

**DEPARTMENT OF TRANSPORTATION****Federal Highway Administration****Environmental Impact Statement;  
Jefferson Parish, LA**

**AGENCY:** Federal Highway  
Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that the environmental impact statement will be prepared for a proposed railroad-highway traffic flow conflict project in Metairie, Jefferson Parish, Louisiana.

**FOR FURTHER INFORMATION CONTACT:** Mr. Kenneth Perret, Project Development Engineer, Federal Highway Administration, P.O. Box 3929, Baton Rouge, Louisiana 70821, Telephone: (504) 389-0466; or Mr. Vincent Pizzolato, Public Hearings and Environmental Impact Engineer, Louisiana Department of Transportation and Development, Office of Highways, P.O. Box 44245, Capitol Station, Baton Rouge, Louisiana 70804, Telephone (504) 342-7542.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the Louisiana Department of Transportation and Development, Office of Highways (LDOTD), intends to prepare an

environmental impact statement (EIS) on a project to develop a comprehensive plan for easing the railroad-highway traffic flow conflicts and other problems associated with the presence of the railroad in the Old Metairie area. The public will be involved as much as possible through public meetings, workshops and public hearing.

Alternatives under consideration include: (1) No action; (2) physical construction measures; and (3) operational measures, all of which would be designed to ease the longstanding railroad-highway conflicts and problems in the area.

There are currently no plans to hold a formal scoping meeting for the proposed action. Letters describing the proposed actions and soliciting comments will be sent to the appropriate federal, state and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. A public hearing will be held at a convenient time and place for persons in the project area after the draft environmental impact statement has been circulated. The hearing will be announced through the local news media.

To ensure the full range of issues related to this proposed action are addressed and all significant issues are identified, comments and suggestions

are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or Louisiana Department of Transportation and Development at the addresses provided above.

Issued on: April 11, 1986.

**Kenneth Perret,**

*Project Development Engineer, Federal Highway Administration.*

[FR Doc. 86-8619 Filed 4-16-86; 8:45 am]

**BILLING CODE 4910-22-M**

**Office of Hearings**

[Docket 43754]

**NWA-Republic Acquisition Case;  
Prehearing Conference**

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 18, 1986, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC 20590, before the undersigned administrative law judge.

Dated at Washington, DC, April 15, 1986.

**Ronnie A. Yoder,**

*Administrative Law Judge.*

[FR Doc. 86-8791 Filed 4-16-86; 8:45 am]

**BILLING CODE 4910-62-M**

# Sunshine Act Meetings

Federal Register

Vol. 51, No. 74

Thursday, April 17, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

1

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 9:40 p.m. on Friday, April 11, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Center National Bank, Los Angeles (Woodland Hills), California, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the

Currency, on Friday, April 11, 1986; (2) accept the bid for the transaction submitted by Independent Bank, Los Angeles (Encino), California, an insured State nonmember bank; and (3) approve the application of Independence Bank, Los Angeles (Encino), California, for consent to purchase certain assets of and assume the liability to pay deposits made in Center National Bank, Los Angeles (Woodland Hills), California, and for consent to establish the sole office of Center National Bank as a branch of Independence Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) consider the application of Lorain County Bank, Elyria, Ohio, as insured State member bank, for consent to purchase certain assets of and assume the liability to pay deposits made in the Columbia Station Branch of Thrift Federal Savings & Loan Association of Cleveland, Cleveland, Ohio, a non-FDIC-insured institution.

In calling the meeting, the Board determined, on motion of Chairman L.

William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-8736 Filed 4-15-86, 12:04 pm]

BILLING CODE 6714-01-M

Published weekly, except on Sundays, and on the last day of the month of December, when it is published as a double issue. The subscription price is \$5.00 per annum in advance. Single copies are sold at 15 cents each.

Entered as second-class matter, June 26, 1902, under post office number 383, at Chicago, Ill., under special agreement of the Postoffice Department. Accepted for mailing at special rate of postage provided for in Act of October 3, 1917, authorized on July 1, 1918. Postage paid at Chicago, Ill., and at additional mailing offices. Postmaster: Send address changes in this journal to the American Medical Association, 535 North Dearborn Street, Chicago, Ill.

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# United States Federal Register

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Thursday  
April 17, 1986

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## Part II

### Reader Aids

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List of Libraries That Have Announced  
Availability of Federal Register and Code  
of Federal Regulations

LIST OF LIBRARIES THAT HAVE ANNOUNCED AVAILABILITY OF FEDERAL REGISTER  
AND CODE OF FEDERAL REGULATIONS

In order to better serve the public the Office of the Federal Register is publishing a list of libraries where the *Federal Register* and *Code of Federal Regulations* are available for examination free of charge. This list contains only those Government depository libraries and other libraries that specifically have chosen to be included. A complete listing of *Government Depository Libraries* is available without charge from The Library, U.S. Government Printing Office, 5236 Eisenhower Avenue, Alexandria, VA 22304.

The Office of the Federal Register's list will be updated annually unless public interest requires more frequent publication. Any library that maintains these publications, makes them available to the public, and wishes to be included on future lists should write to the Director of the Federal Register, National Archives and Records Administration, Washington, DC 20408, or phone (202) 523-5227 giving the name and address of the library. (\*FR only. †CFR only.)

## ALABAMA

## Birmingham:

Government Documents Department  
Birmingham Public Library  
2020 Park Place  
Birmingham, AL 35203  
(205) 254-2551

## Gadsden:

Gadsden Public Library  
254 College Street  
Gadsden, AL 35901  
(205) 547-1611

## Mobile:

Governmental Information Division  
Mobile Public Library  
564 Davis Avenue  
Mobile, AL 36603  
(205) 438-7092

Government Documents Department  
University of South Alabama Library  
Mobile, AL 36688  
(205) 460-7024

## Montgomery:

Alabama Public Library Service  
6030 Monticello Drive  
Montgomery, AL 36130  
(205) 277-7330

## Tuscaloosa:

University of Alabama Library  
Reference Department  
Box S  
University, AL 35486  
(205) 348-6046

## ALASKA

## Anchorage:

Alaska Resources Library  
U.S. Department of the Interior  
701 C Street, Box 36  
Anchorage, AK 85513

Office of the Solicitor, Law Library  
U.S. Department of the Interior  
510 L Street, Suite 408  
Anchorage, AK 99501

## Fairbanks:

Bureau of Land Management  
Library  
Fairbanks District Office  
P.O. Box 1150  
North Post of Ft. Waynewright  
Fairbanks, AK 99707

## Rasmuson Library

Government Documents Section  
University of Alaska  
Fairbanks, AK 99701

## Juneau:

Alaska State Library  
8th Floor, New State Office Bldg.  
Pouch G  
Juneau, AK 99811  
(907) 465-2920

## ARIZONA

## Flagstaff:

Government Documents Department  
Northern Arizona University Library  
Flagstaff, AZ 86011  
(602) 523-2171

## Glendale:

Velma Teague Library  
7010 N. 58th Avenue  
Glendale, AZ 85301  
(602) 931-5576

## Phoenix:

Office of the Field Solicitor, Law  
Library  
U.S. Department of the Interior  
Valley Bank Center, Suite 2080  
201 North Central Avenue  
Phoenix, AZ 85073

Phoenix Public Library  
Business, Science & Technology—  
Documents

12 E. McDowell Road  
Phoenix, AZ 85004  
(602) 262-6451

## Tempe:

Arizona State University  
College of Law Library  
Government Documents  
Tempe, AZ 85281

Government Documents Department  
Arizona State University Library  
Tempe, AZ 85281

## Window Rock:

Field Solicitor, Law Library  
U.S. Department of the Interior  
Window Rock, AZ 86515

## ARKANSAS

## Little Rock

Government Documents Department  
UALR Library  
University of Arkansas at Little Rock  
33rd and University Avenue  
Little Rock, AR 72204  
(501) 569-3120

## Searcy:

Beaumont Memorial Library  
Harding University  
P.O. Box 928  
Searcy, AR 72143  
(501) 268-6161

## CALIFORNIA

## Anaheim:

Anaheim Public Library  
500 W. Broadway Avenue  
Anaheim, CA 92805  
(714) 999-1880

## Arcata:

Documents Department  
The Library  
Humboldt State University  
Arcata, CA 95521

## Burlingame:

The San Mateo Foundation\*  
1204 Burlingame Avenue  
P.O. Box 627  
Burlingame, CA 94010  
(415) 342-2477

## Glendale:

City of Glendale  
Glendale Public Library  
222 East Harvard Street  
Glendale, CA 91205

## Inglewood:

Inglewood Public Library  
101 West Manchester Blvd.  
Inglewood, CA 90301  
(213) 649-7397

## La Jolla:

Government Documents, Maps,  
Microforms Department  
Central University Library C-075-P  
University of California, San Diego  
La Jolla, CA 92093  
(714) 452-3338

## CALIFORNIA—Continued

## Lakewood:

Angelo M. Iacoboni Library  
5020 Clark Avenue  
Lakewood, CA 90712  
(213) 866-1777

## Long Beach:

Government Publications  
Long Beach Public Library and  
Information Center  
101 Pacific Avenue  
Long Beach, CA 90802  
(213) 437-2949, ext. 40  
Long Beach Safety Council Library  
121 Linden Avenue  
Long Beach, CA 90802

## Menlo Park:

U.S. Geological Survey Library  
345 Middlefield Road  
Menlo Park, CA 94025

## Oakland:

Holy Names College Library  
3500 Mountain Blvd.  
Oakland, CA 94619

## Orange:

Thurmond Clarke Memorial Library  
Chapman College  
333 North Glassell Street  
Orange, CA 92666

## Pasadena:

City of Pasadena  
Pasadena Public Library  
285 E. Walnut Street  
Pasadena, CA 91101  
(213) 577-4054

## Pleasant Hill:

Contra Costa County Library  
Documents Section  
1750 Oak Park Boulevard  
Pleasant Hill, CA 94523  
(415) 944-3423

## Redwood City:

Redwood City Public Library  
881 Jefferson Avenue  
Redwood City, CA 94063  
(415) 369-6251, ext. 288

San Mateo County Superintendent of  
Schools Office

Educational Resources Center  
333 Main Street  
Redwood City, CA 94063  
(415) 364-5600

## Richmond:

Richmond Public Library  
Civic Center Plaza  
Richmond, CA 94804

## Riverside:

Riverside City and County Public  
Library  
(Current CFR only)  
3581 Seventh Street  
P.O. Box 468  
Riverside, CA 92502  
(714) 787-7203

## Sacramento:

Law Library  
California State Library  
P.O. Box 2037  
Sacramento, CA 95809  
(916) 445-8833

Regional Solicitor, Law Library  
U.S. Department of the Interior  
Room E-2753  
2800 Cottage Way  
Sacramento, CA 95825

## San Bernardino:

San Bernardino County Library  
104 West Fourth Street  
San Bernardino, CA 92415

## San Diego:

Western State University  
College of Law  
1333 Front Street  
San Diego, CA 92101  
(714) 231-0300

## San Francisco:

Field Solicitor, Law Library  
U.S. Department of the Interior  
450 Golden Gate Avenue  
Box 36064  
San Francisco, CA 94102  
University of California  
Hastings College of the Law  
Library  
198 McAllister Street  
San Francisco, CA 94102  
San Rafael:  
Marin County Free Library  
Civic Center Administration Building  
San Rafael, CA 94903  
(415) 499-6051

## Vallejo:

California Maritime Academy\*  
P.O. Box 1392  
Vallejo, CA 94590  
(707) 644-5601

## COLORADO

## Denver:

Bureau of Land Management  
Denver Service Center Library  
Building 50  
Denver Federal Center  
Denver, CO 80225  
Bureau of Reclamation Library  
Engineering and Research Center  
P.O. Box 25007, Denver Federal Center  
Denver, CO 80225  
Colorado State Library  
1362 Lincoln Street  
Denver, CO 80203

Regional Solicitor, Law Library  
U.S. Department of the Interior  
Room 1400, Bldg. 67, Denver Federal  
Center

P.O. Box 25007  
Denver, CO 80225

Rocky Mountain Regional Office  
Library  
National Park Service  
655 Perfect Street  
P.O. Box 25287  
Denver, CO 80225

## Fort Collins:

Documents Department  
The Libraries  
Colorado State University  
Fort Collins, CO 80523

## Greeley:

James A. Michener Library  
Government Publications Service  
University of Northern Colorado  
Greeley, CO 80639

## Lakewood:

Villa Library\*  
455 South Pierce Street  
Lakewood, CO 80226  
(303) 936-7407

## Pueblo:

Pueblo Regional Planning Commission  
Library\*  
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Pueblo, CO 81003  
(303) 543-6006

## CONNECTICUT

## Bloomfield:

Prosser Public Library  
1 Tuxis Avenue  
Bloomfield, CT 06002

## Danielson:

Quinebaug Valley Community College  
P.O. Box 59  
Danielson, CT 06239  
774-1130

## East Haven:

Hagaman Memorial Library\*  
227 Main Street  
East Haven, CT 06512  
(203) 468-3223

## Fairfield:

Nyselius Library  
Fairfield University  
North Benson Road  
Fairfield, CT 06430  
(203) 255-5411, Ext. 2451

## Hartford:

The Stanley Osborne Library\*  
Third Floor  
The Connecticut State Department of  
Health Services  
79 Elm Street  
Hartford, CT 06115  
(203) 566-2198

## Middletown:

Olin Library  
Wesleyan University  
Middletown, CT 06457

## Stamford:

Ferguson Library  
96 Broad Street  
Stamford, CT 06901

## Storrs:

Government Publications Department  
University of Connecticut Library  
University of Connecticut  
Storrs, CT 06268

## Waterbury:

Silas Bronson Public Library  
Business, Industry & Technology  
Department  
267 Grand Street  
Waterbury, CT 06702

## CONNECTICUT—Continued

## Wethersfield:

Wethersfield Public Library  
515 Silas Deane Highway  
Wethersfield, CT 06109

## DELAWARE

## Wilmington:

The Delaware Law School Library  
Widener University  
P.O. Box 7475 Concord Pike  
Wilmington, DE 19803  
(302) 478-5280  
Ext. 247

## DISTRICT OF COLUMBIA

Natural Resources Library  
U.S. Department of the Interior  
Washington, DC 20240  
Office of the Federal Register  
1100 L Street, N.W.  
Room 8301  
Washington, DC 20408  
(202) 523-4986

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Clearwater Public Library  
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Clearwater, FL 33515

## Daytona Beach:

Volusia County Library Center  
City Island  
Daytona Beach, FL 32014  
(904) 255-3765

## Fort Lauderdale:

Broward County Main Library  
100 S. Andrews Avenue  
Fort Lauderdale, FL 33301  
(305) 357-7444

## Melbourne:

Government Documents Department  
Florida Institute of Technology  
Library  
University Blvd.  
Melbourne, FL 32901  
(305) 723-3701

## Orlando:

Orange County Library System  
General Information Department  
10 N. Rosalind Avenue  
Orlando, FL 32801  
(305) 425-4694

## Sarasota:

The University of Sarasota  
2080 Ringling Blvd.  
Sarasota, FL 33577  
(813) 955-4228

## Tallahassee:

Documents Section  
State Library of Florida  
R. A. Gray Building  
Tallahassee, FL 32301  
(904) 487-2651

## Tampa:

Tampa-Hillsborough County Public  
Library  
900 North Ashley Street  
Tampa, FL 33602  
(813) 223-8969

## GEORGIA

## Athens:

University of Georgia Libraries  
Government Reference Department  
Athens, GA 30602

## Atlanta:

Documents Center  
Robert W. Woodruff Library  
Emory University  
Atlanta, GA 30322  
(404) 727-6880

Office of the Regional Solicitor, Law  
Library

U.S. Department of the Interior  
148 Cain Street, N.E., Suite 405  
Atlanta, GA 30303

## Dublin:

Laurens County Library  
801 Bellevue Ave.  
Dublin, GA 31021

## Elberton:

Southeastern Power Administration  
Law Library  
U.S. Department of Energy  
Samuel Elbert Building  
Elberton, GA 30635

## Savannah:

Chatham-Effingham-Liberty Regional  
Library  
2002 Bull Street  
Savannah, GA 31499  
(912) 234-5127

## IDAHO

## Boise:

Field Solicitor, Law Library  
U.S. Department of the Interior  
Federal Building, U.S. Courthouse  
Box 20  
Boise, ID 83724

## Pocatello:

The Library  
Idaho State University  
Pocatello, ID 83209

## ILLINOIS

## Bloomington:

Illinois Wesleyan University  
Library  
Bloomington, IL 61701

## Chicago:

Government Publications Department  
Chicago Public Library  
425 N. Michigan Avenue  
Chicago, IL 60611  
(312) 269-3002

University of Chicago Law Library  
1121 East 60th Street  
Chicago, IL 60637

Documents Department  
University of Illinois at Chicago Circle  
The Library, P.O. Box 8198  
Chicago, IL 60680  
(312) 996-2716/996-2738

## Dekalb:

Government Publications Department  
Northern Illinois University  
Founders Library  
Dekalb, IL 60115  
(815) 753-1932

## Evanston:

Northwestern University Library  
Government Publications Department  
Evanston, IL 60201  
(312) 491-3130

## Lake Forest:

Lake Forest College Library  
Lake Forest, IL 60045  
(312) 234-3100, ext. 410

## Lockport:

Lewis University  
Route 53  
Lockport, IL 60441  
(815) 838-0500

## Macomb:

Government Publications and Legal  
Reference Library  
Western Illinois University  
Macomb, IL 61455  
(309) 298-2411

## Niles:

Niles Public Library District  
6960 Oakton Street  
Niles, IL 60648  
(312) 967-8554

## Normal:

Milner Library  
Illinois State University  
Normal, IL 61761

## Oak Park:

Oak Park Public Library  
834 Lake Street  
Oak Park, IL 60301  
(312) 383-8200

## Rockford:

Rockford Public Library  
215 North Wyman Street  
Rockford, IL 61101  
(815) 965-6731

## Springfield:

Energy Information Library\*  
Illinois Institute of Natural Resources,  
Room 300  
325 W. Adams Street  
Springfield, IL 62706

## Streamwood:

Government Documents Department  
Poplar Creek Public Library  
1405 S. Park Blvd.  
Streamwood, IL 60103  
(312) 837-6800

## Waukegan:

County of Lake  
Law Library  
18 North County Street  
Waukegan, IL 60085  
(312) 689-6654

## INDIANA

## Fort Wayne:

The Public Library of  
Fort Wayne and Allen County  
900 Webster Street  
Fort Wayne, IN 46802  
(219) 424-7241

## INDIANA—Continued

## Indianapolis:

Reference and Loan Division  
Indiana State Library  
140 N. Senate Ave.  
Indianapolis, IN 46204  
(317) 232-3675

## Muncie:

Ball State University Library  
Government Publications Service  
Muncie, IN 47305  
(317) 285-6195

## South Bend:

Indiana University at South Bend  
1700 Mishawaka Avenue  
South Bend, IN 46615  
(219) 237-4440

## IOWA

## Ames:

Library—Government Publications  
Department  
Iowa State University  
Ames, IA 50010  
(515) 294-2834

## Des Moines:

State Library Commission of Iowa  
Law Library  
Capitol Building  
Des Moines, IA 50319  
(515) 281-5125

State Library Commission of Iowa  
Historical Building  
East 12th & Grand  
Des Moines, IA 50319

## Dubuque:

Carnegie-Stout Public Library  
Eleventh and Bluff Streets  
Dubuque, IA 52001  
(319) 583-9197

Wahlert Memorial Library  
Loras College  
1450 Alta Vista  
Dubuque, IA 52001

## KANSAS

## Colby:

H. F. Davis Memorial Library  
Colby Community College  
1255 South Range  
Colby, KS 67701  
(913) 462-3984

## Lawrence:

University of Kansas Law Library  
Green Hall  
Lawrence, KS 66045  
(913) 864-3025

## Pittsburg:

Leonard H. Axe Library  
Pittsburg State University  
Pittsburg, KS 66762  
(316) 231-7000, ext. 4889

## Salina:

Memorial Library  
Kansas Wesleyan  
100 East Claflin  
Salina, KS 67401-6196  
(913) 827-5541, ext. 298

## Topeka:

Washburn University of Topeka  
School of Law Library  
Topeka, KS 66621  
(913) 295-6660

## KENTUCKY

## Bowling Green:

Western Kentucky University  
Helm-Cravens Library  
Bowling Green, KY 42101

## Frankfort:

Government Document Section  
State Library Division  
Kentucky Department of Library &  
Archives

Berry Hill  
Frankfort, KY 40602  
(502) 564-2480

## Highland Heights

Northern Kentucky University  
Library  
Government Documents Department  
Highland Heights, KY 41076

## Lexington:

University of Kentucky Libraries  
Government Publications Department  
Lexington, KY 40506

Law Library  
University of Kentucky  
Lexington, KY 40506

## Louisville:

University of Louisville  
The Library  
Louisville, KY 40208

## Pikeville:

CITAC Library  
Pikeville College  
Armington Science Center  
Pikeville, KY 41501  
(606) 432-9396

## LOUISIANA

## Baton Rouge:

Library, Department of Urban &  
Community Affairs  
5790 Florida Boulevard  
Baton Rouge, LA 70806

Louisiana State Library  
P.O. Box 131  
760 N. Riverside Mall  
Baton Rouge, LA 70821  
(504) 389-6651

## Lafayette:

University of Southwestern Louisiana  
University Libraries  
Lafayette, LA 70501

## New Orleans:

U.S. Court of Appeals Library  
5th Circuit  
600 Camp Street  
Room 106  
New Orleans, LA 70130  
(504) 589-6510

## MAINE

## Lewiston:

George and Helen Ladd Library  
Bates College  
Lewiston, ME 04240

## Portland:

Donald L. Garbrecht Law Library  
246 Deering Avenue  
Portland, ME 04102  
(207) 780-4350

## MARYLAND

## Aberdeen:

Department of the Army  
U.S. Army Environmental Hygiene  
Agency  
ATTN: Librarian, Bldg. E-2100  
Aberdeen Proving Ground, MD 21010

## Annapolis:

Maryland State Law Library  
Courts of Appeal Building  
361 Rowe Boulevard  
Annapolis, MD 21401

## Baltimore:

Enoch Pratt Free Library  
400 Cathedral Street  
Baltimore, MD 21201

## Cumberland:

Allegany Community College Library  
Willow Brook Road  
P.O. Box 1695  
Cumberland, MD 21502  
(301) 724-7700, ext. 36

## Oakland:

Garrett County Planning Office\*  
323 East Oak Street  
Oakland, MD 21550  
(301) 334-4200

## Rockville:

Medical Library  
Food & Drug Administration  
5600 Fishers Lane\*  
Room 11B40  
Rockville, MD 20857

Department of Public Libraries  
Montgomery County  
99 Maryland Avenue  
Rockville, MD 20850  
(301) 279-1966

## MASSACHUSETTS

## Boston:

Government Documents Department  
Boston Public Library  
Copley Square  
Boston, MA 02117

## Gloucester:

Gloucester Lyceum and Sawyer Free  
Library\*  
General Reference Section  
2 Dale Avenue  
Gloucester, MA 01930  
(617) 283-0376

## Newton Corner:

Office of the Regional Solicitor, Law  
Library  
Suite 612  
1 Gateway Center  
Newton Corner, MA 02158  
(617) 965-5100, ext. 258

## MASSACHUSETTS—Continued

## Springfield:

The City Library  
Central Library  
220 State Street  
Springfield, MA 01103

## Woburn:

Commonwealth of Massachusetts  
Trial Court of the Commonwealth  
District Court Department  
Fourth Eastern Middlesex Division  
Woburn, MA 01801  
(617) 935-4000

## MICHIGAN

## Ann Arbor:

Washtenaw Community College  
4800 East Huron River Drive  
Ann Arbor, MI 48106  
(313) 973-3300

## Detroit:

Downtown Library\*  
Detroit Public Library  
121 Gratiot  
Detroit, MI 48226  
Detroit Public Library  
5201 Woodward Avenue  
Detroit, MI 48202

Municipal Reference Library  
Detroit Public Library  
1004 City-County Building  
Detroit, MI 48226

Arthur Neef Law Library  
Wayne State University  
468 W. Ferry Mall  
Detroit, MI 48202  
(313) 577-3925

## East Lansing:

Documents Department  
Michigan State University Library  
East Lansing, MI 48824

## Flint:

Flint Public Library  
General Reference Department  
1026 E. Kearsley Street  
Flint, MI 48502  
(313) 232-7111

## Lansing:

Thomas M. Cooley Law School  
Library  
U.S. Documents Collection  
217 South Capitol Avenue  
Lansing, MI 48901  
(517) 371-5140

## Marquette:

Government Documents Department  
Olson Library  
Northern Michigan University  
Marquette, MI 49855  
(906) 227-2112

## Mount Clemens:

Macomb County Library  
16480 Hall Road  
Mount Clemens, MI 48044  
469-5300

## Mt. Pleasant:

Library - Documents Department  
Central Michigan University  
Mt. Pleasant, MI 48859  
(517) 774-3414

## Pontiac:

Adams-Pratt Oakland County Law  
Library  
1200 N. Telegraph Road  
Pontiac, MI 48053

Oakland Schools Library\*  
2100 Pontiac Lake Road  
Pontiac, MI 48054

## Rochester:

Kresge Library  
Documents Department  
Oakland University  
Squirrel/Walton  
Rochester, MI 48063  
(313) 377-2476

## Saginaw:

Public Libraries of Saginaw  
505 Janes  
Saginaw, MI 48605  
(517) 755-0904

## Traverse City:

Mark Osterlin Library  
Documents Department  
Northwestern Michigan College  
1701 East Front Street  
Traverse City, MI 49684  
(616) 946-5650, ext. 540

## University Center:

Learning Resources Center  
Delta College  
University Center, MI 48710

## MINNESOTA

## Bemidji:

Documents Section  
A. C. Clark Library  
Bemidji State University  
Bemidji, MN 56601  
(218) 755-2958

## Blaine:

Anoka County Library  
707 Highway 110  
Blaine, MN 55434

## Cambridge:

East Central Regional Library\*  
Cambridge, MN 55008

## Duluth:

Duluth Public Library  
520 W. Superior Street  
Duluth, MN 55802  
(218) 723-3804

## Edina:

Southdale-Hennepin Area Library  
7001 York Avenue South  
Edina, MN 55435  
(612) 830-4900

## Mankato:

Memorial Library  
Mankato State University  
Box 19  
Mankato, MN 56001  
(507) 389-6201

## Minneapolis:

Minnesota Hospital Association  
Library  
2333 University Ave. S.E.  
Minneapolis, MN 55414  
(612) 331-5571

## Government Publications Division

409 Wilson Library  
University of Minnesota  
Minneapolis, MN 55455  
(612) 373-7813

## St. Paul:

Minnesota State Law Library  
117 University Avenue  
St. Paul, MN 55155  
(612) 296-2775

## Government Publications Office

St. Paul Public Library  
90 West Fourth Street  
St. Paul, MN 55102  
292-6178

## Stillwater:

Stillwater Public Library  
223 North Fourth Street  
Stillwater, MN 55082  
439-1675

## Twin Cities:

Field Solicitor, Law Library  
U.S. Department of the Interior  
686 Federal Building, Fort Snelling  
Twin Cities, MN 55111

## Winona:

Maxwell Library  
Government Documents  
Winona State University  
Winona, MN 55987  
(507) 457-5148

## MISSISSIPPI

## Gulfport:

Harrison County Law Library  
1st Judicial Courthouse  
1801 23rd Avenue  
Gulfport, MS 39501  
(601) 864-5161 ext. 336

## Jackson:

H. T. Sampson Library  
Jackson State University  
Jackson, MS 39217

## MISSOURI

## Cape Girardeau:

Kent Library  
Southeast Missouri State University  
Cape Girardeau, MO 63701  
(314) 651-2000

## Columbia:

Ellis Library  
University of Missouri-Columbia  
Columbia, MO 65201  
(314) 882-6733

University of Missouri-Columbia  
Law Library  
Tate Hall  
Columbia, MO 65211  
(314) 882-4597

## Fulton:

Reeves Library  
Westminster College  
Fulton, MO 65251  
(314) 642-3361

## MISSOURI—Continued

## Jefferson City:

Missouri State Library  
308 E. High Street  
P.O. Box 387  
Jefferson City, MO 65102  
(314) 751-4552

## Joplin:

Spiva Library  
Missouri Southern State College  
Newman & Duquesne Roads  
Joplin, MO 64801  
(417) 625-9386

## Kansas City:

Kansas City Public Library  
311 East 12th Street  
Kansas City, MO 64106  
(816) 221-2685  
Government Documents Department  
General Library  
University of Missouri—Kansas City  
5100 Rockhill Road  
Kansas City, MO 64110  
(816) 276-1536

## Kirksville:

Pickler Memorial Library  
Northeast Missouri State University  
Kirksville, MO 63501  
(816) 785-4534

## Liberty:

Charles F. Curry Library  
Government Documents  
William Jewell College  
Liberty, MO 64068  
(816) 781-3806, ext. 293

## Maryville:

B. D. Owens Library  
Northwest Missouri State University  
Maryville, MO 64468

## Rolla:

Curtis Laws Wilson Library  
University of Missouri—Rolla  
Rolla, MO 65401  
(314) 341-4227

## St. Charles:

Butler Library  
Lindenwood College  
St. Charles, MO 63301  
(314) 948-6912, ext. 329

## St. Joseph:

St. Joseph Public Library  
Tenth and Felix Streets  
St. Joseph, MO 64501  
(816) 232-7729

## St. Louis:

Maryville College Library  
Government Documents  
13550 Conway Rd.  
St. Louis, MO 63141  
(314) 576-9300  
Missouri Botanical Garden\*  
(back issues held 1 year)  
2345 Tower Grove Avenue  
St. Louis, MO 63110  
(314) 772-7600  
St. Louis County Library  
1640 S. Lindbergh Blvd.  
St. Louis, MO 63131  
(314) 994-3300

## Documents Department

St. Louis Public Library  
1301 Olive Street  
St. Louis, MO 63103  
(314) 241-2288, ext. 375

## Documents Department

Pius XII Memorial Library  
St. Louis University  
3655 West Pine Boulevard  
St. Louis, MO 63108  
(314) 658-3105

## Thomas Jefferson Library

University of Missouri—St. Louis  
8001 Natural Bridge Road  
St. Louis, MO 63144  
(314) 453-5954

## Washington University Law Library

Documents Department  
Campus Box 1120  
St. Louis, MO 63130  
(314) 889-6484

## Sedalia:

State Fair Community College Library  
1900 Clarendon Road  
Sedalia, MO 65301

## Springfield:

Walker Library  
Drury College  
Springfield, MO 65802

## Southwest Missouri State University

The Library  
Springfield, MO 65802  
(417) 831-1561

## Warrensburg:

Ward Edwards Library  
Central Missouri State University  
Warrensburg, MO 64093  
(816) 429-4149

## MONTANA

## Billings:

Bureau of Land Management  
Library  
P.O. Box 30157  
Billings, MT 59107

Field Solicitor, Law Library  
U.S. Department of the Interior  
P.O. Box 1538  
Billings, MT 59103

## NEBRASKA

## Kearney:

Calvin T. Ryan Library  
Kearney State College  
Kearney, NE 68847

## Lincoln:

Nebraska Library Commission  
1420 P Street  
Lincoln, NE 68508  
(402) 471-2045

University of Nebraska—Lincoln  
Libraries  
Lincoln, NE 68588

## Norfolk:

Northeast Technical Community  
College  
801 E. Benjamin Avenue  
Norfolk, NE 68701  
(402) 371-2020

## Wayne

U. S. Conn Library  
Wayne State College  
Wayne, NE 68787  
(402) 375-2200, ext. 213

## NEVADA

## Carson City:

Nevada State Library  
Capitol Complex  
Carson City, NV 89710  
(702) 885-5160

## Reno:

Government Publications Department  
University of Nevada Library  
Reno, NV 89557  
(702) 784-6579

## NEW HAMPSHIRE

## Concord:

Law Division, State Library  
Supreme Court Building  
Loudon Road  
Concord, NH 03301  
(603) 271-3777

## New London:

Fernald Library  
Colby—Sawyer College  
New London, NH 03257

## NEW JERSEY

## Bloomfield:

Bloomfield Public Library  
90 Broad Street  
Bloomfield, NJ 07003  
(201) 429-9292

## Bridgeton:

Cumberland County Library  
800 East Commerce Street  
Bridgeton, NJ 08302

## East Orange:

East Orange Public Library  
21 South Arlington Avenue  
East Orange, NJ 07018

## Elmer:

Arthur P. Schalick High School  
Elmer—Centerton Road  
R.D. 1  
Elmer, NJ 08318

## Hackensack:

Johnson Free Public Library  
Hackensack Area Reference Library  
275 Moore Street  
Hackensack, NJ 07601

## Jersey City:

Hudson Health Systems Agency  
Library  
871 Berger Avenue  
Jersey City, NJ 07306

## Lawrenceville:

Franklin F. Moore Library  
Rider College  
Lawrenceville, NJ 08648  
(609) 896-5115

## NEW JERSEY—Continued

## Mahwah:

Ramapo College Library  
505 Ramapo Valley Road  
Mahwah, NJ 07430

## Montclair:

Montclair Public Library  
50 S. Fullerton Avenue  
Montclair, NJ 07042  
(201) 744-0500

## Newark:

Newark Public Library  
5 Washington Street  
P.O. Box 630  
Newark, NJ 07101  
(201) 733-7782

## Paterson:

Paterson Free Public Library  
250 Broadway  
Paterson, NJ 07501  
(201) 881-3750

## Pomona:

Stockton State College  
Pomona, NJ 08240  
(609) 652-1776, ext. 266

## Toms River:

Ocean County College  
Learning Resources Center  
College Drive  
Toms River, NJ 08753  
(201) 255-4000 ext. 385

## Trenton:

New Jersey State Law Library  
185 West State Street  
P.O. Box 1898  
Trenton, NJ 08625  
(609) 292-6230

## Voorhees:

Camden County Library  
Echelon Urban Center  
Laurel Road  
Voorhees, NJ 08043  
(609) 772-1636

## Wayne:

Wayne Public Library  
475 Valley Road  
Wayne, NJ 07470  
(201) 694-4272

## NEW MEXICO

## Albuquerque:

The University of New Mexico  
General Library  
Albuquerque, NM 87131  
(505) 277-4241 and 277-5441

The University of New Mexico  
School of Law Library  
1117 Stanford NE  
Albuquerque, NM 87131  
(505) 277-6236

## Las Vegas:

New Mexico Highlands University  
Donnelly Library  
Las Vegas, NM 87701

## Portales:

Golden Library  
Documents Department  
Eastern New Mexico University  
Portales, NM 88130

## Santa Fe:

New Mexico State Library  
300 Don Gaspar  
Santa Fe, NM 87503  
(505) 827-2033

Office of the Solicitor, Law Library  
U.S. Department of the Interior  
U.S. Courthouse, Room 224  
P.O. Box 1042  
Santa Fe, NM 87501

## Silver City:

Miller Library  
Western New Mexico University  
Silver City, NM 88061

## NEW YORK

## Albany:

The New York State Library  
The State Education Department  
Cultural Education Center  
Empire State Plaza  
Albany, NY 12230  
(518) 474-5943

## Brooklyn:

Brooklyn Public Library  
Business Library  
280 Cadman Plaza West  
Brooklyn, NY 11201  
(212) 780-7800

## Corning:

The Arthur A. Houghton, Jr. Library  
Corning Community College  
Corning, NY 14830  
(607) 962-9251

## Garden City:

Adelphi University  
Swirbul Library  
South Avenue  
Garden City, NY 11530  
(516) 294-8700 ext. 7345

## Geneseo:

State University of New York at  
Geneseo  
Milne Library  
Government Documents  
Geneseo, NY 14454

## Greenvale:

C. W. Post Center—Long Island  
University  
B. Davis Schwartz Memorial Library  
Greenvale, NY 11548

## New Paltz:

Government Documents Department  
Sojourner Truth Library  
State University College  
New Paltz, NY 12561  
(914) 257-2252

## Niagara Falls:

Niagara Falls Public Library  
1425 Main Street  
Niagara Falls, NY 14305  
(716) 278-8113

## Oswego:

State University of New York at  
Oswego  
Oswego, NY 13126  
(315) 341-4267

## Rochester:

Rochester Public Library  
Business and Social Science Division  
115 South Avenue  
Rochester, NY 14604  
(716) 428-7342

## Schenectady:

Schenectady County Public Library  
Liberty and Clinton Streets  
Schenectady, NY 12305

## Syracuse:

Reference Department  
Onondaga County Public Library  
335 Montgomery Street  
Syracuse, NY 13202  
475-8458

## Uniondale:

Nassau Library System  
900 Jerusalem Avenue  
Uniondale, NY 11553  
(516) 292-8920

## NORTH CAROLINA

## Asheboro:

Asheboro Public Library  
201 Worth Street  
Asheboro, NC 27203  
(919) 629-3329

## Boone:

Regional Information Center  
Region D Council of Governments  
P.O. Box 1820  
Boone, NC 28607

## Charlotte:

Public Library of Charlotte and  
Mecklenburg County  
310 N. Tryon Street  
Charlotte, NC 28202  
(704) 374-2540

## Durham:

William Perkins Library  
Public Documents Department  
Duke University  
Durham, NC 27706  
(919) 684-2380

## Gastonia:

Gaston County Public Library\*  
Headquarters: Gaston-Lincoln  
Regional Library  
1555 East Garrison Boulevard  
Gastonia, NC 28052  
(704) 865-3418

## Greenville:

J. Y. Joyner Library  
East Carolina University  
Greenville, NC 27834

## Raleigh:

Documents Department  
The D. H. Hill Library  
North Carolina State University  
Box 5007  
Raleigh, NC 27650

North Carolina Supreme Court Library  
2 East Morgan Street  
P.O. Box 28006  
Raleigh, NC 27611  
(919) 733-3425

## NORTH CAROLINA—Continued

## Winston-Salem:

Forsyth County Public Library  
660 West Fifth Street  
Winston-Salem, NC 27101  
(919) 727-2220

## NORTH DAKOTA

## Bismarck:

Bismarck Junior College\*  
Schafer Heights  
Bismarck, ND 58501  
North Dakota State Library  
Highway 83 North  
Bismarck, ND 58505  
224-2490

Office of Program Planning\*  
All Nations Circle - Bldg. 35  
United Tribes Educational Technical  
Center  
3315 South Airport Road  
Bismarck, ND 58501

## OHIO

## Athens:

Government Documents Department  
Ohio University Library  
Athens, OH 45701  
(614) 594-5604

## Cincinnati:

Municipal Reference Library  
224 City Hall  
Cincinnati, OH 45202  
National Institute for Occupational  
Safety and Health  
Division of Technical Services  
Robert A. Taft Laboratories  
4676 Columbia Parkway  
Cincinnati, OH 45226

## Cleveland:

Cleveland Public Library  
325 Superior Avenue  
Cleveland, OH 44114  
Cleveland Regional Sewer District\*  
Library  
Administrative Offices  
801 Rockwell Avenue  
Cleveland, OH 44114  
(216) 781-6600 ext. 219

## Cleveland Heights:

Cleveland Heights—University  
Heights Public Library  
2345 Lee Road  
Cleveland Heights, OH 44118  
(216) 932-3600

## Columbus

The State Library of Ohio  
65 South Front Street  
Columbus, OH 43215  
(614) 466-2694

## Dayton:

University Library  
Wright State University  
Dayton, OH 45435

## Findlay:

Marathon Oil Company  
Law Library, Room 854-M  
539 South Main Street  
Findlay, OH 45840  
(419) 422-2121 ext. 3376

Shafer Library  
Findlay College  
1000 N. Main Street  
Findlay, OH 45840  
(419) 422-8313

## Marion:

Marion Public Library\*  
445 E. Church Street  
Marion, OH 43302  
(614) 387-0992

## Toledo:

Toledo-Lucas County Public Library  
Social Science Department  
325 Michigan Street  
Toledo, OH 43624  
(419) 255-7055 ext. 221

## Wooster:

Andrews Library  
The College of Wooster  
Wooster, OH 44691

## OKLAHOMA

## Aradarko:

Field Solicitor, Law Library  
U.S. Department of the Interior  
P.O. Box 397  
Aradarko, OK 73005

## Norman:

Law Library  
University of Oklahoma  
300 Timberdell  
Norman, OK 73019

## Oklahoma City:

Metropolitan Library System  
Main Library  
131 Dean A. McGee Avenue  
Oklahoma City, OK 73102  
(405) 631-1149

Oklahoma Department of Libraries  
U.S. Documents Regional Depository  
200 N.E. 18th Street  
Oklahoma City, OK 73105  
(405) 521-2502

## Pawhuska:

Field Solicitor, Law Library  
U.S. Department of the Interior  
c/o Osage Agency  
Pawhuska, OK 74056

## Stillwater:

Documents Department  
Edmon Low Library  
Oklahoma State University  
Stillwater, OK 74074  
(405) 624-6546

## Tulsa:

Office of the Regional Solicitor, Law  
Library  
U.S. Department of the Interior  
P.O. Box 3156  
Tulsa, OK 74101

## OREGON

## Eugene:

University of Oregon Library  
Government Documents Section  
Eugene, OR 97403  
(503) 686-3070

## Portland:

Library Association of Portland  
(Multnomah County Library)  
801 S.W. 10th Avenue  
Portland, OR 97205  
223-7201

## Salem:

Oregon State Library  
State Library Building  
Salem, OR 97310  
(503) 378-4276

## PENNSYLVANIA

## Aliquippa:

B.F. Jones Memorial Library\*  
Aliquippa District Center  
663 Franklin Avenue  
Aliquippa, PA 15001  
(412) 375-7174

## Allentown:

The John A. W. Haas Library  
Muhlenberg College  
Allentown, PA 18104

## Dallas:

Library  
College Misericordia  
Dallas, PA 18612

## Harmony:

Library  
Seneca Valley Senior High School\*  
Southwest Butler County School  
District  
R.D. 2  
Harmony, PA 16037

## Harrisburg:

State Library of Pennsylvania  
Box 1601  
Harrisburg, PA 17126  
(717) 787-7343

## Hazleton:

Hazleton Area Public Library  
Church and Maple Streets  
Hazleton, PA 18201  
454-2961/454-0244

## Johnstown:

Cambria County Library System  
248 Main Street  
Johnstown, PA 15901  
(814) 536-5131

## Lancaster:

Fackenthal Library  
Franklin and Marshall College  
P.O. Box 3003  
Lancaster, PA 17604  
(717) 291-4210

## Loretto:

Pius XII Memorial Library  
Saint Francis College  
Loretto, PA 15940

## Millersville:

Millersville State College  
Millersville, PA 17551

## Vein

Stayer R & L Center  
Millersville State College  
Millersville, PA 17551  
(717) 872-5411 ext. 552, 542

## PENNSYLVANIA—Continued

## Newtown:

The Library  
Bucks County Community College  
Newtown, PA 18940

## Philadelphia:

Government Publications Department  
Free Library of Philadelphia  
Logan Square  
Philadelphia, PA 19103

## Pittsburgh:

Baldwin Borough Public Library  
3344 Churchview Avenue  
Pittsburgh, PA 15227

U.S. Bureau of Mines  
Library

4800 Forbes Avenue  
Pittsburgh, PA 15213

## Shippensburg:

Ezra Lehman Memorial Library  
Shippensburg State College  
Shippensburg, PA 17257

## Somerset:

Somerset State Hospital Library  
Box 631  
Somerset, PA 15501  
(814) 445-6501, ext. 216

## Swarthmore:

The Swarthmore College Library  
The McCabe Library  
Swarthmore, PA 19081  
(215) KI 4-7900

## Warren:

Warren Library Association  
205 Market Street  
Warren, PA 16365

## Washington:

Washington County Law Library  
Courthouse  
Washington, PA 15301  
(412) 228-6747

## West Chester:

Francis Harvey Green Library\*  
West Chester State College  
West Chester, PA 19380  
(215) 436-2869

## Wilkes-Barre:

Institute of Regional Affairs\*  
Wilkes College  
Wilkes-Barre, PA 18703

## RHODE ISLAND

## Kingston:

Government Publications Office  
University of Rhode Island  
Library  
Kingston, RI 02881  
(401) 792-2602

## Providence:

Brown University Library  
Documents Department  
Providence, RI 02912  
(401) 863-2522

Providence Public Library  
150 Empire Street  
Providence, RI 02903  
(401) 521-7722

Rhode Island College  
James P. Adams Library  
Documents Department  
600 Mt. Pleasant Avenue  
Providence, RI 02908  
(401) 274-4900 ext. 331

## Warwick:

Warwick Public Library  
600 Sandy Lane  
Warwick, RI 02886  
(401) 739-5440

## SOUTH CAROLINA

## Charleston:

Baptist College of Charleston  
P. O. Box 10087  
Charleston, SC 29411  
Charleston County Library  
404 King Street  
Charleston, SC 29403  
Citadel  
Charleston, SC 29409

College of Charleston  
66 George Street  
Charleston, SC 29401

## Clemson:

Clemson University  
Clemson, SC 29631

## Columbia:

Benedict College  
Blanding & Harden Streets  
Columbia, SC 29204

Richland County Public Library  
1400 Sumter Street  
Columbia, SC 29201  
South Carolina State Library  
1500 Senate Street  
Columbia, SC 29201  
University of South Carolina  
Columbia, SC 29208

## Conway:

Coastal Carolina (of University of SC)  
Route 6  
Conway, SC 29526

## Due West:

Erskine College\*  
Due West, SC 29639

## Florence:

Florence County Library  
319 S. Irby Street  
Florence, SC 29501

Francis Marion College  
Florence, SC 29501

## Greenville:

Furman University  
Greenville, SC 29613  
Greenville County Library  
300 College Street  
Greenville, SC 29601

## Greenwood:

Larry A. Jackson Library  
Lander College  
Greenwood, SC 29646

## Orangeburg:

South Carolina State College  
College Avenue  
Orangeburg, SC 29117

## Rock Hill:

Winthrop College  
Rock Hill, SC 29733

## Spartanburg:

Spartanburg County Library  
P. O. Box 2409  
333 S. Pine Street  
Spartanburg, SC 29304

## Sumter:

Sumter County Library  
111 North Harvin Street  
Sumter, SC 29150  
773-7273

## SOUTH DAKOTA

## Brookings:

H. M. Briggs Library  
South Dakota State University  
Brookings, SD 57007  
(605) 688-5106

## Rapid City:

Devereaux Library  
South Dakota School of Mines &  
Technology  
Rapid City, SD 57701  
(605) 394-2418

## Sioux Falls:

Sioux Falls Public Library  
201 N. Main Avenue  
Sioux Falls, SD 57101

## TENNESSEE

## Chattanooga:

Hamilton County Bicentennial Library  
Business, Science and Technology  
Department  
1001 Broad Street  
Chattanooga, TN 37402  
(615) 757-5312

## Clarksville:

Woodward Library  
Austin Peay State University  
Clarksville, TN 37040  
(615) 648-7346

## Martin:

Paul Meek Library  
University of Tennessee at Martin  
Martin, TN 38238  
(901) 587-7065

## Nashville:

Documents Unit  
Joint University Libraries  
Nashville, TN 37203  
Tennessee State Library  
Tennessee State Library and Archives  
403 Seventh Avenue North  
Nashville, TN 37219  
(615) 741-2451

## TEXAS

## Amarillo:

Amarillo Public Library\*  
City of Amarillo  
P.O. Box 2171  
413 E. 4th  
Amarillo, TX 79189

## TEXAS, Amarillo—Continued

Field Solicitor  
U.S. Department of the Interior  
P.O. Box H-4393, Herring Plaza  
Amarillo, TX 79101

## Austin:

The State Law Library  
Supreme Court Building  
P.O. Box 12367, Capitol Station  
Austin, TX 78711  
(512) 475-3807

## College Station:

Documents Division  
University Libraries  
Texas A & M University  
College Station, TX 77843

## Dallas:

Dallas County Law Library  
Government Center  
Dallas, TX 75202  
749-8481

U.S. Environmental Protection Agency  
Region VI  
1201 Elm Street  
Dallas, TX 75270

## Denton:

Texas Woman's University Library  
Box 23715, TWU Station  
Denton, TX 76204  
(817) 566-6415

## El Paso:

El Paso Public Library  
Documents Section  
501 North Oregon Street  
El Paso, TX 79901  
(915) 543-3808

## Hurst:

Hurst Public Library  
901 Precinct Line Road  
Hurst, TX 76053  
(817) 485-5320

## Killeen:

Oveta Culp Hobby Library  
American Educational Complex  
U.S. Hwy 190 W.  
Killeen, TX 76541  
(817) 526-1237

## Lubbock:

School of Law Library  
Texas Tech University  
Lubbock, TX 79409

## Victoria:

Documents Department  
VC/UHVC Library  
2602 N. Ben Jordan  
Victoria, TX 77901  
(512) 576-3151, ext. 201  
(512) 573-3291

## UTAH

## Cedar City:

Southern Utah State College Library  
Cedar City, UT 84720

## Ephraim:

Lucy A. Phillips Library  
Snow College  
Ephraim, UT 84627

## Logan:

Documents Department  
Merrill Library, UMC 30  
Utah State University  
Logan, UT 84322

## Ogden:

Weber State College Library  
Ogden, UT 84403

## Provo:

Harold B. Lee Library  
Documents and Maps Section  
Brigham Young University  
Provo, UT 84602

Law Library  
Brigham Young University  
Provo, UT 84602

## Salt Lake City:

Regional Solicitor  
U.S. Department of the Interior  
Suite 6201, Federal Building  
125 South State Street  
Salt Lake City, UT 84138

Supreme Court Library  
State Capitol  
Salt Lake City, UT 84114

College of Law Library  
University of Utah  
Salt Lake City, UT 84112

Government Documents  
Eccles Health Sciences Library  
University of Utah, Bldg. 89  
Salt Lake City, UT 84112

Government Documents Division  
Marriott Library  
University of Utah  
Salt Lake City, UT 84112

Utah State Library Commission  
2150 South 300 West, Suite 16  
Salt Lake City, UT 84115

## VERMONT

## Burlington:

Bailey/Howe Library  
Documents Department  
University of Vermont  
Burlington, VT 05405

## Middlebury:

Egbert Starr Library  
Government Documents Department  
Middlebury College  
Middlebury, VT 05753

## South Royalton:

Law Library  
Vermont Law School  
South Royalton, VT 05068  
(802) 763-8303

## VIRGINIA

## Alexandria:

Alexandria Library\*  
717 Queen Street  
Alexandria, Va. 22314  
(703) 838-4555

## Arlington:

Office of Hearings and Appeals  
Library  
U.S. Department of the Interior  
4015 Wilson Boulevard  
Arlington, VA 22203

## Chesapeake:

Chesapeake Public Library  
300 Cedar Road  
Chesapeake, VA 23320  
(804) 547-6591

## Danville:

Danville Community College Library  
1009 Bonner Avenue  
Danville, VA 24541  
(804) 797-3553

## Fairfax:

Fairfax City Central Library  
3915 Chain Bridge Road  
Fairfax, VA 22030  
(703) 691-2741

Fenwick Library  
George Mason University  
4400 University Drive  
Fairfax, VA 22030

## Lynchburg

The Library  
Lynchburg College  
Lynchburg, VA 24501

## Norfolk:

Norfolk Public Library System  
301 East City Hall Avenue  
Norfolk, VA 23510

## Reston:

U.S. Geological Survey  
Library  
National Center, Mail Stop 950  
Reston, VA 22092

## Richmond:

Learning Resources Center  
Parham Road Campus  
J. Sargeant Reynolds Community  
College  
P.O. Box 12084  
Richmond, VA 23241  
(804) 264-3220

Municipal Library  
County of Henrico  
Hungary Springs & Parham Roads  
Richmond, VA 23228

Virginia State Library  
11th & Capitol Streets  
Richmond, VA 23219

## Roanoke:

Roanoke Law Library  
210 Campbell Avenue, SW  
Roanoke, VA 24011

## Virginia Beach:

Public Law Library  
Municipal Center  
City of Virginia Beach  
Virginia Beach, VA 23456

## Williamsburg:

Documents Department  
Earl Gregg Swem Library  
College of William and Mary  
Williamsburg, VA 23185

## WASHINGTON

## Bellingham:

Documents Division, Wilson Library  
Western Washington University  
516 High Street  
Bellingham, WA 98225  
(206) 676-3075

## Cheney:

Eastern Washington University  
The Library  
Cheney, WA 99004  
(509) 359-2475

## Everett:

Everett Public Library  
2702 Hoyt Avenue  
Everett, WA 98201  
(206) 259-8857

Snohomish County Law Library  
County Courthouse  
Everett, WA 98201  
(206) 259-5326

## Midway:

Highline Community College  
Library 25-2  
Midway, WA 98032  
(206) 878-3710, ext. 232

## Olympia:

Washington State Law Library  
Temple of Justice  
Olympia, WA 98504  
  
Washington State Library  
Document Section  
Olympia, WA 98504  
(206) 753-4027

## Port Angeles:

North Olympic Library System  
207 So. Lincoln  
Port Angeles, WA 98362

## Seattle:

NW Federal Regional Council Library  
Room 1023 Arcade Plaza Building  
1321 Second Avenue  
Seattle, WA 98101  
(206) 442-5554

## Spokane:

Gonzaga University Law Library  
E. 600 Sharp Avenue  
P.O. Box 3528  
Spokane, WA 99220  
  
Spokane Public Library  
West 906 Main Avenue  
Spokane, WA 99201  
(509) 838-3361

## WEST VIRGINIA

## Beckley:

National Mine Health and Safety  
Academy  
Learning Resources Center  
P.O. Box 1166  
Beckley, WV 25801

## Charleston:

Kanawha County Public Library  
123 Capitol Street  
Charleston, WV 25301  
(304) 343-4646

## Montgomery:

Vining Library  
West Virginia Institute of Technology  
Montgomery, WV 25136

## Weirton:

Mary H. Weir Public Library  
3442 Main Street  
Weirton, WV 26062  
(304) 748-7070

## WISCONSIN

## Appleton:

Appleton Public Library  
121 South Oneida Street  
Appleton, WI 54911  
734-7171

## Green Bay:

University of Wisconsin—Green Bay  
Library Learning Center  
Government Publications  
Green Bay, WI 54302

## Kenosha:

Library/Learning Center  
University of Wisconsin—Parkside  
Wood Road  
Kenosha, WI 53141

## Ladysmith:

Mount Senario College Library  
Ladysmith, WI 54848

## Madison:

Madison Public Library  
201 W. Mifflin Street  
Madison, WI 53703  
(608) 266-6363

## Milwaukee:

Milwaukee County  
Law Library  
Courthouse, Room 307  
901 North 9th Street  
Milwaukee, WI 53233  
278-4322

## WYOMING

## Gillette:

George Amos Memorial Library  
412 S. Gillette Avenue  
Gillette, WY 82716  
(307) 682-3223

## Laramie:

Coe Library—Documents Division  
University of Wyoming  
Box 3334, University Station  
Laramie, WY 82071  
(307) 766-2174

Thursday  
April 17, 1986

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**Part III**

**Department of  
Housing and Urban  
Development**

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**Office of the Assistant Secretary for  
Housing—Federal Housing Commissioner**

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**24 CFR Parts 207, 251, and 255  
Full Insurance and Multifamily  
Coinsurance; Technical Amendments to  
Provisions Relating to Section 223 (f);  
Final Rule**

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

**24 CFR Parts 207, 251, and 255**

[Docket No. R-86-1275; FR-2194]

**Technical Amendments to Provisions Relating to Section 223(f) Full Insurance and Multifamily Coinsurance**

**AGENCY:** Office of Assistant Secretary for Housing—Federal Housing Commissioner.

**ACTION:** Final rule.

**SUMMARY:** This rule adopts as final certain provisions in 24 CFR Part 207 promulgated earlier in interim rules. The provisions relate to HUD's authority to insure mortgages covering existing multifamily properties. The rule also makes technical changes in 24 CFR Parts 251 and 255 (Coinsurance of Mortgages Covering Newly Constructed or Substantially Rehabilitated Multifamily Projects and Coinsurance of Mortgages Covering Existing Multifamily Projects). The changes are designed to make the sectional organization, and the specific language used within each section, in each of the parts as nearly identical as the subject matter of each part will permit. All revisions made by this rule are technical in nature.

**EFFECTIVE DATE:** May 19, 1986.

**FOR FURTHER INFORMATION CONTACT:** James Hamernick, Office of Multifamily Housing Development, Room 6132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6500. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** The Department has made a concerted effort, in developing regulations for its multifamily coinsurance program, to develop regulatory provisions which are as clear and readily comprehensible as the subject matter allows. The result thus far has been the adoption as final of two new parts to title 24 of the CFR (Parts 251 and 255) and the publication of conforming revisions, by interim rule, to four extraneous sections contained in 24 CFR Part 207. We believe, with these publications, the Department has made significant progress toward the goal of providing the public with multifamily coinsurance regulations that are set forth in clear language, are structured in a logical manner, and contain a minimum of complex cross references to other provisions in the CFR. The

purpose of this rule is to continue progress toward these goals. The rule would (1) make some revisions in the sectional structure of both Part 251 and Part 255 in order that the sections in each of those parts correspond with each other; (2) make nonsubstantive language revisions (mainly in part 251) where needed to make the language of corresponding sections as nearly identical as possible; and (3) adopt as final miscellaneous interim revisions made in Part 207 in the course of developing the multifamily coinsurance regulations. A more detailed description of the changes made to each of these parts follows. None of the changes are substantive in nature and they should not be construed as in any way revising or affecting current program policies. Where this rule adopts as final provisions contained in previously published interim rules, an opportunity for public comment was provided on each of the interim rules. No objections were raised in public comments on any of the provisions being adopted in this rule.

**Part 207—Adopting Current Texts of §§ 207.24, 207.27, 207.32a, and 207.259 as Final**

Section 207.24 (Development of property) was revised by interim rule on May 25, 1983 (48 FR 23411) and July 5, 1984 (49 FR 27491). The two rules specifically limit mortgage insurance under the basic Part 207 multifamily insuring authority—i.e., full insurance which does not utilize the special provisions contained in § 207.32a—to properties which are to be newly constructed or substantially rehabilitated. In essence, the revisions consist of a definition of what is meant by "substantial rehabilitation". This rule adopts as final the revisions made by these interim rules.

Section 207.27 (Certificates of actual cost) was revised by interim rule on July 5, 1984 (49 FR 27491). The revision is a technical conforming change. It authorizes the submission of supplemental certificates of actual cost in connection with repairs on existing projects insured under § 207.32a. This rule adopts the revision as final.

Section 207.32a (Eligibility of mortgages on existing projects) has been extensively revised since its adoption as a final rule on September 24, 1975. Most of the revisions were in the form of final rules of a technical nature that required no public comment procedures. Three revisions however, were in the form of interim rules (48 FR 23411 published May 25, 1983, 49 FR 24654 published June 14, 1984 and 49 FR 27491 published July 5, 1984). These interim rule

provisions were essentially amendments to conform § 207.32a to changes also being made in the Part 255 coinsurance program or in response to the new Part 850 Housing Development Grant Program. No public comment objections were raised concerning these interim rule provisions, and this rule adopts them as final.

Section 207.259 (Insurance benefits) was revised in an interim rule (49 FR 24654 published on June 14, 1984) to reflect a statutory provisions that insurance benefits in connection with projects assisted under the Housing Development Grant Program be payable in cash, unless the mortgagee submits a written request for debenture payment. Projects assisted under the Housing Development Grant Program may be eligible for FHA coinsurance as well as full insurance. This rule adopts as final the revision made in the June 14, 1984 interim rule.

**Technical Corrections to Conform Part 251 More Closely to Part 255**

On August 9, 1984, Part 251 was published as a final rule (49 FR 32023). On June 24, 1985, Part 255 was published as a final rule (50 FR 25915) in a form which, in addition to adopting numerous interim revisions made since its original publication, also substantially reflected the organization and structure of the final Part 251 rule. While both companion coinsurance parts now have substantially the same structure, it was not feasible in their development and processing to ensure that the language of corresponding sections was the same. (The predominant reasons for any language difference, of course, would be that one part only deals with newly constructed or substantially rehabilitated projects while the other only deals with existing projects.) This effort to bring the language of corresponding sections into uniformity is aimed at making HUD's multifamily coinsurance regulations as unambiguous as possible and to emphasize the fact that HUD considers multifamily coinsurance as essentially a single program dealing with two separable categories of projects.

Part 255, as the later-adopted rule, is used as the "base" for conforming changes. Since the changes to Part 251, though technical or merely grammatical, are numerous, it appeared most convenient and economical to reprint the Part as a whole rather than to revise each individual section separately in the rule. Note also that the section designations in Subpart I have been revised to conform to those in Part 255.

On October 2, 1985, a technical correction to Part 251 was published in the *Federal Register* (50 FR 40195) that clarified that the FHA Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements. It also provided that the Commissioner may delegate to the coinsuring lender only routine administration and enforcement functions subject to monitoring by the Commissioner. This rule incorporates these technical revisions.

#### Part 255—Technical Revisions To Conform the Part More Closely to Part 251

On June 24, 1985, Part 255 was published as a final rule (50 FR 25915). While a number of technical revisions are made to it in this rule (mainly a renumbering of the sections in Subpart I), the language of Part 255 is essentially unchanged.

#### Procedural Requirements

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the proposed rule indicates that it does not:

(1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours at the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166) under Executive Order 12291 and the Regulatory Flexibility Act.

The catalog of Federal Domestic Assistance program numbers are 14.135 and 14.173.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby

certifies that this rule would not have a significant economic impact on a substantial number of small entities, because this rule is entirely technical and changes no program requirements.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Act of 1980 (44 U.S.C. 3501-3520).

#### List of Subjects

##### 24 CFR Part 207

Mortgage insurance, Rental housing.

##### 24 CFR Part 251

Mortgage insurance, Coinsurance of multifamily mortgages.

##### 24 CFR Part 255

Mortgage insurance, Coinsurance of multifamily mortgages.

Accordingly, 24 CFR Parts 207, 251, and 255 are amended as set forth below.

#### PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

The authority citation for 24 CFR Part 207 continues to read as follows:

Authority: Secs. 207, 211, National Housing Act (12 U.S.C. 1713, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

1. Section 207.24 is revised to read as follows:

##### § 207.24 Development of property.

(a) At the time the mortgage is insured, the mortgagor shall be obligated to construct and complete new housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Commissioner, and consist of not less than five rental dwelling units on one site. These units may be detached, semi-detached, or row houses, or multifamily structures. The Commissioner may also insure a mortgage on a completed project constructed pursuant to a Commitment to Insure upon Completion, or

(b) At the time the mortgage is insured, there shall be located on the mortgaged property a building or buildings that require substantial rehabilitation (as defined in paragraph (c) of this section) and, that upon completion of substantial rehabilitation, shall constitute a single project and provide housing accommodations designed principally for residential use, conform to standards satisfactory to the Commissioner, and contain at least five rental dwelling units so located in relation to one another as to effect a

substantial improvement of housing standards and conditions in the neighborhood. In the case of both newly constructed and existing housing, the housing and improvements, if any, must not violate any material zoning or deed restriction applicable to the project site, and must comply with all applicable building and other government regulations. A project may include such commercial and community facilities as the Commissioner deems adequate to serve the occupants.

(c) "Substantial rehabilitation" consists of repairs, replacements, and improvements:

(1) The cost of which exceeds the greater of:

(i) 15 percent of the property's value after completion of all repairs, replacements and improvements, or

(ii) \$6,500 per dwelling unit (adjusted by any high-cost area factor authorized in § 207.4(c)), or

(2) That involve the replacement of more than one major building component. The term "major building component" includes roof structures; ceiling, wall, or floor structures; foundations; and plumbing heating, air conditioning; or electrical systems.

##### § 207.27 [Amendment final]

2. Section 207.27 is adopted as final without change.

3. The introductory text of § 207.32a, and paragraphs (a), (f) and (m)(2), are revised to read as follows:

##### § 207.32a Eligibility of mortgages on existing projects.

Notwithstanding the generally applicable requirement that mortgages insured under this subpart be limited to projects to be constructed or substantially rehabilitated after commitment for mortgage insurance, a mortgage executed in connection with the purchase or refinancing of an existing multifamily housing project containing five or more units may be insured under this subpart pursuant to section 223(f) of the National Housing Act. A mortgage insured pursuant to this section shall meet all other requirements of this subpart except as modified by this section and shall be limited as to amount, terms, and conditions for insurance as follows:

(a) *Application, commitment, and required fees*—(1) *Application*. An application for a conditional or firm commitment for insurance of a mortgage on a project shall be submitted by the sponsor and an approved mortgagee. Such application shall be submitted to the local HUD office on an FHA approved form. No application shall be

considered unless accompanied by the exhibits required by the form. An application may, at the option of the applicant, be submitted for a firm commitment omitting the conditional commitment stage. An application may be made for a commitment which provides for the insurance of the mortgage upon completion of any improvements or for a commitment which provides, in accordance with standards established by the Commissioner, for the completion of specified repairs and improvements after endorsement.

(2) *Application fee—conditional commitment.* An application-commitment fee of \$2 per thousand dollars of the requested mortgage amount shall accompany an application for conditional commitment.

(3) *Application fee—firm commitment.* An application for firm commitment shall be accompanied by an application-commitment fee of \$3 per thousand dollars of the requested mortgage amount to be insured less the amount of any fee previously received for a conditional commitment.

(4) *Inspection fee.* No inspection fee will be required.

(f)(1) *Eligible property.* A mortgage given to purchase or refinance an existing project shall be eligible for insurance if the project contains at least five dwelling units. The project shall have attained sustaining occupancy (occupancy that would produce rental income sufficient to pay operating expenses, annual debt service and reserve fund for replacement requirements), as determined by the Commissioner, before endorsement of the mortgage for insurance, or the mortgagor shall provide an operating deficit fund at the time of endorsement for insurance, in an amount and under an agreement approved by the Commissioner.

(2) A property is eligible for mortgage insurance under this section if:

(i) The cost of repairs, replacements, and improvements does not exceed the greater of:

(A) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(B) \$6,500 per dwelling unit (adjusted by any applicable high-cost area factor authorized in paragraph (b)(2)(ii) of this section) or in the case of any purchase or refinancing involving property to be rehabilitated under Part 511 or Part 850 of this title, \$2,000 per dwelling unit, except that the Commissioner may increase this amount by not to exceed 25 percent for specific properties where the

Commissioner determines that cost levels so require, and

(ii) No more than one major building component is being replaced. The term "major building component" includes roof structures; ceiling, wall or floor structures; foundations; and plumbing, heating, air conditioning, or electrical systems.

(4) [Reserved]

(5) Before filing an application for mortgage insurance, the project, except one which meets the requirements of paragraph (k) of this section, must have been fully completed and at least three years must have elapsed from the date of completion or initial occupancy, as determined by the Commissioner, whichever is later.

(m) \* \* \*

(2) A General Operating Reserve must be established and maintained, in accordance with standards established by the Commissioner, throughout the period that the mortgage insurance is in force; and

#### § 207.259 [Amendment final]

4. Section 207.259 is adopted as final without change.

### PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

5. 24 CFR Part 251 is revised to read as follows:

### PART 251—COINSURANCE FOR THE CONSTRUCTION OR SUBSTANTIAL REHABILITATION OF MULTIFAMILY HOUSING PROJECTS

#### Subpart A—General Provisions

- Sec.
- 251.1 Purpose and scope.
  - 251.2 Coinsurance contract.
  - 251.3 Definitions.
  - 251.4 Effect of amendments.

#### Subpart B—Lender Requirements

- 251.101 Eligible lender.
- 251.102 Review and approval as coinsuring lender.
- 251.103 Duration of approval.
- 251.104 Probation, suspension or withdrawal of approval.
- 251.105 Delegation of servicing.
- 251.106 Assignment of and participation in insured mortgages.
- 251.107 Reinsurance.
- 251.108 Pledging and other security arrangements.

#### Subpart C—Program Requirements

- 251.201 Eligible project.
- 251.202 Eligible mortgagors.
- 251.203 Maximum mortgage limitations.
- 251.204 Maximum interest rate.

- 251.205 Term of the mortgage.
- 251.206 Lender's fees and premiums.
- 251.207 Coinsurance of mortgages in lender's portfolio.
- 251.208 Non-discrimination in housing and employment.
- 251.209 Labor standards and prevailing wage requirements.

#### Subpart D—Processing and Commitment

- 251.301 Processing and development responsibilities.
- 251.302 Processing and commitment.

#### Subpart E—Insurance of Advances; Insurance Upon Completion; Construction Period

- 251.401 Insurance of advances or insurance upon completion; Applicability of requirements.
- 251.402 Insurance of advances.
- 251.403 Insurance upon completion.
- 251.404 Requirements applicable to both insurance of advances and insurance upon completion cases.
- 251.405 Lender's review of mortgage amount.
- 251.406 Application of net income received before beginning of amortization.
- 251.407 Endorsement by the commissioner.

#### Subpart F—Mortgage and Closing Requirements

- 251.501 Mortgage requirements—real estate.
- 251.502 Title.
- 251.503 Mortgage and note provisions.
- 251.504 Mortgage lien and other obligations.
- 251.505 Regulatory agreement.
- 251.506 Other closing documents.

#### Subpart G—Requirements Relating to Structure of Mortgagor Entity and Transfers of Ownership Interest

- 251.601 Requirements applicable to all projects.
- 251.602 Requirements for projects intended for cooperative ownership.
- 251.603 Requirements for projects intended for nonprofit ownership.

#### Subpart H—Program Requirements Relating to Project Operation

- 251.701 General.
- 251.702 Reserve for replacements and general operating reserve.
- 251.703 Rents and charges.
- 251.704 Use of project funds.
- 251.705 Distributions and Residual Receipts.
- 251.706 Project management.

#### Subpart I—Contract Rights and Obligations

##### Mortgage Insurance Premiums

- 251.801 MIP in insurance of advances cases.
- 251.802 MIP in insurance upon completion cases.
- 251.803 Duration and method of payment of MIP.
- 251.804 Pro-rata refund of annual MIP.
- 251.805 Late charges—MIP.
- 251.806 [Reserved]

##### Delinquency and Default Under the Mortgage

- 251.807 Notice of delinquency.
- 251.808 Definition of default.
- 251.809 Date of default.
- 251.810 Notice of default.

- 251.811 Financial relief to cure a default.  
251.812 Reinstatement of a defaulted  
Mortgage.

#### Termination

- 251.813 Termination of coinsurance  
contract.  
251.814 Notice and date of termination by  
Commissioner.

#### Claim Procedure and Payment of Insurance Benefits

- 251.815 Notice of election to acquire  
property and file a claim.  
251.816 Acquisition of property.  
251.817 Deed in lieu of foreclosure.  
251.818 Disposition of property and  
application for insurance benefits.  
251.819 Method of payment.  
251.820 Amount of payment.  
251.821 Items included in payment.  
251.822 Items deducted from payment.  
251.823 [Reserved]

#### Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgaged-Backed Securities Program

- 251.824 Indemnification of GNMA.  
251.825 Withdrawal of lender approval.  
251.826 HUD recourse against lender-issuer.  
251.827 GNMA right to assignment.  
251.828 GNMA right to claim coinsurance  
benefits after lender-issuer's acquisition  
of title.

Authority: Sec. 7(d), Department of HUD  
Act (42 U.S.C. 3535(d)); sec. 244, National  
Housing Act, 12 U.S.C. 1715z(9).

#### Subpart A—General Provisions

##### § 251.1 Purpose and scope.

(a) Section 307 of the Housing and Community Development Act of 1974 amended the National Housing Act (the Act) by adding a new section 244 entitled, "Coinsurance". Section 244 authorizes the Department to insure, under a Coinsurance Contract, any Mortgage otherwise eligible for insurance under Title II of the Act. The Coinsurance Contract provides that the approved lender (1) assist assume a percentage of any loss and (2) carry out (subject to monitoring) underwriting, commitment, property disposition and other functions that the Federal Housing Commissioner (Commissioner) approves.

(b) HUD expects that the sharing of risk and the assumption by the lender of major processing functions under coinsurance will reduce processing time and HUD staff burden, and increase lender involvement in all phases of the HUD Mortgage insurance process.

(c) Section 244(c) of the Act permits the Secretary to coinsure Mortgages only if the Secretary determines, after due consultation with the Mortgage lending industry, that coinsurance will not disrupt the Mortgage market or reduce the availability of Mortgage

credit to borrowers who depend upon full Mortgage insurance provided under the Act. HUD has invited and will continue to invite, through formal public comment procedures and otherwise, the Mortgage lending industry and other interested parties to make their views known on these issues. Issuance of this Part 251 (and any later amendment to it) for effect will mean that no adverse effects are reasonably predictable at the time of issuance. However, the Department will continue to monitor the effects of coinsurance and will welcome the submission of evidence that shows that disruptions of the housing or Mortgage market or reductions in Mortgage credit are occurring (or will occur) as a result of the coinsurance program.

(d) This part provides for the coinsurance of Mortgages under section 221(d)(3) or section 221(d)(4) of the Act, which cover multifamily projects to be newly constructed or substantially rehabilitated.

(e) No full insurance authorized under any provision of the Act will be withdrawn, denied, or delayed because of the availability of coinsurance under this part.

(f)(1) If the Commissioner determines that coinsurance under this part is having an adverse effect on the availability of Mortgage credit to older and declining neighborhoods or to purchasers of older and lower cost housing, the Commissioner will discontinue the program after due notice. In such a case, no further coinsurance applications will be accepted nor will any further commitments under the program be authorized.

(2) If the Commissioner determines that coinsurance under this part is disrupting (or will disrupt) the housing or Mortgage market in a market area or is adversely impacting (or will adversely impact) other federally insured projects in a market area, the Commissioner will modify, suspend, or discontinue insurance activities in such area after due notice.

(g) Neither the coinsuring lender nor the Mortgagor shall have any vested or other right in the General Insurance Fund.

##### § 251.2 Coinsurance contract.

The Contract of Coinsurance is the agreement between the lender and the Commissioner to coinsure a Mortgage under this part. It is evidenced by an endorsement on the Mortgage note by the Commissioner, or by the Commissioner's authorized Departmental representative, and

includes the terms, conditions and provisions of this part.

##### § 251.3 Definitions.

(a) "Builder's and Sponsor's Profit and Risk Allowance" (BSPRAP) is an amount included in replacement cost where an identity of interest, as defined by the Commissioner, exists between the Mortgagor and general contractor. The amount is a percentage of the total estimated cost of on-site land improvements; structures; general requirements; general overhead expenses; architect's fees; carrying and financing charges; and legal, organizational and audit expenses. The appropriate percentage to be applied is established by the Commissioner and may not exceed 10 percent.

(b) "Builder-seller Mortgagor" means an entity organized:

(1) To construct or rehabilitate a project and that, by written agreement with a Nonprofit Mortgagor, will sell the project (at final endorsement) to the Nonprofit Mortgagor at a purchase price not exceeding the certified cost of the project under § 251.404;

(2) To operate the project (subject to regulation by the lender) in accordance with requirements of the Commissioner, until sold to the Nonprofit Mortgagor; and

(3) To operate the project, if it is not sold within two years to a Nonprofit Mortgagor, as a Limited Distribution Mortgagor.

(c) "Coinsured Mortgage" means a Mortgage concerning which the risk of loss is shared by the lender and the Commissioner. The coinsurance is evidenced by endorsement of the Mortgage note by the Commissioner or by the Commissioner's authorized departmental representative.

(d) "Cooperative Mortgagor" means a nonprofit cooperative ownership housing corporation, regulated by the lender under a regulatory agreement, that restricts permanent occupancy of the project to members of the corporation, and requires membership eligibility and transfer of membership in a manner approved by the Commissioner.

(e) "Distribution" means the withdrawal of any cash or asset of the project excluding outlays for:

(1) Mortgage payments;  
(2) Reasonable expenses necessary for the proper operation and maintenance of the project; and  
(3) Repayment of advances from the owner, when such repayments are authorized by the Commissioner.

(f) "Firm Commitment" means the commitment from the lender to the

Mortgagor that contain final determinations by the lender of the maximum insurable Mortgage based upon complete working drawings and specifications and cost estimates, prepared in a manner specified by the Commissioner. The firm Commitment may not be issued for longer than 60 days, by which time the project must be initially endorsed (insurance of advance cases) or construction started (insurance upon completion cases). The Firm Commitment may be extended by the lender as provided in § 251.302(c) of this part.

(g) "General Mortgagor" means any Mortgagor approved by the lender that does not meet any of the definitions in paragraph (b), (d), (h), (i) or (m) of this section and that is regulated by the lender by means of a regulatory agreement.

(h) "Investor-sponsor Mortgagor" means an entity organized in the same manner as a Builder-seller Mortgagor and subject to the same restrictions, except that the project will be sold to a Cooperative Mortgagor rather than a Nonprofit Mortgagor.

(i) "Limited Distribution Mortgagor" means an entity restricted by Federal or State law, and by the lender by means of a regulatory agreement, as to its rate of return and other aspects of its operation.

(j) "Mortgage" means a first lien on real estate and other property commonly given to secure either advances on real estate or the unpaid balance of the purchase price of real estate under the laws of the jurisdiction in which the real estate is located. "Mortgage" includes any credit instrument(s) secured by the real estate.

(k) "Mortgagor" means the original borrower under a Mortgage and its successors, and any assigns approved by the Commissioner.

(l) "Mortgage Insurance Premium" (MIP) means the Mortgage Insurance Premium collected under §§ 251.801 and 251.802 of this part.

(m) "Nonprofit Mortgagor" means an entity that is organized for reasons other than financial gain and that the lender finds is not controlled or directed by persons or firms seeking to derive financial gain from it. The operation of a Nonprofit Mortgagor must be regulated under Federal or State law, and by the lender by means of a regulatory agreement.

(n) "Residual Receipts" means (1) for projects owned by Nonprofit Mortgagors, all Surplus Cash and (2) for projects owned by Limited Distribution Mortgagors, any Surplus Cash remaining after allowable Distributions have been

made or funds have been set aside for their payment.

(o) "Sound Capital Resources" means the excess of the coinsuring lender's assets (minus any valuation allowances) over its liabilities (generally referred to as its net worth), plus allowed letters of credit. Net worth includes paid-in capital stock, surplus reserves, undistributed earnings and any other unencumbered resources of the coinsuring lender. Sound Capital Resources may include (up to the limit specified in § 251.102(b)(2)) an unconditional and irrevocable firm letter of credit from a supervised financial institution with assets of not less than \$100,000,000. For purpose of determining Sound Capital Resources, a loss reserve established to cover coinsurance liability under this part that is treated as a liability in the lender's balance sheets may be deemed a capital item rather than a liability.

(p) "Sponsor's Profit and Risk Allowance" (SPRA) is an amount included in replacement cost where no identity of interest, as defined by the Commissioner, exists between the general contractor and Mortgagor. The amount is a percentage of the sum of the architect's fee; carrying and financing charges; and legal, organizational and audit expenses. The appropriate percentage is established by the Commissioner and may not exceed 10 percent.

(q) "Substantial Rehabilitation" consists of repairs, replacements, and improvements:

(1) The cost of which exceeds the greater of:

(i) 15 percent of the property's value after completion of all repairs, replacements, and improvements, or

(ii) \$6,500 per dwelling unit (adjusted by any applicable high-cost area factor under § 251.203(a)), or

(2) That involve the replacement of more than one major building component. For purposes of this definition, the term "major building component" includes:

(i) Roof structures,  
(ii) Ceiling, wall, or floor structures,  
(iii) Foundations,  
(iv) Plumbing systems,  
(v) Heating and air conditioning systems, or  
(vi) Electrical systems.

(r) "Surplus Cash" means any unrestricted cash remaining after:

(1) The payment of: (i) All sums due or currently required to be paid under the terms of any Mortgage or note co-insured by the Commissioner;

(ii) All amounts required to be deposited in any replacement or operating reserve; and

(iii) All other obligations of the project other than the coinsured mortgage unless funds for payment are set aside, or deferral of payment has been approved by the lender; and

(2) The segregation and recording of an amount equal to: (i) The aggregate of any special funds required to be maintained by the project; and

(ii) The project's total liability for tenant security deposits.

In Computing Surplus Cash, the Mortgagor must follow any administrative requirements prescribed by the Commissioner.

#### § 251.4 Effect of amendments.

The Commissioner may amend the regulations in this part from time to time. Amendments will not adversely affect the interests of a lender under a Contract of Coinsurance on any Mortgage already coinsured or on any Mortgage to be coinsured on which the lender has already issued a firm commitment to insure, provided the Mortgage is initially endorsed (insurance of advances) or construction starts (insurance upon completion) within 60 days after issuance of the Firm Commitment. The 60 days will run from the date of the original issuance of the Firm Commitment or from the date of any amendment, reissuance, or extension of a commitment that occurred before the effective date of the amendment of the regulation.

### Subpart B—Lender Requirements

#### § 251.101 Eligible lender.

The Commissioner may approve as a coinsurance lender any lender that (a) is currently a HUD-approved multifamily lender under 24 CFR 203.3 through 203.6 or 203.8(b) and (b) meets the requirements of § 251.102.

#### § 251.102 Review and approval as coinsuring lender.

The Commissioner will review an applicant lender's technical staff and procedures before granting approval as a coinsuring lender under this part. This review, including an on-site review of the lender's operations, will establish the adequacy of technical staff, processing procedures, development and management oversight, Mortgage servicing, and disposition functions.

(a) A fee of \$5,000 is charged for each application for approval as a coinsuring lender. This fee will not be refunded once the application has been determined acceptable for initial review.

(b) An applicant lender must submit:  
(1) A written opinion of its counsel that it has the necessary powers to

participate in the coinsurance program under this part.

(2) Evidence acceptable to the Commissioner of Sound Capital Resources of not less than \$1,500,000, including liquid funds of at least \$500,000. An unconditional and irrevocable firm letter of credit of not more than \$500,000 from a supervised financial institution with assets of not less than \$100,000,000 may be used to meet up to \$500,000 of this Sound Capital Resources requirement and up to \$500,000 of the included liquidity requirement. The lender must agree that, for the period of the coinsurance, it will maintain the basic Sound Capital Resources requirement and an additional one dollar of Sound Capital Resources for each 300 dollars of outstanding principal indebtedness on Mortgages it has coinsured under this part.

(3) Evidence acceptable to the Commissioner that the lender has the operating procedures, internal management controls, and technical staff (under contract or in its own employ) necessary to discharge full Mortgage underwriting, development, servicing, management oversight, property repair and disposition, and other functions. It must employ adequate staff to monitor contract work and make final underwriting conclusions. It must agree to notify HUD of any changes in its operating procedures and principal staff and to make no changes that are inconsistent with this part.

(4) The lender's most recent detailed audit report of its financial records, supplemented as the Commissioner may require. The audit must be made by an independent certified public accountant or independent public accountant licensed by a regulatory authority of a State or other political subdivision on or before December 31, 1970.

(5) A statement agreeing to file annual audits similar to those described in paragraph (a)(4) of this section and annual reports on its processing and commitment activities, coinsured loan portfolio and loan servicing activities. The annual audits and reports must be prepared in formats acceptable to the Commissioner and submitted within the time limits established by the Commissioner.

(6) A statement agreeing to auditing by the Commissioner, the HUD Inspector General, and the Comptroller General of the United States with respect to its activities under this part. For this purpose, the Commissioner, the HUD Inspector General, the Comptroller General and their authorized agents

shall have access to the financial and other records of the lender.

(7) A statement agreeing to comply with the provisions of title VIII of the Civil Rights Act of 1968, as amended, the Equal Credit Opportunity Act, Executive Order 11063, other Federal laws and all regulations issued under these authorities with respect to the lending, investing, or coinsuring of funds in real estate Mortgages.

(8) A statement agreeing to retain all its legal obligations under this part, if it delegates servicing functions, as provided in § 251.105.

(9) A statement agreeing to abide by all applicable requirements issued by the Commissioner for performing its functions under this part.

(10) A statement agreeing to notify HUD immediately whenever the lender's Sound Capital Resources fall below the level required by paragraph (a)(2) of this section. In addition, the lender must agree that it will request and receive approval from HUD before implementing any voluntary transfer or series of transfers of the lender's assets which would cause the lender's Sound Capital Resources to fall below the required level. Finally, the lender must agree that if such transfer does take place without prior HUD approval, the remaining assets of the lender and any assets disbursed without such approval will be deemed to be held in trust for the benefit of HUD, and consequently, HUD would have a cause of action against any of the original principals of the lender or any other party for any transfer not made in accordance with these requirements.

[The information collection requirements contained in paragraphs (b)(2), (b)(3) and (b)(4) were approved by the Office of Management and Budget under control number 2502-0273].

#### § 251.103 Duration of approval.

Initial approval as a coinsuring lender will continue in force until one of the following occurs:

(a) Expiration of the Secretary's authority to coinsure under this part. A temporary lapse in this authority will not terminate the lender's approved coinsurer status or affect outstanding Firm Commitments or coinsurance in force. However, lenders may not, during such lapse, issue or amend commitments or reopen expired commitments.

(b) Suspension or withdrawal of approval under § 251.104.

#### § 254.104 Probation, suspension or withdrawal.

(a) A coinsuring lender may be placed on probation, be temporarily suspended, or have its approval as a coinsuring

lender withdrawn by the Commissioner, or designee, for any of the following causes:

(1) Failure to maintain satisfactory Sound Capital Resources.

(2) Failure to operate the program in a prudent manner or to discharge its responsibilities under any regulatory agreement, coinsurance contract, or administrative procedures issued by the Commissioner under this part.

(3) Payment or receipt, by the lender, in any insurance transaction, of any fee, kickback, or other consideration, directly or indirectly, to or from any person who has received any consideration from another person for services related to the transaction; however, compensation may be paid for the actual performance of services approved by the Commissioner.

(4) Submission of a false, fraudulent or incomplete report to HUD or the incurring of any indebtedness to HUD for which no satisfactory repayment plan or agreement is in effect.

(5) Failure to pay any amount owed to a holder of securities guaranteed by the Government National Mortgage Association (GNMA) and backed by a coinsured loan.

(6) Assigning a Coinsured Mortgage to an entity that is not a HUD-approved coinsuring lender.

(7) Any other cause determined by the Commissioner or designee to be appropriate.

(b) HUD may place a mortgagee on probation for a specified period of time for the purpose of evaluating the mortgagee's compliance with the requirements of the coinsurance program. During the probation period the mortgagee may continue to issue commitments for insurance, subject to conditions required by HUD. Such conditions may include, but are not limited to, submission of the processing to HUD for its approval before issuance of the commitment.

(c) Coinsuring lenders will be notified in writing by the Commissioner, or designee, when a probation, suspension or withdrawal action is taken. The notice will specifically state the cause, effect, and duration of the action. Lenders must comply with the conditions of the notice immediately, but may request an informal hearing on the action within 10 working days of receipt of the notice. The hearing shall be held by the Commissioner or designee. The lender shall be given the opportunity to be heard within 10 days of receipt of the request and may be represented by counsel. The Commissioner or designee will notify the lender in writing of the results of the

hearing within 10 working days of the hearing and receipt of any materials. A decision to withdraw, suspend, or continue probation following a hearing constitutes final agency action.

(d) Probation, withdrawal or suspension of approval as a coinsuring lender will not affect any coinsurance or commitments in effect at the time of the probation, withdrawal or suspension of approval.

(e) Serious misconduct or noncompliance with the requirements of the coinsurance program may also result in action against coinsuring lenders in accordance with Part 24 of this title or by action of the Mortgage Review Board in accordance with Part 25 of this title.

#### § 251.105 Delegation of servicing.

(a) The lender must directly service all coinsured loans included in GNMA securities pools. In all other instances, the lender may choose to service its coinsured loans or arrange for another entity to service the Mortgages provided the contract servicer is a HUD-approved lender under §§ 201.1 through 204, 203.6 or § 203.8(b) of this chapter and the coinsuring lender retains its obligations under this part.

(b) The lender must inform HUD of any delegation of servicing on a form prescribed by the Commissioner.

(c) If HUD considers the servicer's performance to be unsatisfactory, HUD may require the lender to cancel the servicing arrangement after giving the lender a 30-day written notice.

[The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 2502-0332.]

#### § 251.106 Assignment of and participation in Coinsured Mortgages.

(a) A lender may assign a Coinsured Mortgage to another lender if the following requirements are satisfied:

(1) The assignee is a HUD-approved coinsuring lender;

(2) The lender shows good cause for the assignment;

(3) The Commissioner finds that the assignment is for good cause and that there will be no disadvantage to the Federal Housing Administration (FHA); and

(4) The Commissioner gives prior written approval for the assignment and any risk allocation between assignor and assignee.

(b) The lender must inform HUD on a form prescribed by the Commissioner following the assignment of any Coinsured Mortgage. The lender will not be relieved of its obligation to pay

Mortgage Insurance Premiums until HUD has received this notice.

(c) *Transfer of partial interest under participating agreement.* (1) A partial interest in a Coinsured Mortgage may be transferred without obtaining the approval of the Commissioner under a participation agreement or arrangement, if the following conditions are met:

(i) The Coinsured Mortgage shall be held by an approved coinsuring lender, which shall (for purposes of this paragraph) be referred to as the "principal lender";

(ii) The principal lender shall at all times retain at least a ten percent beneficial interest in the Coinsured Mortgage up to the time of the final endorsement (endorsement in insurance upon completion cases), and at least a five percent beneficial interest thereafter;

(iii) A participation or partial interest in a Coinsured Mortgage shall be issued to and held by: (A) A lender approved by the Commissioner or (B) a pension or retirement fund or a profit-sharing plan maintained and administered by a corporation or by a governmental agency or by a trustee or trustees, which the principal lender determines has lawful authority to acquire a partial interest in a Coinsured Mortgage under the conditions set forth in this paragraph; and

(iv) The participation agreement or arrangement shall provide that the principal lender shall remain the lender of record under the Contract of Coinsurance and that the Commissioner shall have no obligation to recognize or do business with any other party except the lender of record with respect to the rights, benefits, and obligations of the lender under the Contract of Coinsurance.

(2) No notice of any sale or transfer of a participating or partial interest is required unless the Coinsured Mortgage is transferred in its entirety to a new principal lender on the public records.

(d)(1) If the Mortgage is used to back securities guaranteed by the Government National Mortgage Association (GNMA), GNMA approval also is required for the assignment of the pooled Mortgage.

(2) When a Coinsured Mortgage is to be in a GNMA mortgage pool backing one or more GNMA Project Loan Certificates the lender-issuer and the holder of the participating interests must certify that the participations shall terminate as of the release (delivery) of the Project Loan Certificates. No participations may exist in mortgages backing GNMA Construction Loan Certificates or GNMA Project Loan Certificates.

[The information collection requirements contained in paragraph (b) of this section were approved by the Office of Management and Budget under control number 2502-0332.]

#### § 251.107 Reinsurance.

(a) The lender may reinsure its potential loss with respect to a particular project. Reinsurance may be obtained for:

(1) 50 percent of its risk;

(2) 100 percent of its risk; or

(3) That percentage of its risk that equals the maximum amount the reinsurer is authorized by State law to reinsure.

(b) The effect of reinsurance on the insurance benefits payable by the Commissioner is covered in § 251.820.

(c) Subject to the ceilings provided in § 251.823, any reinsurance policy must name the Commissioner as contingent beneficiary in the event that default by the lender compels the Commissioner to reimburse the Government National Mortgage Association for the amount that the Association had to pay securities holders as a result of the lender's default.

#### § 251.108 Pledging and other security arrangements.

A lender may pledge, subject to standards established by the Commissioner, the beneficial interests in a Coinsured Mortgage as security pursuant to the terms of a reinsurance contract, trust indenture, third party guarantee agreement, or similar financing arrangement directly related to the coinsurance transaction, subject to the following conditions:

(a) The lender must retain legal title to the note and the Mortgage subject to the security interest created, unless the title is otherwise transferred in accordance with § 251.106. Legal title to the note and Mortgage may not, at any time, be held by other than a coinsuring lender approved by the Commissioner.

(b) The Commissioner will have no obligation to recognize or deal with anyone other than the coinsuring lender of record or any approved successor to the lender's title to the Mortgage and Mortgage note with respect to the rights, benefits, and obligations of the coinsuring lender.

(c) The Mortgagor will have no obligation to recognize or deal with anyone other than the coinsuring lender or an approved coinsuring lender succeeding to title to the Mortgage or with another person or entity servicing the Mortgage loan under § 251.105, except that the Mortgagor may be directed to make payments under the Mortgage to a successor lender or to one or more custodial accounts.

(d) A lender may not pledge the beneficial interests of Coinsured Mortgages backing Government National Mortgage Association (GNMA) construction or Project Loan Certificates except as authorized by GNMA.

### Subpart C—Program Requirements

#### 251.201 Eligible project.

(a) Projects to be newly constructed or substantially rehabilitated are eligible under this part. A project:

- (1) Must have five or more units;
- (2) May be detached, semi-detached, row houses, or multifamily structures;
- (3) Must comply with all applicable zoning or deed restrictions, and applicable building and other governmental regulations;

(4) Must be designed in accordance with HUD minimum property standards; and

(5) Must be designed primarily for residential use, but may include commercial and community facilities determined to be adequate to serve the occupants. In general, the net rentable commercial area in any project may not exceed five percent of the total net rentable area, unless the commercial tenants leasing the space meet specific financial responsibility standards established by the Commissioner. In no event may the net rentable commercial area exceed 20 percent of the total net rentable area.

(b) The Commissioner must review all projects proposed for coinsurance under this part for compliance with the requirements of the National Environmental Policy Act of 1969 and related laws and authorities as set forth in Part 50 of this title.

(c) No insurance will be made available under this part for any building located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards unless (1) the jurisdiction in which the project is located is participating in the National Flood Insurance Program and is subject to 44 CFR Parts 59 through 79 or (2) less than a year has passed since FEMA notification regarding such hazards, and flood insurance is obtained in compliance with the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001).

(d) No insurance will be made available under this part with respect to a property within the Coastal Barriers Resources Systems established by the Coastal Barriers Resources Act (16 U.S.C. 3501).

(e) Wherever applicable, projects under this part must comply with the National Historic Preservation Act (16 U.S.C. 470).

(f) Involuntary displacement of tenants must be minimized under a plan developed by the Mortgagor, in any case where it is anticipated that Substantial Rehabilitation will cause such displacement.

#### § 251.202 Eligible Mortgagors.

Nonprofit, Builder-seller, Investor-sponsor, Cooperative, Limited Distribution, and General Mortgagors, as defined in § 251.3 and approved by the lender in accordance with standards established by the Commissioner, are eligible under this part. Differing maximum insurable Mortgage limits (see § 251.203) apply under sections 221(d)(3) and 221(d)(4) of the Act, depending upon the type of Mortgagor entity involved.

#### § 251.203 Maximum Mortgage limitations.

The maximum Mortgage coinsurable under this part is the lowest of the amounts determined under the following limits:

(a) *Statutory cost limits.* Congress has established maximum per unit dollar amounts for costs attributable to dwelling use. These limitations vary by number of bedrooms, structure type (elevator or non-elevator), Mortgagor type, and section of the Act, and are changed from time to time by statute. In addition, to compensate for geographic differences in construction costs, the Commissioner may establish, where appropriate, high-cost area factors. These are percentage increases over the otherwise applicable basic dollar limits. The factor for any geographic area may not exceed 175 percent of the basic limit. The factor applicable to a particular project may be obtained from the appropriate HUD field office. On an individual project basis in high-cost areas, the Commissioner may approve the use of a factor of up to 240 percent of the basic limit where costs justify it, except that for projects to be purchased by the Government National Mortgage Association under Section 305 of the Act (Tandem programs), the Commissioner may not approve a factor of more than 190 percent. In the unusually high-cost areas of Alaska, Guam and Hawaii, the Commissioner may approve the use of a factor of up to 360 percent. The Commissioner is also permitted to increase the otherwise applicable dollar limits by up to 20 percent to account for the installation in the project of a solar energy system (as defined in section 2(a) of the National Housing Act) or certain residential energy conservation measures (as defined in section 210(11)(A)-(G) and (I) of Pub. L. 95-619). The maximum coinsurable amount cannot exceed the sum of the project's total calculated statutory cost limit plus

the applicable percentage below of structural and land costs not attributable to dwelling use:

| Section             | Mortgagor                         | Percentage |
|---------------------|-----------------------------------|------------|
| (1) 221(d)(3) ..... | General and Limited Distribution. | 90         |
| (2) 221(d)(3) ..... | All others .....                  | 100        |
| (3) 221(d)(4) ..... | All Mortgagors .....              | 90         |

(b) *Replacement cost limits.* The replacement cost of a project is the total of the lender's estimate of the value of the land (or the value of the leasehold estate), determined in a manner prescribed by the Commissioner, plus physical improvements, utilities within the boundaries of the land, architect's fees, taxes, carrying and financing charges and miscellaneous charges incident to construction that are allowed by the Commissioner and approved by the lender. In the case of General and Limited Distribution Mortgagors, replacement cost is increased by BSPRA or SPRA, as appropriate. The maximum Coinsurable Mortgage cannot exceed the applicable percentage of the project's total replacement cost as follows:

| Section             | Mortgagor                         | Percentage |
|---------------------|-----------------------------------|------------|
| (1) 221(d)(3) ..... | General and Limited Distribution. | 90         |
| (2) 221(d)(3) ..... | Cooperative .....                 | 98         |
| (3) 221(d)(3) ..... | All others .....                  | 100        |
| (4) 221(d)(4) ..... | All Mortgagors .....              | 90         |

(c) *Debt service limits.* The net projected project income available for payment of debt service is determined by reducing the estimated gross income of the project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements, taxes, and distributions, where appropriate. In determining net projected project income for cooperative projects, a 3 percent operating reserve and a 2 percent vacancy reserve will be used in lieu of the vacancy and collection loss factor applicable to rental projects. The maximum Coinsurable Mortgage cannot exceed the amount that could be amortized by the applicable percentage of net income set out below:

| Section             | Mortgagor                         | Percentage |
|---------------------|-----------------------------------|------------|
| (1) 221(d)(3) ..... | General and Limited Distribution. | 90         |
| (2) 221(d)(3) ..... | All others .....                  | 95         |
| (3) 221(d)(4) ..... | All Mortgagors .....              | 90         |

(d) *Rehabilitation projects—additional limits.* In addition to the limits of paragraphs (a), (b) and (c) of this section, the following additional limits apply to projects to be Substantially Rehabilitated. (In the case of General and Limited Distribution Mortgages, the cost of rehabilitation includes BSPRA or SPRA, as appropriate, where a cost-plus contract is used.)

(1) Where the property is owned by the Mortgagor in unencumbered fee simple or is subject to existing indebtedness to be refinanced by part of the proceeds of the Coinsured Mortgage, the maximum Coinsurable Mortgage may not exceed the sum of the cost of rehabilitation plus the applicable percentage of the lender's estimate of value of the property before rehabilitation as follows:

| Section       | Mortgagor                        | Percentage |
|---------------|----------------------------------|------------|
| (1) 221(d)(3) | General and Limited Distribution | 90         |
| (2) 221(d)(3) | All others                       | 100        |
| (3) 221(d)(4) | All Mortgagors                   | 90         |

(2) Where the property is to be acquired and the purchase price to be financed with part of the proceeds of the Coinsured Mortgage, and

(i) The Mortgagor is a General or Limited Distribution Mortgagor using Section 221(d)(3), or any Mortgagor using Section 221(d)(4), the maximum Coinsurable Mortgage cannot exceed 90 percent of the sum of the cost of rehabilitation plus the lesser of the purchase price of the property or the lender's estimate of value of the property before rehabilitation; or,

(ii) The Mortgage is to be coinsured under section 221(d)(3) and the Mortgagor is not a General or Limited Distribution Mortgagor, the maximum Coinsurable Mortgage cannot exceed the sum of the cost of rehabilitation plus the lesser of the purchase price of the property or the lender's estimate of the value of the property before rehabilitation.

#### § 251.204 Maximum interest rate.

The interest rate in a commitment to coinsure, including a commitment for Mortgage increase, shall be at such rate as may be agreed upon by the Mortgagor and the coinsuring lender at the time the commitment is issued. The interest rate may be increased or decreased only after reprocessing and issuance of an amended commitment. The interest rate may not be increased after initial endorsement (insurance of advances) or start of construction (insurance upon completion), except that

where a Mortgage increase is requested, processed, and approved, a higher rate may be applied to the amount of the increase only.

#### § 251.205 Term of the Mortgage.

The Mortgage term may not exceed 40 years from the date of first payment to principal or 75 percent of the lender's estimate of the project's remaining economic life.

#### § 251.206 Lender's fees and premiums.

(a) The lender may collect from the Mortgagor, and include in the Mortgage, an application fee, financing fee, permanent placement fee, and inspection fee. These fees may not exceed the maximums approved by the Commissioner. In addition, the lender may collect other reasonable fees, approved by the Commissioner, that are paid from sources other than Mortgage proceeds and are disclosed at initial endorsement (insurance of advances) or endorsement (insurance upon completion). In no event will the fees allowed under this paragraph be permitted to exceed comparable fees allowed in the full insurance programs under section 221(d)(3) and 221(d)(4) of the National Housing Act.

(b) The coinsuring lender may collect a lender's premium of up to .25 percent per year of the average outstanding principal balance of the Mortgage (without regard to delinquent payments or prepayments) beginning not earlier than 12 months after the date of initial endorsement (insurance of advances) or the date of endorsement (insurance upon completion). This premium will be for the account of the lender or an insurer of the lender.

#### § 251.207 Coinsurance of Mortgages in lender's portfolio.

(a) Coinsurance under this part is available for Mortgages that the lender (or a related entity) already holds in its own portfolio only if:

(1) The project requires Substantial Rehabilitation;

(2) The loan is current and has not been in default, modification, or forbearance at any time during the two years preceding the submission of the application to the lender;

(3) Refinancing of portfolio loans makes up no more than one-fourth of the total number of loans the lender presents for endorsement for coinsurance during any 12-month period; and

(4) The entire loan transaction is reviewed and approved by the Commissioner (in his or her discretion) before any commitment is issued.

(b) The following loans will not be subject to the one-fourth limitation in paragraph (a)(3) of this section:

(1) Mortgages insured by HUD under its full insurance programs; and

(2) Mortgages in which the lender's sole involvement is servicing.

#### § 251.208 Nondiscrimination in housing and employment.

The Mortgagor must certify to the lender and to the Commissioner that, so long as the mortgage is coinsured under this part, it will:

(a) Not use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly or handicapped;

(b) Not discriminate against any family because of the sex of the head of household;

(c) Comply with title VIII of the Civil Rights Act of 1968, as amended, and implementing regulations and administrative procedures that prohibit discrimination because of race, color, religion (creed), sex, or national origin; administer the project and related activities to further fair housing in an affirmative manner; and comply with State and local fair housing laws;

(d) Comply with Executive Order 11063 and implementing regulations and administrative procedures that prohibit discrimination because of race, color, religion (creed), sex, or national origin in housing and related facilities provided with Federal financial assistance; and

(e) Not discriminate because of race, color, religion, sex, or national origin against any employee or applicant for employment. Provisions to this effect, and, in addition, the provisions of Executive Order 12246 and 41 CFR Chapter 60, where appropriate, will apply to any contract or subcontract for project repairs and improvements over the life of the mortgage.

(f) Not rent, permit the rental or permit the offering for rental of the housing, or any part thereof, covered by the Mortgage, for transient or hotel purposes. The term "rental for transient or hotel purposes" means (1) rental for any period less than 30 days, or (2) any rental, if the occupants of the housing accommodations are provided customary hotel services, such as room service for food and beverages, maid service, furnishing and laundering of linens, and bellhop service; and

(g) Not sell the project as long as the Mortgage is coinsured under this part, unless the purchaser agrees to comply with the requirements of this section and with applicable transfer of physical assets requirements.

**§ 251.209 Labor standards and prevailing wage requirements.**

(a) *In general.* Except as specified in paragraph (b) of this section, the following labor standards and prevailing wage requirements shall be applicable to Mortgages coinsured under this part. The Commissioner shall assure compliance with those standards and requirements and the lender must obtain, evaluate, and submit any information or certifications required by the Commissioner to assist the Commissioner in carrying out this function.

(1) *Labor Standards.* Any contract, subcontract, or building loan agreement executed for a project to be constructed or Substantially Rehabilitated under this part shall comply with all applicable labor standards and provisions of 29 CFR Parts 1, 3 and 5, issued by the Secretary of Labor.

(2) *Ineligible advances.* No advance under the Mortgage shall be eligible for coinsurance after the lender determines (in accordance with the Commissioner's administrative procedures) that the general contractor or any subcontractor or any firm, corporation, partnership or association in which the contractor or subcontractor has a substantial interest was, on the date the contract or subcontract was executed, on the ineligible list established by the Comptroller General, pursuant to 29 CFR 5.12, issued by the Secretary of Labor.

(3) *Wage certificate.* No advance under any Mortgage shall be coinsured under this part unless there is filed with the application for the advance, and no mortgage shall be coinsured under this part unless there is filed with the Commissioner after completion of the construction or Substantial Rehabilitation, a certificate or certificates in the form required by the Commissioner, supported by such other information as the Commissioner may prescribe, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor before the beginning of construction and after the date of filing of the application for insurance.

(b) *Excepted transactions.* The Commissioner may waive the requirements of paragraph (a) of this section with respect to a cooperative housing project where laborers or mechanics not otherwise employed at any time in the construction of the

project voluntarily donate their services without compensation for the purpose of lowering their housing costs in the project and the Commissioner determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction.

(The information collection requirements contained in paragraph (a)(3) of this section were approved by the Office of Management and Budget under control number 2502-0332.)

**Subpart D—Processing and Commitment****§ 251.301 Processing and development responsibilities.**

(a) The lender is responsible for the performance of all functions under this part, including acceptance and review of applications, issuance of commitments, inspections, and closings, except those functions specified in paragraphs (b), (d) and (e) of this section.

(b) Certain functions are retained by the Commissioner. The lender must submit any information or certifications required by the Commissioner to permit determinations of compliance with requirements concerning:

(1) Previous participation of the principals of the Mortgagor, general contractor, consultant, and management agent in accordance with the Previous Participation and Clearance Review Procedures of 24 CFR 200.210 through 200.218;

(2) Environmental impact under the National Environmental Policy Act of 1969 and related laws and authorities set forth in 24 CFR Part 50;

(3) Equal opportunity considerations in the development and operation of the proposed project;

(4) The intergovernmental review procedures of 24 CFR Part 52. These procedures apply to cases involving 200 or more units in urbanized areas or 50 or more units in non-urbanized areas; and

(5) The National Historic Preservation Act, 16 U.S.C. 470, where applicable.

(c) The lender must also submit any information required by the Commissioner for tracking or monitoring purposes.

(d) The Commissioner's authorized Departmental representative must endorse the Mortgage for coinsurance.

(e) The Commissioner retains responsibility for enforcement of labor standards and prevailing wage requirements set out in § 251.209. The Commissioner will perform all functions under § 251.209 except that he may delegate to the lender information collection (e.g. payroll review and routine interviews) or other routine administration and enforcement

functions, subject to monitoring by the Commissioner.

(The information collection requirements contained in paragraphs (b) and (c) of this section were approved by the Office of Management and Budget under control number 2502-0332.)

**§ 251.302 Processing and commitment.**

(a) After acceptance of an application for a commitment to coinsure, the lender will determine the maximum coinsurable Mortgage, review plans and specifications for compliance with HUD standards, determine the acceptability of the proposed management agent, and make other determinations necessary to assure acceptability of the proposed project. The lender must make these determinations in the manner prescribed by the Commissioner.

(b) The lender may issue a Firm Commitment to coinsure after completion of its review and after receipt of written evidence from HUD of (1) the acceptability of the project in the areas of responsibility retained by the Commissioner under § 251.301(b), (2) a waiver, where needed, of the approved high-cost factor under § 251.203(a), and (3) completion of any case review requirements of the Commissioner that are part of its lender approval process.

(c) Subject to standards established by the Commissioner, the lender is responsible for extending commitments, assuring commitments are updated when appropriate, and amending commitments. The lender may also reopen commitments within 90 days of the expiration of an earlier commitment, reconsider previously rejected applications, and may charge a reopening or reexamination fee acceptable to the Commissioner.

**Subpart E—Insurance of Advances; Insurance Upon Completion; Construction Period****§ 251.401 Insurance of advances or insurance upon completion; applicability of requirements.**

Either insurance of advances or insurance upon completion procedures may be used under this part. In insurance upon completion cases, only the permanent loan is coinsured and a single endorsement is required after satisfactory completion of construction or Substantial Rehabilitation. In insurance of advances cases, progress payments approved by the lender are also coinsured and both an initial and final endorsement on the Mortgage are required. The requirements of §§ 251.404 through 251.406 apply in either case and the Mortgage and other closing

documents must meet the requirements of Subpart F.

#### § 251.402 Insurance of advances.

(a) *Financial Requirements.* (1) Before initial endorsement, the Mortgagor (other than a Nonprofit Mortgagor) must make a working capital deposit of two percent of the face amount of the Mortgage. The deposit must be made to the lender or be controlled by the lender in a depository acceptable to it. Unless the Commissioner approves exceptions, this deposit may be used only for equipping and rent-up of the project and, during construction, for allocation by the lender to accruals for taxes, ground rents, MIP, property insurance premiums, and assessments required by the terms of the Mortgage.

(2) Before initial endorsement, the Mortgagor must deposit with the lender cash that the lender deems sufficient, when added to the proceeds of the insured Mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to construction of the project. This cash will be held by the lender in a special account or by an acceptable depository designated by the lender under an appropriate agreement. The agreement will require all cash held to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any Mortgage money. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, Mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of the grant or loan funds, to pay cost of work, material or other charges and expenses. However, if any portion of these funds is to be provided by the Mortgagor, that portion must be disbursed in full before the disbursement of the Mortgage proceeds.

(3) Charges to be paid by the Mortgagor in connection with the financing that are in excess of the initial service charge and that are acceptable to the Commissioner must be deposited with the lender in cash at or before initial endorsement. Alternatively, a note, in a form prescribed by the Commissioner, may be accepted by the lender. The note must evidence the obligations of a party other than the Mortgagor and may not be secured by the assets of the Mortgagor entity.

(4) The lender must require assurance of completion of offsite public utilities and streets. (An exception is made

where a public body has agreed to install offsite improvements without cost to the Mortgagor and this agreement is acceptable to the lender.) The assurance must be either a cash escrow deposit or the retention by the lender at initial closing of a specified amount of the Mortgage proceeds allocated to land in the project analysis. If a cash escrow is used, it must be deposited with the lender or a depository designated by the lender. The lender may also require a surety bond.

(5) The lender may accept, in lieu of a cash deposit required by paragraphs (a)(1), (3) and (4) of this section, an unconditional irrevocable letter of credit issued to the lender by a banking institution. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the lender may accept for the portion so provided, in lieu of a cash deposit required by paragraph (a)(2) of this section, either an unconditional irrevocable letter of credit issued to the lender by a banking institution or an agreement, as described in § 207.19(c)(7) of this chapter, entered into by HUD, the governmental agency or instrumentality, the Mortgagor and the lender. The lender of record may not be the issuer of any letter of credit referred to in this paragraph (a)(5) without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the lender must provide cash equivalent to the undrawn balance under the letter of credit.

(b) *Building loan agreement.* Before initial endorsement, the lender and Mortgagor must execute a building loan agreement in a form approved by the Commissioner. This agreement sets out the terms and conditions under which progress payments may be advanced during construction. To be covered by coinsurance, each progress payment must be approved by the lender and must contain a certificate that the prevailing wage requirements of § 251.209 have been met.

(c) *Insured advances of components stored off-site.* The provisions of 24 CFR 221.541a apply to projects coinsured under this part, except that the lender performs the functions otherwise performed by the Commissioner.

(d) *Assurance of completion.* (1) The Mortgagor must furnish assurance of completion of the project. The lender may establish more stringent criteria, but, at minimum, must require assurance by bonds issued by a surety company

acceptable to the Commissioner for payment and performance each in the amount of 100 percent of the estimated construction or rehabilitation cost, or a completion assurance agreement secured by a cash deposit in the amount of 15 percent (or 25 percent where the structure contains an elevator and is four stories or more) of the amount of the estimated construction or rehabilitation cost. An unconditional and irrevocable letter of credit may be substituted for this cash deposit under the same terms and conditions as provided in paragraph (a)(5) of this section.

(2) Alternatively, where the estimated cost of construction or rehabilitation is \$500,000 or less, the lender may accept assurance of completion in the form of a personal indemnity agreement executed by the controlling principals of the general contractor.

#### § 251.403 Insurance upon completion.

A commitment to coinsure upon completion prescribes a designated period during which the Mortgagor must start construction or Substantial Rehabilitation. If construction or rehabilitation is started as required, the commitment will be valid for an additional period no longer than the lender's estimate of the construction period plus six months, except as extended as provided in § 251.302(c).

#### § 251.404 Requirements applicable to both insurance of advances and insurance upon completion cases.

(a) *Latent defects escrow.* (1) In insurance upon completion cases, the Mortgagor must make a cash escrow deposit at endorsement of two and one-half percent of the principal amount of the mortgage, or provide a surety bond of 10 percent of the lender's estimate of the cost of construction or Substantial Rehabilitation, as a latent defects escrow. An unconditional and irrevocable letter of credit may be substituted for this cash escrow deposit under the same terms and conditions as provided in § 251.402(a)(5). This escrow must be retained by the lender for 15 months after substantial completion.

(2) In insurance of advances cases, if a completion assurance agreement referred to in § 251.402(d) was used at initial endorsement, an amount equal to two and one-half percent of the construction contract must be retained in cash or a letter of credit for a period of 15 months following substantial completion as a latent defects escrow.

(b) *Inspections during construction.* The lender must inspect projects under this part at such times during

construction or Substantial Rehabilitation as the lender determines, within standards established by the Commissioner. The inspections must be conducted to assure compliance with the contract documents.

(c) *Cost certification requirements—Mortgagor.* (1) Before initial endorsement (insurance of advances) or start of construction (insurance upon completion), the Mortgagor and the lender must enter into an agreement satisfactory to the Commissioner that precludes any excess of Mortgage proceeds over statutory and regulatory limitations. In this agreement, the Mortgagor must also disclose its relationship with the builder, including any collateral agreement, and agree to:

(i) Enter into a construction contract that (A) complies with the requirements of § 251.548 of this Chapter (as to whether the contract should be lump sum or cost-plus) and (B) is approved by the lender and acceptable to the Commissioner as to form and content;

(ii) Execute a certificate of actual costs when all physical improvements are complete; and

(iii) Reduce the Mortgage if necessary in accordance with § 251.405.

(2) The provisions of paragraph (c)(1) of this section relating to disclosure and the requirement of a construction contract do not apply where the Mortgagor and the general contractor are one and the same.

(3) If the Mortgagor, the general contractor, or their officers, directors, or stockholders have any interest, financial or otherwise, as defined by the Commissioner, in any subcontractor, material supplier, or equipment lessor, the Mortgagor must disclose the identity of interest before start of construction. The lender may approve the use of a subcontractor, material supplier or equipment lessor having an identity of interest if the amounts paid to that entity do not exceed the rate prevailing in the locality for similar types of labor and materials.

(4) The Mortgagor's certificate of actual cost, in a form prescribed by the Commissioner, must be submitted to the lender when the improvements are completed to the satisfaction of the lender and before final endorsement (or before endorsement in the case of insurance upon completion). The certificate must show the actual cost to the Mortgagor of:

(i) The cost-plus construction contract or the lump sum construction contract or the cost of the construction of the project where the Mortgagor and the general contractor are one and the same and no construction contract is executed;

(ii) The architect's fee;

(iii) The offsite public utilities and streets not included in paragraph (c)(4)(A) of this section;

(iv) The organizational and legal expenses;

(v) In the case of General or Limited Distribution Mortgagors, where a cost-plus contract is used, the BSPRA or SPRA as applicable; and

(vi) Other items of expense approved by the Commissioner.

(d) *Cost certification requirements—general contractor.* (1) Where a cost-plus form of contract is used, the Mortgagor must also submit to the lender a certification of the general contractor, in a form prescribed by the Commissioner, as to all actual costs paid for labor, materials, and subcontract work under the general contract, exclusive of the builder's fee.

(2) Where there is a cost-plus contract and the lender determines that an identity of interest (as defined by the Commissioner) exists between the Mortgagor or general contractor or any of their officers, directors, stockholders, or partners and any subcontractor, material supplier, or equipment lessor, the lender may require the Mortgagor to submit a certification by the subcontractor, material supplier, or equipment lessor as to the actual costs paid for labor, materials, subcontractors and overhead. This certification must be in a form prescribed by the Commissioner.

(e) *Exclusions.* The certifications required by paragraphs (c)(4) and (d) of this section must exclude any kickbacks, rebates, trade discounts, or other similar payments to the general contractor, the Mortgagor or any of their officers, directors, stockholder or partners.

(f) *Records.* The Mortgagor must maintain adequate records of all costs of any construction or other cost items that do not represent work under the general contract and, in the case of a lump sum contract, must require the builder to keep similar records and, if requested by the lender or the Commissioner, must make these records (including any collateral agreements) available for examination, including examination by the Inspector General of HUD or the Comptroller General.

(g) *Certificate of public accountant.* In all projects exceeding 40 units, cost certifications must be supported by an audit of the cost certification statement and accompanying financial statements by an independent Certified Public Accountant or by an independent public accountant licensed by a regulatory authority of a State or other political subdivision on or before December 31, 1970. The audit must include a statement

that the accounts, records, and supporting documents have been examined in accordance with generally accepted auditing standards to the extent necessary to verify that they present fairly the actual costs.

(h) *Requisites of agreement and certification.* Any agreement, statement or certification required by this section must specifically state that it has been prepared for the purpose of influencing an official action of the Commissioner and may be relied upon by the Commissioner and the lender as true.

(i) *Cost certification incontestable.* Upon the lender's approval of the Mortgagor's certification, the certification will be final and incontestable except for fraud or material misrepresentation on the part of the Mortgagor.

(The information collection requirements contained in paragraphs (d), (f) and (g) of this section were approved by the Office of Management and Budget under control number 2502-0332.)

#### § 251.405 Lender's review of mortgage amount.

When the cost certifications submitted under § 251.404 are reviewed and approved by the lender, the lender must determine, in accordance with standards set by the Commissioner, whether a mortgage reduction is necessary and whether any requests for a mortgage increase are approvable.

#### § 251.406 Application of net income received before beginning of amortization.

In the case of General and Limited Distribution Mortgagors, net income (as defined by the Commissioner) that is received after final endorsement but before the beginning of amortization will be applied in one or more of the following ways as the lender determines:

(a) To advance amortization;

(b) To offset construction costs approved by the lender; or

(c) To be deposited in the reserve for replacements in addition to the monthly deposits required by the regulatory agreement.

#### § 251.407 Endorsement by the Commissioner.

Before start of construction in insurance of advances cases, and in all cases after completion of construction or Substantial Rehabilitation and completion of the lender's review of the Mortgage amount, the lender will hold a closing and submit required documentation to the Commissioner or the Commissioner's authorized Departmental representative for coinsurance of the Mortgage by

endorsement of the Mortgage note. The note must identify the section of the Act and the regulations under which the Mortgage is insured, the percentage of risk assumed by the lender and the Commissioner, and the date of coinsurance, i.e., the date of HUD endorsement of the project Mortgage. The lender's submission must include a certification that it has obtained written HUD approval of compliance with the requirements referred to in § 251.301(b) and any additional documents and information required by the Commissioner's administrative procedures.

#### Subpart F—Mortgage and Closing Requirements

##### § 251.501 Mortgage requirements—real estate.

(a) The mortgage, to be eligible for insurance, shall be on property located in a State, Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, or the Virgin Islands. The mortgage must be on real estate held:

- (1) In fee simple;
- (2) Under a renewable lease for not less than 99 years;
- (3) Under a lease running at least 75 years from the date the Mortgage is executed; or
- (4) Under a lease executed by a governmental agency, or other lessor approved by the Commissioner, for us to the maximum term the agency or lessor may enter into, but not less than 50 years from the date the Mortgage is executed.

(b) The property must be held by an eligible Mortgagor and must, at the time the mortgage is insured, be free and clear of other liens except those approved by the lender in accordance with § 251.504.

(c) The mortgage must cover the entire property included in the housing project.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 407, Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181, approved November 30, 1983))

[49 FR 32023, Aug. 9 1984, as amended at 50 FR 4648, Feb. 1, 1985]

##### § 251.502 Title.

(a) *Eligibility of title.* Title to the mortgaged property must be vested in the Mortgagor on the date the Mortgage is filed for record.

(b) *Title evidence.* Before coinsurance of the Mortgage, the Mortgagor must furnish the lender with a survey, satisfactory to the lender, of the Mortgaged property and a title insurance policy covering the property.

If, for reasons that are satisfactory to the lender, title insurance cannot be furnished, the Mortgagor must furnish evidence of title in accordance with paragraph (b)(2) of this section. The types of title evidence are:

(1) A title insurance policy issued by a company, and in a form, satisfactory to the lender. The policy must name the lender and the Commissioner as the insureds, as their interests may appear. The policy must also provide that, upon acquisition of title by the lender, it will become an owner's policy running to the lender.

(2) An abstract of title satisfactory to the lender, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the lender as to the quality of the title, signed by an attorney experienced in the examination of titles.

##### § 251.503 Mortgage and note provisions.

(a) The Mortgage and note must be executed on a form approved by the Commissioner for use in the jurisdiction in which the property is located. The form must not be changed without the prior written approval of the Commissioner.

(b) The Mortgage must be executed by an eligible Mortgagor.

(c) The Mortgage must be a first lien on property that conforms with property standards prescribed by the Commissioner.

(d) The note must provide for equal monthly payments of interest and principal due on the first day of each month in accordance with a level annuity amortization plan agreed to by the Mortgagor and lender and acceptable to the Commissioner.

(e) The lender will determine the date of first payment to principal. The lapse of time between completion of the project and beginning of amortization must not be longer than the lender determines, in accordance with standards established by the Commissioner, to be necessary to obtain sustaining occupancy.

(f)(1) The Mortgage must provide that all monthly payments made by the Mortgagor to the lender be added together into a single payment made by the Mortgagor on each monthly payment date. The lender must apply payments received from the Mortgagor or for the account of the Mortgagor to the following items in the order listed:

- (i) MIP under the Contract of Coinsurance;
- (ii) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums;
- (iii) Interest on the Mortgage; and

(iv) Principal on the Mortgage.

(2) Any deficiency in the amount of the aggregate monthly payment required under paragraph (f)(1) of this section will constitute a fiscal default. The Mortgage will further provide for a grace period of 30 days within which time the default must be made good.

(g) The Mortgage must provide for payments by the Mortgagor to the lender, on each monthly payment date, of an amount sufficient to accumulate the next annual MIP one payment period before the MIP is due. These payments will continue only as long as the Contract of Coinsurance is in effect.

(h) The Mortgage must provide for equal monthly payments sufficient to pay any ground rents, estimated taxes, water charges, special assessments, and fire and other hazard insurance premiums, within a period ending one month before these items become due. The Mortgage must also make provision for adjustments in case the estimated amount of any of these items differs from amounts actually payable by the Mortgagor.

(i)(1) Partial or full prepayment of the Mortgage is permitted, subject to standards and restrictions established by the Commissioner with respect to prepayments of mortgages that: (A) Cover projects in which units are subsidized under section 8 of the United States Housing Act of 1937 or other Federal law or (B) may be purchased, assigned, or otherwise transferred to the Government National Mortgage Association (GNMA).

(2) Where the Mortgage is given to secure a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipatory notes, or both, the Mortgage may contain a prepayment restriction and prepayment penalty charge acceptable to the lender in term amount and conditions in accordance with standards adopted by the Commissioner.

(j) The note may provide for the collection by the lender of a late charge, not to exceed four percent of each payment to interest and principal that is more than 15 days late, or such other charges as may be agreed to by the lender and the Commissioner, to cover the extra expense of handling delinquent payments. Late charges must be separately charged to and collected from the Mortgagor and may not be deducted from any total monthly payment.

(k) The Mortgage must contain a covenant prohibiting the use of the property for any purpose other than the

residential purpose intended on the day the Mortgage was executed.

(1) The Mortgage must contain a covenant, acceptable to the Commissioner, that binds the Mortgagor to keep the property insured by one or more standard policies for fire or other hazards stipulated by the Commissioner or the lender. The amount must comply with the coinsurance clause applicable to the location and character of the property, but may not be less than 80 percent of the actual cash value of the insurable improvements and equipment of the project. The initial coverage must be in the amount estimated by the lender after completion of the project. A standard mortgagee clause making loss payable to the lender and the Commissioner as their interests may appear must be included in the mortgage. The lender is responsible for assuring that insurance is maintained in force and in the amount required by this paragraph and the Mortgage. If the Mortgagor does not obtain the required insurance, the lender must do so and assess the Mortgagor for such costs. These insurance requirements apply as long as the Coinsurance Contract is in force.

#### **§ 251.504 Mortgage lien and other obligations.**

The Mortgagor and the lender must certify at endorsement of the loan for insurance, and the lender must determine, that:

(a) The property covered by the mortgage is free and clear of all liens other than the Coinsured Mortgage, except that the property may be subject to an inferior lien, made or held by a Federal, State or local governmental agency or instrumentality as provided in 24 CFR 221.520(b). No lien (other than State or local liens of taxes and assessments, or ground rents) may have a priority equal or superior to the Coinsured Mortgage.

(b) All contractual obligations in connection with the Mortgage transaction, including the purchase of the property and the improvements to the property, are paid. An exception is made for obligations that are approved by the lender and determined by the lender to be of a lesser priority for payment than the obligation of the insured Mortgage and that meet standards established by the Commissioner.

(c) Any additional obligations provided for in this section are represented by promissory notes on forms approved by the Commissioner. These notes must not be due and payable until the maturity date of the Mortgage, but may be prepaid from

Surplus Cash or Residual Receipts in accordance with the conditions prescribed in the regulatory agreement between the lender and the Mortgagor.

#### **§ 251.505 Regulatory agreement.**

The lender and the Mortgagor must execute a regulatory agreement in a form acceptable to the Commissioner. The regulatory agreement must require the Mortgagor to comply with the requirements of Subparts G and H and other applicable provisions of this part for as long as the Commissioner coinsures the Mortgage. In the regulatory agreement, the lender may regulate the Mortgagor on other matters if the Commissioner determines that the additional lender controls or requirements do not conflict with the requirements of this part or requirements contained in the administrative instructions issued under this part.

#### **§ 251.506 Other closing documents.**

The lender will require execution of such other closing documents as the Commissioner may require.

### **Subpart G—Requirements Relating to Structure of Mortgagor Entity and Transfers of Ownership Interest**

#### **§ 251.601 Requirements applicable to all projects.**

(a) The Mortgagor may issue shares of capital stock, partnership participations or beneficial certificates of interest, as applicable, only in the number and form approved by the lender.

(b) The Mortgagor must comply with the Commissioner's administrative procedures for previous participation clearance and Transfers of Physical Assets before conveying, assigning or transferring any ownership interest in the project or any beneficial interest in any trust holding title to the project.

(c) The Mortgagor must obtain the Commissioner's and the lender's written approval before:

(1) Conveying, assigning, transferring, encumbering or disposing of any legal interest in the project, including rents and security deposits;

(2) Engaging, except for natural persons, in any business or activity, including the operation of any other project, or incurring any liability or obligation not in connection with the project.

(d) The Mortgagor may not resign or withdraw from the project until the lender has approved a substitute Mortgagor.

#### **§ 251.602 Requirements for projects intended for cooperative ownership.**

(a) *Investor-sponsor's escrow.* The lender must hold in escrow the amount it determines will be needed, in the event the project is not transferred to a Cooperative within two years of the date of project completion, to reduce the principal of the Mortgage to an amount authorized for a Limited Distribution Mortgagor. The amount held in escrow may be disbursed to the Mortgagor if the transfer occurs within the two-year period. Where the transfer does not occur within this period, the escrow will be applied against the Mortgage or in such other manner as the lender and the Commissioner authorize.

(b) *Compensation to Investor-sponsor.* The consideration for the transfer to a Cooperative Mortgagor will be the assumption of the Mortgaged indebtedness plus a down payment in an amount which, when added to the original principal, may not exceed the Investor-sponsor's actual certified cost as approved by the lender under § 251.404.

#### **§ 251.603 Requirements for projects intended for nonprofit ownership.**

(a) *Builder-seller's escrow.* The lender must hold in escrow the amount it determines will be needed, in the event the project is not transferred to a Nonprofit Mortgagor within two years of the date of project completion, to reduce the principal of the Mortgage to an amount authorized for a Limited Distribution Mortgagor. The amount held in escrow may be disbursed to the Mortgagor if the transfer occurs within the two-year period. Where the transfer does not occur within this period, the escrow will be applied against the Mortgage or in such other manner as the lender and the Commissioner authorize.

(b) *Compensation to Builder-seller.* The consideration for the transfer to the Nonprofit Mortgagor shall be the assumption of the Mortgage indebtedness, to which may be added a cash payment in an amount which, when added to the original principal, may not exceed the Builder-seller's actual certified cost as approved by the lender under § 251.404.

### **Subpart H—Program Requirements Relating to Project Operation**

#### **§ 251.701 General.**

In order to be eligible for the benefit of insured financing under this part, the Mortgagor must agree to be regulated and restricted by the lender with respect to the ongoing operation of the project as set forth in this subpart.

**§ 251.702 Reserve for replacements and general operating reserve.**

(a) The Mortgagor must establish and maintain a reserve for replacements which will be held and administered by the lender. The Mortgagor must accumulate, maintain and use this reserve, and the lender must administer this reserve, only as provided in the regulatory agreement and the Commissioner's administrative procedures.

(b) In addition to the reserve for replacements required by paragraph (a) of this section, a Cooperative Mortgagor must establish with the lender a general operating reserve in an amount required by the Commissioner's administrative procedures. The Cooperative Mortgagor must accumulate, maintain and use this reserve only as provided in the regulatory agreement and the Commissioner's administrative instructions.

(c) To the extent consistent with the project's liquidity needs, money placed in a reserve for replacements (and, in the case of Cooperatives, a general operating reserve) must be invested in United States Treasury securities, securities issued by a Federal agency, or deposits that are insured by an agency of the Federal Government.

**§ 251.703 Rents and charges.**

(a) To the extent that units in a project are occupied by assisted tenants and are subject to a section 8 Housing Assistance Payments Contract under Part 880, Part 881, Part 883, or Part 886, the unit rents and charges for facilities and services shall be determined in accordance with the regulations and administrative procedures governing the program under which the unit is receiving assistance.

(b) For any project coinsured under section 221(d)(3), the Mortgagor may collect unit rents and other charges only in amounts less than or equal to those approved by the lender. In determining maximum allowable rents and charges and in passing upon applications for changes, the lender must adhere to standards established by the Commissioner. These standards are designed to set rents at a level needed to maintain the economic soundness of the project and to provide a reasonable return to the Mortgagor and reasonable rents to tenants.

(c) If the project is coinsured under section 221(d)(4) and the lender does not elect to regulate rents pursuant to paragraph (d) of this section, the mortgagor will determine rents and charges for all units except those which receive section 8 assistance. If the project is not constructed for occupancy

exclusively by the elderly or handicapped, the mortgagor may also determine the charges for facilities or services. If the project is constructed exclusively for occupancy by the elderly or handicapped, the Mortgagor may charge tenants for facilities and services only after obtaining any lender approval required by the Commissioner's administrative procedures. Such charges must be reasonable in amount and may not exceed any amounts approved by the lender.

(d) For any project insured under section 221(d)(4), the lender may regulate rents and charges for any units not receiving section 8 assistance, subject to the Commissioner's administrative procedures, if the lender (under standards established by the Commissioner) determines that such regulation is necessary in order to comply with the requirements of the Internal Revenue Code or State law.

(e) HUD may preempt any State or local regulation of rents or leases of projects subject to this part as provided in Part 246 of this title.

[49 FR 32023, Aug. 9, 1984; 49 FR 38943, Oct. 2, 1984]

**§ 251.704 Use of project funds.**

(a) The Mortgagor must deposit all rents and other receipts of the project in the name of the project in accounts that are fully insured as to principal by an agency of the Federal government. Project funds in excess of these needed to meet short-term project operating expenses may be invested in accordance with the administrative instructions of the Commissioner.

(b) The Mortgagor may use project funds only for:

- (1) Payment of Mortgage obligations;
- (2) Payment of reasonable expenses necessary to the proper operation and maintenance of the project;
- (3) Deposits to the reserve for replacements and other required reserves;
- (4) Distributions of Surplus Cash permitted under § 251.705;
- (5) Repayment of Mortgagor advances authorized by the Commissioner's administrative procedures.

(c) The Mortgagor may not use project funds to liquidate liabilities related to the construction of the project, other than the Coinsured Mortgage, unless the lender authorizes this use in accordance with the Commissioner's administrative procedures.

(d) The Mortgagor must deposit and maintain residents' security deposits in a trust account separate and apart from all other funds of the project. This trust account must be held in the name of the project and the balance in the account

must at all times equal or exceed the project's liability for residents' security deposits. The owner must comply with any State or local laws regarding investment of security deposits and the Distribution of interest or other income earned thereon. Any earnings received from the investment of security deposits must accrue to the benefit of the project or the project residents.

**§ 251.705 Distributions and residual receipts.**

(a) The Mortgagor may make, receive or retain Distributions only as provided in this section. The Mortgagor must compute Surplus Cash and Distributions in accordance with the Commissioner's administrative requirements.

(1) Distributions may be paid only from Surplus Cash that exists as of the end of a semi-annual or annual fiscal period.

(2) Initial Distributions may be paid only after construction has been completed and the Mortgagor has submitted the cost certifications required by § 251.402.

(3) No Distribution may be paid from borrowed funds, or when payments due under the note, Mortgage, or regulatory agreement have not been made.

(b) If any of the conditions listed below applies, the Mortgagor may distribute Surplus Cash only after obtaining the lender's written approval to do so:

(1) The Mortgagor has not satisfactorily responded to any lender on HUD on-site review report, annual financial statement correspondence or any other correspondence that requires the Mortgagor to implement corrective action, and that was received at least 30 days before the end of the fiscal period for which the Surplus Cash computation is made;

(2) The lender determines and gives the owner written notification that the project has significant uncorrected physical deficiencies; or

(3) there is a covenant, default (as defined in § 251.806(b) under the provisions of the Mortgage or the regulatory agreement.

(c) The Mortgagor must limit Distributions in any one fiscal period to the amount specified in this paragraph (c), and must calculate Distributions in accordance with the administrative requirements of the Commissioner.

(1) Cooperative projects not receiving assistance under Part 886 of this title, Section 8 Housing Assistance Payments Program—Special Allocations, may distribute all Surplus Cash to members. Cooperatives receiving assistance under Part 886 may distribute only the portion

of Surplus Cash attributable to unsubsidized units. Surplus cash must be prorated to subsidized and unsubsidized units in accordance with the Commissioner's administrative procedures.

(2) No Distributions are permitted on nonprofit rental projects.

(3) On projects owned by Limited Distribution Mortgages, Distributions may not exceed the lesser of Surplus Cash on the amount allowable by the lender as of the end of the period covered by the Surplus Cash computation. Distributions are cumulative. If the project receives subsidy payments for HUD, Distributions will be earned at a rate prescribed in the regulations and administrative procedures applicable to that subsidy program. If the project does not receive subsidy payments from HUD, Distributions will be earned annually or semiannually at a rate prescribed by the lender consistent with State or local law.

(4) On projects owned by General Mortgages, all Surplus Cash generated during the fiscal period covered by the Surplus Cash computation may be distributed to the Mortgagee.

(d) Nonprofit and Cooperative Mortgagees must deposit Residual Receipts with the lender within 60 days after the end of each fiscal year in which Surplus Cash is generated. Limited Distribution Mortgagees must deposit Residual Receipts with the lender within 60 days after the end of each annual or semiannual fiscal period in which Surplus Cash is generated.

(e) Residual Receipts must at all times remain under the control of the lender. The lender must administer the Residual Receipts account in accordance with the Commissioner's administrative requirements.

(1) If the project contains units that are occupied by assisted tenants and are subject to a Section 8 Housing Assistance Payments Contract under Part 880, Part 881, Part 883 or Part 886, the lender may release Residual Receipts only after obtaining the Commissioner's written approval and only in accordance with the Commissioner's administrative requirements.

(2) The Mortgagee may use Residual Receipts only for such purposes as the Commissioner or the lender authorize.

(f) The lender must invest Residual Receipts in accordance with the administrative requirements of the Commissioner. All earnings on these investments must be added to the Residual Receipts account unless other disposition of such earnings has been approved by the Commissioner, or by

the lender in accordance with the Commissioner's administrative requirements.

(g) When the contract of coinsurance is terminated any funds remaining in the Residual Receipts account must be distributed in accordance with the Commissioner's administrative requirements.

#### § 251.706 Project management.

The Mortgagee must:

(a) Provide for management satisfactory to the lender and the Commissioner, execute a management contract that meets the requirements of the Commissioner, and deliver to the lender such certifications and information regarding project management as the Commissioner and lender may require.

(b) Maintain the project in good repair and condition and promptly complete necessary repairs and maintenance as required by the lender.

(c) Assure that all project expenses are reasonable in amount and necessary to the operation of the project.

(d) Obtain the lender's and the Commissioner's written approval before undertaking self-management, contracting for management services, or paying (or incurring any obligation to pay) fees for management services.

(e) Establish and maintain the project's books, accounts and records in accordance with the Commissioner's and lender's administrative requirements. Books and accounts must be maintained for such periods of time as the Commissioner may prescribe.

(f) Permit the lender, the Commissioner, the HUD Inspector General, the Comptroller General of the United States, or their authorized agents to inspect the project's property, equipment, buildings, plans, offices, apparatus, devices, books, accounting records, contracts, and documents during reasonable business hours. This right to inspect extends to the records of the Mortgagee, as well as to the records of any companies with which the Mortgagee has an identity of interest, as defined in the regulatory agreement.

(g) Furnish the lender and the Commissioner with a financial report on the project's operations within 60 days following the end of each fiscal year, unless the lender authorizes the Mortgagee to submit the report on a later date. Unless the Commissioner authorizes the lender to accept an unaudited report, the report must be made by an independent certified public accountant or by an independent public accountant licensed by a State or other political subdivision on or before December 31, 1970.

(h) Upon request, furnish the lender with operating budgets; occupancy, accounting and other reports; properly certified copies of minutes of meetings of the directors, officers, shareholders, or beneficiaries of the Mortgagee entity; and specific answers to questions raised from time to time by the lender relative to income, assets, liabilities, expenses, operation, and condition of the project. The Mortgagee must furnish a response to the lender's or HUD's on-site review reports and written inquiries regarding annual or monthly financial statements no later than 30 days after receipt of the lender's report or inquiries.

(i) In renting units adhere to the civil rights and equal opportunity requirements set forth in § 251.208.

(j) Give preference to families or individuals displaced from an urban renewal area, or as a result of governmental action or a major disaster as determined by the President.

(k) Permit occupancy of:

(1) Unsubsidized units only under a lease or occupancy agreement that meets the requirements of this part and any requirements established by the lender; and

(2) Subsidized units only under a lease or occupancy agreement approved by the Commissioner.

(l) Adhere to the Commissioner's occupancy requirements for any units assisted under a project-based Section 8 Housing Assistance Payments Contract.

(m) Not permit any part of the project to be rented for transient or hotel purposes. The term rental for transient or hotel purposes means (1) rental for any period less than 30 days or (2) any rental, if the occupants of the housing accommodation are provided customary hotel services, such as room service for food and beverage, maid service, furnishing and laundering of linens, and bellhop service.

(The information collection requirements contained in paragraphs (g) and (h) of this section were approved by the Office of Management and Budget under control numbers 2502-0314 and 2502-0108, respectively.)

### Subpart 1—Contract Rights and Obligations

#### Mortgage Insurance Premiums

##### § 251.801 MIP in insurance of advances cases.

(a) Amount of MIP to be collected from the Mortgagee. (1) Before the initial endorsement of the Mortgage for coinsurance, the lender must collect a MIP from the Mortgagee equal to one percent of the original amount of the Mortgage.

(2) If the date of the first principal payment is more than one year after the date of initial endorsement, the lender must, before each anniversary of the date of initial endorsement that occurs more than 30 days before the first principal payment, collect from the Mortgagor an additional MIP equal to 0.5 percent of the original Mortgage amount.

(3) Before the first principal payment, the lender must collect from the Mortgagor an amount equal to 0.5 percent of the average outstanding principal balance of the Mortgage for the year following the first principal payment.

(4) Beginning with the first principal payment and continuing until the Coinsurance Contract terminates, the lender must collect and place in escrow monthly MIP sufficient to accumulate 0.5 percent of the average principal that will be outstanding during the upcoming year. No adjustments may be made for delinquent payments or prepayments on the Mortgage except as provided in § 251.804.

(5) The MIP required under paragraphs (a) (1) and (2) of this section may be included in the Mortgage. The Mortgagor must pay the MIP required under paragraphs (a) (3) and (4) of this section from its own funds.

(b) *Payment of MIP by the lender.* (1) At initial endorsement, the lender must pay to the Commissioner an initial MIP equal to .65 percent of the original amount of the Mortgage.

(2) If the date of the first principal payment is more than one year after the date of the initial endorsement, the lender must, on each anniversary of the date of initial endorsement that occurs more than 30 days before the first principal payment, pay to the Commissioner an additional MIP equal to 0.5 percent of the original Mortgage amount.

(3) Following final endorsement, the Commissioner will adjust the MIP so that it equals .65 percent per year of the average outstanding principal balance for the year following the date of initial endorsement plus 0.5 percent per year of the average outstanding principal balance for the period from the first anniversary of initial endorsement to the date of the first principal payment. If the adjusted amount is less than the amount previously paid by the lender, the Commissioner will refund the excess amount to the lender for application to the Mortgagor's account.

(4) On the date of the first principal payment and each year thereafter on the anniversary of the date on which the first principal payment was due, and continuing until the Coinsurance

Contract is terminated, the lender must pay to the Commissioner a MIP equal to 0.4 percent of the average outstanding principal balance of the Mortgage for the 12 months following the date the premium becomes payable. The average outstanding principal balance is computed using the project's amortization schedule. No adjustments may be made for delinquent payments or Mortgage prepayments except as provided in § 251.804.

#### § 251.802 MIP in insurance upon completion cases.

(a) *Amount of MIP to be collected from the Mortgagor.* (1) Before endorsement of the Mortgage for coinsurance, the lender must collect from the Mortgagor a MIP equal to 0.5 percent per year of the average outstanding principal balance of the Coinsured Mortgage from the date of the endorsement to one year after the due date of the first payment to principal.

(2) For each year thereafter, the lender must collect from the Mortgagor monthly MIP sufficient to accumulate and place in escrow 0.5 percent of the average principal balance outstanding during the upcoming year. No adjustments may be made for delinquent payments or prepayments on the Mortgage except as provided in § 251.804.

(b) *Payment of MIP by the lender.* (1) At endorsement, the lender must pay to the Commissioner an initial MIP equal to 0.5 percent of the face amount of the Mortgage. Following endorsement, the Commissioner will adjust the initial MIP so that it equals 0.5 percent per year of the average outstanding balance of the Mortgage from the date of endorsement to one year after the due date of the first payment to principal. If this adjusted amount is more than the amount paid by the lender at endorsement, the Commissioner will bill the lender for the difference. If the adjusted amount is lower than the amount paid by the lender at endorsement, the Commissioner will refund the excess amount to the lender for application to the Mortgagor's account.

(2) Beginning on the anniversary of the date on which the first principal payment was due and continuing annually thereafter until the Coinsurance Contract is terminated, the lender must pay to the Commissioner a MIP equal to 0.4 percent of the average outstanding principal balance for the 12 months following the date the premium becomes available. The average outstanding principal balance is computed using the project's amortization schedule. No adjustments may be made for delinquent payments

or Mortgage prepayments except as provided in § 251.804.

#### § 251.803 Duration and method of payment of MIP.

(a) MIP payments must continue annually until one of the following occurs:

- (1) The Mortgage is paid in full;
  - (2) A deed to the lender is filed for record; or
  - (3) The Contract of Coinsurance is otherwise terminated with the consent of the Commissioner.
- (b) The lender may pay any MIP required under this part in cash or debentures.

#### § 251.804 Pro-rata refund of annual MIP.

If the Coinsurance Contract is terminated by prepayment in full or by termination with the consent of the Commissioner after the due date of the first annual MIP, the Commissioner will refund any MIP paid for the period after the effective date of the termination of insurance. The refund will be mailed to the lender for credit to the Mortgagor's account. In computing the pro rata portion of the annual MIP, the date of termination of coinsurance will be the last day of the month in which the Mortgage is prepaid or the Commissioner receives a termination request. No refund will be made if insurance was terminated because of a default or if termination occurs before the date the first annual MIP is due.

#### § 251.805 Late charges—MIP.

(a) If the Commissioner receives a MIP payment more than 15 days after the later of the billing date or due date, the lender must pay a late charge of four percent of the amount due.

(b) If the Commissioner receives a MIP payment more than 30 days after the later of the billing or due date, the lender must pay both the four percent late charge and interest. Interest will be charged from the later of the billing date or the due date at a rate set in conformity with the Treasury Fiscal Requirements Manual.

#### § 251.806 [Reserved]

#### Delinquency and Default Under the Mortgage

##### § 251.807 Notice of delinquency.

If the lender has not received the Mortgagor's monthly Mortgage payment by the 16th day of the month in which the payment is due, the lender must give the Commissioner written notice of the delinquency. This notice must include the information required by the Commissioner's administrative procedures. The lender must mail this

notice in time for it to be received by the Commissioner by the 20th day of that month.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0041.)

#### § 251.808 Definition of default.

(a) A monetary default exists when the Mortgagor fails to make any payment due under the Mortgage.

(b) A covenant default exists when the Mortgagor fails to perform any other covenant under the provisions of the Mortgage or the regulatory agreement, which is incorporated in the Mortgage. A lender becomes eligible for insurance benefits on the basis of a covenant default only after the lender has accelerated the debt and the owner has failed to pay the full amount due, thus converting a covenant default into a monetary default.

#### § 251.809 Date of default.

For purposes of this subpart, the date of default is:

(a) The date of the first uncorrected failure to perform a mortgage covenant or obligation; or

(b) The date of the first failure to make a monthly payment that is not covered by subsequent payments, when such subsequent payments are applied to the overdue monthly payments in the order in which they were due.

#### § 251.810 Notice of default.

If a default (as defined in § 251.808) continues for a period of 30 days, the lender must notify the Commissioner within 30 days thereafter, unless the default is cured. Unless waived by the Commissioner, the lender must submit this notice monthly on a form prescribed by the Commissioner until the default has been cured, the lender has acquired title to the property, or the coinsurance contract has been terminated.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0041.)

#### § 251.811 Financial relief to cure a default.

(a) To reinstate a defaulted Mortgage, the lender may use one or more of the forms of financial relief described in this section. The lender's efforts to cure a default will not result in a curtailment of interest as provided by § 251.821(b) in any subsequent claim for insurance benefits, if the lender complies with the conditions set forth in this section and the notice requirements set forth in §§ 251.810 and 251.815. The lender must service delinquent loans in accordance

with the Commissioner's administrative requirements.

(1) Temporary adjustment of Mortgage payments. Without obtaining the Commissioner's approval, the lender may agree to hold the Mortgage in default and temporarily adjust payments, if a temporary payment plan meets the conditions listed below. The lender may approve a payment plan that does not meet all of these conditions only after obtaining the Commissioner's written approval.

(i) The temporary payment plan will last no longer than 18 months.

(ii) Payments will be set at less than the debt service and escrows required by the Mortgage for no more than six months.

(iii) The plan requires the Mortgagor to pay a specific dollar amount each month toward the Mortgage delinquency, but also gives the lender the right (subject to the Commissioner's administrative requirements) to require that the Mortgagor also apply any net operating income to the Mortgage delinquency.

(iv) The Plan requires the Mortgagor to furnish the lender monthly accounting reports until the Mortgage is reinstated.

(v) The Mortgagor agrees that, even if the project is current under the terms of a temporary payment plan, no distributions will be paid until the Mortgage itself has been brought current and the Mortgagor has complied with all terms of the temporary payment plan and any broader reinstatement plan, including the completion of any maintenance work or management initiatives.

(2) Withdrawal from the reserve for replacements. If the Mortgage is more than 25 days delinquent, the lender may withdraw reserve funds without prior Commissioner approval to pay up to one month's debt service and Mortgage escrows. The lender must obtain the Commissioner's written approval for withdrawals that, individually or cumulatively over a 12-month period, would exceed one month's Mortgage payment.

(3) Suspension of deposits to the reserve for replacements. The lender may suspend up to six months' reserve deposits for up to six months during any 36 month period. The lender must obtain the Commissioner's written approval for suspensions in excess of six months during any 36-month period.

(4) Recasting the Mortgage. The lender may recast delinquent principal and interest over the remaining Mortgage term so long as the sum of the outstanding principal balance of the Mortgage and the delinquency being recast does not exceed the original

Mortgage amount, and the lender obtains the Commissioner's written approval before executing an agreement permanently modifying the terms of the Mortgage.

(b) For any project comprising a GNMA pool, the lender-issuer must continue to pay the securities holders the full amount of scheduled payments due under the securities, even if the lender does not collect the full amount from the Mortgagor.

(The information collection requirements contained in paragraph (a)(1)(iv) of this section were approved by the Office of Management and Budget under control number 2502-0108.)

#### § 251.812 Reinstatement of a defaulted mortgage.

If the Mortgagor cures the default before the completion of any foreclosure proceedings, the insurance will continue as if a default had not occurred. The Mortgagor must pay all reasonable expenses that the lender incurs in connection with the foreclosure proceedings. The lender must give written notice of reinstatement to the Commissioner.

#### Termination

##### § 251.813 Termination of coinsurance contract.

(a) The Contract of Coinsurance will terminate if any of the following occurs:

- (1) The Mortgage is paid in full;
- (2) The lender acquires the Mortgaged property and notifies the Commissioner that it will not make a claim for insurance benefits;
- (3) The Mortgagor redeems the property after foreclosure;
- (4) A party other than the lender acquires the property at a foreclosure sale;
- (5) The Mortgagor and lender jointly request termination and the Commissioner grants approval; or
- (6) The lender or its successors or assigns commit fraud or make a material misrepresentation to the Commissioner with respect to the Contract of Coinsurance on the Mortgage.

(b) The Contract of Coinsurance may, at the option of the Commissioner, be terminated in the event of the assignment or transfer of interest of a Coinsured Mortgage which does not meet the requirements of § 251.106.

(c) When the Coinsurance Contract is terminated, all of the rights and obligations of the Mortgagor and the lender, including the obligation to pay MIP, will terminate.

**§ 251.814 Notice and date of termination by Commissioner.**

The Commissioner will notify the lender that the contract of coinsurance on a Mortgage has been terminated and will establish the effective date of the termination. The termination date will be the last day of the month in which any one of the events specified in § 251.813 occurs.

**Claim Procedure and Payment of Insurance Benefits****§ 251.815 Notice of election to acquire property and file a claim.**

Unless the Commissioner has given the lender a written extension, the lender must notify the Commissioner of its election to acquire the property and its intention to file a claim for insurance benefits within 75 days of the date of default. The Commissioner will approve an extension of the 75-day deadline if the Commissioner determines that (a) the lender and the Mortgagor are diligently pursuing reinstatement of the Mortgage, and (b) reinstatement of the Mortgage and resolution of the problems that lead to the default are feasible.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0332.)

**§ 251.816 Acquisition of property.**

Unless the Commissioner has given the lender a written extension, within 30 days after submitting the notice required by § 251.815, the lender must institute action either to foreclose the Mortgage or acquire title to the Mortgaged property through deed-in-lieu of foreclosure. The lender must exercise reasonable diligence in pursuing this action, and must promptly report to the Commissioner any developments that might delay the completion of acquisition. During the period that the lender controls the property, it must adhere to the Commissioner's requirements for project management, as set forth in the regulatory agreement and the Commissioner's administrative procedures.

**§ 251.817 Deed-in-lieu of foreclosure.**

In lieu of instituting or completing a foreclosure, the lender may acquire the property by voluntary conveyance from the Mortgagor. The lender may accept a deed-in-lieu of foreclosure if:

- (a) The Mortgage is in default at the time the deed is executed and delivered;
- (b) The credit instrument is canceled and surrendered to the Mortgagor;
- (c) The Mortgage of record is satisfied as a part of the consideration for the conveyance; and

(d) The deed from the Mortgagor conveys marketable title and contains a covenant that warrants against the acts of the grantor and all claims by, through, or under the grantor.

**§ 251.818 Disposition of property and application for insurance benefits.**

(a) After acquisition of marketable title to the property, the lender must obtain two appraisals of the property performed by independent appraisers. The lender must select the appraisers from a panel approved by the Commissioner. The appraisals must estimate the market value of the property, as of the date of acquisition, for its highest and best use. The higher of the two appraisal values shall be deemed the appraisal value for purposes of this subpart.

(b) After the lender sells the property, or after the end of 12 months from the date of acquisition of title, whichever occurs first, the lender may file a claim for any insurance benefits to which it is entitled under § 251.820. The lender must file the claim no later than 15 days after the sale, or expiration of the 12-month period, whichever is applicable, or Mortgage interest will be curtailed in accordance with § 251.821(b).

(c) The lender must file the claim on a form approved by the Commissioner and must state the sales price and the income and expenses incurred in connection with the acquisition, repair, operation, and sale of the property. The lender must also submit evidence in support of the claim, as prescribed by the Commissioner, including the appraisals required by paragraph (a) of this section, and ledger records and documentation for all accounts relating to the Mortgage transaction.

(d) If the property has not been disposed of at the time of the lender's request for payment, the lender must use the higher of the two appraised values of the property secured in accordance with paragraph (a) of this section in its notification to the Commissioner, in lieu of the sales price.

(The information collection requirements contained in paragraph (c) of this section were approved by the Office of Management and Budget under control number 2502-0332.)

**§ 251.819 Method of payment.**

The Commissioner will pay insurance benefits in cash, unless the lender files a written request for payment in debentures. In the event that the lender requests debentures, all of the provisions of 24 CFR 207.259(e) will apply.

**§ 251.820 Amount of payment.**

(a) The basis for the computation of insurance benefits will be:

(1) The principal balance of the Mortgage unpaid as of the date of the institution of foreclosure proceedings or the date of acquisition of the property by deed in lieu of foreclosure;

(2) Plus all items set forth in § 251.821;

(3) Less all items set forth in § 251.822.

(b) The Commissioner will pay insurance benefits equal to 85 percent of the amount computed under paragraph (a) of this section if the lender (1) Has obtained no insurance of its coinsurance risk, (2) has insured 50 percent of its coinsurance risk or (3) is a State Housing Agency eligible as a lender under § 203.8(b) of this chapter that obtained reinsurance from an authorized public mortgage insurer for any portion or all of its coinsurance risk, where the Commissioner finds an identity of interest exists between the State Housing Agency and the public mortgage insurer.

(c) The Commissioner will pay insurance benefits equal to 72.25 percent of the amount computed under paragraph (a) of this section if the lender has obtained insurance for either 100 percent of its coinsurance risk or that portion of its coinsurance risk that equals the maximum amount that the insurer is authorized to insure.

(d) This paragraph sets forth the amount of coinsurance benefits to be paid when the amount of reinsurance obtained by the lender changes. If reinsurance is increased after initial or final endorsement, HUD's insurance benefits will be reduced accordingly. HUD's insurance benefits will not be increased if reinsurance is reduced or cancelled after final endorsement.

**§ 251.821 Items included in payment.**

In computing insurance benefits, the following items will be added to the amount described in § 251.820(a)(1):

(a) The amount of all payments that the lender made from its own funds and not from project income for:

(1) Taxes, special assessments, and water bills that are liens before the Mortgage;

(2) Fire and hazard insurance on the property; and

(3) Any Mortgage insurance premiums paid after the date of default. However, HUD will not reimburse the lender for any interest, late charge or other penalties imposed because of the lender's failure to make the required payments when due.

(b) An amount equivalent to Mortgage interest on the unpaid principal balance of the Mortgage on the date the lender

initiated foreclosure proceedings or on the date the lender acquired title to the property through deed-in-lieu of foreclosure. This interest will be payable from the date of default to the date of payment of the insurance benefits. However, if the lender fails to meet any of the requirements of §§ 251.810, 251.815, 251.816, or 251.818(b), within the specified time (including any permissible extension of time), the accrual of interest allowance on the cash payment will be curtailed by the number of days by which the required action was late.

(c) An amount not in excess of two-thirds of the costs actually paid by the lender and approved by the Commissioner of acquiring the property. These costs may not include loss or damage resulting from the invalidity or unenforceability of the Mortgage lien or the unmarketability of the Mortgagor's title.

(d) Reasonable payments that the lender made from its own funds and not from project income for:

(1) Preservation, operation and maintenance of the property.

(2) Repairs necessary to meet the objectives of the HUD minimum property standards, those required by local law, and additional repairs that HUD specifically approved in advance; and

(3) Expenses in connection with the sale of the property.

#### § 251.822 Items deducted from payment.

In computing insurance benefits, the following items will be deducted from the amount described in § 251.818(a)(1):

(a) An amount equal to five percent of the outstanding principal balance of the Mortgage on the date the lender instituted foreclosure proceedings or acquired title to the property through deed-in-lieu of foreclosure.

(b) All amounts received by the lender on account of the mortgage after the institution of foreclosure proceedings or the acquisition of the property through deed-in-lieu of foreclosure after default, and any other reimbursement to the lender, other than under the Coinsurance Contract.

(c) All cash or funds related to the mortgaged property that the lender holds (or to which it is entitled) including deposits and escrows made for the account of the Mortgagor. However, for any Mortgage comprising a GNMA pool, this deduction must exclude any funds in the lender-issuer's custodial accounts and collateral funding a GNMA Deposit Agreement relating to the lender-issuer loss exposure during the GNMA Indemnity Period.

(d) The amount of any undrawn balance under a letter of credit that the lender accepted in lieu of a cash deposit for an escrow agreement;

(e) Any net income from the Mortgaged property that the lender received after the date of default;

(f) The proceeds from the sale of the project or the appraised value of the project as provided in § 251.818, as follows:

(1) If the lender disposes of the project through a negotiated sale, the amount deducted will be the higher of the sales price or the appraised value.

(2) If the lender disposes of the project through a competitive bid procedure approved by the Commissioner, the amount deducted will be the sales price, even if it is lower than the appraised value.

(3) If the lender has not disposed of the project within 12 months from the date of acquisition, the amount deducted will be the appraised value.

(g) Any and all claims that the lender has acquired in connection with the acquisition and sale of the property. Claims include but are not limited to returned premiums from cancelled insurance policies, interest on investments of reserve for replacement funds, tax refunds, refunds of deposits left with utility companies, and amounts received as proceeds of a receivership.

#### § 251.823 [Reserved]

#### Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgage-Backed Securities Program

##### § 251.824 Indemnification of GNMA.

(a) If, after the Commissioner pays a coinsurance claim, the lender-issuer fails to pay the full amount owed to a holder of securities guaranteed by GNMA and backed by a coinsured loan, the Commissioner will reimburse the Association for the amount the Association must pay securities holders as a result of the lender's default in payment.

(b) This amount will not exceed 15 percent or 27.75 percent (whichever is appropriate) of the amount computed under § 251.820, plus the amount referenced in § 251.822(a). The Commissioner will make payment in cash. After payment by the Commissioner, the lender-issuer will have no claim against the Commissioner for any such funds.

##### § 251.825 Withdrawal of lender approval.

If the Commissioner is required to make payments to GNMA because of the lender-issuer's failure to pay any amount owed to a holder of GNMA

securities backed by a Coinsured Mortgage, the Commissioner may request that the Mortgagee Review Board withdraw approval of the lender-issuer as a HUD-approved Mortgagee, under the provisions of Part 25 of this title.

##### § 251.826 HUD recourse against lender-issuer.

If the Commissioner is required to make payments to GNMA because of the lender-issuer's failure to pay any amount owed to a holder of GNMA securities backed by a Coinsured Mortgage, the lender-issuer will be liable for reimbursing the Commissioner for the payments.

##### § 251.827 GNMA right to assignment.

If the lender-issuer defaults on its obligations under the GNMA Mortgage-Backed Securities Program, GNMA will have the right, notwithstanding the requirements of § 251.106, to cause all Coinsured Mortgages held in GNMA pools by the defaulting coinsuring lender-issuer to be assigned to another GNMA-approved coinsuring lender-issuer or to itself.

(a)(1) For any Coinsured Mortgage that is not in default and is held by a defaulting lender-issuer, GNMA will first attempt to have the Mortgage assigned to another eligible coinsuring lender by soliciting offers to assume the defaulting lender-issuer's rights and obligations under the Mortgage from those eligible coinsuring lenders that are indicated on a periodically updated listing furnished to GNMA by the Commissioner and that are also GNMA issuers.

(2) If GNMA rejects all offers or no offers are received, GNMA will have the right to perfect an assignment of the Mortgage to itself.

(b) For any Coinsured Mortgage that is in default and held by a defaulting lender-issuer, GNMA will have the right to perfect an assignment of the Coinsured Mortgage directly to itself before extinguishing the Mortgage by completion of foreclosure action or acquisition of title by deed-in-lieu of foreclosure.

(c) GNMA, as assignee, will give the Commissioner written notice within 30 days after taking a Mortgage by assignment in accordance with this section, in order to allow an appropriate endorsement and necessary changes in the Commissioner's records.

(d) The Commissioner will endorse any Mortgage assigned to GNMA as provided by this section for full insurance effective as of the date of assignment in accordance with the

appropriate provisions of 24 CFR Part 221. Any future insurance claim by GNMA or any assignment of the fully insured Mortgage will be governed by the appropriate provisions of 24 CFR Part 221, except that any payment will be made in cash instead of debentures.

**§ 251.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.**

(a) If, as a result of a default by a lender-issuer on its obligations under the GNMA Mortgage-Backed Securities (MBS) program, GNMA must pay any amount owed to a securities holder, GNMA as substitute lender-issuer shall be entitled to file a claim for and to receive coinsurance benefits in accordance with this subpart. GNMA may file a claim with the Commissioner immediately upon its declaration of the lender-issuer's default under the GNMA MBS program, if the defaulting lender-issuer has acquired legal title to property previously covered by a co-insured mortgage ("coinsured property") but has not received coinsurance benefits under this subpart, and if the defaulting lender-issuer cannot or will not convey legal title to the coinsured property to GNMA. Such a claim may be filed by GNMA notwithstanding the requirements of § 251.818(b) that claims be submitted after the sale of the coinsured property or the expiration of 12 months from the acquisition of title. The claim shall be based upon property appraisals obtained by the lender-issuer at the time of acquisition of title or, in the absence of such appraisals, upon appraisals obtained by GNMA after default of the lender issuer. The lender-issuer will have no claim against the Commissioner for any payment pursuant to this section.

(b) If, as a result of the lender-issuer's default, the full amount paid by GNMA to one or more securities holders exceeds the amount of coinsurance benefits paid by the Commissioner to GNMA under paragraph (a) with respect to the Coinsured Mortgage that backed the securities, then the Commissioner shall reimburse GNMA for such additional amount in accordance with § 251.823(b).

(c) For any Coinsured Mortgage that is to be included in a GNMA MBS pool, GNMA shall obtain, an assignment by contract of any future right of the lender-issuer to collect coinsurance benefits on the Coinsured Mortgage following the lender-issuer's acquisition of legal title to the underlying coinsurance property on behalf of securities holders and GNMA. Such assignment shall become effective upon default by any lender-

issuer after its acquisition of legal title to the coinsured property.

(d) If the lender-issuer is unable or unwilling to transfer legal title to the coinsured property promptly to GNMA, GNMA shall take all necessary and appropriate action to obtain legal title to it. Upon receipt of legal title, GNMA shall convey the coinsured property to the Commissioner. In the event GNMA cannot acquire legal title, GNMA shall transfer to the Commissioner any other rights or interests it possesses in the coinsured property.

(e) GNMA shall reimburse the Commissioner in an amount not to exceed the amount of any payment by the Commissioner to GNMA under paragraph (a) if the Commissioner is required to pay coinsurance proceeds under this subpart to any party other than GNMA with respect to the Coinsured Mortgage.

**PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS**

6. The heading and table of contents of 24 CFR Part 255 are revised to read as follows:

**PART 255—COINSURANCE FOR THE PURCHASE OR REFINANCING OF EXISTING MULTIFAMILY HOUSING PROJECTS**

**Subpart A—General Provisions**

- Sec.
- 255.1 Purpose and scope.
- 255.2 Coinsurance contract.
- 255.3 Definitions.
- 255.4 Effect of amendments.

**Subpart B—Lender Requirements**

- 255.101 Eligible lender.
- 255.102 Review and approval as coinsuring lender.
- 255.103 Duration of approval.
- 255.104 Probation, suspension or withdrawal of approval.
- 255.105 Delegation of servicing.
- 255.106 Assignment of and participation in coinsured mortgages.
- 255.107 Reinsurance.
- 255.108 Pledging and other security arrangements.

**Subpart C—Program Requirements**

- 255.201 Eligible project.
- 255.202 Eligible mortgagors.
- 255.203 Maximum mortgage limitations.
- 255.204 Maximum interest rate.
- 255.205 Term of the Mortgage.
- 255.206 Lender's fees and premiums.
- 255.207 Coinsurance of mortgages in lender's portfolio.
- 255.208 Nondiscrimination in housing and employment.
- 255.209 Labor Standards and prevailing wage requirements.

**Subpart D—Processing and Commitment**

- 255.301 Processing responsibilities.
- 255.302 Processing and commitment.

**Subpart E—Cost Certification and Endorsement by the Commissioner**

- 255.401 Agreement to certify cost requirements.
- 255.402 Certificate of actual cost—contents in general.
- 255.403 Effect of certification of actual costs.
- 255.404 [Reserved]
- 255.405 [Reserved]
- 255.406 Lender's review of mortgage amount.
- 255.407 Endorsement by the Commissioner.

**Subpart F—Mortgage and Closing Requirements**

- 255.501 Mortgage requirements—real estate.
- 255.502 Title.
- 255.503 Mortgage and note provisions.
- 255.504 Mortgage lien and other obligations.
- 255.505 Regulatory agreement.
- 255.506 Other closing documents.

**Subpart G—Requirements Relating to Structure of Mortgage Entity and Transfer of Ownership Interest**

- 255.601 Requirements applicable to all projects.

**Subpart H—Program Requirements Relating to Project Operation**

- 255.701 General.
- 255.702 Reserve for replacements and general operating reserve.
- 255.703 Rents and charges.
- 255.704 Use of project funds.
- 255.705 Distributions and residual receipts.
- 255.706 Project management.

**Subpart I—Contract Rights and obligations Mortgage Insurance Premiums**

- 255.801 Payment of MIP by mortgagor and lender.
- 255.802 [Reserved]
- 255.803 Duration and method of payment of MIP.
- 255.804 Pro-rate refund of annual MIP.
- 255.805 Late charges—MIP.

**Delinquency and Default Under the Mortgage**

- 255.806 [Reserved]
- 255.807 Notice of delinquency.
- 255.808 Definition of default.
- 255.809 Date of default.
- 255.810 Notice of default.
- 255.811 Financial relief to cure a default.
- 255.812 Reinstatement of a defaulted Mortgage.

**Termination**

- 255.813 Termination of coinsurance contract.
- 255.814 Notice and date of termination by Commissioner.

**Claim Procedures and Payment of Insurance Benefits**

- 255.815 Notice of election to acquire property and file a claim.
- 255.816 Acquisition of property.
- 255.817 Deed in lieu of foreclosure.

- 255.818 Disposition of property and application for insurance benefits.  
 255.819 Method of payment.  
 255.820 Amount of payment.  
 255.821 Items included in payment.  
 255.822 Items deducted from payment.  
 255.823 Amount of payment for certain mortgages covering property rehabilitated with assistance under 24 CFR Part 511 or Part 550.

**Remedies for Default by a Lender-Issuer Under the Government National Mortgage Association (GNMA) Mortgage-Backed Securities Program**

- 255.824 Indemnification of GNMA.  
 255.825 Withdrawal of lender approval.  
 255.826 HUD recourse against lender-issuer.  
 255.827 GNMA right to assignment.  
 255.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.

Authority: Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)), Sec. 211, National Housing Act (12 U.S.C. 1715(b)), and sec. 244, National Housing Act (12 U.S.C. 1715z(9)).

7. In § 255.1, paragraph (g)(2) is revised and paragraph (h) is added to read as follows:

**§ 255.1 Purpose and scope.**

(g)(1) \* \* \*

(2) Insurance authorized by this part will not be available for mortgages on properties that are eligible to be insured solely under the authority of section 223(e) of the National Housing Act.

(h) Neither the coinsuring lender nor the Mortgagor shall have any vested or other right in the General Insurance Fund.

8. Section 255.2 is revised to read as follows:

**§ 255.2 Coinsurance contract.**

The Contract of Coinsurance is the agreement between the lender and the Commissioner to coinsure a Mortgage under this part. It is evidenced by an endorsement on the Mortgage note by the Commissioner, or by the Commissioner's authorized departmental representative, and includes the terms, conditions, and provisions of this part.

9. In § 255.3, paragraphs (b), (h), and (m) are revised to read as follows:

**§ 255.3 Definitions.**

(b) "Cooperative Mortgagor" means a nonprofit cooperative ownership housing corporation regulated under State law and by the lender under a regulatory agreement that restricts permanent occupancy of the project to members of the corporation, and requires membership eligibility and

transfer of membership in a manner approved by the Commissioner.

(h) "Mortgage Insurance Premium" (MIP) means the mortgage insurance premium collected under § 255.801 of this part.

(m) "Surplus Cash" means any unrestricted cash remaining after.

(1) The payment of:

(i) All sums due or currently required to be paid under the terms of any Mortgage or note coinsured by the Commissioner.

(ii) All amounts required to be deposited in any replacement or operating reserve, and

(iii) All other obligation of the project other than the coinsured mortgage unless funds for payment are set aside, or deferral of payment has been approved by the lender, and

(2) The escrow of an amount equal to:

(i) The aggregate of any special funds required to be maintained by the project; and

(ii) The project's total liability for tenant security deposits.

In computing Surplus Cash, the Mortgagor must follow any administrative requirements prescribed by the Commissioner.

10. Section 255.4 is revised to read as follows:

**§ 255.4 Effect of amendments.**

The Commissioner may amend the regulations in this part from time to time. Amendments will not adversely affect the interests of the lender under the Contract of Coinsurance on any mortgage already coinsured. Amendments will not adversely affect the interest of a lender on any mortgage to be coinsured on or which the lender has issued a firm commitment to coinsure, provided that the Mortgage is endorsed for coinsurance within 60 days after issuance of the commitment. The 60 days will run from the date of the original issuance of the commitment or from the date of any amendment, reissuance, or extension of a commitment that occurred before the effective date of the amendment to the regulation.

11. The heading of § 255.106 is revised to read as follows:

**§ 255.106 Assignment of and participation in coinsured mortgages.**

12. In § 255.107, paragraph (b) is revised to read as follows:

**§ 255.107 Reinsurance.**

(b) The effect of reinsurance on the insurance benefits payable by the Commissioner is covered in § 255.820.

13. In § 255.108, paragraph (d) is revised to read as follows:

**§ 255.108 Pledging the other security arrangements.**

(d) A lender may not pledge the beneficial interest of Coinsured Mortgages backing Government National Mortgage Association (GNMA) Project Loan Certificates except as authorized by GNMA.

14. In § 255.201, the first two sentences of paragraph (a) are revised to read as follows:

**§ 255.201 Eligible project.**

(a) Existing housing projects (with such repairs and improvements as are determined by the lender to be necessary) are eligible under this part. The property must not require Substantial Rehabilitation as defined in § 255.3 and three years must have elapsed from the date of completion of construction or Substantial Rehabilitation of the project, or from the beginning of occupancy, whichever is later, to the date of application for mortgage insurance.

15. In § 255.203 paragraphs (c) and (d)(2) are revised to read as follows:

**§ 255.203 Maximum Mortgage limitations.**

(c) *Debt service limits.* The net projected project income available for payment of debt service is determined by reducing the estimated gross income of the project by a vacancy and collection loss factor and by the cost of all estimated operating expenses, including deposits to the reserve for replacements, taxes and distributions. In determining net projected project income for cooperative projects, a 3 percent operating reserve and a 2 percent vacancy reserve will be used in lieu of the vacancy and collection loss factor applicable to rental projects. The maximum Coinsurable Mortgage cannot exceed the amount that could be amortized by 85 percent (90 percent for cooperatives or if the project meets the eligibility requirements contained in § 207.32a(1) of this chapter) of net projected project income.

(d) \* \* \*

(2) In the case of a cooperative project, the cost to refinance the existing indebtedness as defined in paragraph (d)(1)(ii) of this section.

16. Section 255.206 is revised to read as follows:

**§ 255.206 Lender's fees and premium.**

(a) The lender may collect from the Mortgagor, and include in the Mortgage, an application fee, financing fee, permanent placement fee and, if applicable, an inspection fee. These fees may not exceed maximums approved by the Commissioner. In addition, the lender may collect other reasonable fees approved by the Commissioner that are paid from sources other than Mortgage proceeds and are disclosed at endorsement. In no event will the fees allowed under this paragraph be permitted to exceed comparable fees allowed in the full insurance program under § 207.32a of this chapter.

(b) The coinsuring lender may collect a lender's premium of up to .25 percent (.10 percent in the case of a Mortgage approved for coinsurance benefits under § 255.823) per year of the average outstanding principal balance of the Mortgage (without regard to delinquent payments or prepayments), beginning not earlier than 12 months after the date of the first payment to principal. This premium will be for the account of the lender or an insurer of the lender.

17. In § 225.208 the introductory text and paragraph (a) are revised to read as follows:

**§ 255.208 Nondiscrimination in housing and employment.**

The Mortgagor must certify to the lender and to the Commissioner that so long as the mortgage is coinsured under this part it will:

(a) Not use tenant selection procedures that discriminate against families with children, unless the project was specifically designed for housing the elderly or handicapped;

18. In § 255.301 paragraphs (a), (b)(1), and (e) are revised to read as follows:

**§ 255.301 Processing responsibilities.**

(a) The lender is responsible for the performance of all functions under this part including acceptance and review of applications, issuance of commitments, inspections, and closings, except those functions specified in paragraphs (b), (d), and (e) of this section.

(b) \* \* \*

(1) Previous participation of the principals of the Mortgagor, the general contractor, if any, and the management agency, in accordance with the Previous Participation and Clearance Review Procedures of §§ 200.210 through 200.218 of this chapter.

(e) The Commissioner retains responsibility for the enforcement of labor standards and prevailing wage requirements set out in § 255.209, except that he may delegate to the lender information collection (e.g., payroll review and routine interviews) or other routine administrative and enforcement functions, subject to monitoring by the Commissioner.

19. In § 255.302, paragraph (b) is revised to read as follows:

**§ 255.302 Processing and commitment.**

(b) The lender may issue a firm commitment to coinsure after completion of its review and after receipt of written evidence from HUD of (1) the acceptability of the project in the areas of responsibility retained by the Commissioner under § 255.301(b); (2) a waiver, where needed, of the approved high-cost factor under § 255.302(a); and (3) completion of any case review requirements of the Commissioner that are part of the lender approval process.

20. In § 255.401 the introductory text is revised to read as follows:

**§ 255.401 Agreement to certify cost requirements.**

Before the start of repairs and endorsement of the loan, the lender must enter into an Agreement and Certification with the Mortgagor, in a form and content satisfactory to the Commissioner for the purpose of precluding any excess of Mortgage proceeds over statutory and regulatory limitations. Under this Agreement, the Mortgagor must agree:

**§ 225.404 [Redesignated as § 225.406]**

21. Section 225.404 is redesignated as § 225.406.

**§ 225.405 [Redesignated as § 225.407]**

22. Section 225.405 is redesignated as § 225.407.

23. In § 225.503 paragraphs (f)(1), and (i)(2) are revised to read as follows:

**§ 225.503 Mortgage and note provisions.**

(f)(1) The Mortgage must provide that all amounts due monthly from the Mortgagor of the lender be added together into a single payment to be made by the Mortgagor on each monthly payment date. The lender must apply payments received from the Mortgagor or for the account of the Mortgagor to the following items in the order listed:

(i) MIP under the Contract of Coinsurance;

(ii) Ground rents, taxes, special assessments, and fire and other hazard insurance premiums;

(iii) Interest of the Mortgage; and

(iv) Principal on the Mortgage.

\* \* \* \* \*

(i) \* \* \*

(2) Subject to the requirements of paragraph (i)(1) of this section partial of full prepayment of the Mortgage is permitted except that:

(i) Mortgages which cover projects in which units are subsidized under section 8 of the United States Housing Act of 1937 or other Federal law, or Mortgages which may be purchased, assigned, or otherwise transferred to the Government National Mortgage Association (GNMA) may be subject to prepayment standards and restrictions established by the Commissioner, and

(ii) Mortgages given to secure a loan made by a lender that has obtained the funds for the loan by the issuance and sale of bonds or bond anticipatory notes, or both, may contain a prepayment penalty charge acceptable to the lender as to term, amount and conditions in accordance with standards adopted by the Commissioner.

\* \* \* \* \*

24. In § 255.504, paragraph (e)(1) is revised to read as follows:

**§ 255.504 Mortgage lien and other obligations.**

\* \* \* \* \*

(e)(1) For projects that meet the eligibility requirements of § 207.32a(1) of this chapter, the provisions of § 207.32a(j)(4) shall apply.

\* \* \* \* \*

25. In § 255.702, paragraph (c) is revised to read as follows:

**§ 255.702 Reserve for replacements and general operating reserve.**

\* \* \* \* \*

(c) To the extent consistent with the project's liquidity needs, money placed in a reserve for replacements (and, in the case of Cooperatives, in a general operating reserve) must be invested in United States Treasury securities, securities issued by a Federal agency, or deposits that are insured by an agency of the Federal government.

26. In § 255.705, paragraphs (b)(1) and (c)(3) are revised to read as follows:

**§ 255.705 Distributions and residual receipts.**

\* \* \* \* \*

(b) \* \* \*

(1) The Mortgagor has not satisfactorily responded to any lender or HUD on-site review report, annual financial statement correspondence or

any other correspondence that requires the Mortgagor to implement corrective action, and that was received at least 30 days before the end of the fiscal period for which the Surplus Cash computation is made:

(c) \* \* \*

(3) On projects owned by Limited Distribution Mortgagors, Distributions may not exceed the lesser of Surplus Cash or the amount allowable by the lender as of the end of the period covered by the Surplus Cash computation. Distributions are cumulative. If the project receives subsidy payments from HUD, Distributions will be earned at a rate prescribed in the regulations and administrative procedures applicable to the subsidy program. If the project does not receive subsidy payments from HUD, Distributions will be earned annually or semiannually at a rate prescribed by the lender consistent with State or local law.

27. In § 255.706, paragraph (g) is revised to read as follows:

**§ 255.706 Project management.**

(g) Furnish the lender and the Commissioner with a financial report on the project's operations within 60 days following the end of each fiscal year, unless the lender authorizes the Mortgagor to submit the report on a later date. Unless the Commissioner authorizes the lender to accept an unaudited report, the report must be made by an independent public accountant licensed by a State or other political subdivision on or before December 31, 1970.

**§ 255.802 [Redesignated as § 255.803]**

28. Section 255.802 is redesignated § 255.803.

**§ 255.803 [Redesignated as § 255.804]**

29. Section 255.803 is redesignated § 255.804.

**§ 255.804 [Redesignated as § 255.805]**

30. Section 255.804 is redesignated § 255.805.

**§ 255.805 [Redesignated as § 255.807]**

31. Section 255.805 is redesignated § 255.807.

**§ 255.806 [Redesignated as § 255.808]**

32. Section 255.806 is redesignated as § 255.808.

**§ 255.807 [Redesignated as § 255.809]**

33. Section 255.807 is redesignated § 255.809.

34. Section 255.808 is redesignated § 255.810 and is revised to read as follows:

**§ 255.810 Notice of default.**

If a default (as described in § 255.808) continues for a period of 30 days, the lender must notify the Commissioner within 30 days thereafter, unless the default is cured. Unless waived by the Commissioner, the lender must submit this notice monthly on a form prescribed by the Commissioner until the default has been cured, the lender has acquired title to the property, or the coinsurance contract has been terminated.

(The information collection requirements contained in this section were approved by the Office of Management and Budget under control number 2502-0041.)

**§ 255.809 [Redesignated as § 255.811]**

35. Section 255.809 is redesignated § 255.811 and the first three sentences of paragraph (a) of that section are revised to read as follows:

**§ 255.811 Financial relief to cure a default.**

(a) To reinstate a defaulted Mortgage, the lender may use one or more of the forms of financial relief described in this section. The lender's efforts to cure a default will not result in a curtailment of interest as provided by § 255.821(b) in any subsequent claim for insurance benefits, if the lender complies with conditions set forth in this section and the notice requirements set forth in §§ 255.810 and 255.815. The lender must service delinquent loans in accordance with the Commissioner's administrative requirements. \* \* \*

**§ 255.810 [Redesignated as § 255.812]**

36. Section 255.810 is redesignated § 255.812.

**§ 255.811 [Redesignated as § 255.813]**

37. Section 255.811 is redesignated § 255.813.

**§ 255.812 [Redesignated as § 255.814]**

38. Section 255.812 is redesignated § 255.814.

**§ 255.813 [Redesignated as § 255.815]**

39. Section 255.813 is redesignated § 255.815.

**§ 255.814 [Redesignated as § 255.816]**

40. Section 255.814 is redesignated § 255.816 and is revised to read as follows:

**§ 255.816 Acquisition of property.**

Unless the Commissioner has given the lender a written extension within 30 days after submitting the notice required by § 255.815, the lender must start action

either to foreclose the Mortgage or acquire title to the Mortgaged property through deed-in-lieu of foreclosure. The lender must exercise reasonable diligence in pursuing this action, and must promptly report to the Commissioner any developments that might delay the completion of acquisition. During the period that the lender controls the property, it must adhere to the Commissioner's requirements for project management as set forth in the regulatory agreement and the Commissioner's administrative procedures.

**§ 255.815 [Redesignated as § 255.817]**

41. Section 255.815 is redesignated as § 255.817.

**§ 255.816 [Redesignated as § 255.818]**

42. Section 255.816 is redesignated as § 255.818 and paragraph (b) of that section revised to read as follows:

**§ 255.818 Disposition of property and application for insurance benefits.**

(b) After the lender sells the property, or at the end of 12 months from the date of acquisition of title, whichever occurs first, the lender may file a claim for any insurance benefits to which it is entitled under § 255.820. The lender must file the claim no later than 15 days after the sale, or expiration of the 12-month period (whichever is applicable), or Mortgage interest will be curtailed in accordance with § 255.821(b).

**§ 255.817 [Redesignated as § 255.819]**

43. Section 255.817 is redesignated as § 255.819.

**§ 255.818 [Redesignated as § 255.820]**

44. Section 255.818 is redesignated § 255.820 and paragraph (a) of that section is revised to read as follows:

**§ 255.820 Amount of payment.**

(a) Except as otherwise provided in § 255.821, the basis for the computation of insurance benefits will be:

(1) The principal balance of the Mortgage unpaid as of the date of the institution of foreclosure proceedings or the date of acquisition of the property by deed-in-lieu of foreclosure;

(2) Plus all items set forth in § 255.821;

(3) Less all items set forth in § 255.822.

**§ 255.819 [Redesignated as § 255.821]**

45. Section 255.819 is redesignated as § 255.821 and its introductory text and paragraph (b) are revised to read as follows:

**§ 255.821 Items included in payment.**

In computing insurance benefits, the following items will be added to the amount described in § 255.820(a)(1):

(a) \* \* \*

(b) An amount equivalent to Mortgage interest on the unpaid principal balance of the Mortgage on the date the lender initiated foreclosure proceedings or on the date the lender acquired title to the property through deed-in-lieu of foreclosure. This interest will be payable from the date of default to the date of payment of insurance benefits. However, if the lender fails to meet any of the requirements of §§ 255.810, 255.815, 255.816, 255.818(b) or 255.823(b) within the specified time (including any permissible extension of time), the accrual of interest allowance on the cash payment will be curtailed by the number of days by which the required action was late.

\* \* \*

**§ 255.820 [Redesignated as § 255.822]**

46. Section 255.820 is redesignated § 255.822.

**§ 255.821 [Redesignated as § 255.823]**

47. Section 255.821 is redesignated § 255.823 and paragraphs (b), (c) and (d)(1) of that section are revised to read as follows:

**§ 255.823 Amount of payment for certain mortgages covering property rehabilitated with assistance under 24 CFR Part 511 or Part 250.**

\* \* \*

(b) Insurance benefits under this section shall be payable on the date of acquisition of marketable title to the property securing a defaulted Mortgage in accordance with § 255.816. The benefits shall equal the sum of (1) 90 percent of the unpaid principal balance of the Mortgage on the date of the institution of foreclosure proceedings or on the date of acquisition of the property through deed-in-lieu of foreclosure and (2) 90 percent of the interest arrears under the Mortgage on the date insurance benefits under this section are paid. The lender must file with the Commissioner a claim for benefits under this section no later than 15 days after

acquisition of the title, or mortgage interest will be curtailed in accordance with § 255.821(b).

(c) Upon acquisition of title, the lender must obtain two appraisals of the property, as provided in § 255.818(a).

(d) \* \* \*

(1) 90 percent of the net proceeds of the property determined in accordance with this paragraph after the lender sells the property or after the expiration of 12 months from the date of acquisition of title, whichever comes first. For purposes of this paragraph, the net proceeds of the property will be determined by adding the items referred to in § 255.822 except that (A) the item referred to in § 255.822(a) will not be added, and (B) references in § 255.822(f) to amounts to be deducted and appraisals under § 255.818(a) will mean amounts to be added and appraisals under paragraph (c) of this section, and by subtracting the item referred to in § 255.821 (except that the full amount of the costs of acquiring the property, instead of two-thirds as specified in § 255.821(c) will be subtracted). The lender must furnish information with respect to the net proceeds of the property under this paragraph on a form approved by the Commissioner.

\* \* \*

**§ 255.823 [Redesignated as § 255.824]**

48. Section 255.823 is redesignated § 255.824.

**§ 255.824 [Redesignated as § 255.825]**

49. Section 255.824 is redesignated § 255.825.

**§ 255.825 [Redesignated as § 255.826]**

50. Section 255.825 is redesignated § 255.826.

**§ 255.826 [Redesignated as § 255.827]**

51. Section 255.826 is redesignated § 255.827.

**§ 255.827 [Redesignated as § 255.828]**

52. Section 255.827 is redesignated § 255.828 and paragraphs (a) and (b) of this section are revised to read as follows:

**§ 255.828 GNMA right to claim coinsurance benefits after lender-issuer's acquisition of title.**

(a) If, as a result of a default by a lender-issuer on its obligations under the GNMA Mortgage-Backed Securities (MBS) program, GNMA must pay any amount owed to a securities holder, GNMA, as substitute lender-issuer, shall be entitled to file a claim for, and to receive, coinsurance benefits in accordance with this subpart. GNMA may file a claim with the Commissioner immediately upon its declaration of the lender-issuer's default under the GNMA MBS program, if (1) the defaulting lender-issuer has acquired legal title to property previously covered by a Coinsured Mortgage ("coinsured property"), but has not received coinsurance benefits under this subpart, and (2) the defaulting lender-issuer cannot or will not convey legal title to the coinsured property to GNMA. GNMA may file such a claim, notwithstanding the requirements of § 255.818(b) that claims be submitted after the sale of the coinsured property or the expiration of 12 months from the acquisition of title. The claim shall be based upon property appraisals obtained by the lender-issuer at the time of acquisition of title or, in the absence of such appraisals, upon appraisals obtained by GNMA after default of the lender-issuer. The lender-issuer will have no claim against the Commissioner for any payment made under this section.

(b) If, as a result of the lender-issuer's default, the full amount paid by GNMA to one or more securities holders exceeds the amount of coinsurance benefits paid by the Commissioner to GNMA under paragraph (a) with respect to the Coinsured Mortgage that backed the securities, the Commissioner shall reimburse GNMA for such additional amount in accordance with § 255.824(b).

\* \* \*

Dated: April 4, 1986.

Silvio J. DeBartolomeis,  
Acting General Deputy Assistant Secretary  
for Housing-Deputy Federal Housing  
Commissioner.

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