

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, which appears in the Finding Aids section of the printed volume and at www.fdsys.gov.

§ 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.

(c) To be eligible under this part, the mortgagor or cooperative member must meet the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this chapter. For requirements regarding the signing and submitting of consent forms by mortgagors and cooperative members for the obtaining of wage and claim information from State Wage Information Collection Agencies, see part 200, subpart V, of this chapter. Eligibility for assistance under this subpart also requires citizenship or eligible immigration status, as determined in accordance with part 200, subpart G, of this chapter, except that citizenship or eligible immigration status shall not be required of a mortgagor whose assistance contract was executed before June 19, 1995 and remains unchanged after that date.

(Approved by the Office of Management and Budget under control numbers 2502-0204, 2502-0267, 2502-0268, and 2577-0083)

[41 FR 1172, Jan. 6, 1976, as amended at 41 FR 51011, Nov. 19, 1976; 43 FR 60156, Dec. 26, 1978; 46 FR 56422, Nov. 17, 1981; 51 FR 11218, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 54 FR 39695, Sept. 27, 1989; 56 FR 7530, Feb. 22, 1991; 60 FR 14832, Mar. 20, 1995. Redesignated and amended at 60 FR 56500, Nov. 8, 1995]

§ 235.1210 Recapture of assistance payments.

(a) With respect to any mortgage insured under this part pursuant to a firm commitment issued on or after May 27, 1981, the mortgagor shall repay to the Secretary any assistance received under this part in the amount provided in paragraph (b) of this section when the mortgagor:

(1) Disposes of the property or a homeowner not qualified to receive assistance payments, or

(2) Has rented the property (or rented the owner's unit in the case of a two- to four-family property) for more than one year, or

(3) Requests a release of the Secretary's lien on the property.

(b) The amount of assistance to be repaid by the mortgagor shall be the lesser of the amount of assistance actually received under this part (other than handling charges) or 50 percent of the net appreciation of the property.

(c) The term *net appreciation of the property* as used in this section means any increase in the value of the property over the purchase price, as of the time the mortgage is accepted for insurance, less the reasonable costs of sale and the reasonable costs of improvements made to the property.

(d) The mortgagor shall execute such documents as the Secretary shall require to assure repayment to the Secretary of the amounts provided in this paragraph.

[48 FR 40714, Sept. 19, 1983. Redesignated at 60 FR 56500, Nov. 8, 1995]

§ 235.1212 Mortgage provisions.

(a) *Mortgage form.* (1) The term *mortgage* as used in this part has the same meaning as defined in either § 203.17(a)(1) of this chapter, § 203.43c(b)(1) of this chapter, or § 234.1(d) of this chapter, as applicable, and may refer both to a security instrument creating a lien, whether called a *mortgage*, *deed of trusts*, *security deed* or other term common in a jurisdiction, as well as the credit instrument, or note, secured thereby.

(2) The mortgage shall be in a form meeting the requirements of the Commissioner. For each case in which the Commissioner does not prescribe complete mortgage instruments, the Commissioner shall require specific language in the mortgage which shall be uniform for every mortgage, and may also prescribe the language or substance of additional provisions for all mortgages as well as the language or substance of additional provisions for use only in particular jurisdictions or for particular programs. Each mortgage shall also contain any provisions necessary to create a valid and enforceable secured debt under the laws of the jurisdiction in which the property is located.

(b) *Mortgage multiples.* The mortgage shall involve a principal obligation in multiples of \$50.

(c) *Payments.* The mortgage shall:

(1) Come due on the first of the month.

(2) Contain complete amortization provisions satisfactory to the Secretary and an amortization period not in excess of the term of the mortgage.

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(d) *Maturity.* The mortgage shall provide for complete amortization not to exceed 30 years from the date of the beginning of amortization of the mortgage.

(e) *Property standards.* The mortgage must be a first lien upon the property that conforms with property standards prescribed by the Commissioner.

(f) *Disbursement.* The entire principal amount of the mortgage must have been disbursed to the mortgagor or to his or her creditors for his or her account and with his or her consent.

[41 FR 1172, Jan. 6, 1976, as amended at 45 FR 29278, May 2, 1980; 48 FR 12085, Mar. 23, 1983; 49 FR 21320, May 21, 1984; 53 FR 34284, Sept. 6, 1988. Redesignated at 60 FR 56500, Nov. 8, 1995]

§ 235.1214 Mortgage lien.

(a) Except as provided in paragraph (b) of this section, a mortgagor must establish that after the mortgage offered for insurance has been recorded, the mortgaged property will be free and clear of all liens other than such mortgage, and that there will not be outstanding any other unpaid obligations contracted in connection with the mortgage transaction or the purchase of the mortgaged property, except obligations that are secured by property or collateral owned by the mortgagor independently of the mortgaged property.

(b) With the prior approval of the Commissioner, the mortgaged property may be subject to a second mortgage made or insured, or other secondary lien held, by a Federal, State or local governmental agency or instrumentality. However, the required monthly payments under the insured mortgage and the second mortgage or lien shall not exceed the mortgagor's reasonable ability to pay, as determined by the Commissioner.

[50 FR 20908, May 21, 1985; 50 FR 26696, June 28, 1985. Redesignated at 60 FR 56500, Nov. 8, 1995]

§ 235.1216 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed four percent of the mortgagor's share of each payment more than 15 days in arrears, to cover servicing and other costs attributable

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to the receipt of payments from the mortgagors after the date upon which payment is due. Such charge shall not be included in the assistance payment.

[42 FR 29306, June 8, 1977. Redesignated at 60 FR 56500, Nov. 8, 1995]

§ 235.1218 Additional eligibility requirements.

(a) *Mortgage amount.* It must be in an amount not exceeding the lesser of:

(1) The unpaid principal balance due on the mortgage being refinanced, including any advances properly made by the mortgagee under the terms of the mortgage and any current interest due and delinquent interest not to exceed two months; and

(2) The original principal amount of the mortgage being refinanced.

(b) *Maturity date.* It must have a maturity not to exceed the remaining term of the section 235 mortgage being refinanced. In the event that the remaining term is measured in years and months, the terms for the refinancing mortgage shall be rounded down to the next whole year.

(c) *Interest rate.* (1) The 235(r) interest rate is the rate negotiated between the parties. Such rate shall not exceed the GNMA coupon rate plus a margin to be determined by the Secretary. The GNMA coupon rate is based on the closing price for three-month forward delivery contracts closest to par but not exceeding par on one of the following dates, whichever rate is higher:

(i) The date the Direct Endorsement mortgagee's underwriter signs the Mortgage Credit Analysis Worksheet (form HUD-92900 WS); or

(ii) The date the mortgage is closed.

(2) The Secretary will pay the mortgagee a discount as part of the refinancing costs. The maximum discount points will be determined by the Secretary.

(3) For a mortgage to be insurable under this subpart, the interest rate on the mortgage must be less than the interest rate shown on the mortgage being refinanced. The Secretary shall determine how much less the interest rate on the mortgage shall be in order for it to be insured.

(d) *Mortgagors' Incentive and Refinancing Costs.* The incentive to the mortgagors and the refinancing costs

that the Secretary will pay for mortgages insured under this subpart are as follows:

(1) An amount determined by the Secretary to be an incentive to the mortgagor to refinance a mortgage insured under section 235; and

(2) Amounts as determined by the Secretary for discounts, loan origination fees, closing costs, and other costs incurred in connection with the refinancing.

(e) *Eligible mortgagees.* The Secretary shall determine whether this program will be open to all approved Direct Endorsement mortgagees, or only to those approved Direct Endorsement mortgagees that meet certain specified requirements. The Secretary may limit the program to a designated number of Direct Endorsement approved mortgagees if such a limitation will facilitate the most expeditious handling of these refinancing mortgages.

(f) *Eligible mortgagor.* (1) It must be executed by a mortgagor who is eligible for, and receiving, assistance payments with respect to the mortgage being refinanced and from whom a recertification was obtained within the preceding twelve months prior to the application for the 235(r) mortgage, or a new recertification was required prior to the execution of the mortgage credit worksheet by the direct endorsement lender, or the firm commitment was issued by HUD.

(2) The mortgagor must be an occupant of the property securing the mortgage.

(3) The mortgagor has not received payments for the costs of refinancing or the mortgagor's incentive, nor have such payments been made on his behalf, as described in paragraph (d) of this section, for a period of 60 months from the date of the first payment of principal and interest on the mortgage to be refinanced; provided, however, that if the mortgagor pays its own cost to refinance, then this prohibition will not apply.

(4) The mortgagor is eligible to continue to receive assistance in connection with the 235(r) mortgage, or the mortgagee has executed a HUD Notice of Suspension form that suspends the assistance payment contract from the

date of disbursement of the mortgage loan.

(5) The mortgagor has agreed to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income in accordance with 24 CFR 235.350.

(6) If the property is subject to a recapture mortgage securing the payment to the Secretary of assistance payments made on behalf of the mortgagor, the mortgagor must agree to modify and subordinate such mortgage to the mortgage to be insured under section 235(r) in accordance with instructions of the Secretary.

(7) If the mortgage submitted for insurance requires an increase in the mortgagor's portion of the monthly payments due under the mortgage by more than \$50.00 over the amount the mortgagor was paying on the mortgage being refinanced, then a mortgage credit analysis must be performed on the mortgagor to establish that his income is or will be adequate to meet his portion of the periodic payment due under the new mortgage and that the mortgagor has a general credit standing satisfactory to the Secretary as required by 24 CFR 203.34.

(8) Cooperative members, who are receiving assistance payments, which in all cases are based on the cooperative member's proportionate share of the obligation under the project mortgage, are not eligible for section 235(r) mortgages.

(g) *Monthly Payments.* The mortgage must have monthly principal and interest payments at the 235(r) interest rate that are less than the monthly payments of principal and interest on the mortgage being refinanced.

[60 FR 56500, Nov. 8, 1995]

§ 235.1220 Processing section 235(r) mortgages under the direct endorsement program.

The regulations containing the requirements which a mortgage must meet for the direct endorsement program are contained in 24 CFR 203.5 and 203.255. Under those sections, mortgages to be insured under section 235(r) must be originated through direct endorsement processing. There are several provisions of 24 CFR 203.5 and 203.255 which do not apply to section

235(r) mortgages and there are several additional requirements which are specific to section 235(r) mortgages which are contained in paragraph (b) of this section. Other than those provisions which have been specified in paragraph (a) of this section, the provisions contained in 24 CFR 203.5 and 203.255 apply to mortgages insured under section 235(r).

(a) *Inapplicable Provisions.* (1) The properties, which are to be security for the section 235(r) mortgages, are currently security for mortgages insured under section 235, and are existing properties with no requirement for appraisals. The requirements for an appraisal in 24 CFR 203.5(e) and 203.255(b)(1) and for a review of an appraisal in 24 CFR 203.255(b)(5) shall not apply to a mortgage to be insured under section 235(r) of the National Housing Act.

(2) There is no requirement that the mortgagee perform the mortgage credit analysis described in 24 CFR 203.5(d) for a mortgage insured under section 235(r) unless the mortgagor's portion of the monthly payments due under the mortgage to be insured increase by more than \$50.00 over the amount the mortgagor was paying on the mortgage being refinanced as provided in § 235.1202(b)(6). If the mortgagor's portion of the payment does not increase by more than \$50.00, then the mortgagee shall perform the underwriting requirements in accordance with the instructions contained in a handbook or other similar publication which is provided to all mortgagees approved for the direct endorsement procedure.

(3) Since there are special eligibility requirements for mortgages insured under section 235(r), paragraphs (c)(2) and (c)(3) of 24 CFR 203.255 do not apply to such mortgages, and in lieu thereof specific provisions for section 235(r) mortgages have been substituted as contained in paragraph (b) of this section.

(b) *Special Provisions.* In addition to the review and determinations which must be made of the documents submitted by the mortgagee to the Secretary in accordance with 24 CFR 203.255(c), as revised for mortgages insured under section 235(r) by paragraph (a) of this section, the Secretary shall

make the following specific determinations for section 235(r) mortgages:

(1) That the term of the mortgage meets the requirements of 24 CFR 235.120(b)(2).

(2) That the stated mortgage amount does not exceed the maximum dollar limitation under 24 CFR 235.1202(b)(1).

(3) That the interest rate on the mortgage meets the requirements of 24 CFR 235.1202(b)(3).

(c) *Authority to sign.* The mortgagees that have the authority to originate and close mortgages in accordance with § 235.1218(e) shall have the authority to sign for and on behalf of the Secretary, in accordance with procedures established by the Secretary, without further specific approval, the following documents:

(1) *Approval of amount of assistance payments.* The Form HUD 93100, "Application for Homeownership Assistance under section 235 of the National Housing Act," which evidences a review of the information obtained from the mortgagor on the application, a determination of eligibility or ineligibility for assistance payments, and the amount of the assistance payments to which the mortgagor is entitled.

(2) *Subordination and modification agreement.* An agreement, which subordinates a recapture second mortgage or deed of trust (recapture mortgage) held by HUD in accordance with 24 CFR 235.12, to the lien of the mortgage being submitted for insurance so that the recapture mortgage will remain a second lien. If the recapture mortgage is a third lien following a second lien made, held or insured by a Federal, State or local governmental agency, and approved by the Secretary, the direct endorsement mortgagee may sign an agreement subordinating the recapture mortgage to third lien place. The agreement shall also contain a modification of the recapture mortgage to include a new note to be signed by the mortgagor securing repayment of the assistance to be paid under the mortgage to be insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated and amended at 60 FR 56499, 56501, Nov. 8, 1995]

CONTRACT RIGHTS AND OBLIGATIONS

§ 235.1222 Cross-reference.

The provisions of subpart B of title 24 of part 235 shall be applicable to mortgages insured in accordance with section 235(r) of the National Housing Act.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

CONTRACT FOR ASSISTANCE PAYMENTS

§ 235.1224 Cross-reference.

(a) Title 24, part 235, subpart C, as modified and supplemented by this subpart, shall constitute the contract between the mortgagee and the Secretary for assistance payments in connection with a mortgage insured under section 235(r) of the National Housing Act.

(b) The sections of subpart C of this part which apply in connection with a mortgage insured under section 235(r) are the following:

- Sec.
- 235.301 Definitions.
- 235.340 Time of payments.
- 235.350 Mortgagor's required recertification.
- 235.355 Mortgagor's optional recertification.
- 235.360 Adjustment in assistance payments.
- 235.361 Recovery of assistance payments.
- 235.365 Mortgagee records.
- 235.370 Effect of assignment of mortgage with an assistance payment contract.
- 235.375 Termination, suspension or reinstatement of the assistance payments contract.
- 235.499 Effect of amendments.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1226 Additional provisions of the assistance payment contracts for section 235(r).

(a) *Assistance payments and handling charges.* The assistance payments on behalf of the mortgagor shall be the lesser of the following:

(1) The difference between 20 percent (or 28 percent in the case of contracts entered into for a ten-year term (ten year contracts) pursuant to the authority under section 235(c)(1) of the National Housing Act, as amended by the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181)) of the homeowner's adjusted monthly income and the required monthly payment under the mortgage for principal, interest,

taxes, insurance, and mortgage insurance premium.

(2) The difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the monthly payment which would be required for principal and interest if the mortgage bore the lower interest rate established by the Secretary and in effect at the time of the closing of the mortgage being refinanced and which is referred to as the "floor rate."

(b) *Floor rates.* The floor rates are determined by the date of the closing of the mortgage being refinanced. As an example, the following chart contains floor rates. However, mortgagees must check the HUD Form 93100 for the mortgage being refinanced to obtain the floor rate for the mortgage, which rate is to be used to compute the formula contained in paragraph (a) of this section.

TABLE

Date of closing	Interest rate	
	Note rate (percent)	To compute second element of subsection (a)(2) (percent)
8/9/68-1/4/76	N/A	1
1/5/76-3/6/78	N/A	5
3/7/78-3/8/81	N/A/	4
On or after 3/9/81	13.50 or below	4
	13.75-14.00	4¾
	14.25-14.50	5½
	15.00	6
	15.50	6¾
	16	7¼
16.50	8	
17.50	8	

(c) *Handling charges.* In addition to the assistance payments referred to in paragraph (a) of this section, the mortgagee shall be entitled to the monthly payment of an amount the Secretary deems sufficient to reimburse the mortgagee for its expense in handling the mortgage.

(d) *Taxes in monthly payment.* Special assessments levied by a governmental body are to be included under the term "taxes" as part of the monthly payment. However, ground rents, assessments of a homeowners' association or condominium association, and special

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assessments levied by persons or private organizations are not to be included.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1228 Termination of assistance payments contracts on mortgages to be refinanced.

The assistance payments contract for the mortgage being refinanced shall be terminated on the day before the disbursement of the proceeds of the mortgage to be insured, and no further assistance payments shall be made under such contract.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1230 Execution of assistance payment contract.

The issuance of a mortgage insurance certificate pursuant to § 235.1 *et seq.* shall also constitute the execution of the assistance payments contract with respect to the mortgage being insured.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1232 Eligibility for assistance payments.

(a) To be eligible for assistance payments, a homeowner must:

(1) Be a mortgagor on a mortgage insured under section 235(r);

(2) Have been entitled to, and receiving, assistance payments under the mortgage being refinanced; and

(3) According to the formula contained under § 235.1210(a), continue to be eligible for such payments under the 235(r) mortgage.

(b) The mortgagee, holding the mortgage being refinanced, must certify that the mortgagor is eligible for, and receiving, assistance payments under the mortgage being refinanced and that the last recertification by the mortgagor was within the preceding twelve months prior to the application for the section 235(r) mortgage. If the last recertification was not within that period, then the mortgagee will have to obtain a current recertification from the mortgagor for the purpose of determining whether the mortgagor remains eligible to continue receiving assist-

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ance payments under the mortgage being refinanced.

(c) In addition, the mortgagee originating the 235(r) mortgage must obtain a new certification from the mortgagor for eligibility for assistance payments under the 235(r) mortgage.

(d) For purposes of determining eligibility under the 235(r) mortgage, the mortgagor must certify as to occupancy, employment, family composition and income on a form prescribed by the Secretary.

(e) The mortgagor shall agree to recertify, on a form prescribed by the Secretary, as to occupancy, employment, family composition and income in accordance with 24 CFR 235.350.

(f) Homeowners, who are cooperative members and have been receiving assistance payments under section 235, are not eligible for assistance payments in connection with section 235(r) since they are not eligible for a mortgage insured under that section.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1234 Term of assistance payment contract in connection with mortgages insured under section 235(r) of the Act.

(a) *Existing contracts with original terms in excess of ten years.* In cases where the existing contract has an original term in excess of ten years, the term of the new assistance payments contract in connection with section 235(r) shall commence on the date of disbursement of the mortgage proceeds as certified by the mortgagee and shall continue until the contract is terminated pursuant to 24 CFR 235.375.

(b) *Existing ten year contracts.* (1) In cases of existing ten year contracts, the term of the new assistance payments contract in connection with section 235(r) shall commence on the date of the disbursement of the mortgage proceeds as certified by the mortgagee and shall continue for the unexpired term of the existing ten year contract, or until such earlier time as the contract is otherwise terminated pursuant to 24 CFR 235.375. The mortgagor will acknowledge receipt of a notice containing the expiration date of the new assistance payments contract.

(2) If the Secretary determines that the mortgagor is unable, by reason of the new contract having reached its maturity, to resume full payments due under the mortgage insured under section 235(r) of the National Housing Act, the Secretary will, to the extent of funds available pursuant to section 235(c)(3) of the Act, contract to make, and make, continued assistance payments on behalf of the mortgagor for such period as the Secretary determines to be appropriate.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1236 Recapture of assistance payments.

The mortgagor shall execute an agreement subordinating the recapture mortgage, if any, to the section 235(r) mortgage. The mortgagor shall also execute a new note for recapture of assistance payments, and amend the recapture mortgage to include in the principal balance the assistance payments made in connection with the mortgage insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

SERVICING RESPONSIBILITIES

§ 235.1238 Cross-reference.

The provisions of subpart G of 24 CFR part 235 shall be applicable to mortgages insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

Subpart A—Eligibility Requirements for Mortgage Insurance

Sec.

- 236.1 Applicability, cross-reference and savings clause.
- 236.2 Increased distributions to certain limited distribution mortgagors.
- 236.3 Annual income exclusions.
- 236.60 Excess income.

Subpart B—Contract Rights and Obligations for Mortgage Insurance

- 236.251 Cross-reference.

- 236.252 First, second, and third mortgage insurance premiums.
- 236.253 Premiums—operating loss loans.
- 236.254 Termination of mortgage insurance.
- 236.255 Forbearance relief.
- 236.260 Request by Commissioner for assignment of mortgage.
- 236.265 Payment of insurance benefits.

Subpart C—Interest Reduction Payments

- 236.501 Interest reduction payments contract.
- 236.505 Eligible mortgages.
- 236.510 Term of payments.
- 236.515 Time of payments.
- 236.520 Amount of payments.
- 236.525 Application of payments.
- 236.530 Mortgagee records.
- 236.535 Effect of assignment of mortgage.
- 236.599 Effect of amendments.

Subpart D—Rental Assistance Payments

- 236.701 Scope of rental assistance.
- 236.705 Projects eligible for benefits.
- 236.710 Qualified tenant.
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Subpart E—Audits

- 236.901 Audit.

Subpart F—Uniform Relocation Assistance

- 236.1001 Displacement, relocation, and acquisition.

AUTHORITY: 12 U.S.C. 1715b and 1715z-1; 42 U.S.C. 3535(d).

SOURCE: 36 FR 24643, Dec. 22, 1971, unless otherwise noted.