

(d) *Participation agreement provisions.* The participation agreement shall include provisions that:

(1) The principal lender shall retain title to the loan and remain the lender of record under the contract of loan insurance.

(2) The Commissioner shall have no obligation to recognize or deal with anyone other than the principal lender with respect to the rights, benefits, and obligations of the lender under the contract of insurance.

(3) The loan documents shall remain in the custody of the principal lender.

(4) The responsibility for servicing the insured loans shall remain with the principal lender.

#### EXTENSION OF TIME

#### § 203.496 Actions to be taken by mortgagee or lender.

With respect to any action required by the mortgagee or lender within a period of time prescribed by this subpart the Commissioner may extend such period.

#### AMENDMENTS

#### § 203.499 Effect of amendments.

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment will not adversely affect the interests of a mortgagee under the contract of insurance on any mortgage or loan already insured, and will not adversely affect the interest of a mortgagee on any mortgage or loan to be insured for which either the Direct Endorsement or Lender Insurance mortgagee has approved the mortgagor and all terms and conditions of the mortgage or loan, or the Secretary has issued a firm commitment. In addition, such amendment will not adversely affect the eligibility of specific property if such property is covered by a conditional commitment issued by the Secretary, a certificate of reasonable value issued by the Secretary of Veterans Affairs, or an appraisal report approved by a Direct Endorsement or Lender Insurance underwriter.

[62 FR 30227, June 2, 1997]

### Subpart C—Servicing Responsibilities

SOURCE: 41 FR 49736, Nov. 10, 1976, unless otherwise noted.

#### GENERAL REQUIREMENTS

#### § 203.500 Mortgage servicing generally.

This subpart identifies servicing practices of lending institutions that HUD considers acceptable for mortgages insured by HUD. Failure to comply with this subpart shall not be a basis for denial of insurance benefits, but failure to comply will be cause for imposition of a civil money penalty, including a penalty under § 30.35(c)(2), or withdrawal of HUD's approval of a mortgagee. It is the intent of the Department that no mortgagee shall commence foreclosure or acquire title to a property until the requirements of this subpart have been followed.

[70 FR 21578, Apr. 26, 2005]

#### § 203.501 Loss mitigation.

Mortgagees must consider the comparative effects of their elective servicing actions, and must take those appropriate actions which can reasonably be expected to generate the smallest financial loss to the Department. Such actions include, but are not limited to, deeds in lieu of foreclosure under § 203.357, pre-foreclosure sales under § 203.370, partial claims under § 203.414, assumptions under § 203.512, special forbearance under §§ 203.471 and 203.614, and recasting of mortgages under § 203.616. HUD may prescribe conditions and requirements for the appropriate use of these loss mitigation actions, concerning such matters as owner-occupancy, extent of previous defaults, prior use of loss mitigation, and evaluation of the mortgagor's income, credit and property.

[59 FR 50145, Sept. 30, 1994, as amended at 61 FR 35019, July 3, 1996]

#### § 203.502 Responsibility for servicing.

(a) After January 10, 1994, servicing of insured mortgages must be performed by a mortgagee that is approved by HUD to service insured mortgages. The servicer must fully discharge the servicing responsibilities of