

§ 207.254

(1) The acquisition by the mortgagee of the mortgaged property without conveying it to the Commissioner.

(2) The acquisition of the property at the foreclosure sale by a party other than the mortgagee.

(3) The redemption of the property after foreclosure.

(4) Notice given by the mortgagee after the foreclosure and during the redemption period that it will not tender the property to the Commissioner.

(b) *Notice of termination.* No contract of insurance shall be terminated until the mortgagee has given written notice thereof to the Commissioner within 30 days from the happening of any one of the events set forth in paragraph (a) of this section.

(c) *Effective termination date.* The Commissioner shall notify the mortgagee that the contract of insurance has been terminated and the effective termination date. The termination shall be effective as of the date any one of the events set forth in paragraph (a) of this section occur.

(d) *Effect of termination.* Upon termination of the contract of insurance the obligation to pay any subsequent MIP shall cease and all rights of the mortgagor and mortgagee shall be terminated.

[36 FR 24537, Dec. 22, 1971, as amended at 37 FR 8662, Apr. 29, 1972]

§ 207.254 Changes in premiums; manner of publication.

Notice of future premium changes will be published in the FEDERAL REGISTER. The Department will propose MIP changes for multifamily mortgage insurance programs and provide a 30-day public comment period for the purpose of accepting comments on whether the proposed changes are appropriate. After the comments have been considered, the Department will publish a final notice announcing the premiums for each program and their effective date. The provisions of paragraph (g) of 24 CFR 207.252 shall apply to any notice of future premium changes published pursuant to this section.

[66 FR 35073, July 2, 2001]

24 CFR Ch. II (4–1–23 Edition)

RIGHTS AND DUTIES OF MORTGAGEE UNDER THE CONTRACT OF INSURANCE

§ 207.255 Defaults for purposes of insurance claim.

(a)(1) Except as provided in paragraph (b) of this section, the following shall be considered a default under the terms of a mortgage insured under this subpart:

(i) Failure of the mortgagor to make any payment due under the mortgage (also referred to as a “Monetary Event of Default” in certain mortgage security instruments); or

(ii) A material violation of any other covenant under the provisions of the mortgage, if because of such violation, the mortgagee has accelerated the debt, subject to any necessary HUD approval (also referred to as a “Covenant Event of Default” in certain mortgage security instruments).

(2) For purposes of a mortgagee filing an insurance claim with the Commissioner, the failure of the mortgagor to make any payment due under an operating loss loan or under the original mortgage shall be considered a default under both the operating loss loan and original mortgage.

(3) If a default as defined in paragraphs (a)(1) and (a)(2) of this section continues for a minimum period of 30 days, the mortgagee shall be entitled to receive the benefits of the insurance provided for the mortgage, subject to the procedures in this subpart.

(4) For the purposes of paragraph (a) of this section, the date of default shall be:

(i) The date of the first failure to make a monthly payment that subsequent payments by the mortgagor are insufficient to cover when those subsequent payments are applied by the mortgagee to the overdue monthly payments in the order in which they became due; or

(ii) The date of the first uncorrected violation of a covenant or obligation for which the mortgagee has accelerated the debt.

(5) For multifamily project mortgages for which HUD issued a firm commitment for mortgage insurance on or after September 1, 2011, the regulations of paragraph (a) of this section

shall apply, unless the mortgagor demonstrates to the satisfaction of the Commissioner that financial hardship to the mortgagor would result from application of the regulations in paragraph (a) of this section due to the reasonable expectations of the mortgagor that the transaction would close under the regulations in effect prior to September 1, 2011, in which case, the regulations of paragraph (b) shall apply.

(b)(1) For multifamily project mortgages for which HUD issued a firm commitment for mortgage insurance before September 1, 2011, and for multifamily project mortgages insured under section 232 of the Act (12 U.S.C. 1715w), and section 242 of the Act (12 U.S.C. 1715z-7), the following shall be considered a default under the terms of a mortgage insured under this subpart:

(i) Failure of the mortgagor to make any payment due under the mortgage; or

(ii) Failure to perform any other covenant under the provisions of the mortgage, if the mortgagee, because of such failure, has accelerated the debt.

(2) In the case of an operating loss loan, the failure of the mortgagor to make any payment due under such loan or under the original mortgage shall be considered a default under both the loan and original mortgage.

(3) If such defaults, as defined in paragraph (b) of this section, continue for a period of 30 days the mortgagee shall be entitled to receive the benefits of the insurance hereinafter provided.

(4) Except for mortgages insured under section 232 of the Act, for the purposes of paragraph (b) of this section, the date of default shall be considered as:

(i) The date of the first uncorrected failure to perform a covenant or obligation; or

(ii) The date of the first failure to make a monthly payment which subsequent payments by the mortgagor are insufficient to cover when applied to the overdue monthly payments in the order in which they became due.

(5) For mortgages insured under section 232 of the Act, for purposes of this section, the date of default shall be considered as:

(i) The first date on which the borrower has failed to pay the debt when

due as a result of the lender's acceleration of the debt because of the borrower's uncorrected failure to perform a covenant or obligation under the regulatory agreement or security instrument; or

(ii) The date of the first failure to make a monthly payment that subsequent payments by the borrower are insufficient to cover when applied to the overdue monthly payments in the order in which they become due.

[76 FR 24370, May 2, 2011, as amended at 77 FR 55135, Sept. 7, 2012]

§ 207.256 Notice to the Commissioner of default.

(a) If a default as defined in § 207.255(a) or (b) is not cured within the grace period of 30 days provided under § 207.255(a)(3) or (b)(3), the mortgagee must, within 30 days after the date of the end of the grace period, notify the Commissioner of the default, in the manner prescribed in 24 CFR part 200, subpart B.

(b) The mortgagee must give notice to the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B, of the mortgagor's violation of any covenant, whether or not the mortgagee has accelerated the debt.

[76 FR 24370, May 2, 2011]

§ 207.256a Reinstatement of defaulted mortgage.

If, after default and prior to the completion of foreclosure proceedings, the mortgagor cures the default, the insurance shall continue on the mortgage as if a default had not occurred, provided the mortgagee gives notice of reinstatement to the Commissioner, in the manner prescribed in 24 CFR part 200, subpart B.

[76 FR 24370, May 2, 2011]

§ 207.256b Modification of mortgage terms.

(a) The mortgagor and the mortgagee may, with the approval of the Commissioner, enter into an agreement that extends the time for curing a default under the mortgage or modifies the payment terms of the mortgage.