

(2) That the stated mortgage amount does not exceed the maximum dollar limitation under 24 CFR 235.1202(b)(1).

(3) That the interest rate on the mortgage meets the requirements of 24 CFR 235.1202(b)(3).

(c) *Authority to sign.* The mortgagees that have the authority to originate and close mortgages in accordance with § 235.1218(e) shall have the authority to sign for and on behalf of the Secretary, in accordance with procedures established by the Secretary, without further specific approval, the following documents:

(1) *Approval of amount of assistance payments.* The Form HUD 93100, "Application for Homeownership Assistance under section 235 of the National Housing Act," which evidences a review of the information obtained from the mortgagor on the application, a determination of eligibility or ineligibility for assistance payments, and the amount of the assistance payments to which the mortgagor is entitled.

(2) *Subordination and modification agreement.* An agreement, which subordinates a recapture second mortgage or deed of trust (recapture mortgage) held by HUD in accordance with 24 CFR 235.12, to the lien of the mortgage being submitted for insurance so that the recapture mortgage will remain a second lien. If the recapture mortgage is a third lien following a second lien made, held or insured by a Federal, State or local governmental agency, and approved by the Secretary, the direct endorsement mortgagee may sign an agreement subordinating the recapture mortgage to third lien place. The agreement shall also contain a modification of the recapture mortgage to include a new note to be signed by the mortgagor securing repayment of the assistance to be paid under the mortgage to be insured under section 235(r).

[57 FR 62453, Dec. 30, 1992. Redesignated and amended at 60 FR 56499, 56501, Nov. 8, 1995]

CONTRACT RIGHTS AND OBLIGATIONS

§ 235.1222 Cross-reference.

The provisions of subpart B of title 24 of part 235 shall be applicable to mort-

gages insured in accordance with section 235(r) of the National Housing Act.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

CONTRACT FOR ASSISTANCE PAYMENTS

§ 235.1224 Cross-reference.

(a) Title 24, part 235, subpart C, as modified and supplemented by this subpart, shall constitute the contract between the mortgagee and the Secretary for assistance payments in connection with a mortgage insured under section 235(r) of the National Housing Act.

(b) The sections of subpart C of this part which apply in connection with a mortgage insured under section 235(r) are the following:

Sec.

235.301 Definitions.

235.340 Time of payments.

235.350 Mortgagor's required recertification.

235.355 Mortgagor's optional recertification.

235.360 Adjustment in assistance payments.

235.361 Recovery of assistance payments.

235.365 Mortgagee records.

235.370 Effect of assignment of mortgage with an assistance payment contract.

235.375 Termination, suspension or reinstatement of the assistance payments contract.

235.499 Effect of amendments.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1226 Additional provisions of the assistance payment contracts for section 235(r).

(a) *Assistance payments and handling charges.* The assistance payments on behalf of the mortgagor shall be the lesser of the following:

(1) The difference between 20 percent (or 28 percent in the case of contracts entered into for a ten-year term (ten year contracts) pursuant to the authority under section 235(c)(1) of the National Housing Act, as amended by the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181)) of the homeowner's adjusted monthly income and the required monthly payment under the mortgage for principal, interest, taxes, insurance, and mortgage insurance premium.

(2) The difference between the required monthly payment under the mortgage for principal, interest, and mortgage insurance premium and the

monthly payment which would be required for principal and interest if the mortgage bore the lower interest rate established by the Secretary and in effect at the time of the closing of the mortgage being refinanced and which is referred to as the "floor rate."

(b) *Floor rates.* The floor rates are determined by the date of the closing of the mortgage being refinanced. As an example, the following chart contains floor rates. However, mortgagees must check the HUD Form 93100 for the mortgage being refinanced to obtain the floor rate for the mortgage, which rate is to be used to compute the formula contained in paragraph (a) of this section.

TABLE

Date of closing	Interest rate	
	Note rate (percent)	To compute second element of subsection (a)(2) (percent)
8/9/68-1/4/76	N/A	1
1/5/76-3/6/78	N/A	5
3/7/78-3/8/81	N/A/	4
On or after 3/9/81	13.50 or below	4
	13.75-14.00	4¾
	14.25-14.50	5½
	15.00	6
	15.50	6¾
	16	7¼
	16.50	8
17.50	8	

(c) *Handling charges.* In addition to the assistance payments referred to in paragraph (a) of this section, the mortgagee shall be entitled to the monthly payment of an amount the Secretary deems sufficient to reimburse the mortgagee for its expense in handling the mortgage.

(d) *Taxes in monthly payment.* Special assessments levied by a governmental body are to be included under the term "taxes" as part of the monthly payment. However, ground rents, assessments of a homeowners' association or condominium association, and special assessments levied by persons or private organizations are not to be included.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1228 Termination of assistance payments contracts on mortgages to be refinanced.

The assistance payments contract for the mortgage being refinanced shall be terminated on the day before the disbursement of the proceeds of the mortgage to be insured, and no further assistance payments shall be made under such contract.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1230 Execution of assistance payment contract.

The issuance of a mortgage insurance certificate pursuant to § 235.1 *et seq.* shall also constitute the execution of the assistance payments contract with respect to the mortgage being insured.

[57 FR 62453, Dec. 30, 1992. Redesignated at 60 FR 56499, Nov. 8, 1995]

§ 235.1232 Eligibility for assistance payments.

(a) To be eligible for assistance payments, a homeowner must:

- (1) Be a mortgagor on a mortgage insured under section 235(r);
- (2) Have been entitled to, and receiving, assistance payments under the mortgage being refinanced; and
- (3) According to the formula contained under § 235.1210(a), continue to be eligible for such payments under the 235(r) mortgage.

(b) The mortgagee, holding the mortgage being refinanced, must certify that the mortgagor is eligible for, and receiving, assistance payments under the mortgage being refinanced and that the last recertification by the mortgagor was within the preceding twelve months prior to the application for the section 235(r) mortgage. If the last recertification was not within that period, then the mortgagee will have to obtain a current recertification from the mortgagor for the purpose of determining whether the mortgagor remains eligible to continue receiving assistance payments under the mortgage being refinanced.

(c) In addition, the mortgagee originating the 235(r) mortgage must obtain a new certification from the mortgagor for eligibility for assistance payments under the 235(r) mortgage.