

(4) The responsibility for servicing the insured mortgages shall remain with the principal mortgagee.

GRADUATED PAYMENT MORTGAGES

§ 203.436 Claim procedure—graduated payment mortgages.

All of the provisions of this subpart are applicable to mortgages insured under the provisions of § 203.45 except as provided in this section.

(a) *Beginning of Amortization* means the date one month prior to the date of the first monthly payment to principal or interest.

(b) The phrases *unpaid principal balance of the loan* or *principal of the mortgage which was unpaid* as used in this subpart, shall be construed to refer to the outstanding mortgage amount as increased by any accrued mortgage interest which was unpaid pursuant to a financing plan approved by the Secretary.

[41 FR 42949, Sept. 29, 1976]

COOPERATIVE UNIT MORTGAGES

§ 203.437 Mortgages involving a dwelling unit in a cooperative housing development.

(a) The provisions of §§ 203.251(d), 203.366 and 203.440 through 203.495 shall not apply to mortgages insured pursuant to section 203(n) of the National Housing Act.

(b) References in this subpart to the term *deed* and *deed in lieu of foreclosure*, or the word *property* when found in the phrases *conveyance of property*, *acquisition of property*, or other phrases indicating transfer of property, shall be construed to mean the assignment of the Corporate Certificate and Occupancy Certificate. However, when the use of such terms, as interpreted in light of section 203(n) of the National Housing Act, clearly indicates that reference to the dwelling unit is intended, such terms shall mean the dwelling unit identified in the Occupancy Certificate.

(c) In addition to the requirements of § 203.365, the mortgagee shall forward to the Secretary within 45 days after the transfer of the Corporate Certificate:

(1) A statement certified by the officer of the corporation charged with maintenance of the Corporate Certificate Transfer Book that such book currently shows that the Secretary is the owner of the Corporate Certificate; and,

(2) The Occupancy Certificate in the name of the Secretary.

(d) The mortgagee shall tender to the Secretary good and marketable title to the Corporate Certificate and the exclusive right of permanent possession of the dwelling unit.

(e) In lieu of the types of title evidence provided in § 203.385, the Secretary will accept a legal opinion signed by an attorney at law experienced in the examination of titles that the Secretary has good and marketable title to the Corporate Certificate and the exclusive right of possession of the dwelling unit.

(f) The Secretary may accept assignment of mortgages insured under this part if it is determined by the Secretary that it is in the Department's interest to do so provided that the blanket mortgage is in default and the holder of such mortgage has announced an intention to foreclose.

[42 FR 40432, Aug. 10, 1977; 42 FR 57435, Nov. 2, 1977]

MORTGAGES ON PROPERTY LOCATED ON INDIAN LAND

§ 203.438 Mortgages on Indian land insured pursuant to section 248 of the National Housing Act.

(a) *Exemptions.* The provisions of § 203.366 shall not apply to mortgages insured pursuant to section 248 of the National Housing Act.

(b) *Claim procedure.* In addition to other actions which the mortgagee may take pursuant to this subpart in order to receive insurance benefits, a mortgagee shall be entitled to receive such benefits on a mortgage insured under § 203.43h when (1) the mortgagor is more than 90 days in default; (2) the mortgagee has submitted appropriate documentation to the Secretary in accordance with § 203.350(b); and (3) the Secretary has approved the assignment of the mortgage.

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(c) *Foreclosure by HUD.* HUD may initiate foreclosure proceedings with respect to any mortgage acquired under this section in a tribal court, a court of competent jurisdiction or Federal district court. If the mortgagor remains on the property following foreclosure, HUD may seek an eviction order from the court hearing the foreclosure action.

[51 FR 21872, June 16, 1986, as amended at 61 FR 35019, July 3, 1996]

MORTGAGES ON PROPERTY LOCATED ON HAWAIIAN HOME LANDS

§ 203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

(a) *Exemptions.* The provisions of §§ 203.351(a)(8), 203.353(a), and 203.368, do not apply to mortgages insured pursuant to section 247 of the National Housing Act.

(b) *Claim procedure.* Where the mortgage is 180 days or more in default, the mortgagee may assign the mortgage to the Secretary and file its claim for insurance benefits in accordance with the provisions of this subpart. No claim on an insured mortgage will be paid other than through assignment of the mortgage.

(c) *Notice of delinquency.* Once each month on a day prescribed by HUD, the mortgagee shall notify the Department of Hawaiian Home Lands of all mortgages insured pursuant to section 247 of the National Housing Act on leaseholds of Hawaiian home lands that are delinquent on the last day of the month, or that were reported as delinquent the previous month. The notice is in addition to the requirement in §§ 203.330 and 203.331.

[52 FR 8068, Mar. 16, 1987. Correctly designated at 52 FR 9989, Mar. 27, 1987 and 52 FR 28470, July 30, 1987, and amended at 55 FR 283, Jan. 4, 1990; 71 FR 16234, Mar. 31, 2006]

MORTGAGES ON PROPERTY IN ALLEGANY RESERVATION OF SENECA INDIANS

§ 203.439a Mortgages on property in Allegany Reservation of Seneca Nation of Indians authorized by section 203(q) of the National Housing Act.

(a) *Applicability.* This section shall apply to mortgages authorized by sec-

tion 203(q) of the National Housing Act (§203.43j of this part) only when the date of default occurs before the mortgagor and the lessor execute a lease renewal or a new lease either with a term of not less than five years beyond the maturity date of the mortgage, or with a term established by an arbitration award.

(b) *Claims.* In addition to other actions which the mortgagee may take pursuant to this subpart in order to receive insurance benefits, a mortgagee shall be entitled to receive such benefits when the Secretary has agreed to accept assignment of a mortgage in accordance with § 203.350(d) and the mortgagee has complied with §§ 203.351 and 203.353.

(c) *Exceptions.* Notwithstanding § 203.366, title to a leasehold estate conveyed to the Commissioner is not required to be marketable as to the term of the lease, provided that the mortgagee has taken any actions required by the Secretary to attempt to obtain a long-term renewal of the lease. Title evidence will be required in a form satisfactory to the Commissioner (see § 203.385) unless the Commissioner agrees to accept title to a leasehold estate without title evidence.

[52 FR 48202, Dec. 21, 1987, and 53 FR 9869, Mar. 28, 1988]

REHABILITATION LOANS

§ 203.440 Definitions.

All of the definitions contained in § 203.50 of this subchapter shall apply to §§ 203.440 *et seq.* In addition the following terms shall have the meaning indicated:

(a) *Insured loan* means a loan which has been insured as evidenced by the issuance of an Insurance Certificate or by the endorsement of the note for insurance by the Commissioner.

(b) *Contract of insurance* means the agreement evidenced by the issuance of an Insurance Certificate or by the endorsement of the Commissioner upon the note given in connection with an insured loan, incorporating by reference the regulations in §§ 203.440 *et seq.* and the applicable provisions of the Act.