the principal limit amount (after deducting amounts excluded in the following sentence) be disbursed at closing to the mortgagor (or as otherwise permitted by §206.29), the mortgagee must make sufficient inquiry at closing to confirm that the mortgagor will not use any part of the amount disbursed for payments to or on behalf of an estate planning service firm, with an explanation of §206.32 as necessary or appropriate.

(2) This paragraph does not apply to any part of the principal limit used for the following:

(i) Initial MIP under §206.105(a) or fees and charges allowed under §206.31(a) paid by the mortgagee from mortgage proceeds instead of by the mortgagor in cash; and

(ii) Amounts set aside under §206.47 for repairs, under §206.205(f) for property charges, or §206.207(b).

[64 FR 2988, Jan. 19, 1999]

§206.47 Property standards; repair work.

(a) Need for repairs. Properties must meet the applicable property standards of the Secretary in order to be eligible. Properties which do not meet the property standards must be repaired in order to ensure that the repaired property will serve as adequate security for the insured mortgage.

(b) Assurance that repairs are made. The mortgage may be closed before the repair work is completed if the Secretary estimates that the cost of the remaining repair work will not exceed 15 percent of the maximum claim amount and the mortgage contains provisions approved by the Secretary concerning payment for the repairs.

(c) Role of mortgagee. The mortgagee shall cause one or more inspections of the property to be made by an inspector approved by the Secretary in order to ensure that the repair work is satisfactory, and prior to the release of funds for the repairs. The mortgagee shall hold back a portion of the contract price attributable to the work done before each interim release of funds, and the total of the holdbacks will be released after the final inspection and approval of the release by the mortgagee. The mortgagee shall ensure
§ 206.51 Eligibility of mortgages involving a dwelling unit in a condominium.

If the mortgage involves a dwelling unit in a condominium, the project in which the unit is located shall have been committed to a plan of condominium ownership by deed, or other recorded instrument, that is acceptable to the Secretary, except as provided in §234.26(i) of this chapter.

[61 FR 26984, May 29, 1996]

§ 206.53 Refinancings.

(a) General. This section implements section 255(k) of NHA. Except as otherwise provided in this section, all requirements applicable to the insurance of home equity conversion mortgages under this part apply to the insurance of refinancings under this section. HUD may, upon application by a mortgagee, insure any mortgage given to refinance an existing home equity conversion mortgage insured under this part, including loans assigned to the Secretary as described in §206.107(a)(1) and §206.121(b) under this part.

(b) Definition of ‘‘total cost of the refinancing.’’ For purposes of paragraphs (c) and (d) of this section, the term ‘‘total cost of the refinancing’’ means the sum of the allowable charges and fees permitted under §206.31 and the initial MIP described in §206.105(a) and paragraph (c) of this section.

(c) Initial MIP limit. The initial MIP paid by the mortgagee pursuant to §206.105(a) shall not exceed two percent of the increase in the maximum claim amount (i.e., the difference between the maximum claim amount for the new home equity conversion mortgage and the maximum claim amount for the existing home equity conversion mortgage that is being refinanced).

(d) Anti-churning disclosure—(1) Contents of anti-churning disclosure. In addition to providing the required disclosures under §206.43, the mortgagee shall provide to the mortgagor its best estimate of:

(i) The total cost of the refinancing to the mortgagor; and

(ii) The increase in the mortgagor’s principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the home equity conversion mortgage that is being refinanced under this section.

(2) Timing of anti-churning disclosure. The mortgagee shall provide the anti-churning disclosure concurrently with the disclosures required under §206.43.

(e) Waiver of counseling requirement. The mortgagor may elect not to receive counseling under §206.41, but only if:

(1) The mortgagor has received the anti-churning disclosure required under paragraph (d) of this section.

(2) The increase in the mortgagor’s principal limit (as provided in the anti-churning disclosure) exceeds the total cost of the refinancing by an amount established by the Secretary through FEDERAL REGISTER notice. HUD may periodically update this amount through publication of a notice in the FEDERAL REGISTER. Publication of any such revised amount will occur at least 30 days before the revision becomes effective.

(3) The time between the date of the closing on the original home equity conversion mortgage and the date of the application for refinancing under this section does not exceed five years (even if less than five years have passed since a previous refinancing under this section).


Subpart C—Contract Rights and Obligations

§ 206.101 Sale, assignment and pledge of insured mortgages.

The provisions of §§203.430 through 203.435 of this chapter shall be applicable to mortgages eligible for insurance under this part.