

or misrepresentation on the part of the mortgagee.

(d) For purposes of this section *overpaid assistance payments* means assistance payments which the Secretary paid to the mortgagee on behalf of a mortgagor in excess of the amount of benefits to which the mortgagor was entitled and *failure to meet contractual obligations* means failure to request a required recertification or failure to act on a recertification as required in this part.

[43 FR 60156, Dec. 26, 1978]

**§ 235.365 Mortgage records.**

The mortgagee shall maintain such records as the Secretary may require with respect to the mortgagor's payments, the mortgage assistance payments received from the Secretary, and the annual recertifications of financial status from the homeowner or mortgagor. Such records shall be kept on file for a period of time and in a manner prescribed by the Secretary and shall be available, when requested, for review and inspection by the Secretary or the Comptroller General of the United States.

**§ 235.370 Effect of assignment of mortgage with an assistance payment contract.**

Where a mortgage covered by an assistance payment contract is sold to another approved mortgagee, the buyer shall succeed to all the rights and become bound by all the obligations of the seller under such contract.

**§ 235.375 Termination, suspension, or reinstatement of the assistance payments contract.**

(a) *Termination.* The assistance payments contract shall be terminated when any of the following events occur:

(1) The contract of mortgage insurance is terminated, except when the mortgage has been assigned to the Secretary.

(2) The property is purchased by a homeowner not qualified to receive assistance payments.

(3) The cooperative member transfers his membership and occupancy rights to a new cooperative member not qualified to receive assistance payments.

(4) When the assistance payments contract has been suspended for a period of three years without reinstatement.

(b) *Suspension.* The assistance payments contract shall be suspended when any one of the following events occur:

(1) The homeowner or cooperative member ceases to occupy the property, except in the following instances:

(i) The property is purchased by a homeowner who immediately assumes the mortgage obligation with respect to which assistance payments have been made on behalf of the previous owner, and who meets the income and asset requirements prescribed by the Secretary.

(ii) The cooperative member transfers his membership and occupancy rights to a new member who assumes the mortgage obligation and who meets the income and asset requirements prescribed by the Secretary.

(2) The mortgagee determines that the mortgagor or cooperative member ceases to qualify for the benefits of assistance payments by reason of his income increasing to an amount enabling him to pay the full monthly mortgage payment by using 20 percent of the family income.

(3) Foreclosure is instituted.

(4) The mortgagee is unable to obtain from the homeowner (or from the cooperative association on behalf of the cooperative member) a required recertification of occupancy, employment, income, and family composition, and (if required) disclosure and verification of Social Security Numbers, as prescribed in § 235.350, and (if required) signed consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as prescribed in § 235.350.

(5) At such other times as the Secretary may require.

(6) Failure to provide evidence of citizenship or eligible immigration status in accordance with 24 CFR part 5:

(i) For a new member of the family, except with respect to a mortgagor described under § 235.1.

(ii) At the first recertification of an assistance contract, except with respect to a mortgagor described under § 235.1; or

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(iii) Upon modification of an existing assistance contract.

(c) *Effect of termination or suspension.* Upon termination or suspension of the assistance payments contract, the payment due on the first day of the month in which the termination or suspension occurs shall be the last payment to which the mortgagee shall be entitled; except that, in the case of a suspended contract, payment may be resumed after the contract is reinstated pursuant to paragraph (e) of this section.

(d) *Noneffect on mortgage insurance contract.* The termination or suspension of the assistance payments contract, where the mortgage insurance contract is not simultaneously terminated, shall have no effect on the mortgage insurance contract.

(e) *Reinstatement.* Where the assistance payments contract is suspended, it may be reinstated by the Secretary at the Secretary's discretion and on such conditions as the Secretary may prescribe. To be eligible for reinstatement under this section, the mortgagor or cooperative member must meet the requirements for the disclosure and verification of Social Security Numbers, as provided by part 200, subpart T, of this chapter, and the requirements for the signing and submitting of consent forms for the obtaining of wage and claim information from State Wage Information Collection Agencies, as provided by part 200, subpart V of this chapter.

(Approved by the Office of Management and Budget under control numbers 2502-0204, 2502-0267, 2502-0268, and 2577-0083)

[41 FR 1178, Jan. 6, 1976, as amended at 43 FR 60157, Dec. 26, 1978; 46 FR 56422, Nov. 17, 1981; 51 FR 11219, Apr. 1, 1986; 53 FR 846, Jan. 13, 1988; 54 FR 39695, Sept. 27, 1989; 55 FR 11905, Mar. 30, 1990; 56 FR 7530, Feb. 22, 1991; 61 FR 13624, Mar. 27, 1996]

## § 235.499 Effect of amendments.

The regulations in this subpart may be amended by the Secretary at any time and from time to time, in whole or in part, but such amendment shall not adversely affect the interest of a mortgagee under an existing contract for assistance payments. The effective date of these regulations is January 5, 1976.

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### Subpart D—Rehabilitation Sales Projects

#### § 235.501 Applicability of regulations.

The regulations regarding eligibility requirements, contract rights and obligations, and assistance payments for rehabilitation sales projects in force before December 8, 1995, will continue to govern the rights and obligations of mortgagors, mortgagees, and the Department of Housing and Urban Development with respect to loans insured under section 235(j) of the National Housing Act.

[60 FR 56500, Nov. 8, 1995]

### Subparts E–F [Reserved]

### Subpart G—Servicing Responsibilities—Homes for Lower Income Families

#### § 235.1000 Cross-reference.

All of the provisions of subpart C, part 203 of this chapter covering mortgages insured under section 203 of the National Housing Act apply to mortgages insured under section 235 of the National Housing Act.

[42 FR 29306, June 8, 1977]

#### § 235.1001 Providing information.

The statement of interest paid and taxes disbursed furnished by the mortgagee to the mortgagor pursuant to § 203.508(c) of this chapter shall include, or be accompanied by, an accounting of the total amount of assistance payments paid by the Secretary and applied to the mortgagor's account during the preceding year. Such accounting will be provided in a manner which indicates (or permits the mortgagor readily to compute) the excess of the total amount of interest payments made during the year over the amount of the assistance payments made by the Secretary. The foregoing accounting shall contain, or be accompanied by, notification regarding the deductibility of interest payments made by the mortgagor in substantially the following language: "If you itemize deductions on your income tax returns, please read this notice. Under § 1.163–