

1(d) of Federal Income Tax Regulations, you, as the borrower, may deduct for Federal income tax purposes only that part, if any, of mortgage interest payments made during the year which exceeded the amount of assistance payments made by HUD during the year. You are urged to contact your tax advisor or State and local tax offices for guidance regarding the deductibility of payments on your State or local income tax returns."

(Approved by the Office of Management and Budget under control number 2502-0235)

[48 FR 28986, June 24, 1983]

Subpart H—Eligibility Requirements: Contract Rights and Obligations; Assistance Payments Contracts; Servicing Responsibilities—Refinancing Mortgages Under Section 235(r) of the National Housing Act

SOURCE: 57 FR 62453, Dec. 30, 1992, unless otherwise noted.

ELIGIBILITY REQUIREMENTS; DIRECT ENDORSEMENT

§ 235.1200 Authority.

In accordance with the authority contained in section 235(r) of the National Housing Act, the Secretary may insure a mortgage given to refinance an existing mortgage which is insured under section 235 of the National Housing Act.

[57 FR 62453, Dec. 30, 1992, as amended at 60 FR 56500, Nov. 8, 1995]

§ 235.1202 Cross-reference.

(a) All of the provisions of subpart A, part 203 of this chapter concerning eligibility requirements of mortgages covering one- to four-family dwellings under section 203 of the National Housing Act apply to mortgages insured under section 235(r) of the National Housing Act, except the following provisions:

Sec.

203.16 Certificate and contract regarding use of dwelling for transient or hotel purposes.

203.17 Mortgage provisions.

- 203.18 Maximum mortgage amount.
- 203.18a Solar energy systems.
- 203.18b Increased mortgage amount.
- 203.19 Mortgagor's minimum investment.
- 203.20 Agreed interest rate.
- 203.25 Late charge.
- 203.28 Economic soundness of project.
- 203.29 Eligible mortgages in Alaska, Guam or Hawaii.
- 203.32 Mortgage lien.
- 203.33 Relationship of income to mortgage payments.
- 203.35 Disclosure and verification of Social Security and Employer Identification Numbers.
- 203.36 Certificate and contract regarding use of dwelling for transient or hotel purposes.
- 203.38 Location of dwelling.
- 203.42 Rental properties.
- 203.43 Eligibility of miscellaneous type mortgages.
- 203.43i Eligibility of mortgages on Hawaiian home lands pursuant to section 247 of the National Housing Act.
- 203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.
- 203.44 Eligibility of open-end advances.
- 203.45 Eligibility of graduated payment mortgages.
- 203.46 Eligibility of modified graduated payment mortgages.
- 203.47 Eligibility of growing equity mortgages.
- 203.49 Eligibility of adjustable rates mortgages.
- 203.50 Eligibility of rehabilitation loans.
- 203.51 Applicability.

(b) For the purposes of this subpart, all references in part 203 of this chapter to section 203 of the Act shall be construed to refer to section 235 of the Act.

[41 FR 1172, Jan. 6, 1976]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 235.1202, see the List of CFR Sections Affected in the Finding Aids section of this volume.

§ 235.1206 Definitions used in this subpart.

As used in this subpart, the following terms shall have the meaning indicated:

(a) *Adjusted annual income* means the annual family income remaining after making certain exclusions from gross annual income. The following items shall be excluded, in the order listed, from family gross annual income:

(1) 5 percent of such gross annual income, in lieu of amounts to be withheld

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(social security, retirement, health insurance, etc.) regardless of the actual amount of such withholdings;

(2) Any unusual income or temporary income, such as overtime pay which will be discontinued, income of a secondary wage earner which will terminate, unemployment compensation which does not occur regularly, or other income of a temporary nature which will be or has been discontinued.

(3) The earnings of each minor in the family who is living with such family, plus the sum of \$300 for each such minor.

(b) [Reserved]

(c) *Family* means: (1) Two or more persons related by blood, marriage, or operation of law, who occupy the same unit;

(2) A handicapped person who has a physical impairment which is expected to be of a continued duration and which impedes his ability to live independently unless suitable housing is available; or

(3) A single person, 62 years of age or older.

(d) *Gross annual income* means the total income, before taxes and other deductions, received by all members of the mortgagor's household. There shall be included in this total income all wages, social security payments, retirement benefits, military and veteran's disability payments, unemployment benefits, welfare benefits, interest and dividend payments, and such other income items as the Secretary considers appropriate.

(e) *Minor* means a person under the age of 21. As used in this subpart, minor shall not include a mortgagor or his or her spouse.

(f) *Substantial rehabilitation* means the improvement of a unit in substandard condition to a decent, safe and sanitary level, meeting FHA's standards for mortgage insurance. Units are in substandard condition when, while they may be structurally sound, they do not provide safe and adequate shelter, and in their present condition endanger the health, safety, or well-being of the occupants. Such housing has one or more defects, or a combination of potential defects in sufficient number or extent to require considerable repair or rebuilding, or is of inadequate original

construction. The defects are either so critical or so widespread that the structure should be extensively repaired. The estimated cost of the rehabilitation should normally not be less than 25 percent of the value of the property (including land) after rehabilitation. The rehabilitation should be of such scope that, when completed, all the components in the house are operable and should not be anticipated to require any work or major expense over and above normal maintenance for the first one-fourth to one-third of the mortgage term.

[41 FR 1172, Jan. 6, 1976, as amended at 43 FR 60156, Dec. 26, 1978; 45 FR 62796, Sept. 22, 1980; 46 FR 56422, Nov. 17, 1981; 51 FR 11218, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988. Redesignated at 60 FR 56500, Nov. 8, 1995]

§ 235.1208 Eligible mortgagors.

(a) The mortgagor shall agree to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income whenever one of the following events takes place:

(1) Annually, no earlier than 60 days before and no later than 30 days after the anniversary date of the mortgage or at such other anniversary date as set by the Secretary;

(2) No more than 30 days after;

(i) The mortgagor or any adult (21 years or older) member of the family residing in the household changes or begins employment which results in an increase in the family income reported in the original application for assistance or the most recent recertification.

(ii) The family income (except earnings of minors) increases at least \$50 per month.

(iii) A new member is added to the family in which case evidence of citizenship or eligible immigration status also shall be submitted, in accordance with part 200, subpart G, of this chapter.

(3) At such other times as the Secretary may require.

(b) Assistance payments may be used to assist a family owning a standard home to purchase a new home, but a family already owning a home must sell its present property and may not rent that property out to another and occupy the subsidized unit.