

tically, substituting “on not more than 7,500 units during fiscal year 1996” for “on not more than 15,000 units over fiscal years 1993 and 1994”.

Subsec. (c)(4). Pub. L. 104-120, §8(b), and Pub. L. 104-134, §101(e) [title II, §205(b)], amended par. (4) identically, substituting “on not more than 12,000 units during fiscal year 1996” for “on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995”.

1994—Subsec. (b)(1), (2). Pub. L. 103-233, §307(a)(1), added pars. (1) and (2) and struck out headings and text of former pars. (1) and (2) relating to authority of Secretary for carrying out risk-sharing pilot program and authority of Secretary for reinsurance agreements, respectively.

Subsec. (b)(4). Pub. L. 103-233, §307(a)(2), substituted “eligibility under this subsection of qualified participating entities” for “financial institutions and entities to be eligible to enter into reinsurance agreements”.

Subsec. (b)(8). Pub. L. 103-233, §307(a)(3), (4), added par. (8) and struck out heading and text of former par. (8). Text read as follows: “The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection not later than the expiration of the 8-month period beginning on October 28, 1992.”

Subsec. (b)(9), (10). Pub. L. 103-233, §307(a)(4), added pars. (9) and (10).

Subsec. (b)(11). Pub. L. 103-233, §307(a)(3), added par. (11).

Subsec. (c)(1). Pub. L. 103-233, §307(b)(1), inserted “(including entities established by States that provide mortgage insurance)” after “qualified housing finance agencies”.

Subsec. (c)(2)(C). Pub. L. 103-233, §307(b)(2)(A), substituted “Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement.” for “Such agreements shall specify that the qualified housing finance agency and the Secretary shall share equally the full amount of any loss on the insured mortgage.”

Subsec. (c)(2)(F). Pub. L. 103-233, §307(b)(2)(B), added subpar. (F).

Subsec. (c)(7). Pub. L. 103-233, §307(b)(3), struck out “very low-income” before “families” and “(2)” after “section 42(g)”.

Subsec. (c)(9), (10). Pub. L. 103-233, §307(b)(4), added pars. (9) and (10).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104-120, set out as a note under section 1437d of Title 42, The Public Health and Welfare.

§ 1715z-22a. Definitions

For purposes of this subtitle:

(1) The term “multifamily housing” means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.

(2) The term “qualified housing finance agency” means any State or local housing finance agency that—

(A) carries the designation of “top tier” or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

(B) receives a rating of “A” for its general obligation bonds from a nationally recognized rating agency; or

(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

(3) The term “reinsurance agreement” means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

(4) The term “Secretary” means the Secretary of Housing and Urban Development.

(5) The term “qualified participating entity” means an entity approved by the Secretary for participation in the pilot program under this subsection, which may include—

(A) the Federal National Mortgage Association;

(B) the Federal Home Loan Mortgage Corporation;

(C) State housing finance and mortgage insurance agencies; and

(D) the Federal Housing Finance Board.

(Pub. L. 102-550, title V, §544, Oct. 28, 1992, 106 Stat. 3801; Pub. L. 103-233, title III, §307(c), Apr. 11, 1994, 108 Stat. 378.)

Editorial Notes

REFERENCES IN TEXT

This subtitle, referred to in text, means subtitle C (§§541-544) of Pub. L. 102-550, title V, Oct. 28, 1992, 106 Stat. 3794, known as the Multifamily Housing Finance Improvement Act, which enacted this section and section 1715z-22 of this title and provisions set out as a note under section 1701 of this title. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 1701 of this title and Tables.

CODIFICATION

Section was formerly set out as a note under section 1707 of this title.

Section was enacted as part of the Multifamily Housing Finance Improvement Act and also as part of the Housing and Community Development Act of 1992, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1994—Par. (1). Pub. L. 103-233, §307(c)(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The term ‘multifamily housing’ means a property consisting of more than 4 dwelling units.”

Par. (5). Pub. L. 103-233, §307(c)(2), added par. (5).

§ 1715z-23. HOPE for Homeowners Program

(a) Establishment

There is established in the Federal Housing Administration a HOPE for Homeowners Program.

(b) Purpose

The purpose of the HOPE for Homeowners Program is—

(1) to create an FHA program, participation in which is voluntary on the part of home-

owners and existing loan holders to insure refinanced loans for distressed borrowers to support long-term, sustainable homeownership;

(2) to allow homeowners to avoid foreclosure by reducing the principle¹ balance outstanding, and interest rate charged, on their mortgages;

(3) to help stabilize and provide confidence in mortgage markets by bringing transparency to the value of assets based on mortgage assets;

(4) to target mortgage assistance under this section to homeowners for their principal residence;

(5) to enhance the administrative capacity of the FHA to carry out its expanded role under the HOPE for Homeowners Program;

(6) to ensure the HOPE for Homeowners Program remains in effect only for as long as is necessary to provide stability to the housing market; and

(7) to provide servicers of delinquent mortgages with additional methods and approaches to avoid foreclosure.

(c) Establishment and implementation of program requirements

(1) Duties of Secretary

In order to carry out the purposes of the HOPE for Homeowners Program, the Secretary, after consultation with the Board, shall—

(A) establish requirements and standards for the program consistent with section 1709(b) of this title to the maximum extent possible; and

(B) prescribe such regulations and provide such guidance as may be necessary or appropriate to implement such requirements and standards.

(2) Duties of the Secretary

In carrying out any of the program requirements or standards established under paragraph (1), the Secretary may issue such interim guidance and mortgagee letters as the Secretary determines necessary or appropriate.

(3) Duties of Board

The Board shall advise the Secretary regarding the establishment and implementation of the HOPE for Homeowners Program.

(d) Insurance of mortgages

The Secretary is authorized upon application of a mortgagee to make commitments to insure or to insure any eligible mortgage that has been refinanced in a manner meeting the requirements under subsection (e).

(e) Requirements of insured mortgages

To be eligible for insurance under this section, a refinanced eligible mortgage shall comply with all of the following requirements:

(1) Borrower certification

(A) No intentional default or false information

The mortgagor shall provide a certification to the Secretary that the mortgagor

has not intentionally defaulted on the existing mortgage or mortgages or any other substantial debt within the last 5 years and has not knowingly, or willfully and with actual knowledge, furnished material information known to be false for the purpose of obtaining the eligible mortgage to be insured and has not been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

(B) Liability for repayment

The mortgagor shall agree in writing that the mortgagor shall be liable to repay to the Secretary any direct financial benefit achieved from the reduction of indebtedness on the existing mortgage or mortgages on the residence refinanced under this section derived from misrepresentations made by the mortgagor in the certifications and documentation required under this paragraph, subject to the discretion of the Secretary.

(C) Current borrower debt-to-income ratio

As of the date of application for a commitment to insure or insurance under this section, the mortgagor shall have had, or thereafter is likely to have, due to the terms of the mortgage being reset, a ratio of mortgage debt to income, taking into consideration all existing mortgages of that mortgagor at such time, greater than 31 percent (or such higher amount as the Secretary determines appropriate).

(2) Determination of principal obligation amount

The principal obligation amount of the refinanced eligible mortgage to be insured shall—

(A) be determined by the reasonable ability of the mortgagor to make his or her mortgage payments, as such ability is determined by the Secretary pursuant to section 1709(b)(4) of this title or by any other underwriting standards established by the Secretary; and

(B) not exceed 90 percent of the appraised value of the property to which such mortgage relates (or such higher percentage as the Secretary determines, in the discretion of the Secretary).

(3) Required waiver of prepayment penalties and fees

All penalties for prepayment or refinancing of the eligible mortgage, and all fees and penalties related to default or delinquency on the eligible mortgage, shall be waived or forgiven.

(4) Extinguishment of subordinate liens

(A) Required agreement

All holders of outstanding mortgage liens on the property to which the eligible mortgage relates shall agree to accept the proceeds of the insured loan and any payments made under this paragraph, as payment in full of all indebtedness under the eligible mortgage, and all encumbrances related to such eligible mortgage shall be removed. The Secretary may take such actions as may be necessary and appropriate to facilitate

¹ So in original. Probably should be “principal”.

coordination and agreement between the holders of the existing senior mortgage and any existing subordinate mortgages, taking into consideration the subordinate lien status of such subordinate mortgages. Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).

(B) Shared appreciation

(i) In general

The Secretary may establish standards and policies that will allow for the payment to the holder of any existing subordinate mortgage of a portion of any future appreciation in the property secured by such eligible mortgage that is owed to the Secretary pursuant to subsection (k).

(ii) Factors

In establishing the standards and policies required under clause (i), the Secretary shall take into consideration—

(I) the status of any subordinate mortgage;

(II) the outstanding principal balance of and accrued interest on the existing senior mortgage and any outstanding subordinate mortgages;

(III) the extent to which the current appraised value of the property securing a subordinate mortgage is less than the outstanding principal balance and accrued interest on any other liens that are senior to such subordinate mortgage; and

(IV) such other factors as the Secretary determines to be appropriate.

(C) Voluntary program

This paragraph may not be construed to require any holder of any existing mortgage to participate in the program under this section generally, or with respect to any particular loan.

(5) Term of mortgage

The refinanced eligible mortgage to be insured shall—

(A) bear interest at a single rate that is fixed for the entire term of the mortgage; and

(B) have a maturity of not less than 30 years from the date of the beginning of amortization of such refinanced eligible mortgage.

(6) Maximum loan amount

The principal obligation amount of the eligible mortgage to be insured shall not exceed 132 percent of the dollar amount limitation in effect for 2007 under section 1454(a)(2) of this title for a property of the applicable size.

(7) Prohibition on second liens

A mortgagor may not grant a new second lien on the mortgaged property during the first 5 years of the term of the mortgage insured under this section, except as the Secretary determines to be necessary to ensure the maintenance of property standards.

(8) Appraisals

Any appraisal conducted in connection with a mortgage insured under this section shall—

(A) be based on the current value of the property;

(B) be conducted in accordance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3331 et seq.);

(C) be completed by an appraiser who meets the competency requirements of the Uniform Standards of Professional Appraisal Practice;

(D) be wholly consistent with the appraisal standards, practices, and procedures under section 1708(e)² of this title that apply to all loans insured under this chapter; and

(E) comply with the requirements of subsection (g) of this section (relating to appraisal independence).

(9) Documentation and verification of income

In complying with the FHA underwriting requirements under the HOPE for Homeowners Program under this section, the mortgagee shall document and verify the income of the mortgagor or non-filing status in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 1709(b) of this title to the maximum extent possible) which may include requiring the mortgagee to procure a copy of the income tax returns from the Internal Revenue Service, for the two most recent years for which the filing deadline for such years has passed.

(10) Mortgage fraud

(A) Prohibition

The mortgagor shall not have been convicted under Federal or State law for fraud during the 10-year period ending upon the insurance of the mortgage under this section.

(B) Duty of mortgagee

The duty of the mortgagee to ensure that the mortgagor is in compliance with the prohibition under subparagraph (A) shall be satisfied if the mortgagee makes a good faith effort to determine that the mortgagor has not been convicted under Federal or State law for fraud during the period described in subparagraph (A).

(11) Primary residence

The mortgagor shall provide documentation satisfactory in the determination of the Secretary to prove that the residence covered by the mortgage to be insured under this section is occupied by the mortgagor as the primary residence of the mortgagor, and that such residence is the only residence in which the mortgagor has any present ownership interest, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property.

(12) Ban on millionaires

The mortgagor shall not have a net worth, as of the date the mortgagor first applies for

² See References in Text note below.

a mortgage to be insured under the Program under this section, that exceeds \$1,000,000.

(f) Study of auction or bulk refinance program

(1) Study

The Board shall conduct a study of the need for and efficacy of an auction or bulk refinancing mechanism to facilitate refinancing of existing residential mortgages that are at risk for foreclosure into mortgages insured under this section. The study shall identify and examine various options for mechanisms under which lenders and servicers of such mortgages may make bids for forward commitments for such insurance in an expedited manner.

(2) Content

(A) Analysis

The study required under paragraph (1) shall analyze—

(i) the feasibility of establishing a mechanism that would facilitate the more rapid refinancing of borrowers at risk of foreclosure into performing mortgages insured under this section;

(ii) whether such a mechanism would provide an effective and efficient mechanism to reduce foreclosures on qualified existing mortgages;

(iii) whether the use of an auction or bulk refinance program is necessary to stabilize the housing market and reduce the impact of turmoil in that market on the economy of the United States;

(iv) whether there are other mechanisms or authority that would be useful to reduce foreclosure; and

(v) and any other factors that the Board considers relevant.

(B) Determinations

To the extent that the Board finds that a facility of the type described in subparagraph (A) is feasible and useful, the study shall—

(i) determine and identify any additional authority or resources needed to establish and operate such a mechanism;

(ii) determine whether there is a need for additional authority with respect to the loan underwriting criteria established in this section or with respect to eligibility of participating borrowers, lenders, or holders of liens;

(iii) determine whether such underwriting criteria should be established on the basis of individual loans, in the aggregate, or otherwise to facilitate the goal of refinancing borrowers at risk of foreclosure into viable loans insured under this section.

(3) Report

Not later than the expiration of the 60-day period beginning on July 30, 2008, the Board shall submit a report regarding the results of the study conducted under this subsection to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate. The report shall include a detailed de-

scription of the analysis required under paragraph (2)(A) and of the determinations made pursuant to paragraph (2)(B), and shall include any other findings and recommendations of the Board pursuant to the study, including identifying various options for mechanisms described in paragraph (1).

(g) Appraisal independence

(1) Prohibitions on interested parties in a real estate transaction

No mortgage lender, mortgage broker, mortgage banker, real estate broker, appraisal management company, employee of an appraisal management company, nor any other person with an interest in a real estate transaction involving an appraisal in connection with a mortgage insured under this section shall improperly influence, or attempt to improperly influence, through coercion, extortion, collusion, compensation, instruction, inducement, intimidation, nonpayment for services rendered, or bribery, the development, reporting, result, or review of a real estate appraisal sought in connection with the mortgage.

(2) Civil monetary penalties

The Secretary may impose a civil money penalty for any knowing and material violation of paragraph (1) under the same terms and conditions as are authorized in section 1735f-14(a) of this title.

(h) Standards to protect against adverse selection

(1) In general

The Secretary shall, by rule or order, establish standards and policies to require the underwriter of the insured loan to provide such representations and warranties as the Secretary considers necessary or appropriate to enforce compliance with all underwriting and appraisal standards of the HOPE for Homeowners Program.

(2) Exclusion for violations

The Secretary shall not pay insurance benefits to a mortgagee who violates the representations and warranties, as established under paragraph (1), or in any case in which a mortgagor fails to make the first payment on a refinanced eligible mortgage.

(3) Other authority

The Secretary may establish such other standards or policies as necessary to protect against adverse selection, including requiring loans identified by the Secretary as higher risk loans to demonstrate payment performance for a reasonable period of time prior to being insured under the program.

(i) Premiums

(1) Premiums

For each refinanced eligible mortgage insured under this section, the Secretary shall establish and collect—

(A) at the time of insurance, a single premium payment in an amount not more than 3 percent of the amount of the original insured principal obligation of the refinanced

eligible mortgage, which shall be paid from the proceeds of the mortgage being insured under this section, through the reduction of the amount of indebtedness that existed on the eligible mortgage prior to refinancing; and

(B) in addition to the premium required under paragraph (1), an annual premium in an amount not more than 1.5 percent of the amount of the remaining insured principal balance of the mortgage.

(2) Considerations

In setting the premium under this subsection, the Secretary shall consider—

(A) the financial integrity of the HOPE for Homeowners Program; and

(B) the purposes of the HOPE for Homeowners Program described in subsection (b).

(j) Origination fees and interest rate

The Secretary shall establish—

(1) a reasonable limitation on origination fees for refinanced eligible mortgages insured under this section; and

(2) procedures to ensure that interest rates on such mortgages shall be commensurate with market rate interest rates on such types of loans.

(k) Exit fee

(1) Five-year phase-in for equity as a result of sale or refinancing

For each eligible mortgage insured under this section, the Secretary and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, or upon the subsequent refinancing of such mortgage, be entitled to the following with respect to any equity created as a direct result of the mortgage being insured under this section:

(A) If such sale or refinancing occurs during the period that begins on the date that such mortgage is insured and ends 1 year after such date of insurance, the Secretary shall be entitled to 100 percent of such equity.

(B) If such sale or refinancing occurs during the period that begins 1 year after such date of insurance and ends 2 years after such date of insurance, the Secretary shall be entitled to 90 percent of such equity and the mortgagor shall be entitled to 10 percent of such equity.

(C) If such sale or refinancing occurs during the period that begins 2 years after such date of insurance and ends 3 years after such date of insurance, the Secretary shall be entitled to 80 percent of such equity and the mortgagor shall be entitled to 20 percent of such equity.

(D) If such sale or refinancing occurs during the period that begins 3 years after such date of insurance and ends 4 years after such date of insurance, the Secretary shall be entitled to 70 percent of such equity and the mortgagor shall be entitled to 30 percent of such equity.

(E) If such sale or refinancing occurs during the period that begins 4 years after such date of insurance and ends 5 years after such

date of insurance, the Secretary shall be entitled to 60 percent of such equity and the mortgagor shall be entitled to 40 percent of such equity.

(F) If such sale or refinancing occurs during any period that begins 5 years after such date of insurance, the Secretary shall be entitled to 50 percent of such equity and the mortgagor shall be entitled to 50 percent of such equity.

(2) Appreciation in value

For each eligible mortgage insured under this section, the Secretary may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with or assign the rights of any amounts due to the Secretary to the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mortgage, or both.

(l) Establishment of HOPE Fund

(1) In general

There is established in the Federal Housing Administration a revolving fund to be known as the Home Ownership Preservation Entity Fund, which shall be used by the Secretary for carrying out the mortgage insurance obligations under this section.

(2) Management of Fund

The HOPE Fund shall be administered and managed by the Secretary, who shall establish reasonable and prudent criteria for the management and operation of any amounts in the HOPE Fund.

(m) Limitation on aggregate insurance authority

The aggregate original principal obligation of all mortgages insured under this section may not exceed \$300,000,000,000.

(n) Reports by the Secretary

The Secretary shall submit monthly reports to the Congress identifying the progress of the HOPE for Homeowners Program, which shall contain the following information for each month:

(1) The number of new mortgages insured under this section, including the location of the properties subject to such mortgages by census tract.

(2) The aggregate principal obligation of new mortgages insured under this section.

(3) The average amount by which the principle¹ balance outstanding on mortgages insured this section was reduced.

(4) The amount of premiums collected for insurance of mortgages under this section.

(5) The claim and loss rates for mortgages insured under this section.

(6) Any other information that the Secretary considers appropriate.

(o) Required outreach efforts

The Secretary shall carry out outreach efforts to ensure that homeowners, lenders, and the

general public are aware of the opportunities for assistance available under this section.

(p) Enhancement of FHA capacity

The Secretary shall take such actions as may be necessary to—

(1) contract for the establishment of underwriting criteria, automated underwriting systems, pricing standards, and other factors relating to eligibility for mortgages insured under this section;

(2) contract for independent quality reviews of underwriting, including appraisal reviews and fraud detection, of mortgages insured under this section or pools of such mortgages; and

(3) increase personnel of the Department as necessary to process or monitor the processing of mortgages insured under this section.

(q) GNMA commitment authority

(1) Guarantees

The Secretary shall take such actions as may be necessary to ensure that securities based on and backed by a trust or pool composed of mortgages insured under this section are available to be guaranteed by the Government National Mortgage Association as to the timely payment of principal and interest.

(2) Guarantee authority

To carry out the purposes of section 1721 of this title, the Government National Mortgage Association may enter into new commitments to issue guarantees of securities based on or backed by mortgages insured under this section, not exceeding \$300,000,000,000. The amount of authority provided under the preceding sentence to enter into new commitments to issue guarantees is in addition to any amount of authority to make new commitments to issue guarantees that is provided to the Association under any other provision of law.

(r) Sunset

The Secretary may not enter into any new commitment to insure any refinanced eligible mortgage, or newly insure any refinanced eligible mortgage pursuant to this section before October 1, 2008 or after September 30, 2011.

(s) Definitions

For purposes of this section, the following definitions shall apply:

(1) Approved financial institution or mortgagee

The term “approved financial institution or mortgagee” means a financial institution or mortgagee approved by the Secretary under section 1709 of this title as responsible and able to service mortgages responsibly.

(2) Board

The term “Board” means the Advisory Board for the HOPE for Homeowners Program. The Board shall be composed of the Secretary, the Secretary of the Treasury, the Chairperson of the Board of Governors of the Federal Reserve System, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation, or their designees.

(3) Eligible mortgage

The term “eligible mortgage” means a mortgage—

(A) the mortgagor of which—

(i) occupies such property as his or her principal residence; and

(ii) cannot, subject to such standards established by the Secretary, afford his or her mortgage payments; and

(B) originated on or before January 1, 2008.

(4) Existing senior mortgage

The term “existing senior mortgage” means, with respect to a mortgage insured under this section, the existing mortgage that has superior priority.

(5) Existing subordinate mortgage

The term “existing subordinate mortgage” means, with respect to a mortgage insured under this section, an existing mortgage that has subordinate priority to the existing senior mortgage.

(6) HOPE for Homeowners Program

The term “HOPE for Homeowners Program” means the program established under this section.

(7) Secretary

The term “Secretary” means the Secretary of Housing and Urban Development, except where specifically provided otherwise.

(t) Requirements related to the Board

(1) Compensation, actual, necessary, and transportation expenses

(A) Federal employees

A member of the Board who is an officer or employee of the Federal Government shall serve without additional pay (or benefits in the nature of compensation) for service as a member of the Board.

(B) Travel expenses

Members of the Board shall be entitled to receive travel expenses, including per diem in lieu of subsistence, equivalent to those set forth in subchapter I of chapter 57 of title 5.

(2) Bylaws

The Board may prescribe, amend, and repeal such bylaws as may be necessary for carrying out the functions of the Board.

(3) Quorum

A majority of the Board shall constitute a quorum.

(4) Staff; experts and consultants

(A) Detail of Government employees

Upon request of the Board, any Federal Government employee may be detailed to the Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(B) Experts and consultants

The Board shall procure the services of experts and consultants as the Board considers appropriate.

(u) Rule of construction related to voluntary nature of the program

This section shall not be construed to require that any approved financial institution or mort-

gagee participate in any activity authorized under this section, including any activity related to the refinancing of an eligible mortgage.

(v) Rule of construction related to insurance of mortgages

Except as otherwise provided for in this section or by action of the Secretary, the provisions and requirements of section 1709(b) of this title shall apply with respect to the insurance of any eligible mortgage under this section. The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 1709(b) of this title to the maximum extent possible consistent with the requirements of this section.

(w) HOPE Bonds

(1) Issuance and repayment of bonds

Notwithstanding section 504(b) of the Federal Credit Reform Act of 1990 [2 U.S.C. 661c(b)], the Secretary of the Treasury shall—

(A) subject to such terms and conditions as the Secretary of the Treasury deems necessary, issue Federal credit instruments, to be known as “HOPE Bonds”, that are callable at the discretion of the Secretary of the Treasury and do not, in the aggregate, exceed the amount specified in subsection (m);

(B) provide the subsidy amounts necessary for loan guarantees under the HOPE for Homeowners Program, not to exceed the amount specified in subsection (m), in accordance with the provisions of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), except as provided in this paragraph; and

(C) use the proceeds from HOPE Bonds only to pay for the net costs to the Federal Government of the HOPE for Homeowners Program, including administrative costs and payments pursuant to subsection (e)(4)(A).

(2) Reimbursements to Treasury

Funds received pursuant to section 4568(b) of this title shall be used to reimburse the Secretary of the Treasury for amounts borrowed under paragraph (1).

(3) Use of reserve fund

If the net cost to the Federal Government for the HOPE for Homeowners Program exceeds the amount of funds received under paragraph (2), remaining debts of the HOPE for Homeowners Program shall be paid from amounts deposited into the fund established by the Secretary under section 4567(e) of this title, remaining amounts in such fund to be used to reduce the National debt.

(4) Reduction of National debt

Amounts collected under the HOPE for Homeowners Program in accordance with subsections (i) and (k) in excess of the net cost to the Federal Government for such Program shall be used to reduce the National debt.

(x) Payments to servicers and originators

The Secretary may establish a payment to the—

(1) servicer of the existing senior mortgage or existing subordinate mortgage for every

loan insured under the HOPE for Homeowners Program; and

(2) originator of each new loan insured under the HOPE for Homeowners Program.

(y) Auctions

The Secretary, with the concurrence of the Board, shall, if feasible, establish a structure and organize procedures for an auction to refinance eligible mortgages on a wholesale or bulk basis.

(June 27, 1934, ch. 847, title II, § 257, as added Pub. L. 110-289, div. A, title IV, § 1402(a), July 30, 2008, 122 Stat. 2800; amended Pub. L. 110-343, div. A, title I, § 124, Oct. 3, 2008, 122 Stat. 3791; Pub. L. 111-22, div. A, title II, § 202(a), May 20, 2009, 123 Stat. 1640.)

Editorial Notes

REFERENCES IN TEXT

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (e)(8)(B), is Pub. L. 101-73, Aug. 9, 1989, 103 Stat. 183. Title XI of the Act is classified principally to chapter 34A (§ 3331 et seq.) of this title. For complete classification of this Act to the Code, see Short Title of 1989 Amendment note set out under section 1811 of this title and Tables.

Section 1708(e) of this title, referred to in subsec. (e)(8)(D), was redesignated section 1708(f) and then 1708(g) of this title by Pub. L. 110-289, div. B, title I, § 2116(1)(B), July 30, 2008, 122 Stat. 2832, and Pub. L. 111-22, div. A, title II, § 203(b)(1), May 20, 2009, 123 Stat. 1643.

The Federal Credit Reform Act of 1990, referred to in subsec. (w)(1)(B), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

Section 4568(b) of this title, referred to in subsec. (w)(2), was in the original “section 1338(b) of the Federal Housing Enterprises Regulatory Reform Act of 1992”, and was translated as meaning section 1338(b) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, which is classified to section 4568(b) of this title, to reflect the probable intent of Congress.

CODIFICATION

Pub. L. 111-22, § 202(a)(2), which directed amendment of subsecs. (e), (h)(1), (h)(3), (j), (l), (n), (s)(3), and (v) by substituting “Secretary” for “Board” each place such term appeared, was not executed to subsec. (e)(4)(A), (9), or the heading for subsec. (n), to reflect the probable intent of Congress and the amendments by Pub. L. 111-22, § 202(a)(3)(B)(i), (D)(ii), (7). See 2009 Amendment notes below.

Another section 257 of act June 27, 1934, was renumbered section 258 and is classified to section 1715z-24 of this title.

AMENDMENTS

2009—Subsec. (c)(1). Pub. L. 111-22, § 202(a)(1)(A), (B), substituted “Secretary” for “the Board” in heading and “Secretary, after consultation with the Board,” for “Board” in introductory provisions.

Subsec. (c)(1)(A). Pub. L. 111-22, § 202(a)(1)(C), inserted “consistent with section 1709(b) of this title to the maximum extent possible” before semicolon.

Subsec. (c)(3). Pub. L. 111-22, § 202(a)(1)(D), added par. (3).

Subsec. (e)(1). Pub. L. 111-22, § 202(a)(3)(A), added par. (1) and struck out former par. (1) which related to lack of capacity to pay existing mortgage.

Subsec. (e)(2). Pub. L. 111-22, §202(a)(2), substituted “established by the Secretary” for “established by the Board” in subpar. (A) and “Secretary” for “Board” in two places in subpar. (B).

Subsec. (e)(4)(A). Pub. L. 111-22, §202(a)(3)(B)(i), struck out “, subject to standards established by the Board under subparagraph (B),” after “may take such actions”. See Codification note above.

Subsec. (e)(4)(B)(i). Pub. L. 111-22, §202(a)(3)(B)(ii), substituted “may” for “shall”.

Pub. L. 111-22, §202(a)(2), substituted “The Secretary” for “The Board”.

Subsec. (e)(4)(B)(ii). Pub. L. 111-22, §202(a)(2), substituted “Secretary” for “Board” in introductory provisions and in subcl. (IV).

Subsec. (e)(7). Pub. L. 111-22, §202(a)(3)(C), struck out “; and provided that such new outstanding liens (A) do not reduce the value of the Government’s equity in the borrower’s home; and (B) when combined with the mortgagor’s existing mortgage indebtedness, do not exceed 95 percent of the home’s appraised value at the time of the new second lien” after “property standards”.

Pub. L. 111-22, §202(a)(2), substituted “Secretary” for “Board”.

Subsec. (e)(9). Pub. L. 111-22, §202(a)(3)(D), substituted “in accordance with procedures and standards that the Secretary shall establish (provided that such procedures and standards are consistent with section 1709(b) of this title to the maximum extent possible) which may include requiring the mortgagee to procure” for “by procuring (A) an income tax return transcript of the income tax returns of the mortgagor, or (B)” and struck out “and by any other method, in accordance with procedures and standards that the Board shall establish” before period at end. See Codification note above.

Subsec. (e)(10). Pub. L. 111-22, §202(a)(3)(E), designated existing provisions as subpar. (A), inserted subpar. (A) heading, and added subpar. (B).

Subsec. (e)(11). Pub. L. 111-22, §202(a)(3)(F), inserted “, except that the Secretary may provide exceptions to such latter requirement (relating to present ownership interest) for any mortgagor who has inherited a property” before period at end.

Subsec. (e)(12). Pub. L. 111-22, §202(a)(3)(G), added par. (12).

Subsec. (h)(1). Pub. L. 111-22, §202(a)(2), substituted “Secretary” for “Board” in two places.

Subsec. (h)(2). Pub. L. 111-22, §202(a)(4), substituted “The Secretary shall not pay” for “The Board shall prohibit the Secretary from paying”.

Subsec. (h)(3). Pub. L. 111-22, §202(a)(2), substituted “The Secretary” for “The Board”.

Subsec. (i). Pub. L. 111-22, §202(a)(5), designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) and (2) as subpars. (A) and (B) of par. (1), respectively, and adjusted margins, substituted “not more than 3 percent” for “equal to 3 percent” in par. (1)(A) and “not more than 1.5 percent” for “equal to 1.5 percent” in par. (1)(B), and added par. (2).

Subsec. (j). Pub. L. 111-22, §202(a)(2), substituted “Secretary” for “Board” in introductory provisions.

Subsec. (k). Pub. L. 111-22, §202(a)(6)(A), substituted “Exit fee” for “Equity and appreciation” in heading.

Subsec. (k)(1). Pub. L. 111-22, §202(a)(6)(B), substituted “the mortgage being insured under this section” for “such sale or refinancing” in introductory provisions.

Subsec. (k)(2). Pub. L. 111-22, §202(a)(6)(C), substituted “may, upon any sale or disposition of the property to which the mortgage relates, be entitled to up to 50 percent of appreciation, up to the appraised value of the home at the time when the mortgage being refinanced under this section was originally made. The Secretary may share any amounts received under this paragraph with or assign the rights of any amounts due to the Secretary to the holder of the existing senior mortgage on the eligible mortgage, the holder of any existing subordinate mortgage on the eligible mort-

gage, or both.” for “and the mortgagor of such mortgage shall, upon any sale or disposition of the property to which such mortgage relates, each be entitled to 50 percent of any appreciation in value of the appraised value of such property that has occurred since the date that such mortgage was insured under this section.”

Subsec. (l)(1). Pub. L. 111-22, §202(a)(2), substituted “Secretary” for “Board”.

Subsec. (n). Pub. L. 111-22, §202(a)(2), (7), substituted “Secretary” for “the Board” in heading and “Secretary” for “Board” in introductory provisions and in par. (6). See Codification note above.

Subsec. (p). Pub. L. 111-22, §202(a)(8), substituted “The” for “Under the direction of the Board, the” in introductory provisions.

Subsec. (s)(2). Pub. L. 111-22, §202(a)(9)(A), substituted “Advisory Board for” for “Board of Directors of”.

Subsec. (s)(3)(A)(ii). Pub. L. 111-22, §202(a)(9)(B), substituted “such” for “subsection (e)(1)(B) and such other”.

Pub. L. 111-22, §202(a)(2), substituted “Secretary” for “Board”.

Subsec. (v). Pub. L. 111-22, §202(a)(2), (10), substituted “action of the Secretary” for “action of the Board” and inserted at end “The Secretary shall conform documents, forms, and procedures for mortgages insured under this section to those in place for mortgages insured under section 1709(b) of this title to the maximum extent possible consistent with the requirements of this section.”

Subsecs. (x), (y). Pub. L. 111-22, §202(a)(11), added subsecs. (x) and (y).

2008—Subsec. (e)(1)(B). Pub. L. 110-343, §124(1)(A), inserted “, or thereafter is likely to have, due to the terms of the mortgage being reset,” before “a ratio”.

Subsec. (e)(2)(B). Pub. L. 110-343, §124(1)(B), inserted “(or such higher percentage as the Board determines, in the discretion of the Board)” before period at end.

Subsec. (e)(4)(A). Pub. L. 110-343, §124(1)(C), inserted “and any payments made under this paragraph,” after “insured loan” and inserted “Such actions may include making payments, which shall be accepted as payment in full of all indebtedness under the eligible mortgage, to any holder of an existing subordinate mortgage, in lieu of any future appreciation payments authorized under subparagraph (B).” at end.

Subsec. (w)(1)(C). Pub. L. 110-343, §124(2), inserted “and payments pursuant to subsection (e)(4)(A)” before period at end.

§ 1715z-24. Pilot program for automated process for borrowers without sufficient credit history

(a) Establishment

The Secretary shall carry out a pilot program to establish, and make available to mortgagees, an automated process for providing alternative credit rating information for mortgagors and prospective mortgagors under mortgages on 1- to 4-family residences to be insured under this subchapter who have insufficient credit histories for determining their creditworthiness. Such alternative credit rating information may include rent, utilities, and insurance payment histories, and such other information as the Secretary considers appropriate.

(b) Scope

The Secretary may carry out the pilot program under this section on a limited basis or scope, and may consider limiting the program to first-time homebuyers.

(c) Limitation

In any fiscal year, the aggregate number of mortgages insured pursuant to the automated