

Health and Human Services considers acceptable and reasonable for protection against the hazards of fire and which the borrower agrees to install.

(3) For the purposes of this definition, the terms *nursing home* and *intermediate care facility* shall include those facilities designated as skilled nursing facilities or intermediate care facilities by the Department of Health and Human Services.

(d) *Fire safety loan* means any form of secured or unsecured obligation determined by the Commissioner to be eligible for insurance under this subpart and, in the case of an assisted living facility or a board and care home, made with respect to such a home located in a State which the Secretary has determined is in compliance with the provisions of section 1616(e) of the Social Security Act.

(e) *Equipment cost* means the reasonable cost of *fire safety equipment* fully installed as estimated by the Secretary of Health and Human Services and as determined by the Commissioner.

(f) *Insured loan maturity* means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for in the loan instrument or instruments.

(g) *Approved lender* means a financial institution or other mortgagee approved by the Commissioner as eligible for insurance under section 2 of the National Housing Act, or a mortgagee approved under section 203(b)(1) of the National Housing Act.

[39 FR 28966, Aug. 12, 1974, as amended at 50 FR 37522, Sept. 16, 1985; 59 FR 61228, Nov. 29, 1994]

#### FEEs AND CHARGES

##### § 232.505 Application and application fee.

(a) *Prior approval*. An application for insurance of a fire safety loan under this part shall be considered only in connection with a proposal which has been approved by the Secretary of Health and Human Services, or his designee, based upon (1) his determination of need for such equipment to be installed in the facility as a condition for participation for providers of services under title XVIII and title XIX of the

Social Security Act, and (2) his determination that upon installation of such equipment the project will meet the fire safety requirements prescribed by the Secretary of HHS for participation under titles XVIII and XIX of the Social Security Act, and (3) his judgment that the cost estimate for purchase and installation of the equipment is a reasonable cost estimate.

(b) *Filing of application*. An application for insurance of a fire safety loan for a nursing home, intermediate care facility, assisted living facility or board and care home shall be submitted on an approved HUD form by an approved lender and by the owners of the project to the local HUD office.

(c) *Application fee*. An application fee of \$2.00 per thousand dollars of the amount of the fire safety loan applied for shall accompany the application. The minimum application fee shall be \$50.00.

(Information collection requirement approved by the Office of Management and Budget under control number 2502-0029)

[39 FR 28966, Aug. 12, 1974, as amended at 50 FR 37523, Sept. 16, 1985; 59 FR 61228, Nov. 29, 1994]

##### § 232.510 Commitment and commitment fee.

(a) *Issuance of commitment*. Upon approval of an application for insurance, a commitment shall be issued by the Commissioner setting forth the terms and conditions upon which the fire safety loan will be insured.

(b) *Type of commitment*. The commitment will provide for the insurance of the loan after satisfactory completion of installation of the fire safety equipment, as determined by the Secretary of HHS.

(c) *Term of commitment*. (1) If the commitment fee is paid as required, a commitment shall have a term within which the borrower is required to begin construction, and if construction is begun as required, for such additional period as the Commissioner deems necessary for satisfactory completion of installation.

(2) The term of a commitment may be extended in such manner as the Commissioner may prescribe.

## § 232.515

(d) *Commitment fee.* A commitment fee which, when added to the application fee, will aggregate \$4.00 per thousand of the amount of the fire safety loan (with a minimum total of \$50.00 for both fees) set forth in the commitment, and shall be paid prior to issuance of the commitment.

(e) *Reopening of expired commitments.* An expired commitment may be reopened if a request for reopening is received by the Commissioner within 10 days of the expiration of the commitment. The reopening request shall be accompanied by a fee of 50 cents per thousand dollars of the amount of the expired commitment. If the reopening request is not received by the Commissioner within the required 10-day period, a new application, accompanied by the required application and commitment fee, must be submitted.

(f) *Increase in commitment prior to endorsement.* An application, filed prior to endorsement, for an increase in the amount of an outstanding firm commitment shall be accompanied by a combined additional application and commitment fee. The combined additional fee shall be in an amount which will aggregate \$4.00 per thousand dollars of the amount of the requested increase. If an inspection fee was required in the original commitment, an additional inspection fee shall be paid in an amount computed at the same dollar rate per thousand dollars of the amount of increase in commitment as was used for the inspection fee required in the original commitment. The additional inspection fee shall be paid prior to the date installation of fire safety equipment, is begun or, if installation has begun, it shall be paid with the application for increase.

### § 232.515 Refund of fees.

If the amount of the commitment issued or an increase in loan prior to endorsement is less than the amount applied for, the Commissioner shall refund the excess amount of the application and commitment fees submitted by the applicant. If an application is rejected before it is assigned for processing, or in such other instances as the Commissioner may determine, the entire application and commitment fees or any portion thereof may be re-

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turned to the applicant. Commitment and reopening fees may be refunded, in whole or in part, if it is determined by the Commissioner that the installation of fire safety equipment for the project has been prevented because of condemnation proceedings or other legal action taken by a governmental body or public agency, or in such other instances as the Commissioner may determine.

### § 232.520 Maximum fees and charges by lender.

The lender may collect from the borrower the amount of the fees provided for in this subpart. The lender may also collect from the borrower an initial service charge in an amount not to exceed one and one-half of one percent of the original principal amount of the loan to reimburse the lender for the cost of originating and closing the transaction. Any additional charges shall be subject to the prior approval of the Commissioner.

### § 232.522 Inspection fee.

The commitment shall provide for the payment of an inspection fee in an amount not to exceed \$5.00 per thousand dollars of the commitment. The minimum inspection fee shall be \$50.00 paid prior to the date construction is begun: *Provided, however,* That in no case shall the combined total of the fees provided for in §§ 232.505, 232.510 of this section exceed one percent of the original principal face amount of the loan.

## ELIGIBLE SECURITY INSTRUMENTS

### § 232.525 Note and security form.

The lender shall present for insurance a note and security instrument, if required, on forms approved by the Commissioner for use in the jurisdiction in which the property to be improved is located.

### § 232.530 Disbursement of proceeds.

At the time of endorsement for insurance of the note by the Commissioner, the entire principal amount of the note shall have been disbursed to the borrower or to his creditors for his account and with his consent.