

proceedings shall be promptly reported to the Commissioner.

(5) *Transfer by mortgagee.* After acquiring title to and possession of the property, the mortgagee shall (within 30 days of such acquisition) transfer title and possession of the property to the Commissioner. The transfer shall be made in such manner as the Commissioner may require. On the date the deed is filed for record, the mortgagee shall notify the Commissioner on a form prescribed by him of the filing of such conveyance, and shall also notify the FHA Assistant Commissioner-Comptroller by telegram of such recodation.

(6) *Filing of deed and application.* The mortgagee shall file its application for insurance benefits at the time of filing for record of the deed conveying the property to the Commissioner.

(7) *Deed covenants and documents.* The deed conveying the property to the Commissioner shall contain covenants satisfactory to the Commissioner. The original deed shall be forwarded to the Commissioner as soon as received from the recording authority. The following documents shall be forwarded with the deed:

(i) A bill of sale covering any personal property to which the mortgagee is entitled by reason of the mortgage transaction or by the acceptance of a deed in lieu of foreclosure.

(ii) An assignment of all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction and out of the foreclosure proceedings or other means by which the property was acquired.

(iii) An assignment of any claims on account of title insurance and fire or other hazard insurance, except claims which have been released with the prior approval of the Commissioner.

(8) *Title evidence.* Evidence of title, satisfactory to the Commissioner and meeting the requirements of § 207.258a shall be furnished to the Commissioner (without expense to him) within 45 days of the filing for record of the deed conveying the property to him.

(9) *Disposition of cash items.* The provisions of paragraph (b)(4) of this section, relating to the retention or delivery of cash items, shall be applicable to cases

involving the conveyance of property to the Commissioner.

(Information collection requirements in paragraph (b) were approved by the Office of Management and Budget under control number 2535-0061)

[36 FR 24537, Dec. 22, 1971, as amended at 44 FR 8195, Feb. 8, 1979; 50 FR 38786, Sept. 25, 1985; 51 FR 27838, Aug. 4, 1986; 64 FR 4770, Jan. 29, 1999]

§ 207.258a Title requirements.

(a) *Form of title evidence.* The title evidence submitted with a conveyance of the property to the Commissioner shall be in the form of an owner's policy of title insurance, except that, if an abstract and attorney's opinion were accepted by the Commissioner at the time of insurance, the title evidence may be in such form. The title evidence shall be effective on or after the date of the recording of the conveyance to the Commissioner.

(b) *Content of title evidence.* To be satisfactory to the Commissioner, the title evidence covering the property conveyed to him shall show the same title vested in the Commissioner as was vested in the mortgagor as of the date of the mortgage was filed for record, with the exception of such liens or other matters affecting the title as may be approved by the Commissioner.

§ 207.258b Partial payment of claim.

(a) Whenever the Commissioner receives notice under § 207.258 of a mortgagee's intention to file an insurance claim and to assign the mortgage to the Commissioner, the Commissioner may request the mortgagee, in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Commissioner may determine.

(b) The Commissioner may request the mortgagee to participate in a partial payment of claim in lieu of assignment only after a determination that partial payment would be less costly to the Federal government than other reasonable alternatives for maintaining the low- and moderate-income

character of the project. This determination shall be based upon the findings listed below and such other findings as the Commissioner deems appropriate:

(1) The mortgagee is entitled, under § 207.255, to assign the mortgage in exchange for the payment of insurance benefits;

(2) The relief resulting from partial payment, when considered with other resources available to the project, would be sufficient to restore the financial viability of the project;

(3) The project is, or can at reasonable cost be made, structurally sound;

(4) The management of the project is satisfactory to the Commissioner; and

(5) The default under the insured mortgage was beyond the control of the mortgagor.

(c) Partial payment of a claim under this section shall be made only when:

(1) The project is, or potentially could serve as, a low- and moderate-income housing resource;

(2) The property covered by the mortgage is free and clear of all liens other than the insured first mortgage and such other liens as the Commissioner may have approved;

(3) The mortgagee has voluntarily agreed to accept partial payment of the insurance claim under the mortgage insurance contract and to recast the remaining mortgage amount under terms and conditions prescribed by the Commissioner; and

(4) The mortgagor has agreed to repay to the Commissioner an amount equal to the partial payment, with the obligation secured by a second mortgage on the project containing terms and conditions prescribed by the Commissioner. The terms of the second mortgage will be determined on a case-by-case basis to assure that the estimated project income will be sufficient to cover estimated operating expenses and debt service on the recast insured mortgage. The Commissioner may provide for postponed amortization of the second mortgage.

(d) Payment of insurance benefits under this section shall be in cash. The Commissioner shall waive the deduction of one percent of the mortgage funds advanced to the mortgagor, provided for in § 207.259(b)(2)(iv), with re-

spect to a partial payment of a claim under this section. The items referred to in § 207.258(b)(4) shall either be retained by the mortgagee or delivered to the Commissioner in accordance with instructions to be issued by the Commissioner with respect to a partial payment of claim under this section.

(e) Lenders receiving a partial payment of claim following the Commissioner's endorsement of the Mortgage for full insurance under parts 251, 252, or 255 of this chapter, will pay HUD a fee in an amount set forth through FEDERAL REGISTER notice. HUD, in its discretion, may collect this fee or deduct the fee from any payment it makes in the claim process.

[50 FR 38786, Sept. 25, 1985, as amended at 61 FR 49037, Sept. 17, 1996]

§ 207.259 Insurance benefits.

(a) *Method of payment.* Upon either an assignment of the mortgage to the Commissioner or a conveyance of the property to him in accordance with requirements in § 207.258, payment of an insurance claim shall be made in cash, in debentures, or in a combination of both, as determined by the Commissioner either at, or prior to, the time of payment, except where the mortgage is insured pursuant to:

(1) Section 223(e) of the National Housing Act, or

(2) Section 223(f) of the Act and at the time of the insurance endorsement, (i) the mortgage met the special eligibility requirements contained in § 207.32a(k) or (ii) the mortgage covered a property to be rehabilitated under part 511 or part 850 of this title, such claim shall be paid in cash, unless the mortgagee files a written request, with the application, for payment in debentures. A claim paid in cash on a mortgage insured under section 223(e) shall be paid from the Special Risk Insurance Fund. If the mortgagee files an application for payment in debentures on a claim on a mortgage insured under section 223(e) or 223(f), the claim shall be paid by issuing debentures and by paying any balance in cash.

(b) *Amount of payment; assignment of mortgage.* If the mortgage is assigned to the Commissioner, the insurance benefits shall be paid in an amount determined as follows: