who were opposed to the concept of sliding fee scales urged the Department not to retain the requirement, relocated from § 303.19 of the current regulations to § 303.520(b)(4)(i) of the proposed regulations, that a State's policies set out any fees that will be charged for early intervention services and the basis for those fees.

Commenters who addressed the proposed requirement that States that decide not to charge fees for Part H services provide an explanation of the determination not to charge fees were uniformly opposed to it. These commenters expressed the view that the requirement would place undue burdens on States, would not enhance the ability of States to decide the merits of sliding fee scales, and would improperly interfere with the discretion of States to determine whether to charge fees for Part H services. Commenters suggested that the Department gather more information on sliding fee scales before adopting a policy in favor of such a system. No comments were received on the elements of useful analyses of sliding fee scales that States might undertake.

Discussion: The Secretary has determined not to adopt the requirement in proposed § 303.520(b)(4)(ii) that a State that determines not to charge fees for early intervention services include an explanation for this determination in its policies. The purpose of this proposed requirement was to encourage States to establish sliding fee scales for direct services based on a family's ability to pay, as authorized by section 672(2)(B) of the Act. However, the Secretary is persuaded that the proposed requirement could impose unnecessary burdens on States and presents other problems noted in the comments summarized above. The Secretary has determined to adhere to the policy on sliding fee scales for early intervention services that is contained in current regulations and that the legislative history of the 1991 Amendments expressly endorses. See S. REP. No. 84, 102d Cong. 1st Sess. 20 (1991) and H.R. REP. No. 198, 102d Cong., 1st Sess. 13 (1991). That policy requires that a State provide information about any system of payments it adopts but does not require an explanation for the decision not to adopt a system of payments.

Changes: The requirement in proposed paragraph (b)(4)(ii), described above, has been deleted. The requirement in proposed paragraph (b)(4)(i), which is taken from current § 303.19, is retained with conforming editorial changes.

Subpart G—State Interagency Coordinating Council

Section 303.602 Use of Funds by the Council

Comment: One commenter requested that the regulations provide that Council members be reimbursed for only extraordinary—and not normal—child care expenses incurred while attending Council meetings and performing Council duties.

Discussion: The proposed regulations incorporate statutory language from the 1991 Amendments. See section 682(d) of the Act. Under this language, the use of funds for child care expenses of parent representatives is permitted, but not required, if those expenses are "reasonable and necessary." The Secretary declines to provide more specific guidance on this topic.

Changes: None.

Section 303.650 General

Comment: Commenters expressed concern about the revision of the Council's functions that permits it to advise and assist the SEA regarding the provision of appropriate services for children. Commenters pointed out that the SEA is required to establish its own statewide advisory panel under Part B. They expressed concern that the new function of the Part H Council would be duplicative and confusing. One commenter asked that the regulations provide that the SEA has the discretion to arrange to obtain the Council's advice and assistance. Another commenter requested that paragraph (b) of this section emphasize advice and assistance on transition matters.

Discussion: Proposed § 303.650 incorporates the language in section 682(e)(2) of the Act, as added by the 1991 Amendments. The Secretary declines to prescribe the procedure by which advice may be sought or given, or to expand upon the statutory language in other respects. However, the Secretary encourages the use of advisory bodies to facilitate better communication on matters of mutual concern. The Secretary also offers the observations that the Council's advice and assistance on the provision of services under paragraph (b) is permitted but not required, and that the SEA is not bound by any advice it receives.

Changes: None.

Section 303.653 Transitional Services

Comment: One commenter expressed concern that the added requirement that the Council advise and assist the SEA regarding the transition of children with disabilities to Part B services may prove duplicative and confusing. Another commenter requested that the regulations require the Council to advise and assist the State lead agency as well as the SEA on transition matters.

Discussion: The proposed regulations incorporate the statutory requirement in section 682(e)(1)(C), as added by the 1991 Amendments. The Secretary declines to prescribe how the new role of the Part H Council regarding transition issues should be performed or to expand that role by regulation.

Changes: None.

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federal register

Friday
July 30, 1993

Part IV

Department of Education

Office of Educational Research and Improvement—Library Programs; Notice Inviting Applications for New Awards for Fiscal Year 1994

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement—Library Programs

Invitation To Apply for New Awards for Fiscal Year 1994

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year 1994.

SUMMARY: The Secretary invites applications for new awards for fiscal year 1994 and announces closing dates for the transmittal of applications under six discretionary grant programs for libraries: The Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants, Improving Access to Research Library Resources Program, Library Literacy Program, College Library Technology and Cooperation Grants Program, Foreign Language Materials Acquisition Program, and Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants.

The invitation for applications for new awards under the Library Education and Human Resource Development Program (CFDA No. 84.036) is scheduled to be announced in the **Federal Register** at a later date.

These programs support the National Education Goals by seeking to improve library services, to enhance the skills of library staff, to increase the quality and availability of library holdings, and other activities. The National Education Goals specifically call for:

- Children to start school ready to learn (Goal 1);
- The high school graduation rate to increase to at least 90 percent (Goal 2);
- Students to demonstrate competency in challenging subject matter and to learn to use their minds well (Goal 3);
- U. S. students to be first in the world in science and mathematics achievement (Goal 4);
- Adult Americans to be literate and to possess the knowledge and skills necessary to compete in a global economy and exercise the rights and responsibilities of citizenship (Goal 5); and
- Every school to be free of drugs and violence and to offer a disciplined environment conducive to learning (Goal 6).

DATES: The closing dates for transmitting applications under this notice are listed in Section I of this notice.

ADDRESSES: The addresses for obtaining applications for, or further information about, individual programs or competitions are in the respective announcements for those programs contained in Section II of this notice.

To contact any persons named in this announcement, individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: All programs announced in this notice, with the exception of the Library Services to Indian Tribes and Hawaiian Natives Program, including both Basic Grants and Special Projects Grants, are subject to the requirements of Executive Order 12372, Intergovernmental Review of Federal Programs. Information regarding applicable procedures under this order will be included in the application packages.

Organization of Notice

This notice contains two sections. Section I includes a chart listing closing dates in chronological order, and other pertinent information about programs covered by this notice. Section II consists of the individual application announcement for each program.

SECTION I.—PROGRAMS AND CLOSING DATES FOR LIBRARY PROGRAMS

Title of program and CFDA number	Applications available	Application deadline date	Deadline for intergovernmental review	Tentative award date	Estimated available funds [1]	Estimated range of awards [1]	Estimated avg. size of awards [1]	Estimated number of awards [1]
Library Services to Indian Tribes and Hawaiian Natives Program-Basic Grants (84.163A).	8/24/93	10/15/93	NA	02/23/94	[3] $897,000 [4] 598,000	NA	[3] $5,000	210
Improving Access to Research Library Resources Program (84.091A)..	08/24/93	10/12/93 [2] 12/09/93	02/7/94	05/16/94	5,808,000	35,000 550,000	165,000	35
Library Literacy Program (84.167A).	09/17/93	11/19/93	[5] 01/19/94	06/29/94	8,098,000	5,000 35,000	32,000	250
College Library Technology and Cooperation Grants Program (84.197A–D).	10/01/93	12/13/93	02/13/94	08/12/94	3,873,000	25,000 300,000	A 50,000 B 180,000 C 100,000 D 125,000	35
Foreign Language Materials Acquisition Program (84.239A).	10/15/93	01/07/94	[5] 03/07/94	06/17/94	968,000	10,000 103,000	[6] A 97,000 [6] B 26,000	31
Library Services to Indian Tribes and Hawaiian Natives Program-Special Projects Grants (84.163B).	02/03/94	04/04/94	NA	08/12/94	[3] 897,000	17,000 160,000	62,000	15

[1] The Department is not bound by any estimates in this notice. The estimated available funds reflect fiscal year 1993 appropriation amounts; however, the Administration's budget request for fiscal year 1994 does not include funds for these programs, other than set asides for Indian Tribes and Hawaiian Natives. Applications are being invited to allow sufficient time for evaluation and completion of the grant process before the end of fiscal year 1994 should the Congress appropriate funds for these programs.

[2] 10/12/93 for eligibility information for institutions needing to establish eligibility (Part I only); 12/09/93 for all project descriptions (Part II).

[3] Indian Tribes

[4] Hawaiian Natives

[5] This deadline also applies to comments from State Library Administrative agencies.

[6] By law, (A) up to 30 percent of the funds available may be used to make grants in amounts between $35,000–$125,000; (B) of the remaining funds, no grant may exceed $35,000.

Section II—Application Notices

CFDA No. 84.163A—Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (Library Services and Construction Act, Title IV).

Purpose of Program:

Provides noncompetitive basic grants to eligible Indian tribes and to eligible Hawaiian native organizations to establish or improve public library services for Indian tribes and Hawaiian natives.

Eligible Applicants:

(a) Indian tribes recognized by the Secretary of the Interior to be eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(b) Alaska Native villages or regional or village corporations as defined in or established under the Alaska Native Claims Settlement Act; however, two or more Alaska Native villages, regional corporations, or village corporations may not receive basic grant allocations to serve the same population; and

(c) Organizations primarily serving and representing Hawaiian natives and recognized by the Governor of Hawaii.

Applicable Regulations:

(a) The Basic Grants to Indian Tribes and Hawaiian Natives Program Regulations in 34 CFR part 771; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74 and 82 (for grants to Hawaiian native organizations); 80 (for grants to Indian tribes); and 75, 77, 81, and 85 (for grants to both Hawaiian natives and Indian tribes).

For Applications or Information Contact

Beth Fine, Program Officer, Discretionary Library Programs Division, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208–5571. Telephone (202) 219–1315.

Program Authority: 20 U.S.C. 351, 361(c), 363.

CFDA No. 84.091A—Improving Access to Research Library Resources Program (Higher Education Act, Title II, Part C)

Purpose of Program

Provides grants to the Nation's major research libraries to maintain and strengthen their collections and make their holdings available to other libraries whose users have need for research materials.

Eligible Applicants

Institutions with major research libraries as defined in 34 CFR 778.2.

Applicable Regulations

(a) The Improving Access to Research Library Resources Program Regulations in 34 CFR part 778; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, and 86.

Supplementary Information

The application procedure contains two parts: Part I covers the Status as a Major Research Library and Part II covers the Description of the Project. These parts must be submitted separately as follows: Those applicants who need to establish status as a major research library must submit Part I (Program Regulations, § 778.21) by 10/12/93; applicants who established status in fiscal year 1990 or later need not submit Part I. All applicants must submit Part II (Program Regulations, § 778.22) by 12/9/93. Applicants submitting Part I may not be notified of status as a major research library prior to the Part II deadline. Therefore, these applicants should prepare and submit both Parts I and II by the deadlines listed.

For Applications or Information Contact

Linda Loeb, Program Officer, Discretionary Library Programs Division, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 404, Washington, DC 20208–5571. Telephone (202) 219–1315.

Program Authority 20 U.S.C. 1021, 1041.

CFDA No. 84.167A—Library Literacy Program (Library Services and Construction Act, Title VI)

Purpose of Program

Provides grants to State and local public libraries to support adult literacy projects. Grants may not exceed $35,000.

Eligible Applicants

State and local public libraries.

Length of Application

The applicant must limit the application narrative to no more than 25 double-spaced, 8 1/2 x 11" pages (on one side only) with one-inch margins, including the abstract, charts, and graphs. If using a proportional computer font, use no smaller than a 12-point font. If using a nonproportional computer font or a typewriter, do not use more than 10 characters to the inch. Proposal narratives that exceed this page limit, or narratives using a smaller print size or spacing that makes the narrative exceed the equivalent of this limit, will not be considered for funding.

Applicable Regulations

(a) The Library Literacy Program Regulations in 34 CFR part 769; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, and 85.

For Applications or Information Contact

Carol Cameron Lyons or Barbara Humes, Program Officers, Discretionary Library Programs Division, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 404, Washington, DC 20208–5571. Telephone: (202) 219–1315.

Program Authority: 20 U.S.C. 375.

CFDA No. 84.197A–D—College Library Technology and Cooperation Grants Program (Higher Education Act, Title II, Part A)

Purpose of Program

To assist college and university libraries in acquiring technological equipment, participating in networks, and conducting research and demonstration projects that utilize technology to enhance library and information services. The four types of discretionary grants and their purposes are:

(a) Networking Grants—for the planning, development, acquisition, maintenance, or upgrading of technological equipment necessary to organize, access, or utilize material in electronic formats and to participate in networks for the accessing and sharing of library and information resources;

(b) Combination Grants—for establishing and strengthening joint-use library facilities, resources, or equipment for the accessing and sharing of library and information resources;

(c) Services to Institutions Grants—for establishing, developing, or expanding programs or projects that improve the services provided by public and nonprofit organizations to institutions of higher education; and

(d) Research and Demonstration Grants—for improving information services to meet special national or regional needs by utilizing technology to enhance library and information services, such as through the National Research and Education Network.

Eligible Applicants

The following are eligible to receive awards under this program:

(a) For Networking Grants—institutions of higher education.

(b) For Combination Grants—combinations of institutions of higher education.

(c) For Services to Institutions Grants—public or nonprofit private organizations (other than institutions of higher education) that provide library and information services to institutions of higher education on a formal cooperative basis.

(d) For Research and Demonstration Grants—institutions of higher education.

Absolute Priority

The Secretary gives priority to institutions of higher education seeking assistance for projects that assist developing institutions of higher education in linking one or more institutions of higher education to resource-sharing networks. In accordance with 34 CFR 75.105(c)(3), the Secretary reserves up to 40 percent of all program funds solely for applications that meet this priority in a particularly effective way.

Applicable Regulations

(a) The College Library Technology and Cooperation Grants Program Regulations in 34 CFR part 779; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80 (for Services to Institutions Grants, to State or local public organizations), 82, 85 and 86.

For Applications or Information Contact

Neal Kaske, Program Officer, Discretionary Library Programs Division, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208–5571. Telephone (202) 219–1315.

Program Authority: 20 U.S.C. 1029, 1047.

CDFA No. 84.239A—Foreign Language Materials Acquisition Program (Library Services and Construction Act, Title V)

Purpose of Program

This program makes grants to State and local public libraries for the acquisition of foreign language materials. By law, up to 30 percent of the funds available may be used to make grants in amounts between $35,000 and $125,000; and, of the remaining funds, no grant may exceed $35,000. The law also provides that no recipient may receive more than one grant under this program in the same fiscal year.

Eligible Applicants

State and local public libraries.

Applicable Regulations

(a) The Foreign Language Materials Acquisition Program Regulations in 34 CFR part 768; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, and 85.

For Applications or Information Contact

Nancy Cavanaugh, Program Officer, Discretionary Library Programs Division, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208–5571. Telephone (202) 219–1315.

Program Authority 20 U.S.C. 371.

CFDA No. 84.163B—Library Services to Indian Tribes and Hawaiian Natives Program—Special Projects Grants (Library Services and Construction Act, Title IV)

Purpose of Program

This program makes competitive awards to eligible Indian tribes to establish or improve public library services. All available funds for library services to Hawaiian natives are awarded through the Library Services to Indian Tribes and Hawaiian Natives Program—Basic Grants (CFDA No. 84.163A).

Eligible Applicants

Indian Tribes and Alaska Native villages or regional or village corporations that have met eligibility requirements for the Library Services to Indian Tribes Program—Basic Grants (CFDA No. 84.163A) and received such Basic Grants in the same fiscal year as the year of application.

Priorities

The Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets an invitational priority does not receive competitive or absolute preference over other applications.

Invitational Priority 1: To assess and plan for tribal library needs.

Invitational Priority 2: To train or retrain Indians as library personnel.

Invitational Priority 3: To purchase library materials.

Invitational Priority 4: To conduct special library programs for Indians such as summer reading programs for children, outreach programs for elders, literacy tutoring, and training in computer use.

Applicable Regulations

(a) The Special Projects Grants to Indian Tribes and Hawaiian Natives Program Regulations in 34 CFR part 772; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 80, 81, and 85.

For Applications or Information Contact

Beth Fine, Program Officer, Discretionary Library Programs Division, Library Programs, U.S. Department of Education, 555 New Jersey Avenue, NW., room 404, Washington, DC 20208–5571. Telephone (202) 219–1315.

Program Authority: 20 U.S.C. 351, 361(d), 364.

Dated: July 26, 1993.

Dick W. Hays,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–18170 Filed 7–29–93; 8:45 am]

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federal register

Friday
July 30, 1993

Part V

Department of Housing and Urban Development

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

24 CFR Part 200, et al.
Single Family and Manufactured Home FHA Insurance—Miscellaneous Amendments; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 200, 201, 203, 204, 220, 221, 222, 226, 234 and 240

[Docket No. R-93-1647; FR-3445-F-01]

RIN 2502-AF93

Single Family and Manufactured Home FHA Insurance-Miscellaneous Amendments

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

ACTION: Final rule.

SUMMARY: This rule implements various provisions in the Housing and Community Development Act of 1992 relating to FHA single family and manufactured home loan limits, veterans exemption from certain equity requirements, establishment of mortgage insurance premiums, and the correction of defects in certain FHA insured homes. In addition, the rule makes final three earlier proposed or interim rules relating to FHA: minimum mortgagor equity requirements; limitations on the insuring of secondary homes; and Mortgage Insurance Premiums (MIP) for 15-year mortgages.

EFFECTIVE DATE: August 30, 1993.

FOR FURTHER INFORMATION CONTACT: *For Single Family Housing issues:* Morris Carter, Director, Single Family Development Division, room 9272, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2700. A telecommunications device for deaf persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.)

For manufactured home loan issues: Robert J. Coyle, Director, Title I Insurance Division, room 9160, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708-2880. A telecommunications device for deaf persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: Any additional information collection requirements contained in a final rule must be submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). This final rule does not contain additional information collection requirements.

This rule implements various provisions in the Housing and Community Development Act of 1992 (Pub. L. 102-550 approved October 28, 1992) relating to (1) FHA single family and manufactured home loan limits, (2) veterans exemption from certain minimum equity requirements, (3) Secretarial discretion in setting mortgage insurance premiums and (4) the correction of defects in certain types of homes with FHA-insured financing. In addition, the rule makes final two interim and one proposed rule published earlier in the Federal Register. One of these, a proposed rule relating to limitations on FHA insurance for secondary homes (56 FR 55855) was published on October 30, 1991. A second, revising HUD's mortgage insurance premium for 15-year mortgages, (57 FR 46980) was published on October 14, 1992. The third, an interim rule relating to minimum mortgagor equity, was published on May 30, 1991 at 56 FR 24628.

Single Family Mortgage Amounts

Section 503(a) of the Housing and Community Development Act of 1992 (the 1992 Act) amended section 203(b)(2) of the National Housing Act (NHA) (12 U.S.C. 1709(b)(2)) by eliminating its then-current dollar limits on maximum mortgage amount. Section 503 also made an amendment to the loan-to-value limits set forth in the NHA.

The effect of the amendment is to eliminate the earlier dollar cap of $124,875 ($124,850 for condominiums) and to provide, as a general matter, that a mortgage may be insured by FHA if it does not exceed the lesser of 95 percent of the median area house price or 75 percent of the dollar amount limitation for the Federal Home Loan Mortgage Corporation (FHLMC) as in effect on September 30, 1992. A provision ensuring that no area experiences a reduction, by virtue of the statutory change, in its maximum mortgage amount applicable as of May 12, 1992 is also included. The amendment also increases the downpayment on the amount of any FHA insured loan in excess of $125,000—from 5 to 10 percent for the amount above $125,000.

The FHLMC maximum mortgage amounts in effect on September 30, 1992 were $202,300 for a one unit dwelling, $258,800 for a two unit dwelling, $312,800 for a three unit dwelling and $388,800 for four unit dwelling. The FHA maximum mortgage limits can be increased to $151,725 for a one unit dwelling and $194,100, $234,600 and $291,600 for two, three and four unit dwellings, respectively.

FHA's latest annual update listing the areas with high cost mortgage limits was published in the Federal Register on March 15, 1993 (58 FR 13950). This publication did not reduce any high cost limits in any areas below the limits in effect on May 12, 1992.

In this final rule, 24 CFR 203.18 (a) and (g), 203.18b, and 234.27 are revised to reflect these amendments.

In addition, a new paragraph (h) in 24 CFR 203.18 explains a change in the method for announcing updated area maximum mortgage amounts. HUD will continue its practice of issuing periodic comprehensive Federal Register notices listing the current maximum mortgage amount for each area. HUD will discontinue using Federal Register notices to announce interim changes in maximum mortgage amounts that occur between comprehensive notices. Instead, HUD will use administrative issuances such as mortgagee letters to inform affected mortgagees that the maximum mortgage amounts have been updated in one or more areas. This will permit more timely implementation of interim changes affecting smaller portions of the country.

Manufactured Home Loan Limits

Section 503(c) of the 1992 Act amends section 2(b)(1) of the NHA to increase the maximum loan amount on certain title I loans by 20 percent. The maximum loan amount would be increased from $40,500 to $48,500 if the loan is for the purpose of financing the purchase of manufactured home; from $54,000 to $64,800 if made for purchasing a manufactured home and a suitably developed lot; and from $13,500 to $16,200 if made to a manufactured home owner for purchasing a suitably developed lot.

The rule revises 24 CFR 201.10 (b), (c) and (d) to effect these changes in maximum dollar amounts. In addition, the rule revises 24 CFR 201.10(e) to implement a provision of the 1993 HUD Appropriations Act which caps high-cost area limits for manufactured home lot loans and combination home-and-lot loans at 185 percent of the maximum dollar amounts in §§ 201.10(c) and 201.10(d), respectively.

Veterans Exemption

Section 505 of the 1992 Act amends provisions in section 203(b) of the NHA relating to the establishment of a generally applicable maximum loan-to-value ratio on FHA single family mortgages. The amendment restores an exemption for veterans from this otherwise applicable minimum equity requirement. In revising the NHA in 1990, the Congress inadvertently deleted this veterans' exemption. This final rule revises 24 CFR 203.18(g) and 234.27(f) to reflect this restoration of the veterans' exemption.

Secretarial Discretion in Establishing Single Family Mortgage Insurance Premiums

Section 507 of the 1992 Act amends section 203(c)(2) of the NHA to make clear that the Secretary of HUD retains authority to charge lower single family up-front and annual mortgage insurance premiums than those specified in the statute. The section authorizes the Secretary to charge a premium "not exceeding" rather than "equal to" a specified percentage amount.

This final rule revises 24 CFR 203.284 (promulgated as an interim rule on May 30, 1991 (56 FR 24622) and as a final rule on April 24, 1992 (57 FR 15208) to make this change. In the future, adjustments to up-front or annual MIP, within the maximums set forth in the regulation, will be made through administrative instructions rather than a change in the regulations.

Correction of Defects

Section 518(a) of the NHA gives discretion to the Secretary, under specified circumstances, to make expenditures to cure structural defects in newly constructed FHA insured homes that qualified for high-ratio mortgages because of approval by FHA or the Department of Veterans Affairs before the beginning of construction. Section 515 of the 1992 Act amends this provision to make eligible for such assistance (1) newly constructed FHA insured homes that qualify for a high-ratio mortgage because they were covered by a consumer protection or warranty plan acceptable to the Secretary; and (2) newly constructed condominium units (including common areas) that qualified for high-ratio mortgages for any reason. The Department will be issuing administrative instructions describing the processing procedure to be used with respect to these newly covered properties.

This final rule amends 24 CFR part 200 to implement section 515.

Promulgation as Final Certain Proposed and Interim Rules

Secondary Homes—Proposed Rule

On October 30, 1991, the Department published a proposed rule (56 FR 55855) entitled Single Family FHA Mortgage Insurance—Secondary Homes. The rule proposed to implement section 326 of the Cranston-Gonzalez National Affordable Housing Act. That section prohibits HUD from insuring a mortgage for a secondary residence unless HUD determines that it is necessary to do so to avoid undue hardship to the mortgagor, or unless the mortgage is a type exempt from the investor prohibitions set forth in section 203 of the National Housing Act. In no event may HUD insure a vacation house, as that term is defined by the Secretary.

The proposed rule would permit a mortgagor to obtain a mortgage for a secondary residence only if affordable housing which meets the needs of the mortgagor is not available for lease in the area or within reasonable commuting distance from the mortgagor's place of employment. For example, if the mortgagor has a large family and must obtain a secondary residence because of seasonal employment or employment relocation, and no rental housing is available to accommodate the family, the mortgagor may submit a request to HUD for an "undue hardship" exception. (It would not be HUD's policy to grant exceptions to the restriction on secondary residences when affordable rental housing is available.)

Where the purchase of a secondary home is involved, the Department will require that the direct endorsement lender obtain a certification from the real estate agent that rental housing, affordable to the purchaser, is not available within a 50 mile radius of the purchaser's place of employment. For purposes of this certification, housing having a rent at or below 30 percent of area median income will be considered rental housing affordable to the purchaser.

Under the proposed rule, a written request for a hardship exception was to be submitted by the lender to the local HUD office. The request would state the basis for the exception and would include a written explanation from the applicant stating that rental housing that meets the needs of the mortgagor is not available. Documentation from local real estate professionals supporting the unavailability of rental housing must also be submitted with the applicant's request.

Further, under the proposed rule, a secondary residence was to be considered a vacation home if the dwelling were used primarily for recreational purposes. (The need for a secondary residence must be related to the need for seasonal employment, relocation for employment reasons, or other circumstances not related to recreational uses of the property.)

Finally, under the proposed rule, a section in the current regulations, 24 CFR 203.43b, relating to eligibility of mortgages covering housing intended for seasonal occupancy, was proposed to be removed. The statutory basis for this regulation, section 203(m) of the National Housing Act, was repealed at section 406(c) of the Housing and Community Development Act of 1987 (Pub. L. 100–242 approved Feb. 5, 1988).

One public comment was received concerning the above-described proposed rule. The National Association of Realtors in its written comments expressed the following concerns:

> 1. * * * the proposed rule will weaken or eliminate affordable housing opportunities for low- and moderate-income renters because it unfairly compels prospective creditworthy mortgagors seeking single family housing opportunities to lease rental housing. We believe the requirement will create competition for moderately priced rental units and encourage landlords to escalate rents that will hasten the decline of low-cost apartments to the detriment of low- and moderate-income families who have no other housing options. The Association anticipates the upgrade of lower cost apartment units and condominium conversions to meet these higher income renters which will exacerbate the dwindling supply of low-cost housing for low- and moderate-income families.

HUD Response: The Department believes that the above-quoted argument overstates the effect this rule will have in the marketplace. Historically, HUD has insured very few second homes, and second homes represent only a small fraction of HUD's single family insurance business. Additionally, as the National Association of Realtors spells out later in its comments, the prime purchasers of second homes will be individuals reaching their peak earning years with substantial income to spend. This client group does not include the low- and moderate-income individuals that HUD is mandated to serve. These purchasers have the capacity to obtain financing by means other than HUD mortgage insurance, and may be expected to be purchasing second homes as a convenience—not as a necessity.

> 2. The National Association or Realtors is concerned with the provision requiring documentation from local real estate professionals whose experience and expertise involves single family residential sales and not rental properties and their market conditions. Additionally, the proposed rule's statement concerning documentation is vague; it does not specify what documentation is needed. HUD should be specific about what documentation will be required and whether penalties will be imposed because of inaccurate information.

HUD Response: It is HUD's option that real estate professionals are aware of rental market conditions because of their impact on the demand for homeownership. Information regarding market conditions could come from local newspapers, the local Chamber of Commerce, various econometric studies, and from other entities that collect, analyze, and disseminate information on local real estate markets. As to inaccurate information, HUD would only pursue sanctions against individuals who provided information knowing it to be false.

3. The National Association of Realtors is concerned with the process involved in obtaining a hardship exception for mortgage insurance on secondary residences. The Association anticipates lengthy delays in the application process because of the information collection requirements necessary to obtain a hardship exception. We believe worthy buyers' interested in purchasing a second home will be greatly discouraged, exacerbating their hardship circumstances.

HUD Response. The Department believes the process for obtaining a hardship exception will not add appreciably to the processing time for loan approval.

The Realtors conclude their comments with a general statement strongly opposing the existing statutory restriction on secondary homes and expressing their intention to seek a change in the existing law.

Accordingly, in this final rule, the Department is adopting as final the provisions contained in the October 30, 1991 proposed rule. Revisions to appropriate sections in 24 CFR parts 203, 220, 221 and 234 are republished as a part of this rule.

Fifteen year MIP—Interim Rule. On October 14, 1992 the Department published an interim rule (57 FR 46980) providing for a reduced premium structure for 15-year FHA mortgages that are liabilities of the Mutual Mortgage Insurance Fund. The purpose of the rule was to provide for a more equitable premium structure for these lower risk mortgages. The Department received two written comments from the public on this rule. Both were limited to expressing support for the rule. This rule adopts as final the October 14, 1992 interim rule. Appropriate sections of 24 CFR parts 203 and 204 are republished as a part of this rule. In conjunction with promulgation of the October 14, 1992 interim rule, the Department issued Mortgagee Letter 92–43. The premium levels announced in that Mortgagee letter remain in effect.

Minimum Mortgagor Equity—Interim Rule. Section 2101 of the Omnibus Budget Reconciliation Act of 1990 amended section 203(b)(2) of the NHA to prohibit FHA-insured single family mortgages from involving a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) that exceeds 98.75% of the appraised value of the property (97.75% where the appraised value exceeds $50,000), plus the amount of the mortgage insurance premium paid at the time of insurance. The section defines "appraised value" as the amount set forth in the written statement required under section 226 of the National Housing Act, or a similar amount determined by HUD, if section 226 does not apply. (Section 226 requires the seller of a single family home approved for mortgage insurance to deliver to the buyer, prior to sale, a written statement setting forth the FHA appraised value of the property. A statement of FHA replacement cost may be substituted where applicable.) The amount does not include any closing costs. This rule revises 24 CFR 203.18 and 234.27 to reflect this new requirement.

The effect of section 2101 is to establish a maximum loan-to-value ratio that is generally applicable to FHA single family housing. The maximum 98.75 percent (and 97.75 percent) loan-to-value ratio must be applied to mortgages insured under the following sections of the National Housing Act: 203(b) (Basic Program), 203(i) (Outlying Areas), 203(n) (Cooperative Units), 222 (Service members), 223(e) (Miscellaneous Housing Insurance), 234(c) (Condominiums), 238(c) (Military Impact Areas), 240 (Fee Simple Purchase), 244 (Coinsurance), 245 (GPM/GEM), 251 (Adjustable Rate) and 809 (Armed Services Housing—Civilian Employees). This rule revises 24 CFR 203.18 and 234.27 to reflect this new loan to value requirement. There are, however, additional specific maximum loan-to-value ratios in the law which also must be met. These old loan-to-value ratios are set forth in 24 CFR 203.18 and 234.27.

Interim Rule

On May 30, 1991, the Department published an interim rule implementing section 2101 at 56 FR 24628. The rule became effective on July 1, 1991. In the rule, the Department announced that it was ending its practice of permitting mortgagees to include 100% of allowable closing costs as part of appraised value, when applying the old loan-to-value ratios that would continue to apply in addition to the new requirements in section 2101. The interim rule permitted HUD to adjust the percentage of closing costs to be financed as HUD gained further experience regarding the overall effect of the statutory reforms. Until HUD has such experience, the preamble stated, HUD would apply a maximum of 57% for closing costs includable in appraised value for the old loan-to-value calculation set forth at 24 CFR 203.18(a) through (f) and at 234.27(a) through (d). (With respect to the overall loan to value ratio set forth in Section 2101, 0% would be included for calculations to be carried out under the rule.)

Public Comments on Interim Rule

A total of 481 public comments were received in connection with the interim rule. Almost all of the comments (474) voiced strong opposition to the basic legislation. Letters were addressed to members of Congress, with copies to HUD, as well as to the Department directly.

In addition to these letters directed at the basic legislation, the Department also received seven letters from State or national trade associations, one from a mortgage company and one from an individual which addressed issues raised by provisions in the interim rule. The overriding question raised in these comments was the desirability of HUD administratively limiting the financing of closing costs.

57 Percent limitation on financing closing costs. Five State or national organizations commented on the 57 percent limitation. One, Mortgage Insurance Company of America, favored the limitation. The other four—Mortgage Bankers Association of America, National Council of State Housing Agencies, National Association of Realtors and California Association of Realtors, strongly opposed the limitation, as did the single individual correspondent. Detailed and comprehensive arguments were raised against the 57 percent limitation.

These arguments also were addressed to the Congress, which subsequently included a provision in the Department of Veterans Affairs, Housing and Urban Development and Independent Agencies Appropriation Act for FY 1993 (Pub. L. 102–389, approved October 6, 1992) which provides that the Secretary may not (by regulation or otherwise) limit the percentage or amount of any approved charges and fees that may be included in the principal obligation of a mortgage.

In light of this Congressional mandate, the Department does not find it necessary either to set forth the various arguments raised against its 57 percent limitation, or HUD's responses to them. In compliance with the mandate, the interim rule is being revised in this final rule to allow borrowers to include up to 100 percent of their reasonable and customary closing costs in the specific loan to value calculations used to determine the maximum mortgage amount. (It should be noted however, that HUD still retains authority to approve the acceptability of any charge, including appraisal, inspection, and other fees.)

Before publishing this final rule, the Department issued administrative instructions—Mortgagee Letter 92–39, issued October 16, 1992 recognizing the legislative repeal of the 57 percent limitation and authorizing borrowers, as of that date, to include up to 100 percent of reasonable and customary closing costs in the calculation used to determine the maximum mortgage amount.

Under both Mortgagee Letter 92–39 and this final rule, to calculate the maximum mortgage amount, add 100 percent of borrower-paid closing costs to the lesser of the sales price or appraised value, then multiply the result by the appropriate loan-to-value ratio. The closing cost total to be added will be the amount remaining of total borrower closing costs after subtracting any closing costs paid by the seller. Seller concessions remain limited to six percent of the contract sales price (as described in HUD Handbook 4155.1 Rev-4), and seller-paid prepaid items, personal property items, etc., result in dollar-for-dollar reductions to the sales price. Note that the 97.75 percent (or 98.75 percent if $50,000 or less) limits set forth in this final rule and applied to the appraised value, excluding closing costs, remain in effect and may further limit the maximum mortgage amount. The mortgage credit analysis worksheet (HUD–92900WS) has been revised to reflect these changes.

Illustrative examples of how maximum mortgage amounts should be calculated can be found in Mortgagee Letter 92–39, October 16, 1992. The method of calculation set out in the Mortgagee Letter will continue in effect under this final rule.

In addition to written comments relating to the 57 percent limitation, one National association also objected strongly to HUD's continued policy of deducting any seller-paid contributions to closing costs, stating:

> Supplementary information provided with the rule makes it clear that HUD will continue its policy of deducting any seller-paid contributions to closing costs from the lesser of sales price or appraised value when computing the mortgage amount based on the 97/95 percent rule. We strongly object to the continuation of this policy and urge HUD to examine an alternative.
>
> The concerns we have about this policy can be summarized as follows:
>
> (a) In states with high closing costs, the statutory Loan-to-Value limit, when combined with the 57% limitation on closing costs, requires FHA borrowers to come up with significantly more cash than was discussed during the debate on how to improve the financial viability of FHA's Mutual Mortgage Insurance Fund; and
>
> (b) Trying to help a borrower meet this significantly higher cash requirement by paying all or part of a buyer's closing costs is effectively precluded if the sales price is reduced by an amount equal to the seller contribution to closing costs when determining the maximum mortgage amount.
>
> NAHB believes that HUD should alter its policy and permit some portion of a buyer's closing costs to be paid by a seller *without* a consequent deduction when applying the 97/95% rule.

HUD Response: The removal of the 57% limit on financed closing costs, and the Department's practice of allowing only buyer-paid closing costs to be financed in the mortgage, should alleviate the concerns expressed by the NAHB. HUD expects to make no further changes in its policies concerning the seller payment of buyer closing costs, and the six percent limit on sales concessions will remain in effect to prevent sellers from inflating the sales prices of properties in order to offer concessions to homebuyers.

Technical Provisions in Interim Rule

There are a number of cross-references, either to or within the new § 203.18(g) set forth in the rule, which operate either to apply or not to apply the new mortgagor equity requirements to various mortgage insurance programs. In order to include National Housing Act programs under section 203(n) (insurance of units in cooperatives), section 222 (serviceperson's mortgage insurance), section 240 (loans for fee title purchase), and section 809 (armed services housing-civilian employees), amendments are made in 24 CFR parts 203, 222, 240 and 226, cross-referencing the new § 203.18(g). Within § 203.18(g) itself, reference is made to §§ 203.18(e) (disaster housing) and to 203.50(f) (rehabilitation loans), expressly to exclude those programs from coverage.

In addition, the rule corrects some existing errors in certain sections relating to calculation of maximum mortgage amounts.

Under current regulations in §§ 204.1 (coinsurance) and 203.45(g) (graduated payment mortgages), § 203.18(f) is excluded from incorporation by reference. This made sense when the subject matter in § 203.18(f) related to seasonal homes. The old seasonal home language was removed in 1988, however, and new language on definitions was substituted. The new definition language should apply to coinsurance and GPM's. Therefore, §§ 204.1 and 203.45(g) have been revised to incorporate § 203.18(f) by reference.

Finally, §§ 203.15 and 234.14 (certification of appraisal amount) are revised to extend their coverage by removing references to 1- and 2-family dwellings. The effect of this revision is to apply the requirement that a certification of FHA appraisal amount be delivered to the purchaser before the sale in connection with all FHA single family properties—3- and 4- as well as 1- and 2-family. The expansion makes the coverage of § 203.15 consistent with the coverage of the new mortgagor minimum equity requirement established by this rule.

Technical Provisions in This Final Rule

Finally, this final rule contains several strictly technical amendments designed to (1) update certain provisions relating to fair housing and equal opportunity to reflect current statutes and Executive Orders and (2) correct an omission in the listing of acceptable closing costs for condominiums in § 234.48(a).

Section 200.300 is revised to add, to the list of authorities under which HUD's nondiscrimination and fair housing regulations are issued, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, section 3 of the Housing and Urban Development Act of 1968, and Executive Order 11246.

Section 200.300 is revised to add, to the definition of a "discriminatory practice", discrimination because of sex, handicap or familial status.

Section 200.415 is revised to add the requirement that applicants for HUD assistance must agree not to discriminate based upon handicap or age.

Section 234.48(a) is revised to conform that section to § 203.27 and make clear that, for condominium-unit mortgages, the mortgagee may collect prepaid interest at closing to cover the period until amortization of the loan begins. (Although this charge has been allowed by HUD, the charge has not been mentioned specifically in this section on allowable fees and charges.)

Procedural Matters

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order 12291 on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not, as defined in that order, have an annual effect on the economy of $100 million or more.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements specific congressional mandates revising various aspects of FHA single family mortgage insurance programs. The effects of the rule are the result of legislation, and to the extent there may be an impact on small entities, the Department has no authority to alter that impact.

This rule was listed in sequence number 1453 under Office of Housing in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24411) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on states or their political subdivisions, or the relationship between the federal government and the states, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the order. 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.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. The rule makes specific revisions, mandated by the Congress, in FHA mortgage insurance programs. The rule reflects efforts by the Congress and the Department to ensure the financial soundness of the Mutual Mortgage Insurance Fund while, to the maximum extent feasible, continuing FHA program affordability for first-time homebuyers.

Portions of this final rule are being promulgated without prior public comment. Public comment has been determined, in these instances, to be unnecessary because the changes are solely conforming or technical in nature, or because they carry out direct and unambiguous statutory directions. The Department believes it is in the public interest to implement these changes in this final rule.

The Catalog of Federal Domestic Assistance program numbers are 14.117, 14.112, 14.121, 14.122, 14.132, and 14.133.

List of Subjects

24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

24 CFR Part 201

Health facilities, Historic preservation, Home improvement, Loan programs—housing and community development, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 204

Mortgage insurance.

24 CFR Part 220

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 222

Condominiums, Military personnel, Mortgage insurance.

24 CFR Part 226

Government employees, Mortgage insurance.

24 CFR Part 234

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 240

Mortgage insurance.

Accordingly, 24 CFR parts 200, 201, 203, 204, 220, 221, 222, 226, 234 and 240 are amended to read as follows:

PART 200—INTRODUCTION

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 12 U.S.C. 3535(d); 42 U.S.C. 3543; 42 U.S.C. 3544; 12 U.S.C. 1701s and 12 U.S.C. 1715z–11.

Section 200.300 is revised to read as follows:

§ 200.300 Nondiscrimination and fair housing policy.

The regulations in this subpart are prescribed pursuant to the provisions of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the implementing regulations at 24 CFR part 1; the Fair Housing Act (42 U.S.C. 3600–3619) and the implementing regulations at 24 CFR parts 100, 109 and 110; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and the implementing regulations at 24 CFR part 8; the Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and the implementing regulations at 24 CFR part 146; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and the implementing regulations at 24 CFR part 135; Executive Order 11246 (as amended) and the implementing regulations at 41 CFR chapter 60; the regulations implementing Executive Order 11063 (Equal Opportunity in Housing) at 24 CFR part 107; and the affirmative fair housing marketing requirements in 24 CFR part 200, subpart M and part 108.

3. The introductory paragraph of § 200.310 is revised to read as follows:

§ 200.310 Definition of "discriminatory practice".

As used in this subpart, the term *discriminatory practice* shall mean any discrimination because of race, color, religion, sex, handicap, familial status, or national origin in lending practices or in the sale, rental, or other disposition of residential property or related facilities and group practice facilities, or in the use or occupancy thereof, if:

* * * * *

4. Section 200.415 is revised to read as follows:

§ 200.415 Agreement of applicant.

An applicant, prior to the Commissioner's issuance of any commitment or other loan approval, shall agree (in a form prescribed by the Commissioner) that there shall be no discrimination against anyone who is employed in carrying out work receiving assistance pursuant to this chapter, or against an applicant for such employment, because of race, color, religion, sex, handicap, age, or national origin.

5. Section 200.507 is revised to read as follows:

§ 200.507 Eligibility requirements.

To be eligible for consideration by the Commissioner for receiving assistance in the correction of structural defects, the mortgagor must establish that:

(a) The property is (1) a 1- to 4-family dwelling; or (2) a condominium unit (including common areas) covered by an individual mortgage.

(b) The dwelling was approved for mortgage insurance, or for guaranty, insurance or a direct loan under chapter 37 of title 38 U.S.C. (38 U.S.C. 1801–1827) by the Secretary of Veterans Affairs before the beginning of construction, or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan meeting the requirement of §§ 203.200–203.209 of this chapter.

(c) The mortgagor has made reasonable efforts to obtain a correction of a structural defect in his or her property by the builder, seller, or other persons, and that defect has not been corrected.

PART 201—TITLE I PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS

6. The authority citation for 24 CFR part 201 is revised to read as follows:

Authority: 12 U.S.C. 1703; 42 U.S.C. 3535(d).

7. In § 201.10, paragraph (b)(1) is amended by substituting $48,600 for $40,500; paragraph (b)(2) is amended by substituting $48,600 for $40,500; paragraph (c) is amended by substituting $16,200 for $13,500; paragraph (d)(1) is amended by substituting $64,800 for $54,000; paragraph (d)(2) is amended by substituting $64,800 for $54,000; and paragraph (e) is revised to read as follows:

§ 201.10 Loan amounts.

* * * * *

(e) *Manufactured home loan limits in high-cost areas.* (1) The maximum loan amounts otherwise applicable under paragraphs (b), (c) and (d) of this section may be increased by an amount not to exceed 40 percent where the manufactured home and/or lot is purchased and located in Alaska, Guam or Hawaii.

(2) The maximum loan amounts otherwise applicable under paragraphs (c) and (d) of this section may be increased for any geographical area except Alaska, Guam or Hawaii to the extent deemed necessary by the Secretary; however, any increased loan amount may not exceed the lesser of (i) 185 percent of the dollar amounts specified in paragraphs (c) and (d) of this section; or (ii) the dollar amounts specified in paragraphs (c) and (d) of this section, as increased by the same percentage by which 95 percent of the median 1-family house price in the area (as determined by the Secretary for purposes of § 203.18) exceeds $67,500.

* * * * *

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

8. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b; 42 U.S.C. 3535(d). In addition, Subpart C is also issued under sec. 230, National Housing Act (12 U.S.C. 1715u)).

9. Section 203.15 is revised to read as follows:

§ 203.15 Certification of appraisal amount.

An application with respect to insurance of mortgages must be accompanied by an agreement satisfactory to the Commissioner, executed by the seller, builder or such other person as may be required by the Commissioner, whereby the person agrees that before any sale of the dwelling, the person will deliver to the purchaser of the property a written statement, in a form satisfactory to the Commissioner, setting forth the amount of the appraised value of the property as determined by the Commissioner.

10. In § 203.18, paragraphs (a), (e), (f)(2), (f)(4) and (g) are revised, and new paragraphs (f)(5), (f)(6), and (h) are 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:

(1)(i) In the case of a 1-family residence, 95 percent of the median 1-family house price in the area, as determined by the Secretary; in the case of a 2-family residence, 107 percent of the median price; in the case of a 3-family residence, 130 percent of the median price, or in the case of a 4-family residence, 150 percent of the median price; or

(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this paragraph (a)(1) may not be less than the dollar amount limitation in effect under paragraph (a) of this section for the area on May 12, 1992.

(2) *Loan-to-value limitation—principal residence—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:

(i) Was completed more than one year before the date of the mortgage insurance application; or

(ii) Was approved for guaranty, insurance, or a direct loan by the Secretary of Veterans Affairs before the beginning of construction; or

(iii) Is covered by a consumer protection or warranty plan acceptable to the Secretary that meets the requirements of §§ 203.200—203.209.

(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:

(i) If the appraised value of the property does not exceed $50,000, the loan-to-value limitation is 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(ii) If the appraised value of the property exceeds $50,000, the loan-to-value limitation is 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and 95 percent of the appraised value in excess of $25,000, but not in excess of $125,000, and 90 percent of the value in excess of $125,000.

(iii) If the mortgagor qualifies as a veteran (see paragraph (b) of this section), the loan-to-value limitation is the lesser of (A) 100 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, plus 95 percent of the appraised value in excess of $25,000, but not in excess of $125,000, and 90% of the value in excess of $125,000; or (B) the sum of the appraised value not in excess of $25,000 and the items of pre-paid expense approved by the Commissioner, minus $200, plus 95 percent of the appraised value in excess of $25,000, but not in excess of $125,000, and 90% of the value in excess of $125,000.

(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.

* * * * *

(e) *Disaster victims.* A mortgage covering a single family dwelling, in an amount not in excess of the maximum dollar limitation specified in paragraph (a)(1) of this section (unless a higher maximum mortgage amount is authorized under § 203.29), and not in excess of the less of 100 percent of the appraised value of the property or the cost of acquisition as the date the mortgage is accepted for insurance, shall be eligible for insurance if:

(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);

(2) The mortgagor establishes that the home which he or she previously occupied as owner or tenant was destroyed or damaged to such an extent that reconstruction or replacement is required as a result of a flood, fire, hurricane, earthquake, storm, riot or civil disorder or other catastrophe which the President has determined to be a major disaster; and

(3) The application for insurance is filed within one year from the date of such presidential determination, or within such additional period of time as the period of federal assistance with respect to such disaster may be extended.

(f) * * *

(2) Secondary residence means a dwelling: (i) Where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) *Appraised value* means the sum of:

(i) The lesser of sales price (with any adjustments required by the Secretary) or the amount set forth in the written statement required under § 203.15; and

(ii) Borrower-paid closing costs allowed under § 203.27(a)(1)–(3), except that neither sales price nor closing costs shall apply for purposes of paragraph (g) of this section.

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease, or within reasonable commuting distance from the mortgagor's home to his or her work place.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

(g) *Maximum principal obligation.* Except for mortgages meeting the requirements of § 203.18(b), § 203.18(e) or § 203.50(f), and notwithstanding any other provision of this section, a mortgage may not involve a principal obligation in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(h) *Announcement of maximum mortgage amounts.* The Secretary will announce maximum mortgage amounts based on paragraph (a)(1) of this section. From time to time, the Secretary will update the maximum mortgage amounts for all areas by publishing a notice in the **Federal Register**. Before publication in the **Federal Register**, the Secretary may make updated mortgage amounts effective in one or more areas by providing notice to affected mortgagees by means of a mortgagee letter or other administrative issuance.

11. Paragraphs (a) and (b) of § 203.18b are revised to read as follows:

§ 203.18b Increased mortgage amount.

(a) If any party believes that a mortgage limit established by the Secretary under § 203.18(a)(1) does not accurately reflect the median house prices in an area, the party may submit documentation in support of an alternative mortgage limit. For purposes of this section, an area (1) must be at least the size of a county, whether or not the area is located within a metropolitan statistical area, as established by the Office of Management and Budget; and (2) may be an area for which the mortgage limits established under § 203.18(b)(1) apply.

(b)(1) The documentation referred to in paragraph (a) of this section consist of sufficient housing sales price data for the entire geographic area for which the request is made to justify an alternative mortgage limit. The documentation should include a listing of actual sales prices in the area for all or nearly all new and existing 1-family homes and condominiums, over a period of time varies with sales volume, as follows:

(i) For 500 or more sales per month, a one-month reporting period;

(ii) For 250 through 499 sales per month, a two-month reporting period.

(iii) For less than 250 sales per month, a three-month reporting period.

The listing should contain a brief address for each property, its county location, its sale price, the month and year of its sale, and whether it is new or existing. In areas where the ratio of existing sales to new sales is three-to-one or greater, an increase in the mortgage limit may be based on 95 percent of the average of the new and the existing median sales prices. In these areas, the documentation referred to in this paragraph may also include separate median sales prices for both the new and existing homes.

(2) Requests for an increased mortgage limit based upon documentation of median house prices for the area should be sent to the appropriate HUD field office. The field office will forward the request and supporting material, with the field office's recommendation, to the Commissioner for determination.

* * * * *

12. Paragraphs (a) and (g) of § 203.43c are revised to read as follows:

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

* * * * *

(a) The provisions of §§ 203.16a, 203.17, 203.18, 203.18a, 203.23, 203.24, 203.26, 203.37, 203.38, 203.43h, 203.43i, 203.43j, 203.44, 203.49, and 203.50 of this part do not apply to mortgages insured under section 203(n) of the National Housing Act.

* * * * *

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

* * * * *

13. Paragraph (g) of § 203.44 is revised to read as follows:

§ 203.44 Eligibility of open-end advances.

* * * * *

(g) The amount of any such advance (computed in even dollar amounts), when added to the unpaid balance of the original principal obligation of the mortgage, shall not exceed the original principal obligation of the mortgage: *Provided,* That if the mortgagor certifies that the proceeds of the open-end advance will be used to finance the construction of an additional room or rooms or other additional enclosed space as a part of the dwelling, the aggregate amount of the unpaid balance of the original principal obligation, plus the amount of the open-end advance, may exceed the amount of the original principal obligation of the mortgage, but in no event shall such aggregate amount exceed the maximum amount prescribed by the limitations of § 203.18, 203.18a, or § 203.43.

* * * * *

14. Paragraph (c) of § 203.45 is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(c) The mortgage amount shall not exceed the lesser of:

(1) The limits prescribed by §§ 203.18, 203.18a, and 203.29; or,

(2) An amount which, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed 97 percent of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance. However, if the mortgagor is a veteran, the mortgage amount, when added to all accrued mortgage interest which will be unpaid under a financing plan approved by the Secretary, shall not exceed the applicable limits prescribed for veterans in § 203.18(a).

* * * * *

15. Paragraph (e) of § 203.47 is revised to read as follows:

§ 203.47 Eligibility of growing equity mortgages.

* * * * *

(e) The mortgage amount shall not exceed the limits prescribed by § 203.18, 203.18a, or 203.29.

* * * * *

16. Paragraph (f)(1) of § 203.50 is revised to read as follows:

§ 203.50 Eligibility of rehabilitation loans.

* * * * *

(f) * * *

(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 (a)(1) non-occupant mortgagor as defined in § 203.18(f)(3)); (iv) the limits prescribed in § 203.18a, based upon the sum of the estimated cost of rehabilitation and the Commissioner's estimate of the value of the property before rehabilitation; or

* * * * *

17. In § 203.259a, paragraphs (b) and (c) are revised to read as follows:

§ 203.259a Scope.

* * * * *

(b) Except as provided in § 203.284(h) or § 203.285(d), the Commissioner shall charge an up-front MIP pursuant to § 203.284 for mortgages executed on or after July 1, 1991 that are obligations of the Mutual Mortgage Insurance Fund.

(c) The periodic MIP provision of §§ 203.260 through 203.268 shall not apply to mortgages referred to in paragraph (a) of this section, nor shall they apply to mortgages to which the provision of § 203.284 or § 203.285 apply.

18. The first sentence in paragraph (c) of § 203.270 is revised to read as follows:

§ 203.270 Open-end insurance charges.

* * * * *

(c) *Payment of charge for mortgages with one-time or up-front MIP.* In the case of a mortgage with a one-time or up-front MIP pursuant to § 203.280, § 203.284, or § 203.285 of this part, the insurance charge shall be in an amount equal to ½ percent per annum of the outstanding principal obligation of the open-end advance.* * *

* * * * *

19. In § 203.284, an introductory paragraph is added and paragraphs (a) and (b) are revised to read as follows:

§ 203.284 Calculation of up-front MIP after July 1, 1991.

Except for insured mortgages with a term of 15 or fewer years executed on or after December 26, 1992, (see § 203.285 of this part), up-front and annual MIP will be calculated in accordance with this section.

(a) *Permanent provisions.* Any mortgage executed on or after October 1, 1994 that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) *Up-Front.* The Commissioner shall establish and collect a single premium payment in an amount not exceeding 2.25 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage before its maturity date, or upon termination of insurance by voluntary agreement, the Commissioner shall refund all the unearned premium charges, as determined by the Commissioner, paid on the mortgage under this paragraph (a)(1).

(2) *Annual.* In addition to the premium under paragraph (a)(1) of this section, the Commissioner shall establish and collect annual premium payments in an amount not exceeding .50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (a)(1) of this section) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a)(1) of this section) that is less than 90 percent of the appraised value of the property (as of the date of the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a)(1) of this section) that is greater than or equal to 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the lesser of the mortgage term or the first 30 years of the mortgage term; except that, for any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a)(1) of this section) that is greater than 95 percent of the appraised value, the annual premium collected during the period determined under this clause shall be in an amount not exceeding 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (a)(1) of this section).

(b) *Transition provisions.* Mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 that are obligations of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(1) *1991 and 1992.* For mortgages executed during fiscal years 1991 and 1992, but after July 1, 1991, the Commissioner shall establish and collect the following premiums:

(i) *Up-Front.* A single premium payment in an amount equal to 3.80 percent of the amount of the original insured principal obligation of the mortgage.

(ii) *Annual.* In addition to the premium under paragraph (b)(1)(i) of this section, annual premium payments in an amount equal to 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (b)(1)(i) of this section) for any mortgage involving an original principal obligation (excluding any premium collected under paragraph (b)(1)(i) of this section) that is:

(A) Less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first five years of the mortgage term;

(B) Greater than or equal to 90 percent of such value, but equal to or less than 95 percent of such value, for the first eight years of the mortgage term; and

(C) Greater than 95 percent of such value, for the first 10 years of the mortgage term.

(2) *1993 and 1994.* For mortgages executed during fiscal years 1993 and 1994, the Commissioner shall establish and collect the following premiums:

(i) *Up-Front.* A single premium payment in an amount not exceeding 3.00 percent of the amount of the original insured principal obligation of the mortgage.

(ii) *Annual.* In addition to the premium under paragraph (b)(2)(i) of this section, annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (b)(2)(i) of this section) for any mortgage involving an original principal obligation (excluding any premium collected under paragraph (b)(2)(i) of this section) that is:

(A) Less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first seven years of the mortgage term:

(B) Greater than or equal to 90 percent of such value, but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

(C) Greater than 95 percent of such value, for the lesser of the mortgage term or the first 30 years of the mortgage term.

20. A new § 203.285 is added, to read as follows:

§ 203.285 Fifteen-year mortgages: Calculation of up-front and annual MIP on or after December 26, 1992.

(a) *Up Front.* Any mortgage for a term of 15 or fewer years executed on or after December 26, 1992 that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to a single up-front premium payment, established and collected by the Commissioner in an amount not exceeding 2.0 percent of the amount of the original insured principal obligation of the mortgage. Upon termination of insurance by voluntary agreement, or upon payment in full of the principal obligation of the mortgage before the maturity date, the Commissioner shall refund all of the unearned premium charges paid on the mortgage pursuant to this paragraph (a).

(b) *Annual.* In addition to the premium under paragraph (a) of this section, the Commissioner shall establish and collect annual premium payments in amounts not exceeding the following percentages of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under paragraph (a) of this section) for the following periods:

(1) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a) of this section) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), no annual premium will be charged.

(2) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a) of this section) that is greater than or equal to 90 percent of such value, but less than or equal to 95 percent of such value, an annual premium not exceeding .25 percent shall be collected for the first four years of the mortgage term.

(3) For any mortgage involving an original principal obligation (excluding any premium collected under paragraph (a) of this section) that is greater than 95 percent of such value, an annual premium not exceeding .25 percent shall be collected for the first eight years of the mortgage term.

(c) *Applicability of certain provisions.* The provisions of §§ 203.261, 203.266, 203.267, 203.268, 203.280 and 203.282 are applicable to mortgages subject to premiums under this section. The provisions of paragraphs (d), (e), and (g) of § 203.284 also shall be applicable to mortgages subject to premiums under this section.

(d) *Exception for streamline refinance.* This section shall not apply to any mortgage insured pursuant to § 203.43(c) if the mortgage to be refinanced was executed before July 1, 1991 and the new mortgage is executed on or after December 26, 1992.

PART 204—COINSURANCE

21. The authority citation for 24 CFR part 204 continues to read as follows:

Authority: 12 U.S.C. 1715z–9, 1715(b); 42 U.S.C. 3535(d).

22. Section 204.1 is revised to read as follows:

§ 204.1 Cross-reference.

All of the provisions of subpart A, part 203 of this chapter concerning eligibility requirements of mortgages under section 203(b) of the National Housing Act apply to mortgages covering 1- to 4-family dwellings to be insured under section 203(b) pursuant to the coinsurance authority of section 244 of the National Housing Act except the following provisions:

Sec.	
203.18(c), (d), and (e)	Maximum mortgage amounts.
203.43	Eligibility of miscellaneous-type mortgages.
203.43a	Eligibility of mortgages covering housing in certain neighborhoods.
203.43b	Eligibility of mortgages covering housing intended for seasonal occupancy.
203.43h	Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.
203.43i	Eligibility of mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.
203.43j	Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.
203.44	Eligibility of open-end advances.
203.50	Eligibility of rehabilitation loans.

23. Section 204.260 is revised to read as follows:

§ 204.260 Mortgage insurance premiums for coinsured mortgages.

The provisions of §§ 203.260 through 203.268, or the provisions of § 203.284 or § 203.285 (as appropriate), concerning mortgage insurance premiums with respect to mortgages insured under section 203(b) of the National Housing Act apply to mortgages covering one- to four-family dwellings to be insured under this part.

24. Section 204.276 is revised to read as follows:

§ 204.276 Up-front premiums.

The full amount of all up-front premiums collected pursuant to the provisions of §§ 203.284 and 203.285 on mortgages insured under this part shall be credited to the Mutual Mortgage Insurance Fund. No portion of the amount shall be credited to the Annual Coinsurance Reserve established by § 204.270.

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

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

Authority: 12 U.S.C. 1713, 1715b, 1715k; 12 U.S.C. 3535(d).

26. Section 220.30 is amended by revising paragraph (d)(2), adding and reserving paragraph (d)(4), and adding paragraphs (d)(5) and (d)(6), to read as follows:

§ 220.30 Maximum mortgage amount—loan to value limitation.

* * * * *

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

* * * * *

(2) *Secondary residence* means a dwelling: (i) Where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) [Reserved]

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease, or within reasonable commuting distance from place of residence to place of employment.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

* * * * *

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

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

Authority: 12 U.S.C. 1715b, 1715l; sec. 7(d), 42 U.S.C. 3535(d).

28. Section 221.20 is amended by revising paragraph (c)(2), adding and reserving paragraph (c)(4), and adding paragraphs (c)(5) and (c)(6), to read as follows:

§ 221.20 Maximum mortgage amount—loan to value limitation.

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

* * * * *

(2) *Secondary residence* means a dwelling: (i) Where the mortgagor maintains or will maintain a part-time place of abode and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. A person may have only one secondary residence at a time.

* * * * *

(4) [Reserved]

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease, or within reasonable commuting distance from place of residence to place of employment.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

PART 222—SERVICEPERSON'S MORTGAGE INSURANCE

29. The authority citation for 24 CFR part 222 continues to read as follows:

Authority: 12 U.S.C. 1715b, 12 U.S.C. 1715m, and 42 U.S.C. 3535(d).

30. Section 222.3 is revised to read as follows:

§ 222.3 Maximum mortgage amounts—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation for a 1–family residence set forth in § 203.18(a)(1) of this chapter, or for a 1–family unit in a condominium project set forth in § 23427 of this chapter, except that a mortgage meeting the requirements of §§ 203.18(d), 221.10 or § 221.11 of this chapter shall not exceed the dollar limitation provided in the applicable section.

31. Section 222.4 is amended by revising a new paragraph (c) to read as follows:

§ 222.4 Maximum mortgage amount; ratio of loan-to-value limitation.

* * * * *

(c) Notwithstanding any other provision of this section, a mortgage may not involve a principal obligation in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured.

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

32. The authority citation for 24 CFR part 226 continues to read as follows:

Authority: 12 U.S.C. 1748(b), 1748(f).

33. Section 226.4 is revised to read as follows:

§ 226.4 Maximum mortgage amount—dollar limitation.

The mortgage shall involve a principal obligation not in excess of the dollar limitation set forth in § 203.18(a)(1) of this chapter.

34. Section 226.5 is amended by revising a new paragraph (c) to read as follows:

§ 226.5 Maximum mortgage amount; loan-to-value limitation.

* * * * *

(c) Notwithstanding any other provision of this section, a mortgage may not involve a principal obligation in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured.

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

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

Authority: 12 U.S.C. 1715b, 1715y; 42 U.S.C. 3535(d).

36. Section 234.14 is revised to read as follows:

§ 234.14 Certification of appraisal amount.

An application with respect to insurance of mortgages must be accompanied by an agreement satisfactory to the Commissioner, executed by the seller, builder or such other person as may be required by the Commissioner, in which the person executing the agreement declares that before any sale of the dwelling, he or she will deliver to the purchaser of the property a written statement, in a form satisfactory to the Commissioner, setting forth the amount of the appraised value of the property as determined by the Commissioner.

37. Section 234.27 is revised to read as follows:

§ 234.27 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 (d) 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:

(1)(i) 95 percent of the median 1-family house price in the area, as determined by the Secretary; or

(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a 1-family residence; except that the applicable dollar amount limitation in effect for any area under this paragraph (a)(1) may not be less than the dollar amount limitation in effect under paragraph (a) of this section for the area on May 12, 1992.

(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 (d) 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:

(i) Was completed more than one year before the date of the mortgage insurance application; or

(ii) Was approved for guaranty, insurance, or a direct loan by the Secretary of Veterans Affairs before the beginning of construction; or

(iii) Is covered by a consumer protection or warranty plan acceptable to the Secretary that meets the requirements of §§ 203.200–203.209 of this chapter.

(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 (d) 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:

(i) If the appraised value of the property does not exceed $50,000, the loan-to-value limitation is 97 percent of the appraised value of the property as of the date the mortgage is accepted for insurance.

(ii) If the appraised value of the property exceeds $50,000, the loan-to-value limitation is 97 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and 95 percent of the appraised value in excess of $25,000 but not in excess of $125,000, and 90 percent of such value in excess of $125,000.

(iii) If the mortgagor qualifies as a veteran (under § 203.18(b) of this chapter), the loan-to-value limitation is the lesser of:

(A) 100 percent of the first $25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, plus 95 percent of the appraised value in excess of $25,000, but not in excess of $125,000; and 90 percent of the value in excess of $125,000; or

(B) the sum of the appraised value not in excess of $25,000 and the items of pre-paid expense approved by the Commissioner, minus $200, plus 95 percent of the appraised value in excess of $25,000, but not in excess of $125,000; and 90 percent of the value in excess of $125,000.

(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 (d) 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.

(b) *Increased mortgage amount.* If any party believes that a mortgage limit established by the Secretary under this section does not accurately reflect the median house prices in an area, the party may submit documentation in support of an alternative mortgage limit. Such documentation shall be submitted in accordance with the provisions of § 203.18b of this chapter.

(c) *Mortgagors of dwellings that are not principal or secondary residences.* A mortgage may be executed by an eligible non-occupant mortgagor (as defined in paragraph (d) of this section) for up to an amount authorized for the appropriate loan type under paragraph (a) of this section, except where a lesser amount is expressly provided for in this part.

(d) *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 a time.

(2) *Secondary residence* means a dwelling: (i) Where the mortgagor maintains (or will maintain) a part-time place of abode, and typically spends (or will spend) less than a majority of the calendar year; (ii) which is not a vacation home; and (iii) which the Commissioner has determined to be eligible for insurance in order to avoid undue hardship to the mortgagor. 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 an 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.

(4) *Appraised value* means the sum of:

(i) The lesser of sales price (with any adjustments required by the Secretary) or the amount set forth in the written statement required under § 234.14; and

(ii) Borrower paid closing costs allowed under § 234.47(a)(1)–(2), except that neither sales price nor closing costs shall apply for purposes of paragraph (e) of this section.

(5) *Undue hardship* means that affordable housing which meets the needs of the mortgagor is not available for lease, or within reasonable commuting distance from home to work place.

(6) *Vacation home* means a dwelling that is used primarily for recreational purposes and enjoyment, and that is not a primary or secondary residence.

(e) *Maximum principal obligation.* Except for mortgages meeting the requirements of § 234.27(a)(3)(iii), and notwithstanding any other provision of this section, a mortgage may not involve a principal obligation in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of $50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(f) *Announcement of maximum mortgage amounts.* The Secretary will announce maximum mortgage amounts based on paragraph (a) of this section. From time to time, the Secretary will update the maximum mortgage amounts for all areas by publishing a notice in the **Federal Register**. Before publication in the **Federal Register**, the Secretary may make updated mortgage amounts effective in one or more areas by providing notice to all affected mortgagees by mortgagee letter or other administrative issuance.

38. Paragraph (a) of § 234.48 is revised to read as follows:

§ 234.48 Charges, fees or discounts.

(a) The mortgagee may collect from the mortgagor the following charges, fees or discounts:

(1) A charge to compensate the mortgagee for expenses incurred in originating and closing the loan, the charge not to exceed $20, or 1 percent of the original principal amount of the mortgage, whichever is the greater;

(2) Reasonable and customary amounts, but not more than the amount actually paid by the mortgagee, for any of the following items:

(i) Recording fees and recording taxes or other charges incident to the recordation;

(ii) Credit report;

(iii) Survey, if required by mortgagee or mortgagor;

(iv) Title examination; title insurance, if any;

(v) Such other reasonable and customary charges as may be authorized by the Commissioner.

(3) Reasonable and customary charges in the nature of discounts.

(4) Interest from the date of closing or the date on which the mortgagee disburses the mortgage proceeds to the account of the mortgagor or the mortgagor's creditor, whichever is later, to the beginning of amortization.

* * * * *

PART 240—MORTGAGE INSURANCE ON LOANS FOR FEE TITLE PURCHASE

39. The authority citation for 24 CFR part 240 continues to read as follows:

Authority: 12 U.S.C. 1715(b), 1715 2–5; and 42 U.S.C. 3535(d).

40. Paragraph (b) of § 240.5 is revised to read as follows:

§ 240.5 Maximum loan amounts.

* * * * *

(b) An amount which, when added to any outstanding indebtedness related to the property, as determined by the Commissioner, creates a total outstanding indebtedness which does not exceed the limits prescribed in §§ 203.18(a)(1), (b), (c), and (g), and 203.18a, of this chapter, as applicable.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

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