

§ 241.260 Definitions.

All of the definitions contained in § 241.1 shall apply to this subpart. In addition, the term *contract of insurance*, as used in this subpart, means the agreement evidenced by endorsement of the credit instrument by the Commissioner or his duly authorized representative, and includes the provisions of this subpart and of the National Housing Act.

§ 241.261 Payment of insurance benefits.

All of the provisions of § 207.259 of this chapter relating to insurance benefits shall apply to multifamily loans insured under this subpart, except that, with respect to loans initially or initially and finally endorsed for insurance on or after July 15, 1978, insurance benefits shall be paid in cash if insurance benefits under the insured project mortgage are payable in cash, unless the mortgagee files a written request for payment in debentures. If such a request is made, payment will be made in debentures with a cash payment to adjust for any difference between the total amount of the insurance payment and the amount of the debentures issued.

[48 FR 57129, Dec. 28, 1983]

§ 241.265 Insurance of property against flood.

The mortgaged property shall be insured against flood as stipulated by the Federal Housing Commissioner. The mortgagee shall obtain such coverage in the event the mortgagor fails to do so. If the mortgagee fails to pay any premiums necessary to keep the mortgaged premises so insured, the contract of mortgage insurance may be terminated at the election of the Commissioner.

[39 FR 26023, July 16, 1974]

§ 241.270 Refund upon termination of insurance.

Upon termination of the insurance contract by payment in full or by voluntary termination, the Commissioner shall refund to the lender for the account of the borrower an amount equal to the pro rata portion of the current annual loan insurance premium there-

fore paid, which is applicable to the portion of the year subsequent to (a) the date of the prepayment or (b) the effective date of the voluntary termination of the contract of insurance.

§ 241.275 No vested right in fund.

Neither the lender nor the borrower shall have any vested or other right in the insurance fund under which the loan is insured.

Subpart C—Eligibility Requirements—Supplemental Loans To Finance Purchase and Installation of Energy Conserving Improvements, Solar Energy Systems, and Individual Utility Meters in Multifamily Projects Without a HUD-Insured or HUD-Held Mortgage

SOURCE: 45 FR 57983, Aug. 29, 1980, unless otherwise noted.

§ 241.500 Definitions.

In addition to the definitions contained in subpart A of this part, incorporated herein by reference, except § 241.1(f), (h) and (i), the following terms, as used in § 241.500 *et seq.*, shall have the meaning indicated:

(a) *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, or a state housing agency approved pursuant to 24 CFR 883.102.

(b) *Borrower* means the owner of a project held in fee simple or of a leasehold interest which is not now covered by a mortgage insured or held by the Secretary.

(c) *Energy saving loan* means any form of secured obligation used in connection with the purchase and installation of energy conserving improvements.

(d) *Multifamily project* means a project which consists of not less than five dwelling units on one site, each such unit providing complete living facilities including provisions for cooking, eating, and sanitation within the unit

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and which is not now covered by a mortgage insured or held by the Secretary.

FEES AND CHARGES

§ 241.505 Processing of applications and required fees.

(a) *Preapplication conference.* The local HUD Office will determine whether participation in a preapplication conference is required as a condition to submission of an initial application for a firm commitment for insurance of an energy savings improvement loan on a project. An application for a firm commitment for insurance must be submitted by both the project sponsor and an approved lender. Applications shall be submitted to the local HUD Office on HUD-approved forms. No application will be considered unless accompanied by all exhibits required by the form and program handbooks.

(b) *Application for firm commitment.* An application for a firm commitment shall be accompanied by the payment of an application fee of \$5 per thousand dollars of the requested loan amount to be insured.

(c) *Cross-reference.* The provisions of paragraphs (e) (Inspection fee), (f)(1) (Fee on increases), (g) (Reopening of expired commitments), (i) (Refund of fees), and (j) (Fees not required) of § 200.40 of this chapter apply to applications submitted under subpart E of this part.

[61 FR 14416, Apr. 1, 1996]

§ 241.510 Commitments.

(a) *Firm commitment.* The issuance of a firm commitment indicates the Commissioner's approval of the application for insurance and sets forth the terms and conditions upon which the loan will be insured.

(b) *Types of firm commitment.* (1) Where the amount of the loan is \$250,000 or more, the firm commitment may provide for the insurance of advances of loan money made during construction or may provide for the insurance of the loan after completion of the improvements.

(2) Where the amount of the loan is less than \$250,000, the firm commitment shall provide for insurance of the

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loan after completion of the improvements.

(c) *Term of commitment.* (1) A firm commitment to insure advances shall be effective for a period of not more than 60 days from the day of issuance.

(2) A firm commitment to insure upon completion shall be effective for a designated term within which the borrower is required to begin construction, and if construction is begun as required, the commitment shall be effective for such additional period, estimated by the Commissioner, as will allow for completion of construction.

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

[61 FR 14417, Apr. 1, 1996]

§ 241.515 Inspection fee.

The firm commitment may provide for the payment of an inspection fee in an amount not to exceed \$5 per thousand dollars of the commitment. If an inspection fee is required, it shall be paid as follows:

(a) If the case involves the insurance of advances, it shall be paid at the time of initial endorsement.

(b) If the case involves insurance upon completion, it shall be paid prior to the date construction is begun.

§ 241.520 Fees on increases.

(a) *Increase in firm commitment prior to endorsement.* An application filed prior to initial endorsement (or prior to endorsement in a case involving insurance upon completion), for an increase in the amount of an outstanding firm commitment shall be accompanied by a combined additional application and commitment fee. This combined additional fee shall be in an amount which will aggregate \$3 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. When insurance of advances is involved, the additional inspection fee shall be paid at time of initial endorsement. When insurance upon completion is involved,

the additional inspection fee shall be paid prior to the date construction is begun or if construction has begun, it shall be paid with the application for increase.

(b) *Increase in loan between initial and final endorsement.* Upon an application, filed between initial and final endorsement, for an increase in the amount of the loan, either by amendment or by substitution of a new loan, a combined additional application and commitment fee shall accompany the application. This combined additional fee shall be in an amount which will aggregate \$3 per thousand dollars of the amount of the increase requested. If an inspection fee was required in the original commitment, an additional inspection fee shall accompany the application in an amount not to exceed \$5 per thousand dollars of the amount of the increase requested.

§ 241.525 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 returned to the applicant. Commitment, inspection, and reopening fees may be refunded, in whole or in part if it is determined by the Commissioner that the installation of energy conserving improvements 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.

§ 241.530 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 2 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.

ELIGIBLE SECURITY INSTRUMENTS

§ 241.530a Note and security form.

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

[45 FR 57983, Aug. 29, 1980. Correctly designated at 45 FR 80276, Dec. 4, 1980]

§ 241.535 Loan multiples—minimum principal.

The loan shall involve a principal obligation in multiples of \$100, and the minimum principal obligation shall be \$10,000.

§ 241.540 Method of loan payment and amortization period.

(a) *Monthly payments.* The loan shall provide for monthly payments on the first day of each month on account of interest and principal and shall provide for payment in accordance with the amortization plan as agreed upon by the borrower, the lender and the Commissioner.

(b) *Amortization period.* (1) The loan shall have an amortization of either 5, 10, or 15 years by providing for either 60, 120, or 180 monthly amortization payments. No energy saving loan shall have an amortization period in excess of 15 years unless the amount of the loan exceeds \$50,000.00, in which event the amortization period may be increased to 20 years, with a provision for 240 monthly amortization payments.

(2) In any event, the loan shall have a maturity satisfactory to the Commissioner of not less than 2 or more than 20 years from the date of the beginning of amortization, or the Commissioner's estimate of the remaining economic life of the structure, whichever is the lesser.

(3) The Commissioner shall establish the date of the first payment to principal, which shall be no later than the first day of the second month following the date of final endorsement (for projects involving insurance of advances) or endorsement (for projects

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involving insurance upon completion) of the loan for insurance.

§ 241.545 Covenant against liens.

The security instrument shall contain a covenant against the creation by the borrower of additional liens against the property superior or inferior to the lien of such instrument, except with the prior approval of the Commissioner.

§ 241.550 Accumulation of next premium.

The security instrument shall provide for payments by the borrower to the lender on each interest payment date of an amount sufficient to accumulate in the hands of the lender one payment period prior to its due date, the next annual insurance premium payable by the lender to the Commissioner.

§ 241.555 Security instrument and lien.

(a) The security instrument shall cover the entire property included in the project, shall be a lien on the real property of the project under the laws of the jurisdiction in which the project is located, and may be junior to such prior liens or mortgage indebtedness as the Commissioner may approve. The security instrument shall contain a provision that a default under the first mortgage is a default under the supplementary loan security instrument.

(b) For bond-financed projects where the bond resolution contains a provision prohibiting the creation of additional liens, the Commissioner may accept at his/her option:

(1) A first lien on another property whose fair market value as determined by the Commissioner equals or exceeds the amount of the loan insured under this part;

(2) A Collateral Account in an amount not less than the amount of the loan insured under this part funded with cash or negotiable bonds or securities backed by the full faith and credit of the United States Government; or

(3) Other security acceptable to the Commissioner.

§ 241.560 Agreed interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the lender and the borrower.

(b) Interest shall be payable in monthly installments on the principal amount of the loan outstanding on the due date of each installment.

[45 FR 57983, Aug. 29, 1980, as amended at 49 FR 19459, May 8, 1984]

§ 241.565 Maximum loan amount.

The principal amount of the loan shall in no event exceed the cost of the energy conserving improvements including the purchase thereof, cost of installation, architect's fees, interest during construction and such other miscellaneous fees and charges incident to construction as determined by the Commissioner. Nor shall the principal amount of the loan exceed the lesser of the following:

(a) An amount which can be supported by residual income, which is the amount of net income remaining after payment of all existing debt service requirements and deduction of proprietary earnings, as determined by the Commissioner. The computation of net income shall take into account the amount which will be saved in operating costs over the period of repayment of the loan as a result of the installation of the energy conserving improvements.

(b) An amount which, when added to the existing outstanding indebtedness, does not exceed the Commissioner's estimate of the value of the project after the energy conserving improvements are installed.

§ 241.570 Insurance endorsement.

(a) *Initial endorsement.* The Commissioner shall indicate his/her insurance of the mortgage by endorsing the original credit instrument and identifying the section of the Act and the regulations under which the mortgage is insured and the date of insurance.

(b) *Final endorsement.* When all advances of mortgage proceeds have been made and all the terms and conditions of the commitment have been complied with to the satisfaction of the Commissioner, he/she shall indicate on the

original credit instrument the total approved for insurance and again endorse such instrument.

(c) *Effect of endorsement.* From the date of initial endorsement, the Commissioner and the mortgagee or lender shall be bound by the provisions of this subpart to the same extent as if they had executed a contract including the provisions of this subpart and the applicable sections of the Act.

(d) *Insurance upon completion.* When all advances of mortgage proceeds have been made and all the terms and conditions of the commitment have been complied with to the satisfaction of the Commissioner, he/she shall indicate the total approved for insurance and endorse the credit instrument, identifying the date of insurance.

§ 241.580 Application of payments.

(a) The security instrument shall provide that all monthly payments to be made by the borrower shall be added together and this aggregate amount shall be paid by the borrower upon each monthly payment date in a single payment. The lender shall apply the payment to the following items in the order set forth:

- (1) Premium charges under the contract of insurance;
- (2) Interest on the loan;
- (3) Amortization of the principal of the loan.

(b) Any deficiency in the amount of any monthly payments required under paragraph (a) of this section shall constitute an event of default and the loan shall further provide for a grace period of 30 days within which time the default must be cured.

§ 241.585 Prepayment privileges and prepayment charge.

The security instrument shall contain a provision permitting prepayment of the loan in whole or in part upon any interest payment date after giving to the lender 30 days advance written notice and it may contain a provision, with the approval of the Commissioner, for a reasonable charge in the event of prepayment. The borrower shall be permitted to prepay up to 15 percent of the original principal amount of the loan in any one calendar year without an additional charge. A

provision for a charge in the event of prepayment may not be included in a loan of \$200,000 or less.

§ 241.586 Minimum principal loan amount.

A mortgagee may not require, as a condition of providing a loan insured under this subpart, that the principal amount of the mortgage exceed a minimum amount established by the mortgagee.

[53 FR 8886, Mar. 18, 1988]

PROPERTY REQUIREMENTS

§ 241.590 Eligibility of property.

(a) A loan to be eligible for insurance shall be on real estate held:

- (1) In fee simple; or
- (2) On the interest of the lessee under a lease for not less than seventy-five years which is renewable; or
- (3) Under a lease having a period of not less than twenty-five years to run from the date the loan is executed.

(b) The property constituting security for the loan transaction must be held by an eligible borrower as herein defined and must at the time the loan is insured be free and clear of all liens other than those specifically approved by the Commissioner.

TITLE

§ 241.595 Eligibility of title.

In order for the property which is to be the security for a loan to be insured under this subpart to be eligible for insurance, the Commissioner shall determine that the title to the property is vested in the borrower as of the date the security instrument is filed for record. The title evidence will be examined by the Commissioner and the endorsement of the credit instrument for insurance shall be evidence of its acceptability.

§ 241.600 Title evidence.

(a) Upon insurance of the loan, the lender shall furnish to the Commissioner a survey, satisfactory to the Commissioner, and a policy of title insurance as provided in paragraph (a)(1) of this section. If the lender is unable

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to furnish such policy for reasons satisfactory to the Commissioner, the lender shall furnish such evidence of title as provided in paragraph (a) (2), (3), or (4) of this section as the Commissioner may require. Any survey, policy of title insurance, or evidence of title required under this section shall be furnished without expense to the Commissioner. The acceptable types of title evidence are:

(1) A policy of title insurance issued by a company and in a form satisfactory to the Commissioner. The policy shall name the lender and the Secretary of Housing and Urban Development, as their respective interests may appear, as the insured. The policy shall provide that upon acquisition of title by the lender or the Secretary, it will continue to provide the same coverage as the original policy, and will run to the lender upon its acquisition of the property in extinguishment of the debt, and to the Secretary upon acquisition of the property pursuant to the loan insurance contract.

(2) An abstract of title satisfactory to the Commissioner, prepared by an abstract company or individual engaged in the business of preparing abstracts of title, accompanied by a legal opinion satisfactory to the Commissioner, as to the quality of such title, signed by an attorney at law experienced in the examination of titles.

(3) A Torrens or similar title certificate.

(4) Evidence of title conforming to the standards of a supervising branch of the Government of the United States of America, or of any State or territory thereof.

(b) The survey required by paragraph (a) of this section need not be furnished in connection with a project where the loan does not exceed \$200,000.

[45 FR 57983, Aug. 29, 1980, as amended at 58 FR 34217, June 24, 1993]

FORM OF CONTRACT

§ 241.605 Contract requirements.

(a) When the principal amount of the loan is \$100,000 or less, the form of contract between the borrower and the contractor shall be in accordance with the following:

(1) The contract between the borrower and the general contractor may be in the form of either a lump sum contract or a cost plus contract. Either form of contract shall include the cost of the energy conserving improvements, their installation, and such other work to be performed by the contractor as necessary to meet the requirements of the Secretary. A lump sum contract shall provide for the payment of a specified amount. A cost plus contract shall provide for the payment of the contractor's actual cost of compliance with the requirements of the contract, plus such allowances for overhead and profit as may be approved by the Commissioner and shall provide that the total cost under the contract shall not exceed the upset price as approved by the Commissioner.

(2) If agreed to by the general contractor and borrower, a lump sum form of contract between the borrower and the general contractor may be used unless the Commissioner determines that a cost plus contract with a maximum upset price is necessary to protect the interest of the borrower or the Commissioner.

(b) When the principal amount of the loan is over \$100,000, the form of contract between the borrower and the contractor shall be in accordance with the following:

(1) *Lump sum contract.* If the Commissioner determines that there is no identity of interest between the borrower or any of the officers, directors or stockholders of the borrower and the contractor, there may be used a lump sum contract providing for payment of the specified amount.

(2) *Cost plus fixed fee contract.* (i) If the Commissioner determines that there is any identity of interest (financial or otherwise) between the borrower, its officers, directors or stockholders and the contractor, the form of contract shall provide for payment of the actual cost of construction not to exceed an upset price and may provide for payment of a fixed fee not exceeding a reasonable allowance as established by the Commissioner in accordance with customary practices in the area.

(ii) In any case where the borrower is a nonprofit entity, a cost plus fixed fee

contract shall be used unless it is established to the Commissioner's satisfaction that such form of contract is not required to protect his/her interests and the interests of the borrower, in which case, a lump sum form of contract may be used.

§ 241.610 Assurance of completion.

(a) The borrower shall furnish assurance of completion of the project in the following minimum forms and amounts:

(1) Where the estimated cost of construction of the improvements is \$500,000 or less, the borrower shall furnish assurance of completion of the project in the form of a personal indemnity agreement executed by the principal officers, directors, stockholders, or partners of the entity acting as general contractor.

(2) Where the estimated cost of construction of the improvements is more than \$500,000 or where such cost is less than \$500,000 and a personal indemnity agreement is not executed, the assurance shall be in the form of corporate surety bonds for payment and performance, each in the minimum amount of 25 percent of the construction contract, or a completion assurance agreement secured by a cash deposit in the minimum amount of 15 percent of the amount of the construction contract.

(3) All types of assurance of completion shall be on forms approved by the Commissioner. Any surety company executing a bond and any party executing a personal indemnity agreement must be satisfactory to the Commissioner.

(4) A mortgagee may prescribe more stringent requirements for assurance of completion than the minimum requirements of this section.

(b) The lender may accept, in lieu of a cash deposit required by paragraph (a) of this section, an unconditional irrevocable letter of credit issued to the lender by a banking institution. In the event a demand under the letter of credit is not immediately met, the lender shall forthwith provide cash equivalent to the undrawn balance thereunder.

§ 241.615 Certification of cost requirements.

(a) *Certification agreement.* The lender shall submit with the application an agreement on a form prescribed by the Commissioner and executed by the borrower and the lender.

(b) *Certificate and adjustment.* No loan shall be insured unless:

(1) A certification of actual cost is made by the contractor in cases in which a cost plus form of contract is used; and

(2) The amount of the loan is adjusted to reflect the actual cost to the borrower of the improvements when either a cost plus or lump sum form of contract is used.

(c) *Cost computation.* The term *actual cost of the improvements* shall mean the cost to the borrower of the improvements, after deducting the amount of any kickbacks, rebates or trade discount received in connection with the improvements, and including the amounts paid under any contract for the improvements, labor, materials, and for any other items of expenses approved by the Commissioner.

(d) *Statement of facts.* Any agreement, undertaking, statement or certification required in connection with cost certification shall specifically state that it has been made, presented and delivered for the purpose of influencing an official action of the Commissioner and may be relied upon as a true statement of the facts contained therein.

(e) *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.

(f) *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 contractor to keep similar records and, upon request by the Commissioner, both shall make available for examination such records, including any collateral agreements.

(g) *Certificate of public accountant.* Where required by the Commissioner, each certificate of actual cost shall be

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supported by a certificate as to accuracy by an independent Certified Public Accountant or independent public accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or prior to December 31, 1970, which shall include a statement that the accounts, records and supporting documents have been examined in accordance with generally accepted auditing standards to the extent deemed necessary to verify the actual costs.

ELIGIBLE BORROWERS

§ 241.625 Eligible borrowers.

In order to be eligible as a borrower under this subpart, the applicant shall be a profit, limited distribution, non-profit, or cooperative owner of a multifamily housing project which is not covered by a mortgage insured or held by the Secretary and which the Commissioner has determined to be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss of the Federal Government.

§ 241.626 Disclosure and verification of Social Security and Employer Identification Numbers.

To be eligible for loan 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 39696, Sept. 27, 1989]

SPECIAL REQUIREMENTS

§ 241.630 Maximum insurance against loss.

A loan insured under this subpart shall be insured for 90 percent of any loss incurred by the person holding the note for the loan.

§ 241.635 Regulatory agreement.

Any borrower obligated on the note for any loan insured under this subpart shall be regulated or restricted in a manner and on a form prescribed by the Secretary as to rents or sales,

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charges, capital structure, rate of return and methods of operation of the multifamily project to such an extent and in such manner as to provide reasonable rental to tenants and a reasonable return on the investment until the termination of all obligations of the Secretary under the contract of insurance.

§ 241.640 Employment discrimination prohibited.

Any contract or subcontract executed for the performance of constructing the improvements to the project shall provide that there shall be no discrimination against any employee or applicant for employment because of race, color, religion, sex, familial status, disability, age, or national origin.

[61 FR 14417, Apr. 1, 1996]

§ 241.645 Labor standards and prevailing wage requirements.

(a) Any contract, subcontract, or building loan agreement executed for the performance of construction of the project shall comply with all applicable labor standards and provisions of the regulations of the Secretary of Labor set forth in §§5.1 through 5.12 of title 29.

(b) No construction contract shall be entered into with a general contractor or any subcontractor if such contractor or any such subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest is included on the ineligible list of contractors or subcontractors established and maintained by the Comptroller General, pursuant to §5.6(b) of title 29.

(c) No advance under the mortgage shall be eligible for insurance after notification from the Commissioner that the general contractor or any subcontractor or any firm, corporation, partnership or association in which such contractor or subcontractor has a substantial interest, was on the date the contract or subcontract was executed, on the ineligible list established by the Comptroller General, pursuant to the provision of the Secretary of Labor set forth in §§5.1 through 5.12 of title 29.

(d) No advance under any mortgage shall be eligible for insurance unless

there is filed with the application of such advance a certificate or certificates in the form required by the Commissioner, supported by such other information as the Commissioner may prescribe, certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings, or housing project involved, have been paid not less than the wage prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor prior to beginning of construction and after the date of filing of the application for insurance.

(e) Compliance with the provisions of this subsection shall be evidenced at such time and in such manner as the Commissioner may prescribe.

Subpart D—Contract Rights and Obligations—Multifamily Projects Without a HUD-Insured or HUD-Held Mortgage

SOURCE: 45 FR 57987, Aug. 29, 1980, unless otherwise noted.

§ 241.800 Definitions.

All of the definitions contained in § 241.500 shall apply to this subpart. In addition, as used in this subpart, the following terms 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

§ 241.805 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 loan for the year following the date on which such premium becomes payable.

(d) *Method of premium payment.* Premiums shall be payable in cash or in debentures of the General Insurance Fund at par plus accrued interest. All premiums are payable in advance and no refund can be made of any portion thereof except as provided in this part.

(e) *Calculation of premiums.* The premiums payable on and after the date of the first principal payment shall be calculated in accordance with the amortization provisions without taking into account delinquent payments or prepayments.

§ 241.805a Mortgagee's late charge.

Mortgage insurance premiums which are paid to the Commissioner more than 15 days after the billing date or due date, whichever is later, shall include a late charge of 4 percent of the amount of the payment due, except that no late charge shall be required with respect to any case for which HUD fails to render a proper billing to the mortgagee.

§ 241.815 Termination of insurance.

(a) *Prepayment in full.* The contract of insurance shall be terminated if the