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claim file includes receipts covering all disbursements as required by the fiscal data form, ledger cards covering the mortgage transaction, and any additional information or data relevant to the mortgage transaction or insurance claim.

(3) The Secretary may review any claim file at any time during the three-year period after the claim has been paid. Denial of access to any files will be grounds for withdrawal of the mortgagee's approved lender status, debarment by the Secretary, or immediate suspension of all claim payments.

(4) Within 24 hours of a request by the Secretary, a mortgagee must make available for review, or forward to the Secretary, hard copies of identified claim files.

(d) *Statistical sampling*. HUD may use statistical sampling in selecting claims to be reviewed and in determining the amount due the Secretary because of overpayment.

[57 FR 47972, Oct. 20, 1992, as amended at 59 FR 50144, Sept. 30, 1994]

§ 203.366 Conveyance of marketable title.

(a) *Satisfactory conveyance of title and transfer of possession*. The mortgagee shall tender to the Commissioner a satisfactory conveyance of title and transfer of possession of the property. The deed or other instrument of conveyance shall convey good marketable title to the property, which shall be accompanied by title evidence satisfactory to the Commissioner.

(b) *Conveyance of property without good marketable title*. (1) For mortgages insured under firm commitments issued on or after November 19, 1992, or under direct endorsement processing where the credit worksheet was signed by the mortgagee's underwriter on or after November 19, 1992, if the title to the property conveyed by the mortgagee to the Secretary is not good and marketable, the mortgagee must correct any title defect within 60 days after receiving notice from the Secretary, or within such further time as the Secretary may approve in writing.

(2) If the defect is not corrected within 60 days, or such further time as the Secretary approves in writing, the mortgagee must reimburse the Secretary for HUD's costs of holding the property, accruing on a daily basis, and interest on the amount of insurance benefits paid to the mortgagee at an interest rate set in conformity with the Treasury Fiscal Requirements Manual from the date of such notice to the date the defect is corrected or until the Secretary reconveys the property to the mortgagee, as described in paragraph (b)(3) of this section. The daily holding costs to be charged a mortgagee shall include the costs specified in § 203.364 of this part.

(3) If the title defect is not corrected within a reasonable time, as determined by HUD, the Secretary will, after notice, reconvey the property to the mortgagee and the mortgagee must reimburse the Secretary in accordance with §§ 203.363 and 203.364 of this part.

[36 FR 24508, Dec. 22, 1971, as amended at 57 FR 47972, Oct. 20, 1992; 61 FR 36453, July 10, 1996]

§ 203.367 Contents of deed and supporting documents.

The deed and supporting accompanying documents shall be as follows:

(a) *Deed*. A deed conveying the property to the Federal Housing Commissioner. The deed shall:

(1) Contain covenants which warrant title against acts of the grantor, and all claiming by, through, or under said grantor, if the grantor is the mortgagee or mortgagor; if the grantor is a party other than the mortgagee or mortgagor, the special warranty covenants may be limited or amended to accord with the law of the particular jurisdiction.

(2) Recite nominal consideration, if such recital is adequate under the laws of the State in which the property is located or such other consideration as may be necessary to support the deed.

(b) *Maps or survey*. A map or diagram showing property location with reference to public streets or roads or a survey, if available. When a part of the property has been taken by condemnation proceedings or conveyance in lieu of condemnation, a map or diagram showing the part taken and the property remaining is required.

(c) *Credit documents*. The original credit and security instruments, if available or a deficiency judgment, if

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any, duly assigned or endorsed by the mortgagee, without recourse, to the Commissioner.

§ 203.368 Claims without conveyance procedure.

(a)(1) The requirements of this section apply to any insured mortgage subject to this subpart which was either insured pursuant to:

(i) A conditional commitment issued on or after November 30, 1983 or, as appropriate,

(ii) An application for mortgage insurance endorsement under the Single Family Direct Endorsement Program, as provided in § 203.255(b), where the property appraisal report was signed by the mortgagee's underwriter on or after November 30, 1983.

(2) The requirements of this section shall also apply to any other mortgages subject to this subpart where the mortgagee elects to provide the notice to HUD required by paragraph (d) of this section.

(b) Notwithstanding the provisions of paragraph (a) of this section, the requirements of this section do not apply if the mortgaged property has been damaged as set out in § 203.378.

(c) Nothing in this section shall affect any rights or obligations arising under the procedures set forth in subpart C of this part.

(d) After initiating proceedings to foreclose an insured mortgage within the coverage of paragraph (a)(1) of this section by judicial, statutory, or other means authorized by the mortgage instrument, the mortgagee shall furnish notice of the foreclosure to the Commissioner, containing such information as shall be prescribed by the Commissioner, together with a copy of the notice of sale, on or before the date of first publication, posting, or other notice. The mortgagee foreclosing an insured mortgage subject to this subpart and within the coverage of paragraph (a)(2) of this section may elect to become subject to this section by providing such notices to the Commissioner in accordance with the preceding sentence.

(e) Where notice of the foreclosure sale is provided pursuant to paragraph (d) of this section, the Commissioner may elect to cause the mortgaged property to be appraised and to give written notice to the mortgagee, not less than five days prior to the date of the foreclosure sale, of the Commissioner's estimate of the fair market value of the mortgaged property, less adjustments as the Commissioner may deem appropriate (which may include, without limitation, the Commissioner's estimate of holding costs and resale costs that would be incurred if title to the mortgaged property were conveyed to the Commissioner). Such amount is referred to hereafter as the ''Commissioner's adjusted fair market value.''

(f) If the Commissioner fails to provide notice of the Commissioner's adjusted fair market value to the mortgagee not less than five days prior to the scheduled date of foreclosure sale, this section shall have no further application and §§ 203.355 through 203.367 shall apply: *Provided,* that a mortgagee which receives the Commissioner's notice at any time prior to the foreclosure sale may waive late receipt by so notifying the Commissioner, in which case this section shall apply.

(g) If the Commissioner provides notice of the Commissioner's adjusted fair market value in accordance with paragraph (e) of this section the following shall be applicable:

(1) The mortgagee shall tender a bid at the foreclosure sale in the amount of the Commissioner's adjusted fair market value.

(2) If the mortgagee acquires title to the mortgaged property pursuant to a bid at foreclosure sale in an amount equal to the Commissioner's adjusted fair market value, the mortgagee may elect to retain title to the property and to file a claim for the insurance benefits computed as provided in § 203.401(b).

(3) If a party other than the mortgagee acquires title to the mortgaged property either pursuant to a bid at foreclosure sale or through the redemption of the property in an amount not less than the Commissioner's adjusted fair market value, the mortgagee may file a claim for the insurance benefits computed as provided in § 203.401(b).

(4) If the mortgagee acquires title to the mortgaged property pursuant to a bid at foreclosure sale in an amount in excess of the Commissioner's adjusted fair market value, the mortgagee is

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