

**§ 203.5 Direct Endorsement process.**

(a) *General.* Under the Direct Endorsement program, the Secretary does not review applications for mortgage insurance before the mortgage is executed or issue conditional or firm commitments, except to the extent required by § 203.3(b)(4), § 203.3(d)(1), or as determined by the Secretary. Under this program, the mortgagee determines that the proposed mortgage is eligible for insurance under the applicable program regulations, and submits the required documents to the Secretary in accordance with the procedures set forth in § 203.255. This subpart provides that certain functions shall be performed by the Secretary (or Commissioner), but the Secretary may specify that a Direct Endorsement mortgagee shall perform such an action without specific involvement or approval by the Secretary, subject to statutory limitations. In each case, the Direct Endorsement mortgagee's performance is subject to pre-endorsement and post-endorsement review by the Secretary under § 203.255 (c) and (e).

(b) *Eligible programs.* (1) All single family mortgages authorized for insurance under the National Housing Act must be originated through the Direct Endorsement program, except the following:

(i) Mortgages underwritten for insurance by mortgagees that have applied for participation in, and have been approved for, the Lender Insurance program;

(ii) Mortgages authorized under sections 203(n), 203(p), 213(d), 221(h), 221(i), 225, 233, 237, 809, or 810 of the National Housing Act, or any other insurance programs announced by FEDERAL REGISTER notice; or

(iii) As provided in § 203.1.

(2) The provision contained in § 221.55 of this chapter regarding deferred sales to displaced families is not available in the Direct Endorsement program.

(c) *Underwriter due diligence.* A Direct Endorsement mortgagee shall exercise the same level of care which it would exercise in obtaining and verifying information for a loan in which the mortgagee would be entirely dependent on the property as security to protect its investment. Mortgagee procedures that evidence such due diligence shall be in-

corporated as part of the quality control plan required under § 202.5(h) of this chapter. The Secretary shall publish guidelines for Direct Endorsement underwriting procedures in a handbook, which shall be provided to all mortgagees approved for the Direct Endorsement procedure. Compliance with these guidelines is deemed to be the minimum standard of due diligence in underwriting mortgages.

(d) *Mortgagor's income.* The mortgagee shall evaluate the mortgagor's credit characteristics, adequacy and stability of income to meet the periodic payments under the mortgage and all other obligations, and the adequacy of the mortgagor's available assets to close the transaction, and render an underwriting decision in accordance with applicable regulations, policies and procedures.

(e) *Appraisal.* (1) A mortgagee shall have the property appraised in accordance with such standards and requirements as the Secretary may prescribe.

(2) The mortgagee shall not discriminate on the basis of race, color, religion, national origin, sex, age, or disability in the selection of an appraiser.

[57 FR 58346, Dec. 9, 1992; 58 FR 13537, Mar. 12, 1993, as amended at 59 FR 50463, Oct. 3, 1994; 60 FR 42759, Aug. 16, 1995; 61 FR 36263, July 9, 1996; 62 FR 20088, Apr. 24, 1997; 62 FR 30226, June 2, 1997]

**§ 203.6 Lender Insurance process.**

Under the Lender Insurance program, a mortgagee approved for the program conducts its own pre-insurance review, insures the mortgage, and agrees to indemnify HUD in accordance with § 203.255(f).

[62 FR 30226, June 2, 1997]

**§ 203.7 Commitment process.**

For single family mortgage programs that are not eligible for Direct Endorsement processing under § 203.5, or for Lender Insurance processing under § 203.6, the mortgagee must submit an application for mortgage insurance in a form prescribed by the Secretary prior to making the mortgage loan. If:

(a) A mortgage for a specified property has been accepted for insurance

through issuance of a conditional commitment by the Secretary or a certificate of reasonable value by the Department of Veterans Affairs, and

(b) A specified mortgagor and all other proposed terms and conditions of the mortgage meet the eligibility requirements for insurance as determined by the Secretary, the Secretary shall approve the application for insurance by issuing a firm commitment setting forth the terms and conditions of insurance.

[57 FR 58346, Dec. 9, 1992; 58 FR 13537, Mar. 12, 1993, as amended at 62 FR 30226, June 2, 1997]

#### MISCELLANEOUS REGULATIONS

##### **§ 203.9 Disclosure regarding interest due upon mortgage prepayment.**

Each mortgagee with respect to a mortgage under this part shall at or before closing with respect to any such mortgage, provide the mortgagor with written notice in a form prescribed by the Commissioner describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after August 22, 1991.

[56 FR 18947, Apr. 24, 1991]

##### **§ 203.12 Mortgage insurance on proposed or new construction in a new subdivision.**

(a) *Applicability.* This section applies to an application for insurance of a mortgage on a one- to four-family dwelling constructed in a new subdivision, unless the mortgage will be secured by a dwelling that:

(1) Was completed more than one year before the date of the application for insurance or, under the Direct Endorsement Program, was completed more than one year before the date of the appraisal;

(2) Is in a subdivision in which all development construction has been completed and accepted by the local jurisdiction and most dwellings have been completed, or which was approved under paragraph (e) or (f) of this section as in effect prior to September 2, 1993; or

(3) Is being sold to a second or subsequent purchaser.

(b) *Definitions.* For purposes of this section:

(1) *Subdivision* means the total area containing all of the proposed land development activities, building or construction operations which are under centralized control, and planned principal development elements to support the creation of five or more dwelling lots (or a lesser number of lots that HUD determines to be appropriate to require applicability of this section in individual cases).

(2) *Improved area* means an area that is all or part of a subdivision and is at least the minimum size for which the local government is willing to accept the streets, or the water and sewage systems for maintenance, as appropriate.

(3) *Partially completed*, with respect to an improved area, means that:

(i) The local government has accepted the plat of a subdivision or of an improved area, and the plan for its principal development elements and rights-of-way;

(ii) All government approvals to begin development and construction in the improved area have been secured;

(iii) All development or construction of the improved area's streets, water and sewage systems and utilities has proceeded to a point that precludes any major changes; and

(iv) Provisions are in place for continuous maintenance of the streets and water and sewage systems once the improved area is substantially completed.

(4) *Substantially completed*, with respect to an improved area, means that:

(i) With the exception of delays approved by the local government and the Secretary, the improved area's principal development elements have been completed;

(ii) The local government has issued occupancy permits or their equivalent on those new dwellings being processed for conditional commitments; and

(iii) The local government accepts, or will accept, for continuous maintenance the streets and the water and sewage systems. Where local acceptance for maintenance is not available, adequate provision for private maintenance must be demonstrated. However,