

§ 203.477

24 CFR Ch. II (4–1–23 Edition)

payable clause substituting the Commissioner as the holder of the security;

(e) The assignment to the Commissioner of all rights and interests arising under the loan, and all claims of the lender against the borrower or others arising out of the loan transaction;

(f) Any title evidence held by the lender;

(g) All property of the borrower held by the lender or to which it is entitled and, if the Commissioner elects to make payments in debentures, all cash held by the lender or to which it is entitled, including deposits made for the account of the borrower and which have not been applied in reduction of the principal loan indebtedness;

(h) All records, ledger cards, documents, books, papers and accounts relating to the loan transaction;

(i) Any additional information or data which the Commissioner may require.

(Approved by the Office of Management and Budget under control number 2502-0051)

[36 FR 24508, Dec. 22, 1971, as amended at 49 FR 21319, May 21, 1984; 80 FR 51468, Aug. 25, 2015]

§ 203.477 Certificate by lender when loan assigned.

At the time of the assignment of the loan, the lender shall certify to the Commissioner that:

(a) The amount stated in the instrument of assignment is actually due and owing on the loan;

(b) There are no offsets of counterclaims thereto, and the financial institution has a good right to assign.

(c) The mortgage transaction did not involve a first mortgage and the mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances other than a first mortgage, or defects which may arise except such liens or other matters as may have been approved by the Commissioner.

[36 FR 34508, Dec. 22, 1971, as amended at 45 FR 33967, May 21, 1980; 49 FR 21320, May 21, 1984]

§ 203.478 Payment of insurance benefits.

(a) *Claim computation, items included.* Upon acceptable assignment of the

note and security instruments, the Commissioner shall pay the lender an amount equal to the unpaid principal balance of the loan, plus:

(1) Any accrued interest due as of the date of execution of the assignment of the loan to the Commissioner.

(2) Any advances made previously under the provisions of the loan instrument and approved by the Commissioner.

(3) Reimbursement for such reasonable collection costs, court costs and attorney's fees as may be approved by the Commissioner.

(4) Reimbursement for premiums paid on any hazard insurance policies held on the property.

(5)(i) If payment is made in cash on a mortgage endorsed for insurance on or before January 23, 2004, an amount equivalent to the debenture interest that would have been earned, as of the date insurance settlement occurs, except that where the lender fails to meet any one of the requirements of §§ 203.476 and 203.477 and such failure continues for more than 30 days (or such further time as the Commissioner may approve in writing), the debenture interest shall be computed for 30 days or the extended period;

(ii) If payment is made in cash on a mortgage endorsed for insurance after January 23, 2004, debenture interest at the rate specified in § 203.479 from the date specified in § 203.486 to the date insurance settlement occurs, except that where the lender fails to meet any one of the requirements of §§ 203.476 and 203.477 and such failure continues for more than 30 days (or such further time as the Commissioner may approve in writing), the debenture interest shall be computed for 30 days or the extended period.

(b) *Claim computation, items deducted.* If the lender is to receive cash, there shall be deducted from the total of the added items in paragraph (a) of this section any cash held by the lender or to which it is entitled including deposits made for the account of the borrower and which have not been applied in reduction of the principal loan indebtedness.

(c) *Method of payment.* Payment of an insurance claim shall be made in cash, in debentures, or in a combination of