

CHAPTER 1. ADMINISTRATIVE INSTRUCTIONS

- 1-1. TYPES OF INSURANCE AND REFINANCING. Section 223 of the National Housing Act authorizes the Assistant Secretary-FHA Commissioner:
- a. Section 223 of the Act:
 - (1) To insure miscellaneous type mortgages (223a).
 - (2) To refinance existing mortgages (223a and 223b).
 - (3) To insure mortgages assigned to him or executed in connection with a sale by him (223c).
 - (4) To insure a loan to cover the excess of expenses over project gross income incurred during the first two years following the date of completion of the project, for such amounts, and upon such terms and conditions as he may prescribe (223d).
 - (5) To insure mortgages on properties located in older declining urban areas (223e).
 - b. Legal Authority. Section 233 of the National Housing Act (Public Law 73-479) as added by the Housing and Urban Development Act of 1968 (Public Law 90-448), 12 U.S.C. 1715x.
- 1-2. AUTHORITY REGARDING COMMISSIONER-HELD PROPERTY. Authority is given to the Assistant Secretary-FHA Commissioner to insure, pursuant to Section 233, any mortgage assigned to him or executed in connection with the sale by him of any property acquired under any Section or Title of the Act without regard to any limitation upon eligibility contained in Title II of the Act.
- 1-3. SECTION 233(a) (1-6) OF ACT-RENTAL PROJECTS SOLD BY PUBLIC AGENCIES OR POLITICAL SUBDIVISIONS (UNDER SECTION 207).
- a. Miscellaneous Type Mortgages. Miscellaneous type mortgages within the provisions of Section 223(e) of the Act include those executed in connection with the sale of property by the Government, the Secretary, Housing and Urban Development, Greenbelt Towns, the Department of Interior, Atomic Energy Commission, and others under prescribed conditions as set forth in the Act.
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- 1-4. AUTHORITY UNDER REGULATIONS. As set forth in Section 207.31 of the Regulations, HUD-FHA is authorized by Section 223(a) (1) through (6) to insure, under Section 207 of the Act, mortgages for rental housing projects sold by federal, state or local public agencies, instrumentalities or political subdivisions.

Such mortgages shall be:

- a. Executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under Public Law 849, 76th Congress, as amended, or Public Laws 9, 73 or 353, 77th Congress, as amended, (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof); or
- b. Executed in connection with the sale by the Public Housing Administration, or by any Public Housing Agency with the approval of the said Administration, of any housing (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof) owned or financially assisted pursuant to provisions of Public Law 671, 76th Congress; or
- c. Executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects, or parts thereof, known as Greenhills Ohio; Greenbelt Maryland; and Greendale Wisconsin; developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties or employee's housing under the jurisdiction of the Tennessee Valley Authority; or
- d. Executed in connection with the sale by the Government, or any agency or official thereof, of any housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof) pursuant to the Atomic Energy Community Act of 1955, as amended: Provided, that such insurance shall be issued without regard to any preferences or properties except those prescribed by the Atomic Energy Community Act of 1955, as amended; or
- e. Executed in connection with the sale by a state or municipality, or an agency, instrumentality, or political subdivision or either, of a project consisting of any permanent housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof), constructed by or on behalf of such state, municipality, agency, instrumentality, or political subdivision, for the occupancy

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of veterans of World War II, or Korean veterans, their families, and others; or

- f. Executed in connection with the first resale within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in subparagraphs a., b., c., and d.

hereof.

1-5. SECTION 223(a) (7) OF ACT-REFINANCING OF EXISTING INSURED MORTGAGES (UNDER 207).

- a. Introduction. As set forth in Section 207.32 of the Regulations, HUD-FHA is authorized by Section 223(a) (7) of the National Housing Act, as amended, to refinance an existing HUD-FHA insured mortgage covering five or more rental units.

1-6. SCOPE AND NATURE OF SECTION 223(a) (7).

- a. Section 223(a) (7) is a refinancing provision which might be of assistance in preventing acquisition. It is not to be construed as a rehabilitation provision.
- b. If an upgrading plan is to be completed incident to refinancing, a project may be eligible for assistance. In some instances upgrading may be necessary to improve the competitive position of the project which may have become impaired through obsolescence of its design, functional plan or equipment. If the cost of upgrading will amount to one-fifth or more of the total mortgage amount, it is likely to be accepted directly under another HUD-FHA program as a rehabilitation case.
- c. No upgradings, costs of capital improvements, or additions required incident to refinancing pursuant to Section 223(a) (7) can normally be included in advances to be insured.

1-7. REQUIREMENTS INCIDENT TO REFINANCING-MORTGAGE AMOUNT. The amount of the mortgage, accepted for insurance under Section 207 pursuant to Section 223(a) (7), may not exceed the lowest of the following limits:

- a. The original principal amount of the existing insured mortgage.
- b. The unpaid principal amount of the existing insured mortgage, to which may be added:
 - (1) The outstanding indebtedness incurred in connection with capital improvements made to the property which are acceptable to the Assistant Secretary-FHA Commissioner.

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- (2) The costs, as determined by the Assistant Secretary-FHA Commissioner, of capital improvements, upgrading or additions required to be made to the property, and

(3) Loan closing charges which may include financing expense not to exceed 1 1/2%, title and recording expense and legal and organization expense. No discount may be included in estimating the maximum mortgage amount.

c. 90% of the HUD-FHA estimate of the value of the project.

d. An amount which entails a debt service (including special assessments, if any, and ground rents, if leasehold) not in excess of 90% of the HUD-FHA estimate of net income.

1-8. REQUIREMENTS INCIDENT TO REFINANCING MORTGAGE TERM.

The term of the mortgage, accepted for insurance under Section 207 pursuant to Section 223(a) (7), may not exceed the unexpired term of the existing mortgage, except that in any case in which it is determined that the insurance of a mortgage for an additional term will inure to the benefit of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing mortgage and the remaining economic life of the property, such refinancing mortgage may have a term of not more than twelve (12) years in excess of the unexpired term of such existing insured mortgage.

1-9. REQUIREMENTS INCIDENT TO REFINANCING-AMORTIZATION.

Amortization of the mortgage, accepted for insurance under Section 207 pursuant to Section 223(a) (7), shall be in accordance with the Level Annuity Monthly Payment Plan since, as a matter of general policy, it is the objective of HUD-FHA that refinancing and upgrading of projects with the assistance of HUD-FHA mortgage insurance shall be accomplished without appreciable increase in rents.

1-10. REQUIREMENTS INCIDENT TO REFINANCING - RESERVE FOR REPLACEMENT ACCOUNT. A reserve for replacement account, in connection with the mortgage accepted for insurance under Section 207 pursuant to Section 223(a) (7), shall be established to cover the new insured mortgage amount. The commitment will require that the balance in the existing reserve account be applied to:

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(1-10) a. The amount required to be escrowed for reserve items scheduled for delayed replacement, and

b. The cost of items being replaced incident to the refinancing. In the event there is any balance remaining in the account, it shall be released to the mortgagor at the time of initial/final endorsement.

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