

(iv) The actions that the mortgagor must take to restore the authorization to retain Excess Income.

(3) *Mortgagor's request for reconsideration.*—(i) *Letter of reconsideration.* A mortgagor may request that HUD reconsider its decision by submitting, to the Hub/Field Office Director or other party identified by HUD in the notification, within 30 days of receipt of the notification of withdrawal, a letter stating the basis for reconsideration. The letter must include documentation supporting a review of the withdrawal.

(ii) *HUD response.* Within 30 days of HUD's receipt of the mortgagor's request for reconsideration, HUD will make a final determination and respond in writing to the mortgagor. HUD's response may:

(A) Affirm the withdrawal of authority to retain Excess Income;

(B) Reverse the withdrawal of authority to retain Excess Income; or

(C) Request additional information from the mortgagor before affirming or reversing the withdrawal of authority to retain Excess Income.

[69 FR 53560, Sept. 1, 2004]

## Subpart B—Contract Rights and Obligations for Mortgage Insurance

### § 236.251 Cross-reference.

All of the provisions of subpart B, part 207 of this chapter covering mortgages insured under section 207 of the National Housing Act, apply with full force and effect to mortgages insured under section 236 of the National Housing Act except the following provisions:

Sec.

207.252 First, second, and third premiums.

207.252a Premiums—operating loss loans.

207.259 Insurance benefits.

207.262 No vested right in fund.

[37 FR 8664, Apr. 29, 1972, as amended at 42 FR 59675, Nov. 18, 1977]

### § 236.252 First, second, and third mortgage insurance premiums.

All of the provisions of § 207.252 of this chapter governing the first, second, and third mortgage insurance premiums shall apply to mortgages insured under this subpart, except:

(a) Where an application for a loan under section 202 of the Housing Act of 1959 has been filed previously in connection with the project, but it is being financed with a mortgage insured under this part because funds are not available to make the section 202 loan, the mortgage insurance premium due and payable between the dates of initial and final insurance endorsement shall be at the rate of one-fourth of one percent per annum of the average outstanding principal obligation of the mortgage and such premiums shall be prorated for any fractional part of a year. Following final endorsement, the mortgage insurance premium shall be increased to one-half of one percent and shall be paid as provided in § 207.252.

(b) Where a mortgage has been insured under this subpart pursuant to section 238(c) of the Act, the mortgage insurance premiums due in accordance with § 207.252 shall be calculated on the basis of one percent.

[42 FR 59675, Nov. 18, 1977]

### § 236.253 Premiums—operating loss loans.

All of the provisions of § 207.252a of this chapter relating to mortgage insurance premiums on operating loss loans shall apply to mortgages insured under this subpart, except that for mortgages insured pursuant to Section 238(c) of the Act the mortgage insurance premiums due in accordance with § 207.252a shall be calculated on the basis of one percent.

[42 FR 59675, Nov. 18, 1977]

### § 236.254 Termination of mortgage insurance.

In addition to the provisions of § 207.253a, the following requirements apply to multifamily mortgages insured under section 236 of the National Housing Act:

(a) For those projects qualifying as eligible low income housing under § 248.201, the contract of insurance may be terminated only as provided in part 248.

(b) For those projects subject to section 250(a) of the National Housing Act,

## § 236.255

the contract of insurance may be terminated only if the Commissioner determines that the requirements of section 250(a) are met.

[55 FR 38958, Sept. 21, 1990]

### § 236.255 Forbearance relief.

(a) In a case where the mortgage is in default, the mortgagor and the mortgagee may enter into a forbearance agreement for the reduction or suspension of the mortgagor's regular mortgage payments for a specified period of time, if the Commissioner determines that the default was due to circumstances beyond the mortgagor's control and that the mortgage probably will be restored to good standing within a reasonable period of time. Such determination shall be evidenced by the Commissioner's 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 election to either assign the mortgage to the Commissioner or acquire and convey title to the property to the Commissioner. If the mortgage is assigned to the Commissioner, the special insurance benefits prescribed in § 236.265(b) shall be applicable.

### § 236.260 Request by Commissioner for assignment of mortgage.

The mortgagee shall, when requested by the Commissioner, assign to the Commissioner a mortgage on which interest reduction payments are being made pursuant to the provisions of

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§ 236.501 *et seq.* If the mortgage is not in default when the Commissioner requests its assignment, the first day of the month following the Commissioner's request shall be considered the date of default.

### § 236.265 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 follows:

(a) Insurance claims shall be paid in cash unless the mortgagee files a written request for payment in debentures.

(b) When the mortgage is assigned to the Commissioner pursuant to § 236.260 or is assigned in a case where the mortgagor fails to comply with the requirements of a forbearance agreement approved by the Commissioner in accordance with the requirements of § 236.255 or is assigned in a case where the mortgagor fails to cure the default at the expiration of the forbearance period, the insurance benefits shall be paid in cash and shall be 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, an amount shall be included equivalent to the debenture interest which would have been earned from the date the mortgage assignment was filed for record to the date the cash payment is made, except that when the mortgagee fails to meet any one of the applicable requirements of §§ 207.256, 207.258(b), and 236.255(c) of this chapter within the specified time and in a manner satisfactory to the Commissioner (or within such further time as the Commissioner may approve in writing), such amount shall be computed only to the date on which the particular required action should have been taken or to which it was extended.

(c) Where the assignment of the mortgage is made pursuant to § 236.260 and the mortgage is not in default at the time of such assignment, the one percent deduction prescribed in