4. The forms are used by the policyholder applying for replacement insurance for modified life insurance reduced at age 70. The information is used to initiate the granting of the insurance coverage for which applied.
5. On occasion.
6. Individuals and households.
7. 7,000 response.
8. 1/12 hour.
9. Not applicable.

[FR Doc. 90-20040 Filed 8-23-90; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 55, No. 165
Friday, August 24, 1990

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).

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 10:00 a.m., Wednesday, August 29, 1990.

PLACE: Mariner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of a proposed amendment to Regulation Y (Bank Holding Companies and Change in Bank Control) to permit full service brokerage activities and financial advisory services by bank holding companies.

Discussion Agenda

2. Proposed amendments to Regulation Z (Truth in Lending) relating to rate caps on, and timing of disclosures of, home equity lines of credit. (Proposed earlier for public comment; Docket No. R-0687)

3. Any items carried forward from a previously announced meeting.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to:

Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20082 Filed 8-22-90; 11:14 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 10:30 a.m., Wednesday, August 29, 1990, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: August 22, 1990.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 90-20083 Filed 8-22-90; 11:14 am]

BILLING CODE 6210-01-M

STATE JUSTICE INSTITUTE

TIME AND DATE: 9:00 a.m. to 5:00 p.m., September 8, 1990; 9:00 a.m. to 12:00 p.m., September 9, 1990.

PLACE: Sonesta Hotel, 157 High Street, Portland, Maine.

STATUS: The meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Portions Open to the Public

Planning session to determine Institute's goals and objectives for the future; approval of final FY 1991 Grant Guidelines; and consideration of applications submitted for funding.

Portions Closed to the Public

None.

CONTACT PERSON FOR MORE INFORMATON: David I. Tevelin, Executive Director, State Justice Institute, 120 South Fairfax Street, Alexandria, VA 22314 (703) 684-6100.

David I. Tevelin,

Executive Director.

[FR Doc. 90-20081 Filed 8-22-90; 11:14 am]

BILLING CODE 6820-SC-M

Corrections

Federal Register

Vol. 55, No. 165

Friday, August 24, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

29 CFR Parts 92, 94, 98, and 151

[Docket 90-023]

RIN 0579-AA30

Importation of Certain Animals, Poultry, Animal and Poultry Products, and Animal Embryos

Correction

In rule document 90-17541 beginning on page 31484, in the issue of Thursday, August 2, 1990, make the following corrections:

1. On page 31486, in the eighth column, under the heading "Semen", the last two entries, corresponding with "94.2(a)(2)" and "94.2(a)(3)" of the first column, should read "98.24(a)(2)" and "98.24(a)(3)", respectively.

2. On page 31488, in the first column, under the heading "Original part 92", the 17th entry, should read "92.11(a)".

3. On the same page, in the fifth column, under the heading "Ruminants (subpart D)", in the 11th entry, "92.401" should read "92.410".

4. On the same page, in the sixth column, under the heading "Swine (subpart E)", the entry corresponding with "92.11(b)(1)" of the first column, was omitted and should read "92.510".

5. On the same page, in the seventh column, under the heading "Dogs (subpart F)", "92.510" should be deleted.

6. On page 31490, in the fifth column, under the heading "Ruminants (subpart D), under "92.423(c)" insert "92.423(d)".

7. On the same page, in the eighth column, under the heading "Semen", the entry "98.28" which corresponds with "93.31(a)(1)" of the first column, should be deleted.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3806-3]

Underground Injection Control Program; Hazardous Waste Disposal Injection Restrictions

Correction

Document 90-15801 beginning on page 28415 in the issue of Wednesday, July 11, 1990, was published in the "Proposed Rules" section of the issue. It should have appeared in the "Notices" section.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1220

[Docket No. 90N-0192]

Regulations Under the Tea Importation Act; Tea Standards

Correction

In rule document 90-19306 beginning on page 33670 in the issue of Friday, August 17, 1990, make the following corrections:

1. On page 33670, in the second column, in the subject heading "TBA" should read "Tea", as set forth above.

§ 1220.40 Tea standards.

2. On page 33671, in the first column, the section heading is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Boehringer Ingelheim Animal Health, Inc.; Withdrawal of Approval of NADA's

Correction

In notice document 90-19376 appearing on page 33766 in the issue of Friday, August 17, 1990, in the second column, in the 13th line "to" should read "of".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89D-0368]

Action Levels for Residues of Certain Pesticides in Food and Feed; Correction

Correction

In notice document 90-19377 appearing on page 33766 in the issue of Friday, August 17, 1990, in the third column, in the 14th line, remove the comma after "broccoli".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Finance Administration

42 CFR Part 413

[BPD-601-F]

RIN 0938-AD76

Medicare Program; Payment for Outpatient Surgery at Eye Specialty Hospitals and Eye and Ear Specialty Hospitals

Correction

In rule document 90-19410 beginning on page 33697, in the issue of Friday, August 17, 1990, make the following correction:

§ 413.118 [Corrected]

On page 33699, in the third column, in § 413.118, the paragraph designation "(b)" should read "(a)".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26269; Notice No. 90-18]

RIN 2120-AD20

Small Airplane Airworthiness Review Program Notice No. 4

Correction

In proposed rule document 90-14485 beginning on page 26534 in the issue of

Thursday, June 28, 1990, make the following corrections:

§ 23.535 [Corrected]

1. On page 26557, in the third column, in § 23.535(f), in the second and third lines of the formula, "ρ_2" should read "$\rho/2$".

2. On page 26568, in the third column, above the billing code, add the following text:

83. A new appendix H is added to read as follows:

BILLING CODE 1505-01-D

federal register

Friday
August 24, 1990

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing Federal Housing Commissioner

24 CFR Parts 203, 213, 220, 221, 222, 226, 233, 234, and 235

Single Family Mortgage Insurance Programs; Occupant and Investor Mortgagors; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing Federal Housing Commissioner

24 CFR Parts 203, 213, 220, 221, 222, 226, 233, 234, and 235

[Docket No. R-90-1381; FR-2456-F-03]

RIN 2502-AE40

Single Family Mortgage Insurance Programs; Occupant and Investor Mortgagors

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule implements section 203(g) of the National Housing Act (NHA), as added by section 406 of the Housing and Community Development Act of 1987 and amended by section 1062 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and by section 143 of the Department of Housing and Urban Development Reform Act of 1989. Section 203(g) authorizes HUD (1) to insure single family mortgages under title II of the National Housing Act, or (2) to approve substitute mortgagors for single family mortgages insured under title II, only if the mortgagor is to occupy the dwelling as a principal residence or a secondary residence, as determined by HUD. An exemption from this occupancy requirement is provided for certain categories of mortgagors, including mortgagors under the section 203(k) Rehabilitation Loan Insurance program and certain public entity, nonprofit, serviceperson, refinancing, and other mortgagors under various National Housing Act authorities.

EFFECTIVE DATE: September 24, 1990.

FOR FURTHER INFORMATION CONTACT: Stephen A. Martin, Director, Office of Insured Single Family Housing, room 9266, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410–8000, telephone: voice, (202) 708–3046; TDD (202) 708–4594. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 and have been assigned OMB control number 2502–0059. Public reporting burden for each of these collections of information is estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the Preamble heading, Findings and Certifications. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Background

The Department published a proposed rule "Single Family Mortgage Insurance Programs—Occupant and Investor-Mortgagors" on October 3, 1988 (53 FR 38844). This final rule is substantially the same as the October 3 proposed rule with the following exceptions: (1) In compliance with section 1062 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100–628, approved November 7, 1988), an exemption from the rule's occupancy requirement is added for mortgagors that meet certain requirements in connection with the refinancing of existing FHA-insured mortgages; (2) in compliance with section 143 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989), only certain limited categories of private investor-mortgagors are now eligible to participate in FHA's basic single family mortgage insurance programs; (3) the proposed rule's provisions on section 203(k) rehabilitation loans are revised to remove a maximum 85 percent loan-to-value limitation for non-occupant mortgagors and to add an escrow requirement for such mortgagors similar to that which applied to non-occupant mortgagors under § 203.18(c)(4). Direct endorsement lenders are authorized to approve substitute mortgagors as provided in a HUD final rule expanding the direct endorsement program published July 2, 1990 (55 FR 27218). Finally, there is one technical correction to § 220.30 of the current regulations. Each of these changes is discussed later in this preamble under the heading Responses to Public Comment and Discussion of Rule Changes.

The Preamble of the proposed rule contained extensive discussions of the definitions of "principal residence" and "secondary residence" as used in the rule; the rule's overall interpretation of section 406 of the 1987 Act; a detailed description of the application of the rule to various mortgagors under the separate insurance programs; and finally, a discussion of the application of the rule's 75 percent loan to value ratio. These discussions are not repeated in this final rule except for those relating to application of the 75 percent loan to value ratio (which this rule changes) and the new exemption for certain refinancing investor-mortgagors. Otherwise, the positions taken and interpretations made in the earlier Preamble remain valid for this final rule.

Statutory Basis

This rule implements section 203(g) of the National Housing Act (NHA) as amended by the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and the Department of Housing and Urban Development Reform Act of 1989. Section 203(g)(1) authorizes HUD to insure single family mortgages under title II of the NHA, or to approve substitute mortgagors for single family mortgages insured under title II, only if the mortgagor is to occupy the dwelling as a principal residence or a secondary residence, as determined by HUD. (Section 203(g)(3) defines "substitute mortgagor" to mean a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes this liability and agrees to pay the mortgage debt.)

Section 203(g)(3) exempts from the occupancy requirement set forth in section 203(g)(1) the following categories of mortgagors (or co-mortgagors, as appropriate):

a. The Alaska Housing Authority, and the Governments of Guam and Hawaii, or any agency or instrumentality thereof, under section 214 of the NHA (Insurance of Mortgages on Property in Alaska, Guam, and Hawaii).

b. The Department of Hawaiian Home Lands under section 247 of the NHA (Mortgage Insurance on Hawaiian Home Lands).

c. Any other State or local government or an agency thereof (This exemption was added by section 143(a) of the Department of Housing and Urban Development Reform Act of 1989).

d. A private nonprofit or public entity, as provided by section 221(h) or 235(j) of the NHA (insurance of mortgages executed by nonprofit organizations (and public entities, in the case of section 235(j)) to finance the purchase or rehabilitation of deteriorating or substandard housing for subsequent resale to low-income home purchasers).

e. A serviceperson whose inability to meet the occupancy requirement stems from his or her duty assignment, as provided by sections 216 (Waiver of Occupancy Requirements for Servicemen) and 222 (Mortgage Insurance for Servicemen) of the NHA.

f. An Indian tribe, as provided in section 248 of the NHA (Mortgage Insurance on Indian Reservations).

g. A participant in the Rehabilitation Loan Insurance program under section 203(k) of the NHA.

h. A mortgagor that, pursuant to section 223(a)(7) of the NHA, is refinancing an existing FHA mortgage for not more than the outstanding balance of the existing mortgage, provided the amount of monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed. (This exemption was added by section 1062(a) of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.)

i. A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low- or moderate-income persons, as determined by the Secretary. (This exemption was added by section 143(a) of the Department of Housing and Urban Development Reform Act of 1989.)

When first added to the National Housing Act (by section 406 of the Housing and Community Development Act of 1987), section 203(g) provided that its occupancy requirements would apply only if the mortgage involved a principal obligation that exceeded 75 percent of the loan to value ratio, or comparable limitation under the insuring authority involved. This provision was repealed by section 143(b)(1) of the Department of Housing and Urban Development Reform Act of 1989. The effect of the repeal is largely to eliminate private investor-owners as participants in HUD's single family mortgage insurance programs.

Applicability

1. Section 406(d) of the Housing and Community Development Act of 1987 provides that the amendments made by section 406(a) of the 1987 Act and the "conforming" amendments effected by section 406(b) of the 1987 Act shall only apply to mortgages insured:

a. pursuant to a conditional commitment or a master conditional commitment issued by HUD on or after February 5, 1988 (the effective date of the 1987 Act); or

b. in accordance with the direct endorsement program (24 CFR 203.163), if the approved underwriter of the mortgagee signs the appraisal or master appraisal report for the property on or after February 5, 1988.

The 1987 amendments will apply to substitute mortgagors, only if the original mortgage was subject to the changes brought about by section 203(g) of the NHA and section 406(b) of the 1987 Act.

Administrative instructions incorporating the requirements of section 406 were issued by the Department on February 5, 1988 (See HUD Mortgagee Letter 88–2). For the purpose of determining applicability of section 406, those instructions treat a certificate of reasonable value (CRV) or a master CRV issued by the Department of Veterans Affairs (VA) as the equivalent of a HUD conditional commitment or master conditional commitment.

2. Section 1062 of the Stewart B. McKinney Homeless Assistance Act of 1988, added to the listing of mortgagors exempt from the 75 percent limitations of the 1987 Act, investor mortgagors refinancing an existing FHA mortgage, where they meet certain requirements. The McKinney Act was enacted on November 7, 1988.

3. Sections 143 (c) and (d) of the Department of Housing and Urban Development Reform Act of 1989 (The 1989 Act) provide that the amendments made by sections 143 (a) and (b) of that Act shall apply only with respect to (1) mortgages insured (A) pursuant to a conditional commitment issued on or after December 15, 1989, the date of the enactment of the 1989 Act; or (B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of the 1989 Act; and (2) the approval of substitute mortgagors, if the original mortgagor was subject to the 1989 Act amendments.

Any mortgage insurance provided under title II of the National Housing Act, as it existed immediately before the date of the enactment of the 1989 Act, shall continue to be governed (to the extent applicable) by the provisions amended by the 1989 Act as such provisions existed immediately before December 15, 1989.

Administrative instructions incorporating the requirements of section 143 were issued by the Department on December 26, 1989 (See HUD Mortgagee Letter 89–31). These instructions include VA CRV's in the same manner as did Mortgagee Letter 88–2.

The provisions of this rule (which incorporate the requirements set forth in section 406 of the 1987 Act, as amended by section 1062 of the McKinney Act and section 143 of the 1989 Reform Act) generally apply to mortgages insured (1) pursuant to a conditional commitment or master conditional commitment issued by HUD on or after September 24, 1990; or (2) pursuant to an appraisal report or master appraisal report signed by a Direct Endorsement underwriter on or after September 24, 1990; or (3) pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after September 24, 1990. Provisions setting forth new restrictions on assumption by investors have a similar applicability test, but these are based on the effective date of the 1989 Act rather than on the effective date of this rule.

The provisions of section 406 of the 1987 Act and Mortgage Letter 88-2, issued February 5, 1988, apply to mortgages insured (1) pursuant to a conditional commitment or master conditional commitment issued by HUD on or after February 5, 1988, but before December 15, 1989; (2) pursuant to an appraisal report or master appraisal report signed by a Direct Endorsement underwriter on or after February 5, 1988, but before December 15, 1989; (3) pursuant to a certificate of reasonable value issued by the Department of Veterans Affairs on or after February 5, 1988, but before December 15, 1989.

It should be noted that, as a result of the recent legislation, FHA mortgage transactions with respect to investor mortgagors now fall into three categories, to which three different set of rules are applicable: Pre-1987 Act investor-mortgagors, post-1987, but pre-1989 Act, mortgagors and post-1989 Act mortgagors to which the provisions set forth in this rule apply.

Responses to Public Comment and Discussion of Rule Changes

Twenty-two written comments were received from the public on the proposed rule. Nineteen comments were from local realtors. Three were from national or state associations—National Association of Realtors, National Association of Homebuilders and the California Association of Realtors.

The local commenters were universally opposed to the 75 percent loan-to-value (or its equivalent) ratio which the proposed rule generally applies to investor mortgagors. The national and state associations, while recognizing that the 75 percent loan to value requirement was mandated by statute, claimed that the implementation guidelines set by HUD in the proposed rule were too stringent. They had a number of recommendations for change. Since the 75 percent loan to value requirement was repealed by section 143(b)(1) of the 1989 Act, a discussion of its relative merits is now moot. All proposed rule references to the 75 percent requirement are removed in this final rule.

The inclusion in this final rule (§§ 203.43(c) and 234.52) of an exemption from the occupancy requirement where an investor-mortgagor is refinancing a single family FHA-insured mortgage at an amount which does not exceed the outstanding balance of the existing mortgage, and at monthly payments less than those due under the existing mortgage, is mandated by statute (Section 1062 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988) and should be self-explanatory.

Section 406 of the Housing and Community Development Act of 1987 expressly excludes rehabilitation loans insured under section 203(k) from the 75 percent loan-to-value limitation generally applicable to non-occupant mortgagors. This final rule provides an 85 percent limit "or such higher limit not to exceed the limits applicable to a mortgagor who is to occupy a dwelling as its principal residence as the Secretary of HUD may prescribe." This nominally lower limit will give the Secretary of HUD the flexibility to allow maximum loan-to-value ratios for public entities and other relatively low-risk mortgagors, while providing for lower limits, if it is considered appropriate, for other eligible investor mortgagors.

In addition, certain "escrow" provisions, somewhat similar to those previously contained in 24 CFR 203.18(c) applying to non-occupant mortgagors under the FHA section 203 basic home mortgage program, are made applicable in this rule to mortgagors seeking an insured rehabilitation loan under section 203(k). Since enactment of the Housing and Community Development Act of 1987, these safeguard provisions no longer apply in the section 203(b) basic home mortgage program. The Department, however, considers such provisions appropriate for the section 203(k) rehabilitation loan program. This final rule adds a new paragraph to § 203.50, analogous to § 203.18(c)(2), providing for a certification from the non-occupant mortgagor that:

(i) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property before a due date approved by the Commissioner, except with the prior written approval of the Commissioner;

(ii) The mortgagor agrees that, if the property is not sold before a due date approved by the Commissioner to a purchaser acceptable to the Commissioner, who will occupy the property, the mortgagor will assume personal liability, and agree to pay the mortgage indebtedness. Any amount held in escrow, trust, or special account under § 203.50(j) will be applied in reduction of the outstanding principal amount of the mortgage as of the specified due date; and

(iii) The mortgagee agrees that any portion of the fund held in escrow, trust, or special account not applied to the mortgage in accordance with the provisions of this paragraph, shall be deducted from the amount of the insurance benefits to which the mortgagee would otherwise be entitled if a claim for insurance benefits is filed.

The above requirements provide the Secretary tested safeguards which can be taken into account in determining the appropriate loan-to-value ratios for rehabilitation loans to investor-mortgagors.

The proposed rule contained an extensive revision to 24 CFR 203.258 and corresponding sections in parts 213, 220, 221, 222 and 234 relating to substitute mortgagors. This final rule adds a provision, contained in a recent final rule expanding the direct endorsement program (55 FR 27218, July 2, 1990) authorizing direct endorsement lenders to approve substitute mortgagors. The final rule also includes in the definition of "substitute mortgagor" persons who purchase without assuming liability on the mortgage note, or who purchase where no release is given by the mortgagee to the previous mortgagor.

Finally, this rule makes a technical correction in 24 CFR 220.30(a). In setting forth maximum mortgage amounts and loan to value limitations, a provision was inadvertently included in that section which states, for various types of mortgages, that after the first $35,000 in mortgage amounts, an 80 percent loan to value ratio shall apply. This provision does not accurately reflect the statutory limits (section 203(b) of the National Housing Act) which should apply to section 220 home mortgages. The 80 percent provision is, therefore, removed from 24 CFR 220.30(a) in this final rule.

Findings and Certifications

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 implements 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 in the Office of the General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would 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 on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 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. This rule implements a congressional mandate that changes the eligibility status of nonoccupant mortgagors and generally limits FHA financing to owner-occupants and occupants of secondary residences. Both of these changes are relatively modest, and are not likely to have significant economic effect on small entities. In any event, the effects are the result of legislation and there are no means available to the Department to alter their impact.

The collection of information requirements contained in this rule have been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act of 1980. Sections 203.31(a)(2) and 234.51(b) of this rule have been determined by the Department to contain collection of information requirements. Information on these requirements is provided as follows:

TABULATION OF ANNUAL REPORTING BURDEN PROPOSED RULE—SINGLE FAMILY MORTGAGE INSURANCE PROGRAM: OCCUPANT AND INVESTOR MORTGAGORS

Description of information collection	Section of 24 CFR affected	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
Mortgagor Notice of Intent to satisfy Occupancy requirement upon discharge from military (2501-0059).	24 CFR, 203.31(a)(2), 234.51(b)	5,000	1	5,000	0.005	25
Total Burden Hours						25

This rule was listed in the Department's Semiannual Agenda of Regulations published on April 23, 1990 (55 FR 16226, 16246) under Executive Order 12291 and the Regulatory Flexibility Act at Sequence Number 1172.

HUD has determined, in accordance with Executive Order 12612, Federalism, that this rule does not have a substantial, direct effect on the States or on the relationship between the Federal Government and the States, or on the distribution of power or responsibilities among the various levels of government. The rule is limited to revising certain specific program requirements in connection with FHA mortgage insurance. The revisions are mandated by statute and do not alter the established roles of HUD, the States and local governments.

HUD has determined that this rule is not likely to have a significant impact on family formation, maintenance, and general well-being within the meaning of Executive Order 12606, The Family, because it does not affect the role or institution of the family in society. The rule provides for more stringent FHA eligibility requirements with respect to investor-mortgagors. The new requirements would not, however apply to owner-occupant families of FHA housing.

(The Catalog of Federal Domestic Assistance program numbers are sections 14.103, 14.108, 14.110, 14.115, 14.117, 14.119, 14.120, 14.121, 14.123, 14.133, 14.165, 14.166, 14.172, and 14.175.)

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs—housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects, Cooperatives.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 226

Government employees; Mortgage insurance; Single family housing.

24 CFR Part 233

Loan programs: housing and community development, Mortgage insurance, Experimental housing, Projects.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs—housing and community development.

Accordingly, 24 CFR parts 203, 213, 220, 221, 222, 226, 233, 234, and 235 are amended to read as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS

1. The authority citation for part 203 is revised to read as follows:

Authority: Secs. 203, 211, National Housing Act (12 U.S.C. 1709, 1715b); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)). Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u).

2. In § 203.18, paragraphs (a), (a)(2), (a)(3), (c), (d), (e)(1) and (f) are revised; and a new paragraph (a)(4) is added, to read as follows:

§ 203.18 Maximum mortgage amounts.

(a) Mortgagors of principal or secondary residences. A mortgage executed by a mortgagor who is to occupy the property as a principal residence or as a secondary residence (as these terms are defined in paragraph (f) of this section) may not exceed the lesser of the amounts specified in paragraphs (a) (1) and (2), (a) (1) and (3), or (a) (1) and (4) of this section (whichever applies), as follows:

* * * * *

(2) Loan-to-value limitation—principal residences—no approval before construction. If the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in paragraph (f)(1) of this section) and the dwelling was not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance, unless the dwelling:

* * * * *

(3) Loan-to-value limitation—principal residences—approval before construction. If the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in paragraph (f)(1) of this section) and the dwelling is approved for mortgage insurance before the beginning of construction, or the dwelling meets one of the alternative conditions listed in paragraph (a)(2) of this section, the following loan-to-value ratios apply:

* * * * *

(4) Loan-to-value limitation—secondary residences. If the mortgage covers a dwelling that is to be occupied as a secondary residence (as defined in paragraph (f)(2) of this section), the loan-to-value ratio may not exceed 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

* * * * *

(c) Eligible non-occupant mortgagors. A mortgage may be executed by an eligible non-occupant mortgagor (as that term is defined in paragraph (f)(3) of this section) for up to an amount authorized for the appropriate loan type in paragraph (a) of this section except where a lesser amount is expressly provided for in this part.

(d) *Outlying area properties.* A mortgage covering a single family residence located in an area in which the Commissioner finds that it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages in built-up, urban areas; or a mortgage covering a single family dwelling that is to be used as a farm home on a plot of land that is two and one-half or more acres in size and adjacent to an all-weather public road, may not exceed:

(1) In the case of a mortgagor who is to occupy the dwelling as a principal residence (as defined in paragraph (f)(1) of this section):

(i) 75 percent of the dollar limitation on the principal obligation for a one-family residence under paragraph (a)(1)(i) of this section. This limit may be increased by up to 20 percent, if necessary to account for the increased cost of the residence due to the installation of a solar energy system, as defined in § 203.18a(b).

(ii) 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance, if:

(A) The Commissioner approved the dwelling for insurance before the beginning of construction; or

(B) Construction was completed more than one year before the date of the application for insurance; or

(C) The Secretary of Veterans Affairs approved the dwelling for guaranty, insurance, or direct loan before the beginning of construction.

(iii) If the property does not meet the requirements of paragraph (d)(1)(ii) of this section, 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(2) In the case of a mortgagor who is to occupy the dwelling as a secondary residence (as defined in paragraph (f)(2) of this section):

(i) The amount permitted in paragraph (d)(1)(i) of this section, or

(ii) 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(e) *Disaster victims.* * * *

(1) The mortgage is executed by a mortgagor who is to occupy the dwelling as a principal residence (as defined in paragraph (f)(1) of this section);

* * * * *

(f) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor maintains (or will maintain) his or her permanent place of abode, and typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor maintains (or will maintain a part-time place of abode, and typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 or 247 of the National Housing Act, or any other State or local government or agency thereof;

(ii) A private nonprofit or public entity, as provided in section 221(h) or 235(j) of the National Housing Act, or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate income persons, as determined by the Secretary;

(iii) An Indian tribe, as provided in section 248 of the National Housing Act;

(iv) A serviceperson who is unable to meet the occupancy requirement because of his or her duty assignment, as provided in section 216 of the National Housing Act or subsection (b)(4) or (f) of section 222 of the National Housing Act;

(v) A mortgagor or co-mortgagor under subsection 203(k) of the National Housing Act; or

(vi) A mortgagor who, pursuant to § 203.43(c) of this part, is refinancing an existing mortgage insured under the National Housing Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

3. In § 203.29, paragraph (c) is revised to read as follows:

§ 203.29 Eligible mortgages in Alaska, Guam, or Hawaii.

* * * * *

(c) If the Alaska Housing Authority, or the Government of Guam or Hawaii, or any agency or instrumentality those entities, is the mortgagor or the mortgagee, or the mortgagor is regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Commissioner determines advisable to provide reasonable rental and sales prices and a reasonable return on the investment, any mortgage otherwise eligible for insurance under this subpart may be insured:

(1) In any case where the Alaska Housing Authority, or the government of Guam or Hawaii, or any agency or instrumentality of those entities, is the mortgagor, without regard to any requirement that the mortgagor occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f)), or meet loan-to-value or comparable limitations based on the failure of the mortgagor to meet this occupancy requirement;

(2) Without regard to any requirement that the mortgagor has paid on account of the property a prescribed percentage of the appraised value of the property; or

(3) Without regard to any requirement that the mortgagor certify that the mortgaged property is free and clear of all liens other than the mortgage offered for insurance and that there will not be any unpaid obligations contracted in connection with the mortgage transaction or the purchase of the mortgaged property.

* * * * *

4. Section 203.31 is revised to read as follows:

§ 203.31 Mortgagor of a principal residence in military service cases.

(a) A mortgage that is otherwise eligible for insurance under any of the provisions of this part may be insured without regard to any requirement contained in this part that the mortgagor occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)) at the time of insurance, or that the mortgagor meet loan-to-value or comparable limitations based on the failure of the mortgagor to meet an occupancy requirement, if:

(1) The Commissioner is satisfied that the inability of the mortgagor to meet the occupancy requirement is by reason of his or her entry into military service after the filing of an application for insurance; and

(2) The mortgagor expresses an intent (in such form as the Commissioner may prescribe), to meet the occupancy requirement upon his or her discharge from the service.

(b) A serviceperson will also be considered to meet the occupancy requirement referred to in paragraph (a) of this section for mortgage insurance purposes, if the following conditions are satisfied:

(1) The serviceperson and his or her family expect to meet the occupancy requirement referred to in paragraph (a) of this section for two or more years. The Commissioner may shorten this period to one year, if (i) the serviceperson's family will occupy the

property for at least one year and (ii) the serviceperson is assigned to a combat zone or other hazardous duty area where the family cannot accompany him or her; and

(2) The property is located in an area in which the prospects of resale are reasonable.

(Approved by the Office of Management and Budget under OMB control number 2502–0059)

5. In § 203.43, the introductory language in paragraph (c), and paragraphs (c)(1) (i) and (ii) and (k) are revised, to read as follows:

§ 203.43 Eligibility of miscellaneous type mortgages.

* * * * *

(c) The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in the other provisions of this subpart, any mortgage given to refinance an existing mortgage insured under the National Housing Act. The refinancing mortgage must meet the following special requirements:

(1)(i) Except as provided by paragraph (c)(1)(ii) of this section, the refinancing mortgage must be in an amount that does not exceed the least of (A) the original principal amount of the existing mortgage; (B) the sum of the outstanding principal balance of the existing mortgage, plus loan closing charges approved by the Commissioner; or (C) in the case of an eligible non-occupant mortgagor (as defined in § 203.18(f)), the outstanding balance of the existing mortgage.

(ii) In the case of graduated payment mortgages insured under section 203 of the Act pursuant to section 245 (a) or (b) of the Act (§ 203.45 or § 203.46 [as in effect immediately before its removal at 52 FR 32754, published August 28, 1987]), the refinancing mortgage must have a principal amount that does not exceed the outstanding balance of the existing mortgage.

* * * * *

(k) The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart, any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired in the settlement of an insurance claim under any section or title of the National Housing Act.

6. Section 203.43b is amended by revising the introductory text of paragraph (a) and paragraphs (a)(2) and (b)(2) to read as follows:

§ 203.43b Eligibility of mortgages covering housing intended for secondary residence.

(a) A mortgage covering a secondary residence is eligible for insurance if the following additional requirements are met:

* * * * *

(2) The dwelling shall meet such minimum standards as the Secretary may prescribe for secondary residences.

* * * * *

(b) * * *

(2) Insurance of mortgages on properties intended as secondary residences would materially and adversely affect the availability of mortgage funds for residential construction in the designated area.

* * * * *

7. In § 203.43c, paragraph (g) is revised to read as follows:

§ 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.

* * * * *

(g) The mortgage may not exceed the balance remaining after subtracting from the amount determined under §§ 203.18 (a) or (c), 203.18a, and 203.18b of this part an amount equal to the portion of the unpaid balance of the blanket mortgage covering the cooperative development that is attributable to the dwelling unit that the mortgagor is entitled to occupy as of the date the mortgage is accepted for insurance.

* * * * *

8. In § 203.43d, the introductory text and paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 203.43d Eligibility of mortgages in certain communities.

Notwithstanding any other requirements of this subpart, a mortgage covering a one- to four-family dwelling occupied by the mortgagor as a principal residence (as defined in § 203.18(f)(1)) is eligible for insurance if the following requirements are met:

(a) * * *

(3) As a direct result of the community's temporarily impaired economic condition, owners of homes in the community occupied as principal residences (as defined in § 203.18(f)(1)) have been involuntarily unemployed or underemployed and have, thus, incurred substantial reductions in income that significantly impair their ability to continue timely payment of their mortgages;

(4) As a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

* * * * *

9. In § 203.43g, paragraph (a)(1) is revised to read as follows:

§ 203.43g Eligibility of mortgages in certain communities.

(a) * * *

(1) The mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)).

* * * * *

10. In § 203.43j, paragraph (e) is revised to read as follows:

§ 203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.

* * * * *

(e) *Purchase for principal residence.* The mortgagor must be a purchaser who intends to occupy the property as a principal residence (as defined in § 203.18(f)(1)), or a current owner-occupant refinancing a mortgage which is now due or which will become due before the lease termination date in February 1991.

* * * * *

11. In § 203.45, paragraph (g) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)). It does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4), 203.18 (c) through (e), 203.43, 203.43a, 203.43j, or 203.49.

* * * * *

12. In § 203.49, paragraph (h) is revised to read as follows:

§ 203.49 Eligibility of adjustable rate mortgages.

* * * * *

(h) *Cross-reference.* Sections 203.21 (level payment amortization provisions) and 203.44 (open-end advances) do not apply to this section. This section does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4) (mortgagors of secondary residences), 203.18(c) (eligible non-occupant mortgagors), 203.18(d) (outlying area properties), 203.18(e) (disaster victims), 203.43 (miscellaneous type mortgages), 203.43c (mortgages involving a dwelling unit in a cooperative housing development), 203.43d (mortgages in certain communities), 203.43e (mortgages covering houses in federally impacted areas), 203.45 (graduated payment mortgages), and 203.47 (growing equity mortgages).

* * * * *

13. In § 203.50, paragraphs (f) and (j) are revised, and a new paragraph (k) is added, to read as follows:

§ 203.50 Eligibility of rehabilitation loans.

* * * * *

(f) The loan may not exceed an amount which, when added to any outstanding indebtedness of the borrower that is secured by the property, creates an outstanding indebtedness in excess of the lesser of:

(1)(i) The limits prescribed in §§ 203.18(a) (1) and (3) (in the case of a dwelling to be occupied as a principal residence, as defined in § 203.18(f)(1)); (ii) the limits prescribed in §§ 203.18(a) (1) and (4) (in the case of a dwelling to be occupied as a secondary residence, as defined in § 203.18(f)(2)); (iii) 85 percent of the limits prescribed in § 203.18(c), or such higher limit, not to exceed the limits set forth in §§ 203.18(a) (1) and (3), as the Secretary may prescribe in the case of an eligible non-occupant mortgagor as defined in § 203.18(f)(3); (iv) the limits prescribed in § 203.18a; and (v) the limits prescribed in § 203.18b, based upon the sum of the estimated cost of rehabilitation and the Commissioner's estimate of the value of the property before rehabilitation; or

(2) The limits prescribed in the authorities listed in this paragraph (f), based upon 110 percent of the Commissioner's estimate of the value of the property after rehabilitation.

* * * * *

(j) The Commissioner may insure advances made by the mortgagee during rehabilitation if the following conditions are satisfied:

(1) The mortgage shall be a first lien on the property.

(2) The mortgagor and the mortgagee shall execute a rehabilitation loan agreement, approved by the Commissioner, setting forth the terms and conditions under which advances will be made.

(3) The advances shall be made as provided in the rehabilitation loan agreement.

(4) The principal amount of the mortgage shall be held by the mortgagee in an interest bearing account, trust, or escrow for the benefit of the mortgagor pending advancement to the mortgagor or his creditors as provided in the rehabilitation loan agreement.

(5) The loan shall bear interest at the rate prescribed in § 203.20 on the amount advanced to the mortgagor or its creditors, and the amount held in an account or trust for the benefit of the mortgagor.

(6) If paragraph (k) of this section applies, the rehabilitation loan agreement shall restrict advancement to the mortgagor, or to creditors other than the mortgagee, so that any loan proceeds in excess of the 85 percent set forth in paragraph (f)(1)(iii) of this section shall not be advanced until the property is sold to a purchaser described in paragraph (k)(2) of this section.

(k) In the case of a dwelling (1) to be occupied neither as a principal residence nor as a secondary residence and (2) where the loan is approved for a limit higher than the 85 percent set forth in paragraph (f)(1)(iii) of this section, the eligible non-occupant mortgagor (as defined in § 203.18(f)(3)) shall certify to the Commissioner that:

(1) The mortgagor will not rent (except for a rental term of not less than 30 days and not more than 60 days), sell (except where the insured mortgage is paid in full as an incident of the sale), or occupy the property before a due date approved by the Commissioner, except with the prior written approval of the Commissioner;

(2) The mortgagor agrees that, if the property is not sold before a due date approved by the Commissioner to a purchaser, acceptable to the Commissioner, who will occupy the property, assume personal liability, and agree to pay the mortgage indebtedness, any amount held in escrow, trust, or special account under paragraph (j) of this section will be applied in reduction of the outstanding principal amount of the mortgage as of the due date approved by the Commissioner;

(3) The mortgagee agrees that any portion of the fund held in escrow, trust, or special account, not applied to the mortgage in accordance with the provisions of this paragraph (k), shall be deducted from the amount of the insurance benefits to which the mortgagee would otherwise be entitled if a claim for insurance benefits is filed.

14. Part 203, subpart A, is amended by adding a new section after § 203.50 to read as follows:

§ 203.51 Applicability.

The provisions of §§ 203.18 (a), (c), (d), (e)(1), and (f); § 203.29(c); § 203.31; § 203.43(c); 203.43(k); § 203.43c(g); § 203.43d(a), § 203.43g(a)(1); § 203.43j(e); § 203.45(g); § 203.49(h); § 203.50(f); and § 203.50(k) of this subpart apply to mortgages insured:

(1) Pursuant to a conditional commitment or master conditional commitment issued on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report or master appraisal report for the property on or after September 24, 1990; or

(3) Pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after September 24, 1990.

15. Section 203.258 is revised to read as follows:

§ 203.258 Substitute mortgagors.

(a) *Selling mortgagor.* Except as provided in paragraph (d) of this section, the mortgagee may effect the release of a mortgagor from personal liability on the mortgage note, only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by this section.

(b) *Purchasing mortgagor.* (1) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under § 203.43h or § 203.43i only if the mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)).

(2) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part (except a mortgage referred to in paragraph (b)(1) of this section), only if the substitute mortgagor is to occupy the dwelling as a principal residence or as a secondary residence (as these terms are defined in § 203.18(f)) or if the substitute mortgagor is an eligible non-occupant mortgagor (as defined in § 203.18(f)).

(3) With respect to any mortgage covering a dwelling to be occupied as a secondary residence, the loan to value ratio may not exceed 85 percent of the greater of (i) the appraised value of the property at the time the mortgage is accepted for insurance; or (ii) the appraised value of the property at the time approval of a substitute mortgagor is requested.

(c) *Applicability—current mortgages.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor was insured (1) pursuant to a conditional commitment or master conditional commitment issued on or after December 15, 1989; or (2) in accordance with the Direct Endorsement program (24 CFR 200.163), where the approved underwriter of the mortgagee signed the appraisal report or master appraisal report for the property on or after December 15, 1989, but before December 15, 1989; or (3) pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after December 15, 1989.

(d) *Applicability—earlier mortgages.* If the mortgage was insured (1) pursuant to a conditional commitment or master conditional commitment issued on or after February 5, 1988, but before December 15, 1989; or (2) in accordance with the Direct Endorsement program (24 CFR 200.163), where the approved underwriter of the mortgagee signed the appraisal report or master appraisal report for the property on or after February 5, 1988, but before December 15, 1989; or (3) pursuant to a certificate of reasonable value or master certificate of reasonable value issued by the Department of Veterans Affairs on or after February 5, 1988, but before December 15, 1989, the Commissioner may approve a substitute mortgagor with respect to the mortgage only if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f)), or is an eligible non-occupant mortgagor (as defined in the following sentence), or if the mortgage has a principal balance that is not more than 75 percent of the greater of (i) the appraised value of the property at the time the mortgage is accepted for insurance, or (ii) the appraised value of the property at the time approval of a substitute mortgagor is requested. For purposes of this paragraph (d), the term "eligible non-occupant mortgagor" has the meaning given in § 203.18(f), except that paragraph (d)(3)(ii) (A) and (B) of this section apply in place of § 203.18(f)(3) (i) and (ii).

(A) A public entity, as provided in section 214 or 247 of the National Housing Act; and

(B) A private nonprofit or public entity, as provided in section 221(h) or 235(j) of the National Housing Act.

If neither paragraph (b) nor the preceding portion of this paragraph (d) applies, the Commissioner may approve a substitute mortgagor without regard to whether the mortgagor is to occupy the dwelling.

(e) *Direct Endorsement.* Mortgagees approved for participation in the direct endorsement program under §§ 200.163–164 may, subject to limitations established by the Commissioner, themselves approve an appropriate substitute mortgagor under this section for mortgages which they own or service, and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debt; and (2) persons who purchase without assuming liability on the mortgage note or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

16. The authority citation for part 213 continues to read as follows:

Authority: Secs. 211, 213, National Housing Act (12 U.S.C. 1715b, 1715e); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

17. In § 213.510, paragraph (a) is revised to read as follows:

§ 213.510 Mortgage maturity.

(a) *Maturity.* The mortgage must have a maturity satisfactory to the Commissioner, not to exceed 40 years from the date of the beginning of amortization. However, if the mortgage covers property released from a sales project, the maturity may not exceed 30 years from the beginning of amortization (where the mortgagor is an eligible non-occupant mortgagor), or 35 years from that date if the mortgagor occupies the dwelling as a principal residence or as a secondary residence (as these terms are defined in § 203.18(f) of this chapter). This paragraph applies in the manner provided in § 203.51 of this chapter.

* * * * *

18. In § 213.751(b), a new entry in the listing of sections is added at the appropriate place, to read as follows:

§ 213.751 Cross-reference.

* * * * *

(b) * * *

203.258 Substitute mortgagors.

* * * * *

19. Part 213, subpart D, is amended by adding a new section, to read as follows:

§ 213.752 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note, if it obtains the Commissioner's approval of a substitute mortgagor, as provided in paragraph (b) of this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under subpart C of this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or as a secondary residence (as these terms are defined in 24 CFR 203.18(f) of this chapter) or is an eligible non-occupant mortgagor (as defined in § 203.18(f)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of 24 CFR 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart C of this part meeting the conditions of § 203.258(d).

(e) *Definition.* For purposes of this section, the term "substitute mortgagor" is defined as provided in § 203.258(f) of this chapter.

PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS

20. The authority citation for part 220 continues to read as follows:

Authority: Secs. 207, 211, 220, National Housing Act (12 U.S.C. 1713, 1715b, 1715k); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

21. In § 220.1(a) the last section entry is revised to read as follows:

§ 220.1 Cross-reference.

(a) * * *

203.51 Applicability.

* * * * *

22. In § 220.30, the introductory language in paragraphs (a) and (a)(3) and paragraphs (a)(1), (a)(2), (a)(4), (a)(5), and (c) are revised; and new paragraphs (a)(6), (d), and (e) are added, to read as follows:

§ 220.30 Maximum mortgage amounts—loan-to-value limitation.

(a) *Mortgagors of principal or secondary residences.* A mortgage executed by a mortgagor who is to occupy the dwelling as a principal residence or as a secondary residence (as these terms are defined in paragraph (d) of this section) may not exceed the following:

(1) *New construction—principal residences—prior approval.* If the mortgage covers a dwelling that is to be occupied as a principal residence and the dwelling was approved for mortgage insurance before the beginning of construction, the sum of the following percentages of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance:

(i) 97 percent of the first $25,000 of such value (100 percent of $25,000 of such value or the sum of such value not in excess of $25,000 and the items of prepaid expense approved by the Commissioner, minus $200, whichever appraisal amount or sum is the lesser, in the case of a mortgagor qualifying as a veteran) and

(ii) 95 percent of such estimate in excess of $25,000.

(2) *New construction—principal residences—no prior approval.* If the mortgage covers a new dwelling under construction that is to be occupied as a principal residence and that is approved for mortgage insurance after the beginning of construction, 90 percent of the Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance.

(3) *Existing construction—principal residences—prior approval.* If the mortgage covers an existing dwelling that is to be occupied as a principal residence and that was approved for mortgage insurance before the beginning of construction, or the construction of which has been completed for more than one year, the sum of the Commissioner's estimate of the cost of repair or rehabilitation, plus the Commissioner's estimate of the value of the property before rehabilitation, in the following percentages:

* * * * *

(4) *Existing construction—principal residences—no prior approval.* If the mortgage covers an existing dwelling that is to be occupied as a principal residence and that was not approved for mortgage insurance before the beginning of construction, and the construction of which has been completed less than one year, 90 percent of the sum of the Commissioner's estimate of the cost of repair or rehabilitation, plus the Commissioner's estimate of the value of the property before rehabilitation.

(5) *Secondary residences.* If the mortgage covers a dwelling that is to be occupied as a secondary residence, 85 percent of:

(i) The Commissioner's estimate of the replacement cost of the property as of the date the mortgage is accepted for insurance, in the case of a mortgage covering a newly constructed dwelling.

(ii) The sum of the Commissioner's estimate of the cost of repair or rehabilitation, plus the Commissioner's estimate of the value of the property before rehabilitation, in the case of a mortgage covering an existing dwelling.

(6) *Refinancing.* In a case under paragraph (a)(3), (a)(4), or (a)(5)(ii) of this section that involves the refinancing of existing indebtedness, the sum of the following:

(i) The estimated cost of repair and rehabilitation.

(ii) The amount (as determined by the Commissioner) required to refinance the existing indebtedness secured by the property.

(iii) Any existing indebtedness (as determined by the Commissioner) incurred in connection with improving, repairing, or rehabilitating the property.

* * * * *

(c) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage executed by an eligible non-occupant mortgagor (as that term is defined in paragraph (d) of this section) may not exceed (1) the Commissioner's estimate for the appropriate loan type under paragraphs (a) (1) through (4) of this section or (2) the amount specified in paragraph (a)(6) of this section.

(d) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor (i) maintains (or will maintain) his or her permanent place of abode and (ii) typically spends (or will spend the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor (i) maintains (or will maintain) a part-time place of abode and (ii) typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 of the Act; or any other State of local government or a agency thereof;

(ii) A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to seek or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(e) *Applicability.* Paragraphs (a), (c), and (d) of this section apply as provided in 24 CFR 203.51 of this chapter.

23. Part 220, subpart A is amended by adding a new center heading and a new section, to read as follows:

Applicability

§ 220.249 Applicability.

The provisions of § 220.30 apply as provided in 24 CFR 203.51 of this chapter.

24. In § 220.251(a), a new entry in the listing of sections is added in the appropriate place, to read as follows:

§ 220.251 Cross-reference.

(a)* * *

203.258 Substitute mortgagors.

* * * * *

25. Part 220, subpart B, is amended by adding a new section, to read as follows:

§ 220.253 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by this section.

(b) *Purchasing mortgagor.* (1) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under subpart A of this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 220.30(d)).

(2) The Commissioner may approve as a substitute mortgagor an eligible non-occupant mortgagor (as defined in § 220.30(d)) with respect to any mortgage insured under this part, only if the outstanding balance of the mortgage does not exceed the Commissioner's estimate of:

(i) The replacement cost of the property as of the date the mortgage was originally accepted for insurance, or the date the substitute mortgagor is approved by the Commissioner, which ever is greater, in the case of a dwelling described in § 220.30(a) (1) or (2); or

(ii) The cost of repair or rehabilitation, plus the Commissioner's estimate of the replacement cost of the property as of either the date the mortgage was originally accepted for insurance, or the date the substitute mortgagor is approved by the Commissioner, whichever is greater, in the case of a dwelling described in § 220.30(a) (3) or (4).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor, only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts; and (2) persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

26. The authority citation for part 221 continues to read as follows:

Authority: Secs. 211, 221, National Housing Act (12 U.S.C. 1715b, 1715*l*; sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

27. In § 221.1(a) the last entry in the listing of sections is revised to read as follows:

§221.1 Cross-reference.

(a)* * *

203.51 Applicability

* * * * *

28. In § 221.10, the introductory language is revised to read as follows:

§ 221.10 Maximum mortgage amount—dollar limitation.

A mortgage executed by a mortgagor who is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 221.20(c)) may not exceed:

* * * * *

29. Section 221.12 is removed and reserved.

§ 221.12 [Reserved]

30. In § 221.20, the introductory language in paragraph (a)(1) is revised; paragraph (b) is revised; and new paragraphs (a)(4) and (c) are added, to read as follows:

§ 221.20 Maximum mortgage amount—loan-to-value limitation.

* * * * *

(a) *Mortgagors of principal or secondary residences.* (1) If the mortgagor is to occupy the dwelling as a principal residence (as defined in paragraph (c)(1) of this section), the mortgage may not exceed:

* * * * *

(4) If the mortgagor is to occupy the dwelling as a secondary residence (as defined in paragraph (c)(2) of this section), the mortgage may not exceed 85 percent of the Commissioner's estimates referred to in paragraph (a)(1)(i) or (ii) of this section, as appropriate.

(b) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage executed by an eligible non-occupant mortgagor (as that term is defined in paragraph (c) of this section), who will use the insured loan proceeds to facilitate the construction or the repair or rehabilitation of the dwelling and to provide financing pending the subsequent resale of the property to a qualifying mortgagor under this subpart, may not exceed the lesser of (1) the Commissioner's estimates referred to in paragraph (a)(1) (i) or (ii) of this section, as appropriate, or (2) the value of the property as of the date the mortgage is accepted for insurance.

(c) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor (i) maintains (or will maintain) his or her permanent place of abode and (ii) typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor (i) maintains (or will maintain) a part-time place of abode and (ii) typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 or 247 of the Act; or any other State or local government or a agency thereof; or

(ii) A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low- or moderate-income persons, as determined by the Secretary.

31. In § 221.30, paragraph (b) is revised to read as follows:

§ 221.30 Maturity of mortgage.

* * * * *

(b) In the case of any other mortgagor, if the Commissioner:

(1) Determines that the mortgagor (i) is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 221.20(c)); and (ii) is unable to make the required payments under a mortgage having a shorter amortization period, and

(2) Approved the dwelling for mortgage insurance before the beginning of construction, or the Administrator of Veterans Affairs approved the dwelling for guaranty, insurance, or direct loan before the beginning of construction.

32. In § 221.50, the introductory text of paragraph (b)(1) and paragraph (b)(2) are revised, and new paragraphs (b) (3) and (4) are added, to read as follows:

§ 221.50 Mortgagor's minimum investment.

* * * * *

(b) * * *

(1) *Loan-to-value limitation—principal residences—approval before construction.* If the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in § 221.20(c)(1)) and is approved for mortgage insurance before the beginning of construction, or was completed more than one year before the date of the application for mortgage insurance, the sum of the following percentages of the Commissioner's estimate of the appraised value of the property as of the date the mortgage is accepted for insurance constitutes the maximum loan-to-value ratio:

* * * * *

(2) *Loan-to-value limitation—principal residences—no prior approval.* A loan-to-value limitation of 90 percent of the appraised value of the property as of the date the mortgage is accepted for insurance is required, if (i) the mortgage covers a dwelling that is to be occupied as a principal residence (as defined in § 221.20(c)) and (ii) the dwelling does not meet the requirements contained in paragraph (b)(1) of this section.

(3) *Loan-to-value limitation—secondary residences.* A loan-to-value limitation of 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance is required, if the mortgage covers a dwelling that is to be occupied as a secondary residence (as defined in § 221.20(c)).

(4) *Loan-to-value limitation—mortgagors of dwellings that are not principal or secondary residences.* A loan-to-value limitation on the appraised value of the property for the appropriate loan type under paragraphs (a) (1) through (3) of this section is applicable with respect to eligible non-occupant mortgagors (as defined in § 221.20(c)), if the mortgage covers a dwelling referred to in § 221.20(b).

* * * * *

33. In § 221.60, paragraphs (b)(1), (c), and (j) are revised to read as follows:

§ 221.60 Eligibility requirements for low-income homeowners.

* * * * *

(b) *Definitions.* * * *

(1) "*Single family dwelling*" includes a two-family dwelling in which the owner occupies one of the units as a principal residence (as defined in § 221.20(c)).

* * * * *

(c) *Types of transactions.* The mortgage shall involve one of the following types of transactions: (1) The financing of the purchase of a rehabilitated single family dwelling or a rehabilitated one-family unit in a condominium project from a nonprofit mortgagor by a low-income purchaser who is to occupy the dwelling as a principal residence (as defined in § 221.20(c)).

(2) The rehabilitation or improvement and refinancing of a single family dwelling owned by a mortgagor who (i) is to occupy the dwelling as a principal residence (as defined in § 221.20(c)) and (ii) has purchased the dwelling from a nonprofit organization that is engaged in purchasing and rehabilitating substandard housing, and selling it after rehabilitation.

* * * * *

(j) *Interest rate increase—discontinuance of occupancy.* The mortgage must provide that if the mortgagor does not continue to occupy the dwelling as a principal residence (as defined in § 221.20(c)), the interest rate will increase to the maximum rate in effect under this subpart at the time the commitment for insurance was issued on the project mortgage (where the mortgage finances the purchase of the property from a nonprofit mortgagor or on the individual mortgage (where the mortgage finances the rehabilitation or improvement and refinancing of property owned by the mortgagor). If the property is sold to one of the following purchasers, the increase in interest rate will not be required:

(1) A nonprofit organization that has been engaged in purchasing and rehabilitating deteriorating and substandard housing with financing provided pursuant to section 221(h) of the National Housing Act, except that the sale must be to the same nonprofit organization from which the unit was purchased, if the mortgage finances the purchase.

(2) A public housing agency under the United States Housing Act of 1937 having jurisdiction over the area in which the dwelling is located.

(3) A low-income purchaser meeting the income requirements of section 221(h) of the Act.

* * * * *

34. In § 221.65, paragraphs (b) and (d)(4) are revised to read as follows:

§ 221.65 Eligibility requirements for a low- and moderate-income purchaser of a family unit in condominium.

* * * * *

(b) *Purchaser qualifications.* To qualify as a mortgagor, the purchaser must:

(1) Occupy the dwelling as a principal residence (as defined in § 221.20(c)), and

(2) Be approved by the Commissioner as having an income within the limits prescribed for occupants in projects financed with a below-market interest rate (BMIR) mortgage insured pursuant to §§ 221.501 *et seq.*

* * * * *

(d) * * *

(4) It shall provide that if the mortgagor does not continue to occupy the property as a principal residence (as defined in § 221.20(c)), the interest rate shall increase to the maximum rate in effect under this subpart at the time the commitment for insurance was issued on the project mortgage, except that the increase in interest rate shall not be applicable if the property is sold to one of the following purchasers:

(i) A nonprofit organization approved by the Commissioner;

(ii) A low- or moderate-income purchaser meeting the requirements of paragraph (b) of this section.

* * * * *

35. Part 221, subpart A, is amended by adding a new center heading and a new section, to read as follows:

Applicability

§ 221.70 Applicability.

(a) The provisions of §§ 221.10; 221.20 (a) through (c); 221.30(b); 221.50(b); 221.60 (b)(1), (c)(1), (c)(2), and (j); and 221.65 (b) and (d)(4) of this subpart, and the removal of § 221.12 of this subpart, apply to mortgages insured:

(1) Pursuant to a Conditional Commitment or a Master Conditional Commitment issued by the Commissioner, or a Certificate of Reasonable Value or a Master Certificate of Reasonable Value issued by the Administrator of Veterans Affairs, on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program (24 CFR 200.163 of this chapter), if the approved underwriter of the mortgagee signs the Appraisal Report or the Master Appraisal Report for the property on or after September 24, 1990.

(b) The provisions referred to in paragraph (a) of this section, as they existed immediately before September 24, 1990, govern the insurance of mortgages that do not meet the conditions of that paragraph.

36. In § 221.251(a), a new entry in the listing of sections is added at the appropriate place, to read as follows:

§ 221.251 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

37. Part 221, subpart B, is amended by adding a new section, to read as follows:

§ 221.252 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under subpart A of this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 221.20(c)) or is a private nonprofit or public entity as provided in section 221(h) of the National Housing Act.

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor, only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Direct Endorsement.* Mortgagees approved for participation in the direct endorsement program under §§ 200.163 and 200.164 of this chapter may, subject to limitations established by the Commissioner, themselves approve an appropriate substitute mortgagor under this section and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts and (2) persons who purchase without assuming liability on the mortgage note or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 222—SERVICEPERSON'S MORTGAGE INSURANCE

38. The authority citation for part 222 continues to read as follows:

Authority: Secs. 211, 222, National Housing Act (12 U.S.C. 1715b, 1715m); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

39. The part heading for part 222 is revised to read as set forth above.

40. In § 222.1(a), the last entry in the listing of sections is revised to read as follows:

§ 222.1 Cross-reference.

(a) * * *

203.51 Applicability.

* * * * *

41. In § 222.2, paragraphs (b), (c), and (d) are revised to read as follows:

§ 222.2 Definition of terms.

* * * * *

(b) *Certificate of eligibility* means the official certificate issued by the Secretary to the Federal Housing Commissioner which establishes that the person designated on the certificate as the serviceperson has met the eligibility requirements set forth in section 222 of the National Housing Act.

(c) *Serviceperson* means a person to whom the Secretary has issued a certificate of eligibility.

(d) *Period of ownership by serviceperson* means that period of time during which the Secretary is required to pay mortgage insurance premiums to the Federal Housing Commissioner, commencing with the date the Commissioner endorses a mortgage for insurance and terminating when the Secretary furnishes the Commissioner with a certificate indicating that the Secretary will no longer be liable for payment of the insurance premiums to the Commissioner.

42. In § 222.4, paragraph (c) is removed.

43. In § 222.6, the introductory language in paragraph (a), and paragraph (b), are revised, to read as follows:

§ 222.6 Application of payments.

(a) Notwithstanding the provisions of § 203.24 of this chapter and until the Commissioner has notified the mortgagee that the period of ownership by a serviceperson has been terminated, the mortgagor's monthly payments must be applied to the following items in the order set forth:

* * * * *

(b) After the mortgagee receives notification from the Commissioner that the period of ownership by a serviceperson has been terminated, the mortgagee must apply all monthly payments received from the mortgagor in the order set forth in § 203.24 of this chapter.

44. Section 222.7 is revised to read as follows:

§ 222.7 Use of mortgage proceeds.

The proceeds of mortgages must be used for the purpose of financing the construction or purchase of an eligible dwelling by a serviceperson.

45. Section 222.8 is revised to read as follows:

§ 222.8 Eligible mortgagors.

To be eligible for mortgage insurance under this part, the mortgagor must:

(a) Meet the requirements of §§ 203.32 through 203.36 of this chapter;

(b) Hold a certificate of eligibility issued by the Secretary, indicating that the mortgagor meets the eligibility requirements of section 222 of the National Housing Act; and

(c) Occupy the dwelling as a principal residence (as defined in § 203.18(f)(1) of this chapter) or certify that his or her failure to do so is a result of his or her military assignment, or, in the case of the Coast Guard or U.S. National Oceanic and Atmospheric Administration, other assignment.

46. Section 222.50 is revised to read as follows:

§ 222.50 Transfer of insurance.

The insurance of a mortgage pursuant to §§ 203.1 *et seq.* (part 203, subpart A); §§ 213.501 *et seq.* (part 213, subpart C); §§ 220.1 *et seq.* (part 220, subpart A); §§ 221.1 *et seq.* (part 221, subpart A); §§ 226.1 *et seq.* (part 226, subpart A); §§ 227.1 *et seq.* (part 227, subpart A); §§ 234.1 *et seq.* (part 234, subpart A); §§ 235.1 *et seq.* (part 235, subpart A); §§ 237.1 *et seq.* (part 237, subpart A); all of this chapter, covering a single family dwelling or a family unit in a condominium project, may, with the approval of the Commissioner and upon the request of the mortgagee, be transferred for insurance under this subpart, if the mortgage indebtedness has been assumed by a serviceperson who (a) holds a certificate of eligibility issued by the Commissioner, (b) becomes the owner of the property, and (c) either occupies the property as a principal residence (as defined in 24 CFR 203.18(f)(1) of this chapter) or certifies that his or her failure to do so is the result of his or her military assignment, or, in the case of the Coast Guard or U.S. National Oceanic and Atmospheric Administration, other assignment.

47. Part 222, subpart A, is amended by adding a new section, to read as follows:

§ 222.52 Applicability.

The provisions of §§ 222.2 (b) through (d); 222.6; 222.7; 222.8; and 222.50 apply as provided in 24 CFR 203.51 of this chapter.

48. In § 222.251(a), the listing of sections is amended by adding a new entry at the appropriate place, to read as follows:

§ 222.251 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

49. Part 222, subpart B, is amended by adding a new section, to read as follows:

§ 222.254 Substitute mortgagors.

(a) *Selling mortgagor.* Except as provided in paragraph (d), the mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by paragraph (b) of this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f) of this chapter) or is an eligible nonoccupant mortgagor (as defined in § 203.18(f)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Direct Endorsement.* Mortgagees approved for participation in the direct endorsement program under §§ 200.163 and 200.164 of this chapter may, subject to limitations established by the Commissioner, themselves approve an appropriate substitute mortgagor under this section and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) Persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts and (2) persons who purchase without assuming liability on the mortgage note or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 226—ARMED SERVICES HOUSING—CIVILIAN EMPLOYEES [SEC. 809]

50. The authority citation for part 226 continues to read as follows:

Authority: Secs. 211, 807, 809, National Housing Act (12 U.S.C. 1715b, 1748f, 1748h–1);

sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

51. In § 226.1(a), the last entry in the listing of sections ("203.51 negotiated interest rate") is removed.

52. Section 226.8 is revised to read as follows:

§ 226.8 Eligible mortgagors.

(a) *Eligibility requirements.* No mortgage may be insured under this part, unless it is executed by a mortgagor who:

(1) Meets the employment status requirements set forth in § 226.3; and

(2) At the time of insurance, is the owner of the property; and occupies the property as a principal residence (as defined in § 203.18(f)(1) of this chapter) or certifies that the failure to do so is the result of a change in his or her employment.

(b) *Applicability.* Paragraph (a) of this section applies as provided in § 203.51 of this chapter.

53. In § 226.251(a), a new entry in the listing of sections is added at the appropriate place, to read as follows:

§ 226.251 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

54. Part 226, subpart B, is amended by adding a new section, to read as follows:

§ 226.252 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by paragraph (b) of this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured pursuant to this part, if the substitute mortgagor is to occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 203.18(f) of this chapter) or is an eligible non-occupant mortgagor (as defined in § 203.18(f)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor if the mortgage executed by the original mortgagor of the mortgage met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* For purposes of this section, the term "substitute mortgagor" is defined as provided in § 203.258(f) of this chapter.

PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE

55. The authority citation for part 233 is revised to read as follows:

Authority: Secs. 211, 233, National Housing Act (12 U.S.C. 1715b, 1715x); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

56. In § 233.5, paragraph (a)(5) is removed and reserved.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

57. The authority citation for part 234 continues to read as follows:

Authority: Secs. 211, 234, National Housing Act (12 U.S.C. 1715b, 1715y); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

58. In § 234.25, paragraph (c)(2) is revised to read as follows:

§ 234.25 Mortgage provisions.

* * * * *

(c) * * *

(2) Have a maturity satisfactory to the Commissioner of not more than 30 years from the date of the beginning of amortization, except that the term may be up to 35 years from that date, if the mortgagor:

(i) Occupies the property as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)); and

(ii) Is not able, as determined by the Commissioner, to make the required payments under a mortgage having a shorter amortization period.

* * * * *

59. In § 234.26, paragraphs (e) (2) and (3) are revised to read as follows:

§ 234.26 Project requirements.

* * * * *

(e) * * *

(2) An application for mortgage insurance of a unit will not be approved if approval would result in less than 80 percent of the FHA-insured mortgages covering units in the project being occupied by mortgagors or co-mortgagors as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)).

(3) In addition to the other requirements of this section, in order for a project to be acceptable to the Secretary, at least 51 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)), or must have been sold to owners who intend to meet this occupancy requirement.

* * * * *

60. In § 234.27, the introductory text of paragraphs (a), (a)(2) and (a)(3), and paragraph (d) are revised; and new paragraphs (a)(4) and (e) are added, to read as follows:

§ 234.27 Maximum mortgage amounts.

(a) *Mortgagors of principal or secondary residences.* Except for "high-cost" mortgage limits provided for in paragraph (b) of this section, a mortgage executed by a mortgagor who is to occupy the property as a principal residence or a secondary residence (as these terms are defined in paragraph (e) of this section) may not exceed the lesser of the amounts in paragraphs (a)(1) and (a)(2), (a)(1) and (a)(3), or (a)(1) and (a)(4) of this section (whichever applies), as follows:

* * * * *

(2) *Loan-to-value limitation—principal residences—no approval before construction.* If a family unit is to be occupied as a principal residence and is not approved for mortgage insurance before the beginning of construction, the loan-to-value ratio may not exceed 90 percent of the appraised value of the family unit as of the date the mortgage is accepted for insurance, unless the family unit:

* * * * *

(3) *Loan-to-value limitation—principal residences—approval before construction.* If a family unit is to be occupied as a principal residence and is approved for mortgage insurance before the beginning of construction, or it meets one of the alternative conditions listed in paragraph (a)(2) of this section, the following loan-to-value ratios apply:

* * * * *

(4) *Loan-to-value limitation—secondary residences.* If a family unit is to be occupied as a secondary residence, the loan-to-value ratio is 85 percent of the appraised value of the family unit as of the date the mortgage is accepted for insurance.

* * * * *

(d) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage executed by an eligible non-occupant mortgagor (as defined in paragraph (e) of this section) may not exceed the lesser of (1) the dollar limitation under paragraph (a)(1) of this section or (2) the amount authorized for the appropriate loan type under paragraphs (a) (2) through (4) of this section, as of the date the mortgage is accepted for insurance.

(e) *Definitions.* As used in this section:

(1) *Principal residence* means the dwelling where the mortgagor (i) maintains (or will maintain) his or her permanent place of abode and (ii) typically spends (or will spend) the majority of the calendar year. A person may have only one principal residence at any one time.

(2) *Secondary residence* means the dwelling where the mortgagor (i) maintains (or will maintain) a part-time place of abode and (ii) typically spends (or will spend) less than the majority of the calendar year. A person may have only one secondary residence at any one time.

(3) *Eligible non-occupant mortgagor* means a mortgagor (or co-mortgagor, as appropriate) who is not to occupy the dwelling as a principal residence or a secondary residence and who is—

(i) A public entity, as provided in section 214 or 247 of the National Housing Act; or any other State or local government or a agency thereof;

(ii) A private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(iii) A serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216, or in subsection (b)(4) or (*f*) of section 222;

(iv) A mortgagor that, pursuant to § 234.52, is refinancing an existing mortgage insured under the National Housing Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

61. In § 234.49, paragraph (a) is revised to read as follows:

§ 234.49 Eligible mortgages in Alaska, Guam, or Hawaii.

(a) If the Alaska Housing Authority, or the Government of Guam or Hawaii, or any agency or instrumentality thereof, is the mortgagor or the mortgagee; or the mortgagor is regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Commissioner determines advisable to provide reasonable rental and sales prices and a reasonable return on the investment, any mortgage otherwise eligible for insurance under this subpart may be insured:

(1) In any case where the Alaska Housing Authority, or the government of Guam or Hawaii, or any agency or instrumentality thereof, is the mortgagor, without regard to any requirement that the mortgagor occupy the dwelling as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)), or meet loan-to-value limitations based on the failure of the mortgagor to meet an occupancy requirement;

(2) Without regard to any requirement that the mortgagor has paid on account of the property a prescribed percentage of the appraised value of the property; or

(3) Without regard to any requirement that the mortgagor certify that the mortgaged property is free and clear of all liens other than the mortgage offered for insurance, and that there will not be any unpaid obligations contracted in connection with the mortgage transaction or the purchase of the mortgaged property.

* * * * *

62. Section 234.51 is revised to read as follows:

§ 234.51 Mortgagor of principal residence in military service cases.

A mortgage otherwise eligible for insurance under any of the provisions of this part may be insured without regard to any requirement contained in this part that the mortgagor occupy the dwelling as a principal residence (as defined in § 234.27(e)(1)) at the time of insurance, or that the mortgagor meet loan-to-value limitations based on his or her failure to meet an occupancy requirement, if:

(a) The Commissioner is satisfied that the inability of the mortgagor to meet an occupancy requirement is by reason of the mortgagor's entry into military service after the filing of an application for insurance; and

(b) The mortgagor expresses an intent (in such form as may be prescribed by the Commissioner) to meet the occupancy requirement upon his or her discharge from military service.

(Approved by the Office of Management and Budget under OMB control number 2502–0059).

63. In § 234.52, the introductory text and paragraph (a) are revised, to read as follows:

§ 234.52 Refinancing of existing mortgages.

The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in the other provisions of this subpart, any mortgage covering a family unit given to refinance an existing mortgage insured under the National Housing Act. The refinancing mortgage must meet the following special requirements:

(a)(1) Except as provided in paragraph (a)(2) of this section, the refinancing mortgage must be in an amount that does not exceed the least of (i) the original principal amount of the existing mortgage; (ii) the sum of the outstanding balance of the existing mortgage, plus loan closing costs approved by the Commissioner; or (iii) in the case of an eligible non-occupant mortgagor (as defined in § 234.27(e)), the outstanding balance of the existing mortgage, provided that the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(2) In the case of graduated payment mortgages insured under section 234(c) of the Act pursuant to section 245 (a) or (b) of the Act (§ 234.75 or § 234.76 (as in effect before its removal at 52 FR 32754, published August 28, 1987)), the refinancing mortgage must have a principal amount that does not exceed the outstanding balance of the existing mortgage.

* * * * *

64. In § 234.75, paragraph (g) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in § 234.27(e)(1)). It does not apply to a mortgage that meets the requirements of § 234.27 (a)(4) or (d), or § 234.79.

* * * * *

65. In § 234.79, paragraph (h) is revised to read as follows:

§ 234.79 Eligibility of adjustable rate mortgages.

* * * * *

(h) *Cross-reference.* Sections 234.36 (level payment amortization provisions) and 234.70 (open-end advances) do not apply to this section. This section does not apply to a mortgage that meets the requirements of §§ 234.27(a)(4) (mortgagors of secondary residences), 234.27(d) (mortgagors of dwellings that are not principal or secondary residences), 234.68 (mortgages covering housing in certain neighborhoods), 234.69 (mortgages covering housing in federally impacted areas), 234.69a (mortgages for individually owned condominium units for existing multifamily housing demonstration), 234.75 (graduated payment mortgages), and 234.77 (growing equity mortgages).

* * * * *

66. Part 234, subpart A, is amended by adding at the end of the subpart a new center heading and a new section, to read as follows:

Applicability

§ 234.65 Applicability.

(a) The provisions of §§ 234.25(c)(2), 234.26(e) (2) and (3); 234.27 (a), (d), and (e); 234.49(a); 234.51; 234.52; 234.75(g); and 234.79(h) of this subpart apply to mortgages insured:

(1) Pursuant to a Conditional Commitment or a Master Conditional Commitment issued by the Commissioner, or a Certificate of Reasonable Value or a Master Certificate of Reasonable Value issued by the Administrator of Veterans Affairs, on or after September 24, 1990; or

(2) In accordance with the Direct Endorsement program (24 CFR 200.163 of this chapter), if the approved underwriter of the mortgagee signs the Appraisal Report or the Master Appraisal Report for the property on or after September 24, 1990.

(b) The provisions referred to in paragraph (a) of this section, as they existed immediately before September 24, 1990, govern the insurance of mortgages that do not meet the conditions of paragraph (a) of this section.

67. In § 234.255(a), a new entry to the listing of sections is added at the appropriate place, to read as follows:

§ 234.255 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

68. Part 234, subpart B, is amended by adding a new section, to read as follows:

§ 234.256 Substitute mortgagors.

(a) *Selling mortgagor.* Except as provided in paragraph (d) of this section, the mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided by paragraph (b) of this section.

(b) *Purchasing mortgagor.* (1) The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part, if the mortgagor is to occupy the property as a principal residence or a secondary residence (as these terms are defined in § 234.27(e)).

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) Mortgagees approved for participation in the direct endorsement program under §§ 200.163 and 200.164 may themselves approve an appropriate substitute mortgagor under this section and need not obtain further specific approval from the Commissioner.

(f) *Definition.* As used in this section, the term "substitute mortgagor" includes (1) persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts and (2) persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by the mortgagee to the previous mortgagor.

PART 235—MORTGAGE INSURANCE AND ASSISTANCE PAYMENTS FOR HOME OWNERSHIP AND PROJECT REHABILITATION

69. The authority citation for part 235 continues to read as follows:

Authority: Secs. 211, 235, National Housing Act (12 U.S.C. 1715b, 1715z); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

§ 235.1 Cross-reference.

(a) * * *

70. In § 235.1(a), the last section entry is revised to read as follows:

203.51 Applicability.

* * * * *

71. In § 235.2, paragraph (c) is revised to read as follows:

§ 235.2 Basic program outline.

* * * * *

(c) Assistance will be limited to mortgagors who purchase for occupancy as a principal residence (as defined in § 203.18(f) of this chapter) new or substantially rehabilitated single family or condominium units.

* * * * *

72. Section 235.32 is revised to read as follows:

§ 235.32 Increased maximum mortgage amount for physically handicapped persons.

If the mortgage relates to a dwelling to be occupied as a principal residence (as defined in § 203.18(f) of this chapter) by a handicapped person as defined in § 235.5(c)(2), the dollar amount limitation under § 235.25 or § 235.30 may be increased in such amount as may be necessary to reflect the cost of making the dwelling accessible to and usable by the handicapped person, but not to exceed 10 percent of the limitation.

73. In § 235.201(a), a new entry to the listing of sections is added at the appropriate place, to read as follows:

§ 235.201 Cross-reference.

(a) * * *

203.258 Substitute mortgagors.

* * * * *

74. Part 235, subpart B, is amended by adding a new section, to read as follows:

§ 235.206 Substitute mortgagors.

(a) *Selling mortgagor.* The mortgagee may effect the release of a mortgagor from personal liability on the mortgage note only if it obtains the Commissioner's approval of a substitute mortgagor, as provided under this section. The Commissioner may release a mortgagor from personal liability on any second mortgage note it holds in connection with its approval of a substitute mortgagor under this section.

(b) *Purchasing mortgagor.* The Commissioner may approve a substitute mortgagor with respect to any mortgage insured under this part only if the mortgagor is to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1) of this chapter) and only if the mortgagor meets all applicable requirements of this part.

(c) *Applicability—current mortgagor.* Paragraph (b) of this section applies to the Commissioner's approval of a substitute mortgagor only if the mortgage executed by the original mortgagor met the conditions of § 203.258(c) of this chapter.

(d) *Applicability—earlier mortgagor.* The occupancy and similar requirements set forth in § 203.258(d) of this chapter apply to mortgages insured under subpart A of this part.

(e) *Definition.* As used in this section, the term "substitute mortgagor" includes: (1) persons who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assume this liability and agree to pay the mortgage debts; and (2) persons who purchase without assuming liability on the mortgage note, or purchase where no release is given by the mortgagee to the previous mortgagor.

Dated: August 14, 1990.

C. Austin Fitts,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 90-19673 Filed 8-23-90; 8:45 am]

BILLING CODE 4210-27-M