

§203.18(f)), the outstanding balance of the existing mortgage.

(ii) In the case of graduated payment mortgages insured under section 203 of the Act pursuant to section 245 (a) or (b) of the Act (§203.45 or §203.46 [as in effect immediately before its removal at 52 FR 32754, published August 28, 1987]), the refinancing mortgage must have a principal amount that does not exceed the outstanding balance of the existing mortgage.

(iii) If a one-time mortgage insurance premium (MIP) was financed as part of the existing mortgage referred to in paragraphs (c)(1) (i) and (ii) of this section, the amount of the premium refund to which the mortgagor is entitled must be deducted in determining the original principal amount and the unpaid principal balance of the existing mortgage under paragraph (c)(1)(i) of this section and the outstanding balance of the existing mortgage under paragraph (c)(1)(ii) of this section. However, the maximum amount of the refinancing mortgage computed in accordance with this paragraph (c)(1) may be increased by the amount of the one-time MIP (if any) associated with the refinancing mortgage;

(2) It must have a term which does not exceed the unexpired term of the existing mortgage, except that in any case where the Commissioner determines that an extension of the term of the mortgage will inure to the benefit of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, the term may be extended to the lesser of (i) 30 years or (ii) the unexpired term of the existing mortgage, plus 12 years;

(3) The mortgage must result in a reduction in regular monthly payments by the mortgagor, except:

(i) When a fixed rate mortgage is given to refinance an adjustable rate mortgage held by a mortgagor who is to occupy the dwelling as a principal residence or secondary residence, as these terms are defined in §203.18(f); or

(ii) When refinancing a mortgage for a shorter term will result in an increase in the mortgagor's regular monthly payments of no more than \$50. In the case of a graduated payment mortgage, the reduction in regular

monthly payments means a reduction from the payment due under the existing mortgage for the month in which the refinancing mortgage is executed.

(4) It must be made by a mortgagor whose record of payment on the existing mortgage meets standards established by the Commissioner; and

(5) The mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage.

(d)-(f) [Reserved]

(g) The provisions of §203.28 shall not apply to mortgages insured under this section.

(h) The provisions of §203.38 shall not apply to mortgages of the character described in paragraph (b) of this section and at the time any such mortgage is insured there must be located on the mortgaged property a dwelling unit designed principally for residential use for not more than eight families.

(i)-(j) [Reserved]

(k) The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired in the settlement of an insurance claim under any section or title of the National Housing Act.

[36 FR 24508, Dec. 22, 1971, as amended at 45 FR 30602, May 8, 1980; 47 FR 29525, July 7, 1982; 52 FR 4139, Feb. 10, 1987; 52 FR 37287, Oct. 6, 1987; 52 FR 44861, Nov. 23, 1987; 53 FR 8880, Mar. 18, 1988; 55 FR 34805, Aug. 24, 1990; 55 FR 38033, Sept. 14, 1990; 61 FR 36264, July 9, 1996]

§203.43a Eligibility of mortgages covering housing in certain neighborhoods.

(a) A mortgage financing the repair, rehabilitation, construction, or purchase of property located in an older declining urban area shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(b) The mortgage shall meet all of the requirements of this subpart, except such requirements as are judged to be not applicable on the basis of the following determinations to be made by the Commissioner:

(1) That the conditions of the area in which the property is located prevent the application of certain eligibility requirements of this subpart.

(2) That the area is reasonably viable, and there is a need in the area for adequate housing for families of low and moderate income.

(3) That the mortgage to be insured is an acceptable risk.

(c) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 223(e) of the National Housing Act. Such mortgages shall be insured under and be the obligation of the Special Risk Insurance Fund.

(d) For restrictions against approving mortgage insurance for a certain category of newly legalized alien, see 24 CFR part 49.

[36 FR 24508, Dec. 22, 1971, as amended at 55 FR 18493, May 2, 1990]

§ 203.43b [Reserved]

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

A mortgage involving a dwelling unit in a cooperative housing development which meets the requirements of this subpart, except as modified by this section, shall be eligible for insurance under section 203(n) of the National Housing Act.

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.18a, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43h, 203.43i, 203.43j, 203.44, 203.49, and 203.50 of this part do not apply to mortgages insured under section 203(n) of the National Housing Act.

(b) As used in connection with the insurance of mortgages under this section and § 203.437 of this part: (1) The term *mortgage* shall mean a first lien given to secure a loan made to finance the unpaid purchase price of a Corporate Certificate together with the applicable Occupancy Certificate of a cooperative ownership housing corporation in which the permanent occupancy of the dwelling units is restricted to members of such corporation, and may refer both to a security instrument creating a lien, whether called a *mortgage*, *deed of trust*, *security deed* or another term used in a par-

ticular jurisdiction, as well as the credit instrument, or note, secured thereby.

(2) *Corporation* shall mean an organization which holds title to a cooperative housing development which is covered by a blanket mortgage or mortgages insured by FHA under the National Housing Act.

(3) *Corporate Certificate* shall mean such stock certificates, membership certificates, or other instruments which the laws of the jurisdictions in which the cooperative housing development is located require to evidence ownership of a specified interest in the corporation.

(4) *Occupancy Certificate* shall mean a written instrument provided by the corporation to each holder of a Corporate Certificate which grants an exclusive right of possession of a specific dwelling unit in the cooperative housing development.

(5) References in this subpart to a dwelling, residence or property which is sold, conveyed, covered by a mortgage or subject to a lien shall be construed to mean the Corporate Certificate together with the Occupancy Certificate, except that where such references when interpreted in light of section 203(n) of the National Housing Act clearly indicate the intent to be the dwelling unit, such reference shall mean the dwelling unit identified in the Occupancy Certificate.

(c) The organizational documents of the cooperative corporation must provide that: (1) Either the Secretary or a mortgagee under a mortgage insured under this section shall be a member of the cooperative corporation for so long as either owns a Corporate Certificate;

(2) A mortgage insured under this section shall be a first lien upon the property covered by the mortgage;

(3) The Secretary may exercise the voting rights which are attributable to each Corporate Certificate owned by the Secretary;

(4) The Secretary may designate as her proxy an agent for the purpose of exercising the voting rights of the Secretary which are attributable to the corporate Certificate or Certificates owned by the Secretary;

(5) The Secretary may cease making monthly payments attributable to any