

§ 203.20

percentage points for a first-lien mortgage is a safe harbor qualified mortgage that meets the ability to repay requirements in 15 U.S.C. 1639c(a).

(4) *Effect of indemnification on qualified mortgage status.* An indemnification demand or resolution of a demand that relates to whether the loan satisfied relevant eligibility and underwriting requirements at the time of consummation may result from facts that could allow a change to qualified mortgage status, but the existence of an indemnification does not per se remove qualified mortgage status.

(c) *Exempted transactions.* The following transactions are exempted from the requirements in paragraph (b) of this section:

(1) Home Equity Conversion Mortgages under section 255 of the National Housing Act (12 U.S.C. 1715z-20); and

(2) Mortgage transactions exempted by the CFPB in its regulations at 12 CFR 1026.43(a)(3) as of January 10, 2014. Any changes made by CFPB to the list of exempted transactions may be adopted by HUD through publication of a notice and after providing FHA-approved mortgagees with time, as may be determined necessary, to implement.

(d) *Ability to make adjustments to this section by notice.* The FHA Commissioner may make adjustments to this section, including the calculations of fees or the list of transactions excluded from compliance with the requirements of this section as the Commissioner determines necessary for purposes of meeting FHA's mission, after solicitation and consideration of public comments.

[78 FR 75237, Dec. 11, 2013]

§ 203.20 Agreed interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(b) Interest shall be payable in monthly installments on the principal amount of the mortgage outstanding on the due date of each installment.

[36 FR 24508, Dec. 22, 1971, as amended at 49 FR 19457, May 8, 1984]

24 CFR Ch. II (4-1-23 Edition)

§ 203.21 Amortization provisions.

The mortgage must contain complete amortization provisions satisfactory to the Commissioner, requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Commissioner. The sum of the principal and interest payments in each month shall be substantially the same.

§ 203.22 Payment of insurance premiums or charges; prepayment privilege.

(a) *Payment of periodic insurance premiums or charges.* Except with respect to mortgages for which a one-time mortgage insurance premium is paid pursuant to § 203.280, the mortgage may provide for monthly payments by the mortgagor to the mortgagee of an amount equal to one-twelfth of the annual mortgage insurance premium payable by the mortgagee to the Commissioner. Such payments continue only so long as the contract of insurance shall remain in effect or for such shorter period as mortgage insurance premiums are payable by the mortgagee to the Commissioner.

(b) *Prepayment privilege.* The mortgage shall contain a provision permitting the mortgagor to prepay the mortgage in whole or in part at any time and in any amount. The mortgage shall not provide for the payment of any charge on account of such prepayment.

[36 FR 24508, Dec. 22, 1971, as amended at 37 FR 8661, Apr. 29, 1972; 48 FR 28804, June 23, 1983; 50 FR 25914, June 24, 1985; 61 FR 36263, July 9, 1996; 79 FR 50837, Aug. 26, 2014]

§ 203.23 Mortgagor's payments to include other charges.

(a) The mortgage shall provide for such equal monthly payments by the mortgagor to the mortgagee as will amortize:

- (1) The ground rents, if any;
- (2) The estimated amount of all taxes;
- (3) Special assessments, if any;
- (4) Flood insurance premiums, if flood insurance is required by the Commissioner; and
- (5) Fire and other hazard insurance premiums, if any. The mortgage shall further provide that such payments shall be held by the mortgagee in a

manner satisfactory to the Commissioner for the purpose of paying such ground rents, taxes, assessments, and insurance premiums before the same become delinquent, for the benefit and account of the mortgagor. The mortgage must also make provisions for adjustments in case the estimated amount of such taxes, assessments, and insurance premiums shall prove to be more, or less, than the actual amount thereof so paid by the mortgagor. Such payments shall be held in an escrow subject to §203.550.

(b) The mortgagor shall not be required to pay premiums for fire or other hazard insurance which protects only the interests of the mortgagee, or for life or disability income insurance, or fees charged for obtaining information necessary for the payment of property taxes. The foregoing does not apply to charges made or penalties exacted by the taxing authority, except that a penalty assessed or interest charged by a taxing authority for failure to timely pay taxes or assessments shall not be charged by the mortgagee to the mortgagor if the mortgagee had sufficient funds in escrow for the account of the mortgagor to pay such taxes or assessments prior to the date on which penalty or interest charges are imposed.

(c) Mortgages involving a principal obligation not in excess of \$9,000 may contain a provision requiring the mortgagor to pay to the mortgagee an annual service charge at such rate as may be agreed upon between the mortgagee and the mortgagor, but in no case shall such service charge exceed one-half of one percent per annum. Any such service charge shall be payable in monthly installments on the principal then outstanding. The provisions of this paragraph shall not apply to mortgages endorsed for insurance pursuant to applications received by the Commissioner on or after July 17, 1961.

[36 FR 24508, Dec. 22, 1971, as amended at 37 FR 25231, Nov. 29, 1972; 41 FR 47934, Nov. 10, 1976; 59 FR 53901, Oct. 26, 1994]

§ 203.24 Application of payments.

(a) All monthly payments to be made by the mortgagor to the mortgagee shall be added together and the aggregate amount thereof shall be paid by

the mortgagor each month in a single payment. The mortgagee shall apply the same to the following items in the order set forth:

(1) Premium charges under the contract of insurance (other than a one-time or up-front mortgage insurance premium paid in accordance with §§203.280, 203.284 and 203.285), charges for ground rents, taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums;

(2) Interest on the mortgage;

(3) Amortization of the principal of the mortgage; and

(4) Late charges, if permitted under the terms of the mortgage and subject to such conditions as the Commissioner may prescribe.

(b) Any deficiency in the amount of any such aggregate monthly payment shall, unless made good by the mortgagor prior to, or on, the due date of the next such payment, constitute an event of default under the mortgage.

[36 FR 24508, Dec. 22, 1971, as amended at 37 FR 25231, Nov. 29, 1972; 50 FR 25914, June 24, 1985; 61 FR 36263, July 9, 1996]

§ 203.25 Late charge.

The mortgage may provide for the collection by the mortgagee of a late charge, not to exceed four per cent of the amount of each payment more than 15 days in arrears, to cover servicing and other costs attributable to the receipt of payments from mortgagors after the date upon which payment is due.

[41 FR 49734, Nov. 10, 1976]

§ 203.26 Mortgagor's payments when mortgage is executed.

(a) The mortgagor must pay to the mortgagee, upon execution of the mortgage, a sum that will be sufficient to pay the ground rents, if any, the estimated taxes, special assessments, flood insurance premiums, if required, and fire and other hazard insurance premiums for the period beginning on the last date on which each such charge would have been paid under the normal lending practices of the lender and local custom (if each such date constitutes prudent lending practice), and ending on the due date of the first