

**§ 220.806**

loan is paid in full prior to its maturity. Notice of the prepayment shall be given to the Commissioner, on a form prescribed by the Commissioner, within 30 days from the date of the prepayment. The insurance termination shall become effective as of the date of the prepayment.

(b) *Voluntary termination.* The contract of insurance shall be voluntarily terminated upon receipt by the Commissioner of a written request, on a form prescribed by the Commissioner, by the borrower and the lender for such termination, accompanied by a submission of the original credit instrument for cancellation of the insurance endorsement and the remittance of all sums to which the Commissioner is entitled. The termination shall become effective as of the date these requirements are met.

**§ 220.806 Pro rata refund of insurance premium.**

Upon termination of loan insurance contract by a payment in full or by a voluntary termination, the Commissioner shall refund to the lender for the account of the borrower an amount equal to the pro rata portion of the current annual loan insurance premium theretofore paid which is applicable to the portion of the year subsequent to the date of the prepayment or the effective date of the voluntary termination of the contract of insurance.

**§ 220.810 Definition of default.**

(a) If the borrower fails to make any payments due under or provided to be paid by the terms of the note or security instrument and such default continues for a period of 30 days, the note or security instrument shall be considered in default for the purposes of §§ 220.800 *et seq.*

(b) The failure to perform any other covenant under the note or security instrument shall be considered a default, provided the lender because of such default, has exercised its right under the note or security instrument and accelerated the debt.

(c) If such defaults as defined in paragraphs (a) and (b) of this section continue for a period of 30 days, the lender shall be entitled to receive the benefits of insurance hereinafter provided.

**24 CFR Ch. II (4-1-10 Edition)**

**§ 220.811 Date of default.**

For the purposes of §§ 220.800 *et seq.*, the date of default shall be considered as:

(a) The date of the first uncorrected failure to perform a covenant or obligation under the note or security instrument; or

(b) The date of the first failure to make a monthly payment which subsequent payments by the borrower are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

**§ 220.812 Notice of default.**

(a) If the default as defined in § 220.810 is not cured within the 30 day grace period, the lender shall, within 30 days thereafter, notify the Commissioner in writing of such default.

(b) The lender shall give notice in writing to the Commissioner of the failure of the borrower to comply with any covenant or obligation under the security instrument or note regardless of the fact the lender may not have elected to accelerate the debt.

**§ 220.813 Commissioner's right to require acceleration.**

Upon receipt of notice of the failure of the borrower to comply with any covenant or obligation under the security instrument or note, or otherwise being apprised thereof, the Commissioner reserves the right to require the lender to accelerate payment of the outstanding principal balance due in order to protect the interests of the Federal Housing Commissioner.

**§ 220.814 Election of action.**

Where a real estate mortgage, deed of trust, conditional sales contract, chattel mortgage, lien, judgment, or any other security device has been used to secure the payment of a loan made under the provisions of this section, the lender may not, except with the approval of the Commissioner, both proceed against such security and also make claim under its contract of insurance, but shall elect which method it desires to pursue.