

§ 27.3

24 CFR Subtitle A (4-1-12 Edition)

§ 27.3 Definitions.

The definitions contained in the Act (at 12 U.S.C. 3702) shall apply to this subpart, in addition to and as further clarified by the following definitions. As used in this subpart:

General Counsel means the General Counsel of the Department of Housing and Urban Development;

Multifamily mortgage does not include a mortgage covering a property on which there is located a one- to four-family residence, except when the one- to four-family residence is subject to a mortgage pursuant to section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), or section 811 (42 U.S.C. 8013) of the National Affordable Housing Act. The definition of multifamily mortgage also includes a mortgage taken by the Secretary in connection with the previous sale of the project by the Secretary (purchase money mortgage).

§ 27.5 Prerequisites to foreclosure.

Before commencement of a foreclosure under the Act and this subpart, HUD will provide to the mortgagor an opportunity informally to present reasons why the mortgage should not be foreclosed. Such opportunity may be provided before or after the designation of the foreclosure commissioner but before service of the notice of default and foreclosure.

§ 27.10 Designation of a foreclosure commissioner.

(a) When the Secretary determines that a multifamily mortgage should be foreclosed under the Act and this subpart, the General Counsel will select and designate one or more foreclosure commissioners to conduct the foreclosure and sale. The method of selection and determination of the qualifications of the foreclosure commissioner shall be at the discretion of the General Counsel, and the execution of a designation pursuant to paragraph (b) of this section shall be conclusive evidence that the commissioner selected has been determined to be qualified by the General Counsel.

(b) After selection of a foreclosure commissioner, the General Counsel shall designate the commissioner in writing to conduct the foreclosure and sale of the particular multifamily

mortgage. The written designation shall be duly acknowledged and shall state the name and business or residential address of the commissioner and any other information the General Counsel deems necessary. The designation shall be effective upon execution by the General Counsel or his designate. Upon receipt of the designation, the commissioner shall demonstrate acceptance by signing the designation and returning a signed copy to the General Counsel.

(c) The General Counsel may at any time, with or without cause, designate a substitute commissioner to replace a previously designated commissioner. Designation of a substitute commissioner shall be in writing and shall contain the same information and be made effective in the same manner as the designation of the original commissioner. Upon designation of a substitute commissioner, the substitute commissioner shall serve a copy of the written notice of designation upon the persons listed at sections 369(1) (A) through (C) of the Act (12 U.S.C. 3708(1) (A) through (C)) either by mail, in accordance with section 369(1) of the Act (12 U.S.C. 3708(1)), except that the time limitations in that section will not apply, or by any other manner which in the substitute commissioner's discretion is conducive to giving timely notice of substitution.

§ 27.15 Notice of default and foreclosure sale.

(a) Within 45 days after accepting his or her designation to act as commissioner, the commissioner shall commence the foreclosure by serving a Notice of Default and Foreclosure Sale.

(b) The Notice of Default and Foreclosure Sale shall contain the following information:

(1) The Notice shall state that all deposits and the balance of the purchase price shall be paid by certified or cashier's check. The Notice shall state that no deposit will be required of the Secretary when the Secretary bids at the foreclosure sale.

(2) Any terms and conditions to which the purchaser at the foreclosure sale must agree under § 27.20. The Notice need not describe at length each