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in connection with any foreclosure. With respect to claims filed for insurance benefits on such mortgages, any judgment obtained by the mortgagee must be assigned to the Secretary.

(2) In cases where the Secretary requires the pursuit of a deficiency judgment and provides the mortgagee with the Secretary's estimate of the fair market value of the property, less adjustments, in accordance with §203.368(e) of this part, the mortgagee must tender a bid at the foreclosure sale in that amount, and must take all other appropriate steps in accordance with State law to obtain a deficiency judgment.

(b) *Mortgages insured before March 28, 1988.* For mortgages insured pursuant to firm commitments issued before March 28, 1988, or pursuant to direct endorsement processing where the credit worksheet was signed by the mortgagee's underwriter before March 28, 1988, the Secretary may request that the mortgage diligently pursue a deficiency judgment in connection with the foreclosure. With respect to claims filed for insurance benefits on such mortgages, any judgment obtained by the mortgagee must be assigned to the Secretary.

(c) In cases where pursuit of a deficiency judgment is requested or required under this section, the Commissioner, where the Commissioner determines it appropriate under State law requirements, may extend the otherwise applicable period of time within which a deficiency judgment (and other claims against the mortgagor) and related credit documents must be assigned to the Commissioner under §203.360, §203.367 or §203.368 of this subpart.

(d) In addition to meeting the requirements of §203.356, in cases where the Commissioner determines it necessary because of State law requirements, the Commissioner may also require (or request, as the Commissioner may determine) the mortgagee to provide the Commissioner with notice of the mortgagee's intent to institute foreclosure proceedings a reasonable amount of time before proceedings are instituted, in order that the Commissioner may be able effectively to require or request the mortgagee, in appropriate cases, to seek a deficiency judgment.

(The information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 2535–0093)

[53 FR 4387, Feb. 16, 1988, as amended at 57 FR 47972, Oct. 20, 1992; 61 FR 36453, July 10, 1996]

§203.370 Pre-foreclosure sales.

(a) *General.* HUD will pay FHA insurance benefits to mortgagees in cases where, in accordance with all regulations and procedures applicable to pre-foreclosure sales, the mortgaged property is sold by the mortgagor, after default and *prior to* foreclosure, at its current fair market value (less adjustments as the Commissioner may deem appropriate) but for less than the mortgage loan amount currently outstanding.

(b) *Notification of mortgagor.* The mortgagee shall give notice, according to prescribed procedures, of the opportunity to be considered for the pre-foreclosure sale procedure to each mortgagor in default. All notices to mortgagors must be in an accessible format, if requested, or if required by the person's known disability, as required by 24 CFR part 9.

(c) *Eligibility for the Pre-foreclosure Sale Procedure.* In order to be considered for the pre-foreclosure sale procedure, a mortgagor:

(1) Must be an owner occupant in a single family residence that is security for a mortgage insured under this part, unless otherwise prescribed by the Secretary.

(2) Must have an account in default, for such period as determined by the Secretary, which default is the result of an adverse and unavoidable financial situation.

(3) Must have, at the time application is made to pursue a pre-foreclosure sale, a mortgaged property whose current fair market value, compared to the amount needed to discharge the mortgage, meets the criterion established by the Secretary, unless a variance is granted by the Secretary.

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(4) Must have received an appropriate disclosure, as prescribed by the Secretary.

[59 FR 50144, Sept. 30, 1994, as amended at 61 FR 35018, July 3, 1996; 72 FR 56161, Oct. 2, 2007]

§ 203.371 Partial claim.

(a) *General.* Notwithstanding the conveyance, sale or assignment requirements for payment of a claim elsewhere in this part, HUD will pay partial FHA insurance benefits to mortgagees after a period of forbearance, the maximum length of which HUD will prescribe, and in accordance with this section.

(b) *Requirements.* The following conditions must be met for payment of a partial claim:

(1) The mortgagor has been delinquent for at least 4 months or such other time prescribed by HUD;

(2) The amount of the arrearage has not exceeded the equivalent of 12 monthly mortgage payments;

(3) The mortgagor is able to resume making full monthly mortgage payments;

(4) The mortgagor is not financially able to make sufficient additional payments to repay the arrearage within a time frame specified by HUD;

(5) The mortgagor is not financially qualified to support monthly mortgage payments on a modified mortgage or on a refinanced mortgage in which the total arrearage is included; and

(6) The mortgagor must have made a minimum number of monthly payments as prescribed by the Secretary on a case-by-case basis.

(c) *Repayment of the subordinate lien.* The mortgagor must execute a mortgage in favor of HUD with terms and conditions acceptable to HUD for the amount of the partial claim under § 203.414(a). HUD may require the mortgagee to be responsible for servicing the subordinate mortgage on behalf of HUD.

(d) *Application for insurance benefits.* Along with the prescribed application for partial claim insurance benefits, the mortgagee shall provide HUD with the original credit instrument no later than 60 days after execution. The mortgagee shall provide HUD with the original security instrument, required by paragraph (c) of this section, no later than 6 months following the date of execution. If the mortgagee experiences a delay from the recording authority, it may request an extension of time, in writing, from HUD. If the mortgagee does not provide the original of the note and security instrument within the prescribed deadlines, the mortgagee shall be required to reimburse the amount of the claim paid, including the incentive.

[61 FR 35018, July 3, 1996, as amended at 62 FR 60130, Nov. 6, 1997; 72 FR 56161, Oct. 2, 2007]

CONDITION OF PROPERTY

§§ 203.375–203.376 [Reserved]

§ 203.377 Inspection and preservation of properties.

The mortgagee, upon learning that a property subject to a mortgage insured under this part is vacant or abandoned, shall be responsible for the inspection of such property at least monthly, if the loan thereon is in default. When a mortgage is in default and a payment thereon is not received within 45 days of the due date, and efforts to reach the mortgagor by telephone within that period have been unsuccessful, the mortgagee shall be responsible for a visual inspection of the security property to determine whether the property is vacant. The mortgagee shall take reasonable action to protect and preserve such security property when it is determined or should have been determined to be vacant or abandoned until its conveyance to the Secretary, if such action does not constitute an illegal trespass. ''Reasonable action'' includes the commencement of foreclosure within the time required by § 203.355(b) of this part.

[57 FR 47972, Oct. 20, 1992]

§ 203.378 Property condition.

(a) *Condition at time of transfer.* When the property is transferred, or a mortgage is assigned to the Commissioner, the property shall be undamaged by fire, earthquake, flood, or tornado, except as set forth in this subpart.

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