

§ 232.830

RIGHTS AND DUTIES OF LENDER UNDER
THE CONTRACT OF INSURANCE

§ 232.830 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, the note shall be considered in default for the purposes of this subpart.

(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 rights 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.

§ 232.840 Date of default.

In computing loan insurance benefits, the date of default shall be considered as:

(a) The date of the lender's acceleration of the debt because of the borrower's 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 become due.

§ 232.850 Notice of default.

(a) If the default is not cured within the 30 day grace period, as defined in § 232.830(c), 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 that the lender may not have elected to accelerate the debt.

§ 232.860 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

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

being apprised thereof, the Commissioner may require the lender to accelerate payment of the outstanding principal balance due.

§ 232.865 Election by lender.

Where a real estate mortgage, or other security instrument has been used to secure the payment of a loan made under the provisions of this subpart and subpart C of this part, the lender may either elect to assign the loan to the Commissioner in exchange for the payment of insurance benefits or may exercise its rights under the note and security instrument in lieu of making a claim for insurance benefits. If the lender elects the latter course, the Commissioner shall be so notified and the contract of insurance shall be deemed terminated upon the date of receipt of such notification.

§ 232.875 Maximum claim period.

Notice of intention to file claim on a form prescribed by the Commissioner shall be filed within 45 days after the lender becomes eligible for the benefits of the loan insurance, or within such later time as may be agreed upon by the Commissioner in writing.

§ 232.880 Items to be delivered on submitting claim.

Within 30 days after the filing of the notice of intention to file claim, or within such further period as may be agreed upon by the Commissioner in writing, the lender shall deliver to the Commissioner:

(a) The fiscal data pertaining to the loan transactions;

(b) Receipts covering all disbursements as required by the fiscal data form;

(c) The original note and any security instrument or instruments which shall be assigned to the Commissioner without recourse or warranty, except that the lender must warrant that no act or omission of the lender has impaired the validity and priority of such security instrument or instruments, that the security instrument or instruments are prior to all mechanics' and material-men's liens filed of record subsequent to the recording of such security instrument or instruments regardless of whether such liens attached