

is amended by removing the heading “I. Telecommunications” and adding in its place “Part 1—Telecommunications” to read as follows:

#### CATEGORY 5—

#### TELECOMMUNICATIONS AND “INFORMATION SECURITY”

##### PART 1—TELECOMMUNICATIONS

\* \* \* \* \*

■ 12. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5A101 is amended by revising the final Note in the Items paragraph of the List of Items Controlled section to read as follows:

**5A101 Telemetry and Telecontrol Equipment, Including Ground Equipment, Designed or Modified for Unmanned Aerial Vehicles or Rocket Systems (Including Ballistic Missile Systems, Space Launch Vehicles, Sounding Rockets, Cruise Missile Systems, Target Drones, and Reconnaissance Drones) Capable of a Maximum “Range” Equal to or Greater Than 300 km.**

\* \* \* \* \*

#### List of Items Controlled

\* \* \* \* \*

#### Items:

\* \* \* \* \*

**Note:** 5A101 does not include items not designed or modified for unmanned aerial vehicles or rocket systems (including ballistic missile systems, space launch vehicles, sounding rockets, cruise missile systems, target drones, and reconnaissance drones) capable of a maximum “range” equal to or greater than 300 km (e.g., telemetry circuit cards limited by design to reception only and designed for use in personal computers).

\* \* \* \* \*

■ 13. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5, Part 1, ECCN 5A991, List of Items Controlled section is amended by:

- Revising the second sentence of the Related Controls paragraph; and
- Amending the Items Paragraph by removing the Note that reads “5A991.c.10 does not control packet switches or routers with ports or lines not exceeding the limits in 5A991.c.10.” and adding it above paragraph c.11, to read as follows:

**5A991 Telecommunication Equipment, Not Controlled by 5A001.**

\* \* \* \* \*

#### List of Items Controlled

Unit: \* \* \*

Related Controls: \* \* \* See also

5E001.c, 5E101 and 5E991.

Related Definitions: \* \* \*

#### Items:

\* \* \* \* \*

c. \* \* \*

\* \* \* \* \*

**Note:** 5A991.c.10 does not control packet switches or routers with ports or lines not exceeding the limits in 5A991.c.10.

c.11. “Optical switching”;

\* \* \* \* \*

■ 14. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 5 is amended by removing the heading “II. Information Security” and adding in its place “Part 2—Information Security” to read as follows:

#### CATEGORY 5— TELECOMMUNICATIONS AND “INFORMATION SECURITY”

\* \* \* \* \*

##### PART 2—“INFORMATION SECURITY”

\* \* \* \* \*

■ 15. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 6, ECCN 6A005, List of Items Controlled section is amended by removing the word “lambda” and inserting the symbol “λ” in its place in paragraph f.3. of the Items paragraph.

■ 16. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 8, ECCN 8A992, List of Items Controlled section is amended by revising paragraph b. in the Items paragraph to read as follows:

**8A992 Vessels, Marine Systems or Equipment, Not Controlled by 8A001, 8A002 or 8A018, and Specially Designed Parts Therefor.**

\* \* \* \* \*

#### List of Items Controlled

\* \* \* \* \*

#### Items:

\* \* \* \* \*

b. Photographic still cameras specially designed or modified for underwater use, having a film format of 35 mm or larger, and having autofocus or remote focusing specially designed for underwater use;

\* \* \* \* \*

■ 17. In Supplement No. 1 to Part 774 (the Commerce Control List), Category 9, ECCN 9B116, List of Items Controlled section is amended by revising the Related Controls paragraph to read as follows:

**9B116 Specially Designed “Production Facilities” for the Systems, Sub-Systems, and Components Controlled by 9A004 to 9A009, 9A011, 9A012, 9A101, 9A104 to 9A109, 9A111, 9A116 to 9A119.**

\* \* \* \* \*

#### List of Items Controlled

\* \* \* \* \*

**Related Controls:** Although items described in ECCNs 9A004 to 9A009, 9A011, 9A101, 9A104 to 9A109, 9A111, and 9A116 to 9A119 are subject to the export licensing authority of the Department of State, Directorate of Defense Trade Controls (22 CFR part 121), the “production facilities” controlled in this entry that are related to these items is subject to the export licensing authority of BIS.

\* \* \* \* \*

Dated: November 26, 2012.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2012–29143 Filed 12–6–12; 8:45 am]

BILLING CODE 3510–33–P

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### 24 CFR Part 232

[Docket No. FR–5537–F–02]

RIN–2502–AJ04

### Federal Housing Administration (FHA) Section 232 Healthcare Mortgage Insurance Program: Partial Payment of Claims

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends the regulations governing FHA’s Section 232 Healthcare Mortgage Insurance program (Section 232 program) by establishing the criteria and process by which FHA will accept and pay a partial payment of a claim under the FHA mortgage insurance contract. The Section 232 program insures mortgage loans to facilitate the construction, substantial rehabilitation, purchase, and refinancing of nursing homes, intermediate care facilities, board and care homes, and assisted-living facilities. Through acceptance and payment of a partial payment of claim, FHA pays the lender a portion of the unpaid principal balance and recasts a portion of the mortgage under terms and conditions determined by FHA, as an alternative to the lender assigning the

entire mortgage to HUD. Partial payment of claim also allows FHA-insured healthcare projects to continue operating and providing services.

**DATES:** *Effective Date:* January 7, 2013.

**FOR FURTHER INFORMATION CONTACT:**

Kelly Haines, Director, Office of Residential Care Facilities, Office of Healthcare Programs, Office of Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 6264, Washington, DC 20410-8000; telephone number 202-708-0599 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 1-800-877-8339.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

FHA's Section 232 program insures mortgage loans to facilitate the construction, substantial rehabilitation, purchase, and refinancing of nursing homes, intermediate care facilities, board and care homes, and assisted-living facilities. A project may include more than one type of facility and financing, and a combination of these uses is acceptable. The Section 232 program is authorized under the National Housing Act (12 U.S.C. 1715w). HUD's regulations for the Section 232 program are codified in 24 CFR part 232. While many aspects of HUD's healthcare facility operations, including the basic contract and eligibility requirements, are governed by the regulations applicable to HUD's multifamily mortgage insurance programs, separate healthcare regulations have been adopted to address program operations specific to healthcare facilities, such as state licensing requirements.<sup>1</sup>

One process well-established and long used in HUD's multifamily housing programs is acceptance of partial payment of claims (PPCs). The regulations implementing the statutory authority to accept PPCs, which FHA adopted in 1985, and which are codified in 24 CFR 207.258b, specifically excluded FHA's Section 232 program from the multifamily PPC process. (See 24 CFR 232.251(a).)

Congress specifically authorized PPCs for the Section 232 program in 1997. (See 12 U.S.C. 1735 f-19.) However, as the regulatory provisions governing the

multifamily programs, which predated the 1997 statutory amendments, were not revised to reflect the statutory authority to use PPCs for healthcare facilities, HUD proposed revisions specifically to address PPCs.

**B. The Proposed Rule and Public Comments**

On July 9, 2012, HUD published a proposed rule at 77 FR 40301, in which it submitted for public comment a proposed revision to the Section 232 program regulations to provide, in regulation, the procedures and criteria for FHA to determine when PPCs should be considered and paid for healthcare facilities.

The proposed regulations governing PPCs in the Section 232 program used the current multifamily program regulations governing PPCs, codified at 24 CFR 207.258b, as a baseline. Those PPC regulations were modified based on FHA's experience in implementing the PPC process in its multifamily housing programs, and in utilizing PPCs in the Section 232 program on a periodic and temporary basis.

The proposed rule added a new § 232.882, entitled "Partial Payment of Claims," to the Section 232 program regulations in 24 CFR part 232 to provide that if the mortgagee elects to assign a mortgage to the FHA Commissioner, under certain circumstances the Commissioner may request the mortgagee to accept a partial payment of the claim. That proposed PPC regulation for the Section 232 program differed from the regulations establishing the PPC process for the multifamily programs primarily because the focus of the Section 232 program is on healthcare facilities.

As stated in the proposed rule preamble and emphasized here in this preamble to the final rule, FHA's partial payment of claim is made pursuant to the contract of mortgage insurance between FHA and the mortgage lender, which are the only parties to the contract. Borrowers and operators are neither parties to the contract of insurance, nor are they third-party beneficiaries, and thus they do not have any rights or expectations in regard to any decision made by FHA to accept or reject a mortgagee's request for a partial payment of claim.

By establishing a standard process and criteria for acceptance and payment of PPCs in the Section 232 program, partial payment of claims can occur more frequently than they do now in the Section 232 program, not only resulting in savings to the FHA insurance fund, but helping to restore a project to financial stability.

The public comment period for the July 9, 2012, proposed rule closed on September 7, 2012, and HUD received one public comment through the [www.regulations.gov](http://www.regulations.gov) Web site. The commenter, an association of healthcare finance bankers and healthcare consultants, expressed strong support for the proposed PPC change, as it would make the Section 232 program stronger by allowing appropriate use of the partial-payment-of-claim option and provide another tool to help struggling projects. The commenter offered no suggested changes, and urged HUD to implement the final rule as quickly as possible.

**C. This Final Rule**

In this final rule, HUD adopts the proposed rule without substantive change, but makes an organizational change and makes certain citation revisions as a result of the organizational change. In this final rule, HUD is adding the PPC provisions to subpart B, entitled Contract Rights and Obligations. In the proposed rule, these changes were proposed to be added to subpart D, which is also titled Contract Rights and Obligations, but subpart D follows subpart C, Supplemental Loans to Finance Purchase and Install Fire Safety Equipment, and focuses on payments and claims related to loans to finance the purchase and installation of fire safety equipment. Relocating the PPC provisions to part 232 subpart B, which addresses contract rights and obligations generally under the Section 232 program, was determined to be a more appropriate fit. Further, HUD has made several minor revisions in the final rule stage to conform the references in this rule to the relevant sections describing the claims process to reflect the change from subpart D.

**Findings and Certifications**

*Executive Order 13563, Regulatory Review*

The President's Executive Order (EO) 13563, entitled "Improving Regulation and Regulatory Review," was signed by the President on January 18, 2011, and published on January 21, 2011, at 76 FR 3821. This EO requires 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." Section 4 of the EO, entitled "Flexible Approaches," provides, in relevant part, that where relevant, feasible, and consistent with regulatory objectives, and to the extent permitted by law, each agency shall identify and

<sup>1</sup> The regulations codified at 24 CFR part 200 (entitled "Introduction to FHA programs") set forth, in a single location of the Code of Federal Regulations, requirements that are generally applicable to FHA programs. The regulations at 24 CFR 232.2 require that facilities meet state licensing requirements.

consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public. As this rule will include guidance for PPCs in the Code of Federal Regulations, HUD submits that the changes by this rule to the Section 232 regulations are consistent with the EO's directions. The existing Section 232 regulations provide insufficient guidance to the public on PPCs for the Section 232 program. These changes will reduce risk to the FHA insurance fund by establishing the criteria and process by which FHA will accept and pay a partial payment of the claim under the FHA mortgage insurance contract, as an alternative to the lender assigning the entire mortgage to HUD. It therefore strengthens the Section 232 program, and helps to ensure that healthcare facilities remain financially viable.

#### *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 rule is directed to strengthening HUD's Section 232 program by establishing a process and criteria by which the FHA may allow partial payment of claims for Section 232 projects. As noted under the discussion of EO 13563, establishment of this process also opens up another means by which healthcare project owners can restore troubled projects to financial stability. Acceptance of PPCs helps healthcare project owners and operators to lower project debt, and continue to provide valued healthcare services to the communities they serve. This established process for acceptance of PPCs will help all healthcare project owners, large and small. Additionally, by clarifying and codifying existing requirements, the rule makes it easier for borrowers and operators to comply with their legal obligations. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

#### *Information Collection Requirements*

The information collection requirements contained in this rule were reviewed by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), and assigned OMB Control Numbers 2502–0418.

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.

The docket file is available for public inspection.

#### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment for this rule was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). That Finding of No Significant Impact remains applicable to this final rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the finding by calling the Regulations Division at 202–402–3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800–877–8339.

#### *Executive Order 13132, Federalism*

Executive Order 13132 (entitled “Federalism”) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule will not have federalism implications and would 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 rule does not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of UMRA.

#### *Catalogue of Federal Domestic Assistance*

The Catalogue of Federal Domestic Assistance Number for the Mortgage Insurance Nursing Homes, Intermediate Care Facilities, Board and Care Homes, and Assisted Living Facilities program is 14.129.

#### **List of Subjects in 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.

Accordingly, for the reasons cited in the preamble, HUD amends part 232 of title 24 of the Code of Federal Regulations as follows:

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

■ 1. The authority citation for 24 CFR part 232 is revised to read as follows:

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

■ 2. Add § 232.256 to subpart B to read as follows:

##### **§ 232.256 Partial payment of claims.**

(a) When a lender for a loan on a healthcare project becomes eligible to file an insurance claim and to assign the mortgage to the Commissioner pursuant to § 207.258, the Commissioner may request the lender, in lieu of assignment, to accept a partial payment of the claim under the mortgage insurance contract and recast the mortgage, under such terms and conditions as the Commissioner may determine.

(b) The Commissioner may request the lender to participate in a partial payment of claim in lieu of assignment only after a determination that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the project and that would keep the healthcare facility operational to serve community needs. In addition to any findings that may be provided in other guidance, the Commissioner shall base the determination on the findings listed below:

(1) The lender is entitled, after a default as defined in § 207.255, to assign the mortgage in exchange for the payment of insurance benefits;

(2) The relief resulting from partial payment, when considered with other resources available to the project, would

be sufficient to restore the financial viability of the project;

(3) The project is or can (at reasonable cost) be made physically sound;

(4) The current or proposed operator of the facility is satisfactory to the Commissioner, as demonstrated by past experience in operating similar types of healthcare facilities and by state regulatory performance;

(5) The default under the insured mortgage was beyond the control of the borrower and/or operator, or in the case of a transfer of physical assets (TPA), the proposed borrower or operator, unless the Commissioner determines that any borrower/operator deficiencies giving rise to the default have clearly been addressed; and

(6) The project is serving as, or potentially could serve as, a needed nursing home, intermediate care facility, board and care home, or assisted living facility.

(c) Partial payment of a claim under this section shall be made only when:

(1) The property covered by the mortgage is free and clear of all liens other than the insured first mortgage and such other liens as the Commissioner may have approved;

(2) The lender has voluntarily agreed to accept a PPC under the mortgage insurance contract and to recast the remaining mortgage amount under terms and conditions prescribed by the Commissioner; and

(3) The borrower has agreed to repay to the Commissioner an amount equal to the partial payment, with the obligation secured by a second mortgage on the project containing terms and conditions prescribed by the Commissioner. The terms of the second mortgage will be determined on a case-by-case basis to ensure that the estimated project income will be sufficient to cover estimated operating expenses and debt service on the recast insured mortgage. The Commissioner may provide for postponed amortization of the second mortgage.

(d) Payment of insurance benefits under this section shall be in cash.

(e) A lender receiving a partial payment of claim, following the Commissioner's endorsement of the mortgage for full insurance under 24 CFR part 252, will pay HUD a fee in an amount set forth through **Federal Register** notice. HUD, in its discretion, may collect this fee or deduct the fee from any payment it makes in the claim process.

Dated: December 3, 2012.

**Carol J. Galante,**

*Acting Assistant Secretary for Housing—  
Federal Housing Commissioner.*

[FR Doc. 2012–29545 Filed 12–6–12; 8:45 am]

**BILLING CODE 4210–67–P**

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[TD 9603]

**RIN 1545–BJ23**

#### Deduction for Qualified Film and Television Production Costs

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Final regulations and removal of temporary regulations.

**SUMMARY:** This document contains final regulations relating to deductions for the cost of producing qualified film and television productions. These final regulations reflect changes to the law made by the Tax Extenders and Alternative Minimum Tax Relief Act of 2008 and affect taxpayers that produce films and television productions within the United States.

**DATES:** *Effective Date:* These regulations are effective on December 7, 2012.

*Applicability Dates:* For dates of applicability, see § 1.181–6.

**FOR FURTHER INFORMATION CONTACT:** Bernard P. Harvey, (202) 622–4930 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains final regulations that amend 26 CFR part 1 to reflect amendments made to section 181 of the Internal Revenue Code of 1986 (Code) by section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Public Law 110–343 (122 Stat. 3765) (October 3, 2008).

On October 19, 2011, the IRS and the Treasury Department published in the **Federal Register** (TD 9552, 76 FR 64816) temporary regulations amending the rules under section 181 for deductions relating to the cost of producing qualified film and television productions to reflect section 502 of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008. A notice of proposed rulemaking (REG–146297–09) cross-referencing the temporary regulations was published in the **Federal Register** (76 FR 64879) on the same day. No comments were

received from the public in response to the notice of proposed rulemaking. No public hearing was requested or held. The proposed regulations under section 181 are adopted by this Treasury decision and the corresponding temporary regulations are removed.

#### Effective/Applicability Date

These final regulations apply to qualified film and television productions to which section 181 is applicable and for which the first day of principal photography or in-between animation occurs on or after December 7, 2012. The owner of a qualified film or television production may apply the final regulations to productions to which section 181 applies and for which principal photography or, for an animated production, in-between animation commenced before December 7, 2012.

#### Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) and (d) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. Because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking that preceded these final regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

#### Drafting Information

The principal author of these regulations is Bernard P. Harvey, Office of Associate Chief Counsel (Income Tax and Accounting). However, other personnel from the IRS and the Treasury Department participated in their development.

#### List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

#### Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows: