

fee or any portion thereof may be returned to the applicant. Commitment, inspection and reopening fees may be refunded, in whole or in part, if it is determined by the Commissioner that there is a lack of need for the housing or that the construction or financing of the project has been prevented because of condemnation proceedings or other legal action taken by a governmental body or public agency, or in such other instances as the Commissioner may determine. A transfer fee may be refunded only in such instances as the Commissioner may determine.

(j) *Fees not required.* The payment of an application, commitment, inspection, or reopening fee shall not be required in connection with the insurance of a mortgage involving the sale by the Secretary of any property acquired under any section or title of the Act.

[61 FR 14414, Apr. 1, 1996]

**§200.41 Maximum mortgagee fees and charges.**

(a) Mortgagee fees and charges included in the mortgage must be for actual required services provided to the mortgagor by the mortgagee, and shall not exceed common market rates for such services as determined by the Commissioner.

(b) Mortgage charges for prepayment of the mortgage and late mortgage payments shall not exceed that determined appropriate by the Commissioner.

COMMITMENT APPLICATIONS

**§200.45 Processing of applications.**

(a) *Preapplication conference.* Except for mortgages insured under section 241(f) or 242 of the Act, the local HUD Office will determine whether participation in such a conference is required as a condition to submission of an initial application for either a site appraisal and market analysis (SAMA) letter (for new construction), a feasibility letter (for substantial rehabilitation), or for a firm commitment. The project sponsor may elect (after the preapplication conference if required) to submit an application for a SAMA or a feasibility letter (as appropriate), or for a firm commitment for insurance

depending upon the completeness of the drawings, specifications and other required exhibits. An application for a SAMA or feasibility letter may be submitted by the project sponsor. An application for a firm commitment for insurance must be submitted by both the project sponsor and an approved mortgagee. Applications shall be submitted to the local HUD Office on HUD-approved forms. No application will be considered unless accompanied by all exhibits required by the form and program handbooks. At the option of the local HUD Office, the SAMA/Feasibility letter stage of processing can be combined with the firm commitment stage of processing.

(b) *Firm commitment requirement.* An application for a firm commitment must be made by an approved mortgagee for any project for which a mortgagor seeks mortgage insurance under the Act.

(c) *Staged applications.* Staged applications leading to an application for firm commitment shall be made as determined appropriate by the Commissioner, and in accordance with such terms and conditions established by the Commissioner. The intermediate stages to firm commitment may include a site appraisal and market analysis (SAMA) letter stage or a feasibility letter stage and a conditional commitment. The conditional commitment stage applies only to mortgages to be insured pursuant to section 223(f) of the Act.

(d) *Effect of SAMA letter, feasibility letter, and firm commitment—(1) SAMA letter.* (i) The issuance of a SAMA letter indicates completion of the site appraisal and market analysis stage to determine initial acceptability of the site and recognition of a specific market need. The SAMA letter is not a commitment to insure a mortgage for the proposed project and does not bind the Commissioner to issue a firm commitment to insure. The SAMA letter precedes the later submission of acceptable plans and specifications for the proposed project and is limited to advising the applicant as to the following determinations of the Commissioner, which shall not be changed to the detriment of an applicant, if the application for a firm commitment is