

**§ 232.890**

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

**§ 232.890 Characteristics of debentures.**

Debentures issued in settlement of insurance claims under this subpart shall have the same characteristics and the same requirements for registration and redemption as those issued pursuant to subpart B of this part except that debentures shall bear interest at the rate in effect as of the date the commitment was issued, or as of the date the loan was first endorsed for insurance, whichever rate is higher and shall mature 10 years from the date of issue which date shall be the date of execution of the assignment of the loan to the Commissioner.

**§ 232.893 Cash adjustment.**

Any difference of less than \$50 between the amount of debentures to be issued to the lender and the total amount of the lender's claim, as approved by the Commissioner, may be adjusted by the issuance of a check in payment thereof.

[59 FR 49816, Sept. 30, 1994]

**ASSIGNMENTS**

**§ 232.895 Assignment of insured loans.**

(a) An insured loan may be transferred only to a transferee who is a lender approved by the Commissioner. Upon such transfer and the assumption by the transferee of all obligations under the contract of insurance the transferor shall be released from its obligations under the contract of insurance.

(b) The contract of insurance shall terminate with respect to loans described in paragraph (a) of this section upon the happening of either of the following events:

(1) The transfer or pledge of the insured loan to any person, firm, or corporation, public or private, other than an approved lender.

(2) The disposal by a lender of any partial interest in the insured loan to other than an approved lender.

**EXTENSION OF TIME**

**§ 232.897 Actions to be taken by lender.**

With respect to any action required of the lender within a period of time

prescribed by this subpart, the Commissioner may extend such period.

**Subpart E—Insurance of Mortgages Covering Existing Projects**

SOURCE: 53 FR 33735, Aug. 31, 1988, unless otherwise noted.

**§ 232.901 Mortgages covering existing projects are eligible for insurance.**

A mortgage executed in connection with the purchase or refinancing of an existing project without substantial rehabilitation may be insured under this subpart pursuant to section 223(f) of the Act. A mortgage insured pursuant to this subpart shall meet all other requirements of this part except as expressly modified by this subpart.

[59 FR 61228, Nov. 29, 1994]

**§ 232.902 Eligible project.**

Existing projects (with such repairs and improvements as are determined by the Commissioner to be necessary) are eligible for insurance under this subpart. The project must not require substantial rehabilitation and three years must have elapsed from the date of completion of construction or substantial rehabilitation of the project, or from the beginning of occupancy, whichever is later, to the date of application for insurance. In addition, the project must have attained sustaining occupancy (occupancy that produces income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements) as determined by the Commissioner, before endorsement of the project for insurance; alternatively, the mortgagor must provide an operating deficit fund at the time of endorsement for insurance, in an amount, and under an agreement, approved by the Commissioner.

[59 FR 61228, Nov. 29, 1994]

**§ 232.903 Maximum mortgage limitations.**

Notwithstanding the maximum mortgage limitations set forth in § 232.30, a mortgage within the limits set forth in this section shall be eligible for insurance under this subpart.

(a) *Value limit.* The mortgage shall involve a principal obligation of not in excess of eighty-five percent (85%) for a profit motivated mortgagor (ninety percent (90%) for a private nonprofit mortgagor) of the Commissioner's estimate of the value of the project, including major movable equipment to be used in its operation and any repairs and improvements. The Commissioner's estimate of value shall result from consideration of:

- (1) Estimated market value of the Project by capitalization,
- (2) Estimated market value of the Project by direct sales comparison, and
- (3) Total estimated replacement cost of the Project.

In the event the mortgage is secured by a leasehold estate rather than a fee simple estate, the value of the property described in the mortgage shall be the value of the leasehold estate (as determined by the Commissioner) which shall in all cases be less than the value of the property in fee simple.

(b) *Debt service limit.* The insured mortgage shall involve a principal obligation not in excess of the amount that could be amortized by eighty-five percent (85%) for a profit motivated mortgagor (ninety percent (90%) for a private nonprofit mortgagor) of the net projected project income available for payment of debt service. Net projected Project income available for debt service shall be determined by reducing the Commissioner's estimated gross income for the Project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements and taxes.

(c) *Project to be refinanced—additional limit.* In addition to meeting the requirements of paragraphs (a) and (b) of this section, if the Project is to be refinanced by the insured mortgage (*i.e.*, without a change of ownership or with the Project sold to a purchaser who has an identity of interest as defined by the Commissioner with the seller with the purchase to be financed with the insured mortgage), the maximum mortgage amount must not exceed the cost to refinance the existing indebtedness, which will consist of the following items, the eligibility and

amounts of which must be determined by the Commissioner:

- (1) The amount required to pay off the existing indebtedness;
- (2) The amount of the initial deposit for the reserve fund for replacements;
- (3) Reasonable and customary legal, organization, title, and recording expenses, including mortgagee fees under § 232.15;
- (4) The estimated repair costs, if any;
- (5) Architect's and engineer's fees, municipal inspection fees, and any other required professional or inspection fees.

(d) *Project to be acquired—additional limit.* In addition to meeting the requirements of paragraphs (a) and (b) of this section, if the project is to be acquired by the mortgagor and the purchase price is to be financed with the insured mortgage, the maximum amount must not exceed eighty-five percent (85%) for a profit motivated mortgagor (ninety percent (90%) for a private nonprofit mortgagor) of the cost of acquisition as determined by the Commissioner. The cost of acquisition shall consist of the following items, to the extent that each item (except for item numbered (1)) is paid by the purchaser separately from the purchase price. The eligibility and amounts of these items must be determined in accordance with standards established by the Commissioner.

- (1) Purchase price is indicated in the purchase agreement;
- (2) An amount for the initial deposit to the reserve fund for replacements;
- (3) Reasonable and customary legal, organizational, title, and recording expenses, including mortgagee fees under § 232.15;
- (4) The estimated repair cost, if any;
- (5) Architect's and engineer's fees, municipal inspection fees, and any other required professional or inspection fees.

[53 FR 33735, Aug. 31, 1988, as amended at 59 FR 61228, Nov. 29, 1994]

#### § 232.904 Term of the mortgage.

Notwithstanding the provisions of § 232.27, a mortgage insured under this subpart must have a maturity satisfactory to the Commissioner which is not less than 10 years, nor more than the lesser of 35 years or 75 percent of the