall be a cash payment computed in accordance with § 207.259(b) of this chapter, except that in lieu of the allowance for debenture interest in § 207.259(b)(1)(iii) of this chapter, the payment shall include the amount of the unpaid accrued mortgage interest computed to the date the assignment of the mortgage to the Commissioner is filed for record. In addition, there shall be included in the cash payment an amount equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the payment is made; except that when the mortgagee

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fails to meet any of the applicable requirements of § 207.258(b) of this chapter and § 221.761(c) within the specified times and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), such debenture interest allowance shall be computed only to the date on which the particular required action should have been taken.

§ 221.770 Assignment option.

A mortgagee holding a conditional or firm commitment issued on or before November 30, 1983 (or, in the Direct Endorsement program, a property appraisal report signed by the mortgagee's approved underwriter on or before November 30, 1983) has the option to assign, transfer and deliver to the Commissioner the original credit instrument and the mortgage securing it, provided that the mortgage is not in default at the expiration of 20 years from the date of final endorsement of the credit instrument. In processing a mortgagee's claim for insurance benefits under this section, the Commissioner may direct the mortgagee to assign, transfer and deliver the original credit instrument, and the mortgage securing it, directly to the Government National Mortgage Association (GNMA). Upon such assignment, transfer and delivery either to the Commissioner or to GNMA, as directed, the mortgage insurance contract shall terminate and the mortgagee shall be entitled to receive insurance benefits in accordance with § 221.780.

[49 FR 12698, Mar. 30, 1984, as amended at 57 FR 58351, Dec. 9, 1992]

§ 221.775 Option period.

The mortgagee may exercise its option to assign within one year following the twentieth anniversary of the date the mortgage was finally endorsed for insurance.

§ 221.780 Issuance of debentures.

Upon the exercise of the assignment option and the satisfactory performance of the requirements as to assignment set out in § 207.258 of this chapter, the Commissioner shall issue the assignor mortgagee debentures having a total par value equal to the amount of the original principal obligation of the

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mortgage which was unpaid on the date of the assignment, plus accrued interest to such date.

[59 FR 49816, Sept. 30, 1994]

§ 221.785 Date of maturity of debentures.

The debentures issues pursuant to the exercise of an assignment option shall be dated as of the date the mortgage is assigned to the Commissioner and shall mature 10 years after such date.

§ 221.790 Debenture interest rate.

The debentures issued pursuant to the exercise of an assignment option shall bear interest at the *going Federal rate* at date of issuance. The *going Federal rate* means the annual rate of interest specified by the Secretary of the Treasury as applicable to the 6-month period which includes the issuance date of the debentures. The Secretary of the Treasury shall determine this applicable rate by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such 6-month period, on all outstanding marketable obligations of the United States having a maturity date of 8 to 12 years from the first day of May or November, as the case may be. If there should be no outstanding marketable obligations of the United States having the 8 to 12 year maturity at the time the Secretary of the Treasury is required to determine the debenture rate involved, the obligation next shorter than 8 years and the obligation next longer than 12 years respectively shall be used.

§ 221.795 Displacement—below market interest rate mortgages.

(a) *Minimizing displacement.* Consistent with the other goals and objectives of this part, Owners shall assure that they have taken all reasonable steps to minimize the displacement of persons (households, businesses, non-profit organizations, and farms) as a result of a project assisted under this part.

(b) *Temporary relocation.* The following policies cover residential tenants who will not be required to move