

§ 248.203

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of the project for the entire time the project is maintained as low income housing; and

(3) Assisting the ownership in complying with regulatory, use, loan and grant agreements.

Regulatory Agreement. The agreement executed by the owner and the Commissioner or a State agency providing for the Commissioner's regulation of the operation of the project.

Reserve for Replacements. The escrow fund established under the regulatory agreement for the purpose of ensuring the availability of funds for needed repair and replacement costs.

Residual Receipt Fund. The fund established under the regulatory agreement for holding cash remaining after deducting from the surplus cash, as defined by the regulatory agreement, the amount of all allowable distributions.

Return on Investment. The amount of allowable distributions, tax benefits, and other income or benefits received by the owner, as a percentage of the equity.

Termination of Low Income Affordability Restrictions. The elimination of low income affordability restrictions under the regulatory agreement through termination of mortgage insurance or prepayment of the mortgage.

Use Agreement. An agreement or covenant which is executed and recorded in the appropriate land records in connection with an approved plan of action, has lien priority over other mortgages and liens, is binding upon the owner and its successors and assigns, is enforceable by the Commissioner and by tenants, contains appropriate reporting requirements, and restricts or governs the use and operation of the project with respect to rent levels and increases, relocation, and, where appropriate, tenant eligibility, civil rights and other requirements. All tenants in occupancy at the time that the plan of action is approved will receive a copy of the use agreement.

Very Low Income Families. Families or persons whose incomes do not exceed the level established for very low in-

come families under §813.102 of this title.

[55 FR 38952, Sept. 21, 1990. Redesignated at 57 FR 12041, Apr. 8, 1992, and amended at 57 FR 57314, Dec. 3, 1992; 58 FR 37816, July 13, 1993; 61 FR 5207, Feb. 9, 1996]

§248.203 General prepayment limitation.

(a) An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Commissioner.

(b) A mortgage insurance contract with respect to eligible low income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Commissioner.

(c) A mortgagee's acceptance of a prepayment in violation of paragraph (a) or termination of a mortgage insurance contract in violation of paragraph (b) of this section is grounds for administrative action under parts 24 and 25 of this title, in addition to any other remedies available by law, including rescission of the prepayment or reinstatement on the insurance contract.

§248.211 Notice of intent to prepay.

(a) An owner of eligible low-income housing seeking to prepay its mortgage or to negotiate changes in the terms of the mortgage or regulatory agreement in accordance with this part, including termination of the insurance contract pursuant to section 229 of the National Housing Act, shall file a notice of intent with the HUD field office in whose jurisdiction the project is located, and shall file a duplicate copy with the HUD Headquarters Office of Multifamily Housing Management, 451-7th Street, SW., Washington, DC 20410. The notice of intent shall identify the project by name, project number and location, briefly describe the owner's plans for the project, including any timetables or deadlines for actions to be taken, and the reason the owner seeks to prepay the mortgage or change the terms of the mortgage or regulatory agreement, and briefly describe any contacts that the owner has