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owner of the Corporate Certificate; and,

(2) The Occupancy Certificate in the name of the Secretary.

(d) The mortgagee shall tender to the Secretary good and marketable title to the Corporate Certificate and the exclusive right of permanent possession of the dwelling unit.

(e) In lieu of the types of title evidence provided in § 203.385, the Secretary will accept a legal opinion signed by an attorney at law experienced in the examination of titles that the Secretary has good and marketable title to the Corporate Certificate and the exclusive right of possession of the dwelling unit.

(f) The Secretary may accept assignment of mortgages insured under this part if it is determined by the Secretary that it is in the Department's interest to do so provided that the blanket mortgage is in default and the holder of such mortgage has announced an intention to foreclose.

[42 FR 40432, Aug. 10, 1977; 42 FR 57435, Nov. 2, 1977]

MORTGAGES ON PROPERTY LOCATED ON INDIAN LAND

§ 203.438 Mortgages on Indian land insured pursuant to section 248 of the National Housing Act.

(a) *Exemptions*. The provisions of § 203.366 shall not apply to mortgages insured pursuant to section 248 of the National Housing Act.

(b) *Claim procedure*. In addition to other actions which the mortgagee may take pursuant to this subpart in order to receive insurance benefits, a mortgagee shall be entitled to receive such benefits on a mortgage insured under § 203.43h when (1) the mortgagor is more than 90 days in default; (2) the mortgagee has submitted appropriate documentation to the Secretary in accordance with § 203.350(b); and (3) the Secretary has approved the assignment of the mortgage.

(c) *Foreclosure by HUD*. HUD may initiate foreclosure proceedings with respect to any mortgage acquired under this section in a tribal court, a court of competent jurisdiction or Federal district court. If the mortgagor remains on the property following foreclosure, HUD may seek an eviction order from the court hearing the foreclosure action.

[51 FR 21872, June 16, 1986, as amended at 61 FR 35019, July 3, 1996]

MORTGAGES ON PROPERTY LOCATED ON HAWAIIAN HOME LANDS

§ 203.439 Mortgages on Hawaiian home lands insured pursuant to section 247 of the National Housing Act.

(a) *Exemptions*. The provisions of §§ 203.351(a)(8), 203.353(a), and 203.368, do not apply to mortgages insured pursuant to section 247 of the National Housing Act.

(b) *Claim procedure*. Where the mortgage is 180 days or more in default, the mortgagee may assign the mortgage to the Secretary and file its claim for insurance benefits in accordance with the provisions of this subpart. No claim on an insured mortgage will be paid other than through assignment of the mortgage.

(c) *Notice of delinquency*. Once each month on a day prescribed by HUD, the mortgagee shall notify the Department of Hawaiian Home Lands of all mortgages insured pursuant to section 247 of the National Housing Act on leaseholds of Hawaiian home lands that are delinquent on the last day of the month, or that were reported as delinquent the previous month. The notice is in addition to the requirement in §§ 203.330 and 203.331.

[52 FR 8068, Mar. 16, 1987. Correctly designated at 52 FR 9989, Mar. 27, 1987 and 52 FR 28470, July 30, 1987, and amended at 55 FR 283, Jan. 4, 1990; 71 FR 16234, Mar. 31, 2006]

MORTGAGES ON PROPERTY IN ALLEGANY RESERVATION OF SENECA INDIANS

§ 203.439a Mortgages on property in Allegany Reservation of Seneca Nation of Indians authorized by section 203(q) of the National Housing Act.

(a) *Applicability*. This section shall apply to mortgages authorized by section 203(q) of the National Housing Act (§ 203.43j of this part) only when the date of default occurs before the mortgagor and the lessor execute a lease renewal or a new lease either with a term of not less than five years beyond the maturity date of the mortgage, or with