

mortgagee may, by filing a written request with the application for debentures, receive in addition to the debentures and the cash adjustment check, a certificate of claim issued in accordance with section 204(e) of the Act. This certificate shall become payable (if at all) as prescribed in section 204(f) of the Act.

(b) If the mortgage was accepted for insurance pursuant to a commitment issued on or after September 2, 1964, or under the Direct Endorsement, Lender Insurance, or Coinsurance programs, no certificate of claim will be issued.

[36 FR 24508, Dec. 22, 1971, as amended at 57 FR 58349, Dec. 9, 1992; 62 FR 30227, June 2, 1997]

§ 203.416 Amount and items of certificate of claim.

The certificate shall be for an amount which the Commissioner determines to be sufficient to pay all amounts due under the mortgage and not covered by the amount of debentures and cash adjustment check. The certificate shall include a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings or the acquisition of the mortgaged property otherwise and the conveyance thereof to the Commissioner, including reasonable attorneys' fees, unpaid interest, and cost of repairs to the property made by the mortgagee to remedy the waste.

§ 203.417 Rate of interest of certificate of claim.

Each certificate of claim shall provide that there shall accrue to the holder thereof with respect to the face amount of such certificate, an increment at the rate of 3 percent per annum.

MUTUAL MORTGAGE INSURANCE FUND
AND DISTRIBUTIVE SHARES

§ 203.420 Nature of Mutual Mortgage Insurance Fund.

The Mutual Mortgage Insurance Fund shall consist of the General Surplus Account and the Participating Reserve Account.

§ 203.421 Allocation of Mutual Mortgage Insurance Fund income or loss.

For any semiannual period in which Mutual Mortgage Insurance operations shall result in a net income, or loss, the Commissioner shall allocate, after taking into account the actuarial status of the entire Mutual Mortgage Insurance Fund, such net income or such loss to the General Surplus Account and/or to the Participating Reserve Account as the Commissioner may determine to be in accord with sound actuarial and accounting practice. In determining net income or loss, the Commissioner shall take into consideration all income received from fees, premiums and earnings on investments of the fund, operating expenses and provision for losses to the fund.

[56 FR 18948, Apr. 24, 1991]

§ 203.422 Right and liability under Mutual Mortgage Insurance Fund.

No mortgagor or mortgagee shall have any vested right in a credit balance in either the General Surplus Account or the Participating Reserve Account. No mortgagor or mortgagee shall be subject to any liability arising under the mutuality of the Mutual Mortgage Insurance Fund.

§ 203.423 Distribution of distributive shares.

(a) The Commissioner may provide for the distribution to the mortgagor of a share of the participating reserve account if the contract of insurance is terminated by:

(1) Conveyance to one other than the Commissioner and a claim for the insurance benefits is not presented by the mortgage (§ 203.315), provided, however, in the case of a mortgage insured pursuant to an application for a conditional commitment received on or after May 19, 1988, (or, as appropriate, an application for mortgage insurance endorsement under the Single Family Direct Endorsement program, as provided in § 203.255, where the property appraisal report is signed by the mortgagee's underwriter on or after May 19, 1988, no distribution shall be made if the mortgagee forecloses the mortgage or accepts a deed-in-lieu of foreclosure;

§ 203.424

(2) Prepayment of the mortgage (§203.316); or

(3) Voluntary agreement of the mortgagor and mortgagees (§203.317).

(b) The Commissioner shall determine the amount of the distributive share by multiplying the amount of the premium or premiums paid by the applicable distributive share percentage for mortgages insured in the year the mortgage was endorsed for insurance. The Commissioner shall determine the applicable distributive share percentage in an equitable manner and in accordance with sound financial and actuarial practice, taking into account the cumulative actual financial and actuarial experiences through the end of the most recent calendar year.

[48 FR 28806, June 23, 1983, as amended at 52 FR 1329, Jan. 13, 1987; 53 FR 10530, Apr. 1, 1988; 61 FR 36453, July 10, 1996]

§ 203.424 Maximum amount of distributive shares.

In no event shall a distributive share of the Participating Reserve Account exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance.

§ 203.425 Finality of determination.

The determination of the Commissioner as to the amount to be paid to any mortgagor from the Mutual Mortgage Insurance Fund shall be final and conclusive.

§ 203.426 Inapplicability to housing in older declining urban areas.

The provisions of §§203.420 through 203.425 shall not apply to mortgages financing housing in declining urban areas meeting the requirements of §203.43a.

§ 203.427 Statute of limitations on payment of distributive shares.

The Commissioner shall not distribute any distributive share to an eligible mortgagor under §203.423 beginning on the date which is six years after the date the Commissioner first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Commissioner for payment of the share within the

24 CFR Ch. II (4-1-20 Edition)

six-year period. The Commissioner shall transfer any amounts no longer eligible for distribution under this section from the Participating Reserve Account to the General Surplus Account.

[59 FR 49816, Sept. 30, 1994]

SALE, ASSIGNMENT AND PLEDGE OF INSURED MORTGAGE

§ 203.430 Sale of interests in insured mortgages.

No mortgagee may sell or otherwise dispose of any insured mortgage, or group of insured mortgages, or any partial interest in such mortgage or mortgages by means of any agreement, arrangement or device except pursuant to this subpart.

§ 203.431 Sale of insured mortgage to approved mortgagee.

An insured mortgage may be sold to another approved mortgagee. The seller shall notify HUD of the sale within 15 calendar days, on a form prescribed by HUD and acknowledged by the buyer.

[45 FR 27929, Apr. 25, 1980]

§ 203.432 Effect of sale of insured mortgage.

When an insured mortgage is sold to another approved mortgagee, the buyer shall thereupon succeed to all the rights and become bound by all the obligations of the seller under the contract of insurance and the seller shall be released from its obligations under the contract, provided that the seller shall not be relieved of its obligation to pay mortgage insurance premiums until the notice required by §203.431 is received by HUD.

[45 FR 27929, Apr. 25, 1980]

§ 203.433 Assignments, pledges and transfers by approved mortgagee.

(a) An assignment, pledge, or transfer of an insured mortgage or group of insured mortgages, not constituting a final sale, may be made by an approved mortgagee to another approved mortgagee provided the following requirements are met: