

of the FHA multifamily housing programs, other than sections 213(a)(1) and 213(a)(2) of the Act (12 U.S.C. 1715e).

*Restricted common areas and facilities* means those areas and facilities restricted to a particular family unit or number of family units.

*Tenant* means the occupant(s) named in the lease or rental agreement of a housing unit in a project as of the date the condominium conversion documents are properly filed for the project, or as of the date on which the occupants are notified by management of intent to convert the project to a condominium, whichever is earlier.

[61 FR 60161, Nov. 26, 1996, as amended at 68 FR 6597, Feb. 7, 2003]

**§ 234.17 Mortgagor and mortgagee requirements for maintaining flood insurance coverage.**

The maintenance of flood insurance coverage on the project by the condominium association will satisfy the requirements of § 203.16a of this chapter if such coverage protects the interest of the mortgagor in the family unit. For this purpose, “the interest of the mortgagor” is defined as insurance coverage equal to the replacement cost of the project less land costs.

**§ 234.26 Project requirements.**

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) *Location of family unit.* The family unit shall be located in a project that the Commissioner determines to be acceptable.

(b) *Plan of condominium ownership.* The project in which the unit is located shall have been committed to a plan of condominium ownership by a deed, or other recorded instrument, that is acceptable to the Commissioner. In the case of condominium documents in the Commonwealth of Puerto Rico, the Commissioner will accept documents presented for inscription (recordation) to the Commonwealth Office of the Property Registry so long as the mortgagor obtains a title insurance policy that reflects the condominium regime.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgagee.* The mortgagee shall certify that:

(1) The deed of the family unit and the deed or other recorded instrument committing the project to a plan of condominium ownership must comply with legal requirements of the jurisdiction. In the case of condominium documents in the Commonwealth of Puerto Rico, the Department will accept documents presented for inscription (recordation) to the Commonwealth Office of Property Registry for certification purposes so long as the mortgagor obtains a title insurance policy that reflects the condominium regime.

(2) The mortgagor has good marketable title to the family unit, subject only to a mortgage that is a valid first lien on the family unit.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Conditions and provisions.* (1) The Commissioner may require such conditions and provisions as the Commissioner determines are necessary for the protection of consumers and the public interest.

(2) An application for mortgage insurance of a unit will not be approved if approval would result in less than 80 percent of the FHA-insured mortgages covering units in the project being occupied by mortgagors or co-mortgagors as a principal residence or a secondary residence (as these terms are defined in § 203.18 of this chapter).

(3) In addition to the other requirements of this section, in order for a project to be acceptable to the Secretary, at least 51 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as these terms are defined in § 203.18 of this chapter), or must have been sold to owners who intend to meet this occupancy requirement.

(f) *Limitations on conversion of rental housing to condominium use.* With respect to a family unit in any project that was converted from rental housing, no insurance will be provided under this section unless:

(1) The conversion occurred more than one year before the application for insurance; or