

and may be relied upon as a true statement of the facts contained therein.

(d) *Incontestability*. Upon the Commissioner's approval of the cost certification, such certification shall be final and incontestable except for fraud or material misrepresentation on the part of the borrower.

(e) *Records*. The borrower shall keep and maintain adequate records of all costs of any construction improvements or other cost items not representing work under the general contract and shall require the builder to keep similar records and, upon request by the Commissioner, shall make available for examination such records, including any collateral agreements.

#### ELIGIBLE BORROWERS

##### § 232.615 Eligible borrowers.

(a) In order to be eligible as a borrower under this subpart the applicant shall be a profit or non-profit entity, which owns a nursing home or intermediate care facility for which the Secretary of Health and Human Services has determined that the installation of fire safety equipment in such facility is necessary to meet the applicable requirements of the Secretary of Health and Human Services for providers of services under Title XVIII and Title XIX of the Social Security Act and that upon completion of the installation of such equipment the nursing home or intermediate care facility will meet not only the applicable fire safety requirements of HHS but will meet other pertinent health and safety requirements of HHS for providers of such services. At the time of application, a nursing home or intermediate care facility need not be providing such services if upon completion of installation such home or facility will meet other pertinent health and safety requirements of HHS for providers of such services. In lieu of a facility being able to meet HHS's requirements for other pertinent health and safety requirements at the time of application, HHS may accept a list of deficiencies from the State Agency responsible for determining compliance with HHS's requirements for other pertinent health and safety requirements for providers of such services along with a plan pre-

pared by the applicant for correcting those deficiencies. In such event, HHS will inform HUD that, if the facility complies with such plan, the facility will meet the applicable health and safety requirements of HHS for providers of services under Titles XVIII and XIX of the Social Security Act upon the installation of the fire safety equipment. Until the termination of all obligations of the Commissioner under an insurance contract under this subpart and during such further period of time as the Commissioner shall be the owner, holder, or reinsurer of the loan, the borrower shall be regulated or restricted by the Commissioner as to methods of operation including requirements for maintenance of fire safety equipment.

(b) Also eligible as a borrower shall be a profit or nonprofit entity which owns an assisted living facility or board and care home for which HUD has determined that the installation of fire safety equipment is approvable under the definition contained in § 232.500(c).

[39 FR 28966, Aug. 12, 1974; 39 FR 30349, Aug. 22, 1974, as amended at 50 FR 37523, Sept. 16, 1985; 59 FR 61228, Nov. 29, 1994]

##### § 232.616 Disclosure and verification of Social Security and Employer Identification Numbers.

To be eligible for mortgage insurance under this subpart, the borrower must meet the requirements for the disclosure and verification of Social Security and Employer Identification Numbers, as provided by part 200, subpart U, of this chapter.

(Approved by the Office of Management and Budget under control number 2502-0118)

[54 FR 39695, Sept. 27, 1989]

#### SPECIAL REQUIREMENTS

##### § 232.620 Determination of compliance by HHS.

An application under this subpart must be accompanied by a statement from the Secretary of Health and Human Services, or his designee, that the Secretary has determined that the physical plant of the facility, when the fire safety equipment has been installed, will be in compliance with the HHS requirements for fire safety and

## § 232.625

will meet other pertinent health and safety requirements of HHS for providers of services under title XVIII and XIX of the Social Security Act (Medicare and Medicaid). In lieu of a facility being able to meet HHS's requirements for other pertinent health and safety requirements at the time of application, HHS may accept a list of deficiencies from the State Agency responsible for determining compliance with HHS's requirements for other pertinent health and safety requirements for providers of such services along with a plan prepared by the applicant for correcting those deficiencies. In such event, HHS will inform HUD that, if the facility complies with such plan, the facility will meet the applicable health and safety requirements of HHS for providers of services under titles XVIII and XIX of the Social Security Act upon the installation of the fire safety equipment. The architectural exhibits, as approved, by HHS, together with any commitment requirements HHS deems appropriate, must accompany the statement. In the case of Intermediate Care Facilities, the statement by HHS to HUD will be based upon a determination that the facility has been approved in accordance with applicable HHS statutes and regulations, subject to the proper installation of the proposed equipment.

### § 232.625 Discrimination prohibited.

Any contract or subcontract executed for the installation of equipment, or construction of improvements to the project shall provide that there shall be no discrimination against any employee or applicant for employment because of sex, religion, race, color, creed or national origin.

### § 232.630 Assurance of completion.

If the property upon which the fire safety equipment is to be installed is subject to a mortgage insured or held by the Commissioner pursuant to subpart B of this part, the Commissioner may require such assurance of completion of the contract for installation as he may from time to time prescribe.

## 24 CFR Ch. II (4-1-14 Edition)

### Subpart D—Contract Rights and Obligations

SOURCE: 39 FR 28970, Aug. 12, 1974, unless otherwise noted.

### § 232.800 Definitions.

All of the definitions contained in § 232.500 shall apply to this subpart. In addition, as used in this subpart, the following term shall have the meaning indicated:

(a) *Contract of insurance* means the agreement evidenced by the endorsement of the Commissioner upon the note given in connection with an insured loan and includes the provisions of this subpart and the applicable provisions of the Act.

(b) *Maturity* means the date on which the loan indebtedness would be extinguished if paid in accordance with periodic payments provided for in the loan.

#### PREMIUMS

### § 232.805 Insurance premiums.

(a) *First premium*. The lender, upon the endorsement of the loan for insurance, shall pay to the Commissioner a first loan insurance premium equal to one percent of the original face amount of the note.

(b) *Second premium*. The lender, on the date of the first principal payment, shall pay a second premium equal to one percent of the average outstanding principal obligation of the loan for the year following such first principal payment date which shall be adjusted as of that date so that the aggregate of the first and second premiums shall equal the sum of one percent per annum of the average outstanding principal obligation of the loan for the period from the date of the insurance endorsement to one year following the date of the first principal payment.

(c) *Annual insurance premium*. Until the note is paid in full, or until the loan is assigned to the Commissioner, or until the contract of insurance is otherwise terminated with the consent of the Commissioner, the lender, on each anniversary of the date of the first principal payment shall pay an annual loan insurance premium equal to one percent of the average outstanding principal obligation of the