under the mortgage in connection with
the sale or other transfer, unless:
(1) At least one of the persons acquir-
ing ownership is determined to be cred-
itable under applicable standards
prescribed by the Secretary;
(2) The selling mortgagor retains an
ownership interest in the property; or
(3) The transfer is by devise or de-
scent.
(c) Investors and secondary residences.
The mortgagee shall not approve the
sale of other transfer or mortgaged
property to a person who cannot be ap-
proved as a substitute mortgagor as
provided in § 203.258 of this part because
the property will not be a primary resi-
dence or a secondary residence per-
mitted by that section.
(d) Due-on-sale clause. Each mortgage
shall contain a due-on-sale clause per-
mitting acceleration, in a form pre-
scribed by the Secretary. If a sale or
other transfer occurs without mort-
gagee approval and a prohibition in
paragraphs (b) or (c) of this section ap-
plies, a mortgagor shall enforce this
section by requesting approval from
the Secretary to accelerate the mort-
gage, provided that acceleration is per-
mitted by applicable law. The mort-
gagee shall accelerate if approval is
granted. This paragraph applies only if
the application by the mortgagor on a
form approved by the Secretary is
dated on or after December 1, 1986.

§ 203.550 Escrow accounts.
(a) It is the mortgagee’s responsi-
bility to make escrow disbursements
before bills become delinquent. Mort-
gagees must establish controls to in-
sure that bills payable from the escrow
fund or the information needed to pay
such bills is obtained on a timely basis.
Penalties for late payments for items
payable from the escrow account must
not be charged to the mortgagor unless
it can be shown that the penalty was
the direct result of the mortgagor’s
error or omission. The mortgagee shall
use the procedures set forth in § 3500.17
of this title, implementing Section 10
of the Real Estate Settlement Proce-
dures Act (12 U.S.C. 2609), to compute
the amount of the escrow, the methods
of collection and accounting, and the
payment of the bills for which the
money has been escrowed.
(b) [Reserved]
(c) In the case of escrow accounts
created for purposes of § 203.52 or § 234.64
of this chapter, mortgagees may esti-
mate escrow requirements based on the
best information available as to prob-
able payments that will be required to
be made from the account on a periodic
basis throughout the period during
which the account is maintained.
(d) The mortgagee shall not institute
foreclosure when the only default of
the mortgagor occupant is a present in-
ability to pay a substantial escrow
shortage, resulting from an adjustment
pursuant to this section, in a lump
sum.
(e) When the contract of mortgage in-
surance is terminated voluntarily or
because of prepayment in full, sums in
the escrow account to pay the mort-
gage insurance premiums shall be re-
mitted to HUD with a form approved
by the Secretary for reporting the vol-
untary termination of prepayment.
Upon prepayment in full sums held in
escrow for taxes and hazard insurance
shall be released to the mortgagor
promptly.

(Approved by the Office of Management and
Budget under control number 2502–0474)

§ 203.552 Fees and charges after en-
dorsement.
(a) The mortgagee may collect rea-
sonable and customary fees and
charges from the mortgagor after in-
surance endorsement only as provided
below. The mortgagee may collect
these fees or charges from the mort-
gagor only to the extent that the mort-
gagee is not reimbursed for such fees
by HUD.
(1) Late charges as set forth in
§ 203.25;
(2) Charges for processing or repro-
cessing a check returned as
uncollectible; (Where bank policy per-
mits, the mortgagee must deposit a
check for collection a second time be-
fore assessing a bad check charge);
(3) Fees for processing a change of ownership of the mortgaged property;
(4) Fees and charges for arranging a substitution of liability under the mortgage in connection with the sale or transfer of the property;
(5) Charges for processing a request for credit approval of an assumptor or substitute mortgagor;
(6) Charges for substitution of a hazard insurance policy at other than the expiration of term of the existing hazard insurance policy;
(7) Charges for modification of the mortgage involving a recorded agreement for extension of term or re-amortization;
(8) Fees and charges for processing a partial release of the mortgaged property;
(9) Attorney’s and trustee’s fees and expenses actually incurred (including the cost of appraisals pursuant to §203.368(e) and cost of advertising pursuant to §203.368(h)) when a case has been referred for foreclosure in accordance with the provisions of this part after a firm decision to foreclose if foreclosure is not completed because of a reinstatement of the account. (No attorney’s fee may be charged for the services of the mortgagee’s or servicer’s staff attorney.)
(10) The service charge provided for by §203.23(c) and escrow charges in accordance with §203.23(a);
(11) A trustee’s fee if the security instrument in deed-of-trust states provides for payment of such a fee for execution of a satisfactory, release, or trustee’s deed when the deed of trust is paid in full; and
(12) Such other reasonable and customary charges as may be authorized by the Secretary. (This shall not include:
(i) Charges for servicing activities of the mortgagee or servicer;
(ii) Fees charged by independent tax servicer organizations which contract to furnish data and information necessary for the payment of property taxes,
(iii) Satisfaction, termination, or reconveyance fees when a mortgage is paid in full (other than as provided in paragraph (a)(11) of this section), or
(iv) The fee for recordation of a satisfaction of the mortgage in states where recordation is the responsibility of the mortgagee.)
(13) Where permitted by the security instrument, attorney’s fees and expenses actually incurred in the defense of any suit or legal proceeding wherein the mortgagee shall be made a party thereto by reason of the mortgage; (No attorney’s fee may be charged for the services of the mortgagee’s or servicer’s staff attorney.)
(14) Property preservation expenses incurred pursuant to §203.377.
(b) reasonable and customary fees must be predicated upon the actual cost of the work performed including out-of-pocket expenses. Directors of HUD Area and Insuring Offices are authorized to establish maximum fees and charges which are reasonable and customary in their areas. Except as provided in this part, no fee or charge shall be based on a percentage of either the face amount of the mortgage or the unpaid principal balance due on the mortgage.

§ 203.554 Enforcement of late charges.

(a) A mortgagee shall not commence foreclosure when the only default on the part of the mortgagor is the failure to pay a late charge or charges (§203.25), except as provided in §203.556.
(b) A late charge attributable to a particular installment payment due under the mortgage shall not be deducted from that installment. However, if the mortgagee thereafter notifies the mortgagor of his obligation to pay a late charge, such a charge may be deducted from any subsequent payment or payments submitted by the mortgagor or on his behalf if this is not inconsistent with the terms of the mortgage. Partial payments shall be treated as provided in §203.556.
(c) A payment may be returned because of failure to include a late charge only if the mortgagee notifies the mortgagor before imposition of the charge of the amount of the monthly payment, the date when the late charge will be imposed and either the amount of the late charge or the total