

## § 203.44

### § 203.44 Eligibility of advances.

Mortgagees may not make open-end advances under section 225 of the National Housing Act (12 U.S.C. 1715p) in connection with the mortgages insured under this chapter.

[61 FR 36264, July 9, 1996]

### § 203.45 Eligibility of graduated payment mortgages.

A mortgage containing provisions for varying rates of amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart subject to compliance with the additional requirements of this section.

(a) The mortgage may provide that any interest which accrues and which is unpaid pursuant to a financing plan approved by the Secretary, shall be added to the principal obligation of the mortgage.

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor.

(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).

(d) The mortgage must contain complete amortization provisions satisfactory to the Secretary requiring monthly payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary. The sum of the payments to principal and/or interest may increase annually for a period of five years at a rate of 2½ percent, 5 percent or 7½ percent or for a period of ten years at a rate of 2 percent or 3 percent. Any required increase in payments shall occur on the

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anniversary date of the beginning of amortization. On the termination of the period of annual increases of payments, the sum of the payments to principal and interest in each month shall be substantially the same.

(e) The mortgagee shall fully explain to the mortgagor the nature of the obligation undertaken and the mortgagor shall certify that he or she fully understands the obligation.

(f) Sections 203.21 and 203.44 shall not apply to this section.

(g) This section applies only to mortgagors who are to occupy the dwelling as a principal residence (as defined in § 203.18(f)(1)). It does not apply to a mortgage that meets the requirements of §§ 203.18(a)(4), 203.18 (c) through (e), 203.43, 203.43a, 203.43j, or 203.49.

(h) Mortgages complying with the requirements of this section shall be insured under this subpart pursuant to section 245 of the National Housing Act.

[41 FR 42949, Sept. 29, 1976, as amended at 45 FR 33966, May 21, 1980; 45 FR 56341, Aug. 24, 1980; 49 FR 19453, 19458, May 8, 1984; 49 FR 23584, June 6, 1984; 52 FR 48201, Dec. 21, 1987; 53 FR 8881, Mar. 18, 1988; 53 FR 9869, Mar. 28, 1988; 55 FR 34805, Aug. 24, 1990; 58 FR 41003, July 30, 1993]

### § 203.47 Eligibility of growing equity mortgages.

A mortgage containing provisions for accelerated amortization corresponding to anticipated variations in family income shall be eligible for insurance under this subpart, subject to compliance with the additional requirements of this section.

(a) The mortgage must contain complete amortization provisions, satisfactory to the Secretary, requiring monthly payments by the mortgagor not in excess of the mortgagor's reasonable ability to pay, as determined by the Secretary.

(b) The mortgage must contain a provision setting forth the payments required for principal and interest in each year of the mortgage.

(c) The monthly payments for principal and interest for the initial year, or such other initial period as the commissioner may approve, shall be determined on the basis of a 30-year level