



This document is scheduled to be published in the Federal Register on 08/25/2015 and available online at <http://federalregister.gov/a/2015-20827>, and on FDsys.gov

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 203, 207, 220, 221, 232, 236 and 241

[Docket No. FR-5805-F-02]

[RIN 2502-AJ26]

Federal Housing Administration (FHA): Standardizing Method of Payment for FHA Insurance Claims

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This final rule is a cost-savings measure to update HUD's regulations regarding the payment of FHA insurance claims in debentures. Section 520(a) of the National Housing Act grants the Secretary discretion to pay insurance claims in cash or debentures. Although some sections of HUD's regulations have provided mortgagees the option to elect payment of FHA insurance claims in debentures, HUD has not paid an FHA insurance claim in debentures under these regulations in approximately 5 years. This final rule amends applicable FHA regulations to bring consistency in determining the method of payment for FHA insurance claims. This final rule follows publication of the February 20, 2015, proposed rule and adopts the proposed rule without change.

DATES: Effective Date: **[Insert date 30 days from the date of publication in the Federal Register]**.

FOR FURTHER INFORMATION CONTACT: For information about: HUD's Single Family Housing program, contact Ivery Himes, Director, Office of Single Family Asset

Management, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 9172, Washington, DC 20410; telephone number 202-708-1672; HUD's Multifamily Housing program, contact Sivert Ritchie, Multifamily Claims Branch, Office of Housing, Department of Housing and Urban Development, 451 7th Street, SW, Room 6252, Washington, DC 20410-8000; telephone number 202-708-2510. The telephone numbers listed above are not toll-free numbers. Persons with hearing or speech impairments may access these numbers through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION

I. Background—the February 20, 2015, Proposed Rule

On February 20, 2015, HUD published a rule in the Federal Register, at 80 FR 9253, proposing to bring consistency and uniformity to the payment of FHA insurance claims among FHA programs. Under section 520(a) of the National Housing Act, the Secretary has the discretion to pay insurance claims in either cash or debentures.¹ HUD pursued this proposed rule because some of FHA's regulations provided mortgagees with the ability to request and receive payment of an insurance claim on a loan insured under the National Housing Act in debentures. As a result of these regulations, HUD was required to maintain an interagency agreement with the United States Department of the Treasury (Treasury), which is the agency responsible for issuing and servicing debentures, costing HUD over \$206,000 per year, despite the fact that there are no current debentures being serviced by Treasury for HUD, and HUD has not paid an FHA insurance claim in debentures in approximately 5 years.

¹ 12 U.S.C. 1735d

The February 20, 2015, rule proposed amending FHA's regulations to bring uniformity and consistency in the payment of FHA insurance claims among FHA programs in the following sections: §§ 203.400, 203.476, 203.478, 207.259, 220.751, 220.760, 220.822, 221.762, 232.885, , 236.265, 241.261, 241.885, and 241.1205. As a result of these changes, § 220.760 was proposed to be removed because it was unnecessary. Please see the February 20, 2015, proposed rule for a more detailed description of the proposed changes.

II. This Final Rule

The public comment period for the proposed rule closed on April 21, 2015, and HUD did not receive any public comments. As a result, this final rule adopts the proposed rule without change.

III. Findings and Certifications

Regulatory Review - Executive Order 13563

Executive Order 13563 (Improving Regulations and Regulatory Review) directs executive agencies to analyze regulations that are “outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with what has been learned.” Executive Order 13563 also directs that, where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, agencies are to identify and consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.

Consistent with Executive Order 13563, the purposes of the reform to FHA's regulations regarding Secretarial discretion of the type of FHA insurance claim payment are to eliminate unnecessary spending and to bring consistency regarding the payment of insurance claims across FHA programs. As discussed in the preamble, the interagency agreement with Treasury costs

HUD over \$206,000 per year, even though HUD currently does not have any debentures for payment of FHA insurance claims in circulation, and has not made a payment in debentures in approximately 5 years for these insurance claims. In addition, different FHA programs treat payment of FHA insurance claims differently, and this final rule simplifies the regulations so that the authority to determine the method of claim payment rests with the Secretary who can determine whether it is fiscally prudent to offer FHA insurance claim payments in debentures, cash, or both.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This final rule only changes the party which has the authority to determine the method of payment of FHA single family, multifamily, and healthcare insurance claims. Accordingly, the undersigned certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

Environmental Impact

This final rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate the following: real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction. Furthermore, the rule does not establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Executive Order 13132, Federalism

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either (i) imposes substantial direct compliance costs on State and local governments and is not required by statute or (ii) preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. This final rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose any Federal mandates on any State, local, or tribal governments or on the private sector, within the meaning of the UMRA.

Paperwork Reduction Act

This final rule reduces information collection requirements already submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520). In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for Mortgage Insurance-Homes is 14.117; Mortgage Insurance Nursing Homes, Intermediate Care Facilities, Board and Care

Homes, and Assisted Living Facilities is 14.129; Mortgage Insurance-Rental Housing is 14.134; and Mortgage Insurance for the Purchase or Refinancing of Existing Multifamily Housing Projects is 14.155.

List of Subjects

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians-lands, Loan programs-housing and community development; Mortgage insurance; Reporting and recordkeeping requirements; Solar energy.

24 CFR Part 207

Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

24 CFR Part 220

Home improvement, Loan programs-housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

24 CFR Part 221

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs-health, Loan programs-housing and community development, Mortgage insurance, Nursing homes, Reporting and recordkeeping requirements.

24 CFR Part 236

Grant programs-housing and community development, Low and moderate income housing, Mortgage insurance, Rent subsidies, Reporting and recordkeeping requirements.

24 CFR Part 241

Home improvement, Loan programs-housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, for the reasons stated above, HUD amends 24 CFR parts 203, 207, 220, 221, 232, 236, and 241 as follows:

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

1. The authority citation for part 203 is revised to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, 1715z-16, 1715u, 1717z-21, and 1735d; 15 U.S.C. 1639c; 42 U.S.C. 3535(d).

2. Revise § 203.400 to read as follows:

§ 203.400 Method of payment.

(a) If the application for insurance benefits is acceptable to the Commissioner, payment of the insurance claim shall be made in cash, in debentures, or in a combination of both, as determined by the Commissioner either at, or prior to, the time of payment.

(b) An insurance claim paid on a mortgage insured under section 223(e) of the National Housing Act shall be paid in cash from the Special Risk Insurance Fund.

3. Revise § 203.476(g) to read as follows:

§ 203.476 Claim application and items to be filed.

* * * * *

(g) All property of the borrower held by the lender or to which it is entitled and, if the Commissioner elects to make payments in debentures, all cash held by the lender or to which it is entitled, including deposits made for the account of the borrower and which have not been applied in reduction of the principal loan indebtedness;

* * * * *

4. Revise § 203.478(c) to read as follows:

§ 203.478 Payment of insurance benefits.

* * * * *

(c) Method of payment. Payment of an insurance claim shall be made in cash, in debentures, or in a combination of both, as determined by the Commissioner either at, or prior to, the time of payment.

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PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

5. The authority citation for part 207 is revised to read as follows:

Authority: 12 U.S.C. 1701z-11(e), 1709(c)(1), 1713, 1715(b), and 1735d; 42 U.S.C. 3535(d).

6. Amend § 207.259 by revising paragraph (a), to read as follows:

§ 207.259 Insurance Benefits.

(a) Method of payment. (1) Upon either an assignment of the mortgage to the Commissioner or a conveyance of the property to the Commissioner in accordance with requirements in § 207.258, payment of an insurance claim shall be made in cash, in debentures,

or in a combination of both, as determined by the Commissioner either at, or prior to, the time of payment.

(2) An insurance claim paid on a mortgage insured under section 223(e) of the National Housing Act shall be paid in cash from the Special Risk Insurance Fund.

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**PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS
FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT**

7. The authority citation for part 220 is revised to read as follows:

Authority: 12 U.S.C. 1713, 1715b, 1715k, and 1735d; 42 U.S.C. 3535(d).

8. Revise § 220.751(a) to read as follows:

§ 220.751 Cross-reference.

(a) All of the provisions of subpart B, part 207, of this chapter, covering mortgages insured under section 207 of the National Housing Act, apply with full force and effect to multifamily project mortgages insured under section 220 of the National Housing Act, except § 207.256b Modification of mortgage terms.

* * * * *

§ 220.760 [Removed]

9. Remove § 220.760.

§ 220.822 [Amended]

10. In § 220.822 remove and reserve paragraph (b).

**PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE—
SAVINGS CLAUSE**

11. The authority citation for part 221 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715l, and 1735d; 42 U.S.C. 3535(d).

§ 221.762 [Amended]

12. In § 221.762 remove and reserve paragraph (a).

PART 232—MORTGAGE INSURANCE FOR NURSING HOMES, INTERMEDIATE CARE FACILITIES, BOARD AND CARE HOMES, AND ASSISTED LIVING FACILITIES

13. The authority citation for part 232 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715w, 1735d, and 1735f-19; 42 U.S.C. 3535(d).

14. Revise § 232.885(a) to read as follows:

§ 232.885 Insurance benefits.

(a) Method of payment. Payment of an insurance claim shall be made in cash, in debentures, or in a combination of both, as determined by the Commissioner either at, or prior to, the time of payment.

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PART 236—MORTGAGE INSURANCE AND INTEREST REDUCTION PAYMENT FOR RENTAL PROJECTS

15. The authority citation for part 236 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715z-1, and 1735d; 42 U.S.C. 3535(d).

§ 236.265 [Amended]

16. In § 236.265, remove and reserve paragraph (a).

**PART 241—SUPPLEMENTARY FINANCING FOR INSURED PROJECT
MORTGAGES**

17. The authority citation for part 241 is revised to read as follows:

Authority: 12 U.S.C. 1715b, 1715z-6, and 1735d; 42 U.S.C. 3535(d).

18. Revise § 241.261 to read as follows:

§ 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.

19. Revise § 241.885(a) to read as follows:

§ 241.885 Insurance benefits.

(a) Method of payment. Payment of insurance claims shall be made in cash, in debentures, or in a combination of both, as determined by the Commissioner either at, or prior to, the time of payment.

* * * * *

20. Revise § 241.1205 to read as follows:

§ 241.1205 Payment of insurance benefits.

All the provisions of § 207.259 of this chapter relating to insurance benefits shall apply to an equity or acquisition loan insured under subpart F of this part.

Dated: August 12, 2015

Edward L. Golding, Principal Deputy
Assistant Secretary for Housing

Nani A. Coloretti, Deputy Secretary

Approved: August 12, 2015

[FR-5805-F-02]

[FR Doc. 2015-20827 Filed: 8/24/2015 08:45 am; Publication Date: 8/25/2015]