

Pub. L. 97-35, title III, §312, Aug. 13, 1981, 95 Stat. 397; Pub. L. 98-181, title I [title I, §122], Nov. 30, 1983, 97 Stat. 1170; Pub. L. 98-479, title I, §101(a)(14), Oct. 17, 1984, 98 Stat. 2220; Pub. L. 100-242, title V, §517(a), (c)-(e), Feb. 5, 1988, 101 Stat. 1936, 1937; Pub. L. 101-73, title V, §501(e)(1), Aug. 9, 1989, 103 Stat. 394; Pub. L. 101-235, title I, §126(a), (b), Dec. 15, 1989, 103 Stat. 2025; Pub. L. 101-625, title IX, §914(a), (b), Nov. 28, 1990, 104 Stat. 4394, 4395, related to urban homestead program of unit of general local government, State, or designated public agency.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(5), (b)(1) of Title 42, The Public Health and Welfare.

#### § 1706f. Prohibition against kickbacks and unearned fees

##### (a) In general

Except as provided in subsection (b), the provisions of sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

##### (b) Authority of the Secretary

The Secretary is authorized to determine the manner and extent to which the provisions of sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

##### (c) Definitions

For purposes of this section—

(1) the term “federally related mortgage loan” as used in sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

(2) the term “real estate settlement service” as used in sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

##### (d) Unfair and deceptive practices

In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this subchapter, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.

(June 27, 1934, ch. 847, title I, §10, as added Pub. L. 110-289, div. B, title I, §2149, July 30, 2008, 122 Stat. 2847.)

#### SUBCHAPTER II—MORTGAGE INSURANCE

##### § 1707. Definitions

As used in section 1709 of this title—

(a) The term “mortgage” means (A) a first mortgage on real estate, in fee simple, (B) a first mortgage on a leasehold on real estate (i) under a lease for not less than ninety-nine years which is renewable, or (ii) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project; and the term “first mortgage” means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State, in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term “mortgagee” includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term “mortgagor” includes the original borrower under a mortgage and his successors and assigns.

(c) The term “maturity date” means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term “State” includes the several States, and Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Virgin Islands.

(e) The term “family member” means, with respect to a mortgagor under such section, a child, parent, or grandparent of the mortgagor (or the mortgagor’s spouse). In determining whether any of the relationships referred to in the preceding sentence exist, a legally adopted son or daughter of an individual (and a child who is a member of an individual’s household, if placed with such individual by an authorized placement agency for legal adoption by such individual), and a foster child of an individual, shall be treated as a child of such individual by blood.

(f) The term “child” means, with respect to a mortgagor under such section, a son, stepson, daughter, or stepdaughter of such mortgagor.

(g) The term “real estate” means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this subchapter, that such land or property be treated as real estate for purposes of State taxation.

(June 27, 1934, ch. 847, title II, §201, 48 Stat. 1247; Feb. 3, 1938, ch. 13, §3, 52 Stat. 9; Mar. 28, 1941, ch. 31, §4(a), 55 Stat. 61; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; July 14, 1952, ch. 723, §10(a)(2), 66 Stat. 603; Pub. L. 86-70, §10(a), June 25, 1959,

73 Stat. 142; Pub. L. 86-624, § 6, July 12, 1960, 74 Stat. 411; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 91-152, title IV, § 403(c)(1), Dec. 24, 1969, 83 Stat. 395; Pub. L. 96-399, title III, § 306, Oct. 8, 1980, 94 Stat. 1640; Pub. L. 98-181, title I [title IV, § 407(b)], Nov. 30, 1983, 97 Stat. 1211; Pub. L. 104-204, title IV, § 425(b), Sept. 26, 1996, 110 Stat. 2928; Pub. L. 110-289, div. B, title I, §§ 2117(b), (c), 2120(c), July 30, 2008, 122 Stat. 2833, 2835.)

### Editorial Notes

#### AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, § 2117(b), inserted “(A)” before “a first mortgage”, substituted “(B) a first mortgage on a leasehold on real estate (i)” for “or on a leasehold (1)” and “, or (ii)” for “or (2)”, and inserted “, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project” before semicolon.

Subsec. (d). Pub. L. 110-289, § 2120(c), substituted “the Commonwealth of the Northern Mariana Islands” for “the Trust Territory of the Pacific Islands”.

Subsec. (g). Pub. L. 110-289, § 2117(c), added subsec. (g). 1996—Subsecs. (e), (f). Pub. L. 104-204 added subsecs. (e) and (f).

1983—Subsec. (d). Pub. L. 98-181 inserted “American Samoa,” after “Pacific Islands,”.

1980—Subsec. (a). Pub. L. 96-399 substituted “ten years to run beyond the maturity date of the mortgage” for “fifty years to run from the date the mortgage was executed”.

1969—Subsec. (d). Pub. L. 91-152 inserted “the Trust Territory of the Pacific Islands” after “Guam”.

1967—Subsec. (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner”.

1960—Subsec. (d). Pub. L. 86-624 struck out “Hawaii,” before “Puerto Rico”.

1959—Subsec. (d). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

1952—Subsec. (d). Act July 14, 1952, inserted “Guam,” after “District of Columbia”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator”.

1941—Subsec. (a). Act Mar. 28, 1941, § 4(a)(1), struck out “district, or Territory”.

Subsec. (d). Act Mar. 28, 1941, § 4(a)(2), added subsec. (d).

1938—Subsec. (a)(2). Act Feb. 3, 1938, struck out “upon which there is located a dwelling for not more than four families which is used in whole or in part for residential purposes, irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling” after “executed”.

Subsec. (c). Act Feb. 3, 1938, added subsec. (c).

### Statutory Notes and Related Subsidiaries

#### IMPROVEMENT OF FINANCING FOR MULTIFAMILY HOUSING

Pub. L. 102-550, title V, subtitle C, Oct. 28, 1992, 106 Stat. 3794, which related to improvement of financing for multifamily housing and was formerly set out as a note under this section, was transferred or omitted as follows:

Section 541 of Pub. L. 102-550 was transferred and is set out as a note under section 1701 of this title;

Section 542 of Pub. L. 102-550 was transferred to section 1715z-22 of this title;

Section 543 of Pub. L. 102-550, as amended by Pub. L. 111-203, title III, § 371, July 21, 2010, 124 Stat. 1565, was omitted from the Code;

Section 544 of Pub. L. 102-550 was transferred to section 1715z-22a of this title.

### § 1708. Federal Housing Administration operations

#### (a) Mutual Mortgage Insurance Fund

##### (1) Establishment

Subject to the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], there is hereby created a Mutual Mortgage Insurance Fund (in this subchapter referred to as the “Fund”), which shall be used by the Secretary to carry out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

##### (2) Limit on loan guarantees

The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

##### (3) Fiduciary responsibility

The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

##### (4) Annual independent actuarial study

The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

##### (5) Quarterly reports

During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

(B) the types of loans insured, categorized by risk;

(C) any significant changes between actual and projected claim and prepayment activity;

(D) projected versus actual loss rates; and

(E) updated projections of the annual subsidiary rates to ensure that increases in risk to

the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following July 30, 2008, whichever is later.

**(6) Adjustment of premiums**

If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this subchapter as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

**(7) Operational goals**

The operational goals for the Fund are—

(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after July 30, 2008; and

(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this subchapter is designed to serve.

**(b) Advisory Board**

There is created a Federal Housing Administration Advisory Board (“Board”) that shall review operation of the Federal Housing Administration, including the activities of the Mortgage Review Board, and shall provide advice to the Federal Housing Commissioner with respect to the formulation of general policies of the Federal Housing Administration and such other matters as the Federal Housing Commissioner may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of chapter 10 of title 5.

(1) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in housing and mortgage lending of whom—

(A) 9 shall be appointed by the Secretary;

(B) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Membership on the Advisory Board shall include—

(A) not less than 4 persons with distinguished private sector careers in housing finance, lending, management, development or insurance;

(B) not less than 4 persons with outstanding reputations as licensed actuaries, experts in actuarial science, or economics related to housing;

(C) not less than 4 persons with backgrounds of leadership in representing the interests of housing consumers;

(D) not less than 1 person with significant experience and a distinguished reputation for work in the enforcement, advocacy, or development of fair housing or civil rights legislation; and

(E) not less than 1 person with a background of leadership representing rural housing interests.

(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation or every region of the country.

(4) Not more than 8 members of the Advisory Board may be from any one political party.

(5) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 3537b(c)<sup>1</sup> of title 42 or employed a person for purposes that required such person to so register.

(6) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years. Their successors and all other appointees shall have terms of 3 years.

(7) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Federal Housing Commissioner. The Commissioner shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Federal Housing Administration.

(8) The Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities of the Federal Housing Administration, including the soundness of underwriting procedures, the adequacy of information systems, the appropriateness of staffing patterns, the effectiveness of the Mortgage Review Board, and other matters related to the Federal Housing Administration’s ability to serve the nation’s homebuyers and renters. Such report shall contain the Board’s recommendations for improvement and include any minority views.

(9) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Federal Housing Commissioner or a majority of the members. The Board shall elect a chair, vice-chair and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

(10) Subject to the provisions of section 1006 of title 5, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.

<sup>1</sup> See References in Text note below.

(11) The Board shall terminate on January 1, 1995.

**(c) Mortgagee Review Board**

**(1) Establishment**

There is established within the Federal Housing Administration the Mortgagee Review Board ("Board"). The Board is empowered to initiate the issuance of a letter of reprimand, the probation, suspension or withdrawal of any mortgagee found to be engaging in activities in violation of Federal Housing Administration requirements or the non-discrimination requirements of the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or Executive Order 11063.

**(2) Composition**

The Board shall consist of—

(A) the Assistant Secretary of Housing/Federal Housing Commissioner;

(B) the General Counsel of the Department;

(C) the President of the Government National Mortgage Association;

(D) the Assistant Secretary for Administration;

(E) the Assistant Secretary for Fair Housing Enforcement (in cases involving violations of nondiscrimination requirements); and

(F) the Chief Financial Officer of the Department or their designees.

**(3) Actions authorized**

When any report, audit, investigation, or other information before the Board discloses that a basis for an administrative action against a mortgagee exists, the Board shall take one of the following administrative actions:

**(A) Letter of reprimand**

The Board may issue a letter of reprimand only once to a mortgagee without taking action under subparagraphs<sup>2</sup> (B), (C), or (D) of this section. A letter of reprimand shall explain the violation and describe actions the mortgagee should take to correct the violation.

**(B) Probation**

The Board may place a mortgagee on probation for a specified period of time not to exceed 6 months for the purpose of evaluating the mortgagee's compliance with Federal Housing Administration requirements, the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], Executive Order 11063, or orders of the Board. During the probation period, the Board may impose reasonable additional requirements on a mortgagee including supervision of the mortgagee's activities by the Federal Housing Administration, periodic reporting to the Federal Housing Commissioner, or submission to Federal Housing Administration audits of internal financial statements, audits by an independent certified public accountant or other audits.

**(C) Suspension**

The Board may issue an order temporarily suspending a mortgagee's approval for doing business with the Federal Housing Administration if (i) there exists adequate evidence of a violation or violations and (ii) continuation of the mortgagee's approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public. A suspension shall last for not less than 6 months, and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended. During the period of suspension, the Federal Housing Administration shall not commit to insure any mortgage originated by the suspended mortgagee.

**(D) Withdrawal**

The Board may issue an order withdrawing a mortgagee if the Board has made a determination of a serious violation or repeated violations by the mortgagee. The Board shall determine the terms of such withdrawal, but the term shall be not less than 1 year. Where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

**(E) Settlements**

The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an action. Agreements may include provisions such as—

(i) cessation of any violation;

(ii) correction or mitigation of the effects of any violation;

(iii) repayment of any sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by the Federal Housing Administration;

(iv) actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party;

(v) indemnification of the Federal Housing Administration for mortgage insurance claims on mortgages originated in violation of Federal Housing Administration requirements;

(vi) modification of the length of the penalty imposed; or

(vii) implementation of other corrective measures acceptable to the Secretary.

Material failure to comply with the provisions of a settlement agreement shall be sufficient cause for suspension or withdrawal.

**(4) Notice and hearing**

(A) The Board shall issue a written notice to the mortgagee at least 30 days prior to taking

<sup>2</sup> So in original. Probably should be "subparagraph".

any action against the mortgagee under subparagraph (B), (C), or (D) of paragraph (3). The notice shall state the specific violations which have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days. If the mortgagee fails to reply during such period, the Board may make a determination without considering any comments of the mortgagee.

(B) If the Board takes action against a mortgagee under subparagraph (B), (C), or (D) of paragraph (3), the Board shall promptly notify the mortgagee in writing of the nature, duration, and specific reasons for the action. If, within 30 days of receiving the notice, the mortgagee requests a hearing, the Board shall hold a hearing on the record regarding the violations within 30 days of receiving the request. If a mortgagee fails to request a hearing within such 30-day period, the right of the mortgagee to a hearing shall be considered waived.

(C) In any case in which the notification of the Board does not result in a hearing (including any settlement by the Board and a mortgagee), any information regarding the nature of the violation and the resolution of the action shall be available to the public.

#### **(5) Publication**

The Secretary shall establish and publish in the Federal Register a description of and the cause for administrative action against a mortgagee.

#### **(6) Cease-and-desist orders**

(A) Whenever the Secretary, upon request of the Mortgagee Review Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate, a law, rule or regulation or any condition imposed in writing by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Such order shall include a notice of charges in respect thereof and shall become effective upon service to the mortgagee. Such order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board with respect to such violation, unless such order is set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph. The Board shall provide the mortgagee an opportunity for a hearing on the record, as soon as practicable but not later than 20 days after the temporary cease-and-desist order has been served.

(B) Within 10 days after the mortgagee has been served with a temporary cease-and-desist order, the mortgagee may apply to the United States district court for the judicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the en-

forcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jurisdiction to issue such injunction.

(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this paragraph, the Secretary may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the mortgagee is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

#### **(7) "Mortgagee" defined**

For purposes of this subsection, the term "mortgagee" means—

(A) a mortgagee approved under this chapter;

(B) a lender or a loan correspondent approved under subchapter I of this chapter;

(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.

#### **(8) Report required**

The Board, in consultation with the Federal Housing Administration Advisory Board, shall annually recommend to the Secretary such amendments to statute or regulation as the Board determines to be appropriate to ensure the long term financial strength of the Federal Housing Administration fund and the adequate support for home mortgage credit.

#### **(9) Prohibition against limitations on Mortgagee Review Board's power to take action against mortgagees**

No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.

#### **(d) Limitations on participation in origination and mortgagee approval**

##### **(1) Requirement**

Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

##### **(2) Eligibility for approval**

In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

(E) convicted of, or who has pled guilty or nolo contendere<sup>3</sup> to, a felony related to participation in the real estate or mortgage loan industry—

(i) during the 7-year period preceding the date of the application for licensing and registration; or

(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

(G) in violation of any other requirement as established by the Secretary.

### **(3) Rulemaking and implementation**

The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon May 20, 2009, by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.

### **(e) Coordination of GNMA and FHA withdrawal action**

(1) Whenever the Federal Housing Administration or Government National Mortgage Association initiates proceedings that could lead to withdrawing the mortgagee from participating in the program, the initiating agency shall—

(A) within 24 hours notify the other agency in writing of the action taken;

(B) provide to the other agency the factual basis for the action taken; and

(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(2) Within 60 days of receipt of a notification of action that could lead to withdrawal under subsection<sup>4</sup> (1), the Federal Housing Administration or the Government National Mortgage Association shall—

(A) conduct and complete its own investigation;

(B) provide written notification to the other agency of its decision, including the factual basis for its decision; and

(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

### **(f) Suspension or revocation of approval of mortgage; notice and statement of reasons**

Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this subchapter, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

(1) the Secretary of Veterans Affairs;

(2) the chief executive officer of the Federal National Mortgage Association;

(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

(4) the Secretary of Agriculture;

(5) if the mortgagee is a national bank, a subsidiary or affiliate of such bank, a Federal savings association or a subsidiary or affiliate of a savings association, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System; and

(7) if the mortgagee is a State bank or State savings association that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation.

### **(g) Appraisal standards**

(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

(B) that each appraisal be a written statement used in connection with a real estate transaction that is independently an<sup>5</sup> impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.

(3) DIRECT ENDORSEMENT PROGRAM.—

(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct en-

<sup>3</sup> So in original. Probably should be "contendere".

<sup>4</sup> So in original. Probably should be "paragraph".

<sup>5</sup> So in original. Probably should be "and".

dorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to this subsection.

(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

(4) **FEE PANEL APPRAISERS.**—

(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this subchapter in the same manner and on the same basis as other approved appraisers.

(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this subchapter, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.

(5) **ADDITIONAL APPRAISER STANDARDS.**—Beginning on July 30, 2008, any appraiser chosen or approved to conduct appraisals for mortgages under this subchapter shall—

(A) be certified—

(i) by the State in which the property to be appraised is located; or

(ii) by a nationally recognized professional appraisal organization; and

(B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection.

**(h) Use of name**

The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.

(June 27, 1934, ch. 847, title II, § 202, 48 Stat. 1248; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 10; June 3, 1939, ch. 175, § 5, 53 Stat. 805; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Pub. L. 90–19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101–235, title I, § 142, Dec. 15, 1989, 103 Stat. 2030; Pub. L. 101–625, title III, § 322, Nov. 28, 1990, 104 Stat. 4134; Pub. L. 102–550, title V, §§ 502, 518, 519, Oct. 28, 1992, 106 Stat. 3778, 3792; Pub. L. 105–65, title V, § 551, Oct. 27, 1997, 111 Stat. 1412; Pub. L. 106–377, § 1(a)(1) [title II, § 209(c)], Oct. 27, 2000, 114 Stat. 1441, 1441A–25; Pub. L. 110–289, div. A, title IV, § 1404, div. B, title I, §§ 2116(1), (3), 2118(a), July 30, 2008, 122 Stat. 2810, 2832, 2833; Pub. L. 111–22, div. A, title II, § 203(a), (b), May 20, 2009, 123 Stat. 1643; Pub. L. 111–203, title III, § 373, July 21, 2010, 124 Stat. 1566; Pub. L. 117–286, § 4(a)(54), Dec. 27, 2022, 136 Stat. 4311.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(1), 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 3537b(c) of title 42, referred to in subsec. (b)(5), was in the original “section 112(c) of the Department of Housing and Urban Development Reform Act of 1989”, meaning section 112 of Pub. L. 101–235, which does not contain a subsec. (c), but enacted section 13 of the Department of Housing and Urban Development Act, which was classified to section 3537b of title 42 prior to repeal by Pub. L. 104–65, § 11(b)(1), Dec. 19, 1995, 109 Stat. 701, and which contained a subsec. (c) relating to registration with the Secretary.

The Equal Credit Opportunity Act, referred to in subsec. (c)(1), (3)(B), is title VII of Pub. L. 90–321, as added by Pub. L. 93–495, title V, § 503, Oct. 28, 1974, 88 Stat. 1521, which is classified generally to subchapter IV (§ 1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Fair Housing Act, referred to in subsec. (c)(1), (3)(B), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§ 3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

Executive Order 11063, referred to in subsec. (c)(1), (3)(B), is set out as a note under section 1982 of Title 42.

This chapter, referred to in subsec. (c)(7)(A), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§ 1701 et seq.). For complete classification of this Act to the Code, see Tables.

The effective date of this sentence, referred to in subsec. (c)(9), is the date of enactment of Pub. L. 111–22, which enacted par. (9) and was approved May 20, 2009.

The S.A.F.E. Mortgage Licensing Act of 2008, referred to in subsec. (d)(2)(F), is title V of div. A of Pub. L. 110–289, July 30, 2008, 122 Stat. 2810, also known as the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, which is classified generally to chapter 51 (§ 5101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

**CODIFICATION**

Section 1709(s) of this title, which was transferred and redesignated as subsec. (e) of this section by Pub.

L. 110-289, div. B, title I, § 2116(3), July 30, 2008, 122 Stat. 2832, was based on act June 27, 1934, ch. 847, title II, § 203(s), as added Pub. L. 101-235, title I, § 135, Dec. 15, 1989, 103 Stat. 2028; amended Pub. L. 108-386, § 8(b), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 110-289, div. B, title I, § 2116(2), July 30, 2008, 122 Stat. 2832.

#### AMENDMENTS

2022—Subsec. (b). Pub. L. 117-286, § 4(a)(54)(A), substituted “chapter 10 of title 5.” for “the Federal Advisory Committee Act.” in introductory provisions.

Subsec. (b)(10). Pub. L. 117-286, § 4(a)(54)(B), substituted “section 1006 of title 5,” for “Section 7 of the Federal Advisory Committee Act.”.

2010—Subsec. (f)(5). Pub. L. 111-203, § 373(1), added par. (5) and struck out former par. (5) which read as follows: “if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency.”.

Subsec. (f)(6). Pub. L. 111-203, § 373(2), inserted “and” at end.

Subsec. (f)(7). Pub. L. 111-203, § 373(3), inserted “or State savings association” after “State bank” and substituted period for “; and” at end.

Subsec. (f)(8). Pub. L. 111-203, § 373(4), struck out par. (8) which read as follows: “if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision.”

2009—Subsec. (c)(2)(E). Pub. L. 111-22, § 203(a)(1)(A), inserted “and” after semicolon at end.

Subsec. (c)(2)(F). Pub. L. 111-22, § 203(a)(1)(B), substituted “or their designees.” for “; and”.

Subsec. (c)(2)(G). Pub. L. 111-22, § 203(a)(1)(C), struck out subpar. (G), which read as follows: “the Director of the Enforcement Center; or their designees.”

Subsec. (c)(9). Pub. L. 111-22, § 203(a)(2), added par. (9).

Subsecs. (d) to (g). Pub. L. 111-22, § 203(b)(1), (2), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

Subsec. (h). Pub. L. 111-22, § 203(b)(3), added subsec. (h).

2008—Subsec. (a). Pub. L. 110-289, § 2118(a), amended subsec. (a) generally. Prior to amendment, text read as follows: “There is created a Mutual Mortgage Insurance Fund (hereinafter referred to as the ‘Fund’), which shall be used by the Secretary as a revolving fund for carrying out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title as hereinafter provided, and there shall be allocated immediately to such Fund the sum of \$10,000,000 out of funds made available to the Secretary for the purposes of this subchapter.”

Subsec. (e). Pub. L. 110-289, § 2116(3), transferred subsec. (s) of section 1709 of this title and redesignated it as subsec. (e) of this section. See Codification note above. Former subsec. (e) redesignated (f).

Subsec. (e)(3)(B). Pub. L. 110-289, § 2116(1)(A), made technical amendment to reference in original act which appears in text as reference to “this subsection”.

Subsec. (e)(5). Pub. L. 110-289, § 1404, added par. (5).

Subsec. (f). Pub. L. 110-289, § 2116(1)(B), redesignated subsec. (e) as (f).

2000—Subsec. (c)(2)(E). Pub. L. 106-377, § 1(a)(1) [title II, § 209(c)(1)], struck out “and” at end.

Subsec. (c)(2)(F). Pub. L. 106-377, § 1(a)(1) [title II, § 209(c)(2)], which directed substitution of “and” for “or their designees.”, was executed by inserting “and” after semicolon to reflect the probable intent of Congress, because the phrase “or their designees.” appeared at end of par. (2) and did not appear in subpar. (F).

Subsec. (c)(2)(G). Pub. L. 106-377, § 1(a)(1) [title II, § 209(c)(3)], added subpar. (G).

1997—Subsec. (c)(3)(C). Pub. L. 105-65 inserted after first sentence “Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public.”

1992—Subsec. (b)(11). Pub. L. 102-550, § 502, added par. (11).

Subsec. (c)(3)(C). Pub. L. 102-550, § 518, inserted “temporarily” after “order”, “(i)” after “Administration if”, “(ii)” after “violations and”, and “, and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended” after “6 months”.

Subsec. (c)(6)(D). Pub. L. 102-550, § 519(1), struck out subpar. (D) which read as follows: “For purposes of this paragraph, the term ‘mortgagee’ means a mortgagee, a branch office or subsidiary of a mortgagee, or a director, officer, employee, agent, or other person participating in the conduct of the affairs of such mortgagee.”

Subsec. (c)(7), (8). Pub. L. 102-550, § 519(2), added par. (7) and redesignated former par. (7) as (8).

1990—Subsec. (e)(3), (4). Pub. L. 101-625 added pars. (3) and (4).

1989—Pub. L. 101-235 substituted “Federal Housing Administration operations” for “Mutual Mortgage Insurance Fund” in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsecs. (b) to (e).

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator” wherever appearing.

1939—Act June 3, 1939, substituted “created” for “create”.

1938—Act Feb. 3, 1938, inserted “with respect to mortgages insured under section 1709 of this title”.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

##### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

##### EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES

Pub. L. 111-22, div. A, title II, § 203(g), May 20, 2009, 123 Stat. 1648, provided that: “Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act [May 20, 2009], the Secretary of Housing and Urban Development shall—

“(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

“(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

“(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

“(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.”



**§ 1709. Insurance of mortgages****(a) Authorization**

The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

**(b) Eligibility for insurance; mortgage limits**

To be eligible for insurance under this section a mortgage shall comply with the following:

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

(A) not to exceed the lesser of—

(i) in the case of a 1-family residence, 115 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under the sixth sentence of section 1454(a)(2) of this title for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

(ii) 150 percent of the dollar amount limitation determined under the sixth sentence of such section 1454(a)(2) for a residence of applicable size;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation determined under the sixth sentence of such section 1454(a)(2) for a residence of the applicable size; and

(B) not to exceed 100 percent of the appraised value of the property.

For purposes of the preceding sentence, the term "area" means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mort-

gage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

(5) Bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default, reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(8) Repealed. Pub. L. 100-242, title IV, § 406(b)(2), Feb. 5, 1988, 101 Stat. 1900.

(9) CASH INVESTMENT REQUIREMENT.—

(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash or its equivalent, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 1707 of this title), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

(i) such lien shall be subordinate to the mortgage; and

(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.

(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) con-

sist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

(i) The seller or any other person or entity that financially benefits from the transaction.

(ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).

This subparagraph shall apply only to mortgages for which the mortgagee has issued credit approval for the borrower on or after October 1, 2008.

**(c) Premium charges**

(1) The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this subchapter but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments: *Provided*, That premium charges fixed for insurance (1) under section 1715z-10,<sup>1</sup> 1715z-12, 1715z-16, 1715z-17, or 1715z-18 of this title, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsection (n) are not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 per centum per annum: *Provided*, That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this subchapter at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage

accepted for insurance is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured under this section until such maturity date; and in the event that the principal obligation is paid in full as herein set forth the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid: *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount not exceeding 3 percent of the amount of the original insured principal obligation of the mortgage. In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.75 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph, provided that the mortgagor refinances the unpaid principal obligation under this subchapter.

(B) In addition to the premium under subparagraph (A), the Secretary may establish and collect annual premium payments in an amount not exceeding 1.5 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium

<sup>1</sup> See References in Text note below.

collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause may be in an amount not exceeding 1.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

**(d) Increase in maximum amount of mortgage**

(1) Except as provided in paragraph (2) of this subsection, notwithstanding<sup>2</sup> provision of this subchapter governing maximum mortgage amounts for insuring a mortgage secured by a one- to four-family dwelling, the maximum amount of the mortgage determined under any such provision may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(2) The maximum amount of a mortgage determined under subsection (b)(2)(B) of this section may not be increased as provided in paragraph (1).

**(e) Contract of insurance as evidence of eligibility**

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

**(f) Disclosure of other mortgage products**

**(1) In general**

In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

**(2) Notice**

The notice required under paragraph (1) shall include—

(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees

that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 1454(a)(2) of this title or section 1717(b)(2) of this title, as applicable), assuming prevailing interest rates; and

(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

**(g) Limitation on use of single family mortgage insurance by investors**

(1) The Secretary may insure a mortgage under this subchapter that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary. In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

(A) a public entity, as provided in section 1715d or 1715z-12 of this title, or any other State or local government or an agency thereof;

(B) a private nonprofit or public entity, as provided in section 1715l(h) or 1715z(j) of this title, or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of title 26 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(C) an Indian tribe, as provided in section 1715z-13 of this title;

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 1715g of this title or subsection (b)(4) or (f) of section 1715m<sup>1</sup> of this title;

(E) a mortgagor or co-mortgagor under subsection (k); or

(F) a mortgagor that, pursuant to section 1715n(a)(7) of this title, is refinancing an existing mortgage insured under this chapter for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(3) For purposes of this subsection, the term “substitute mortgagor” means a person who,

<sup>2</sup> So in original.

upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.

**(h) Disaster housing**

Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of the applicable maximum dollar limit under subsection (b) and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe which the President, pursuant to sections 5122(2) and 5170 of title 42, has determined to be a major disaster.

**(i) Repealed. Pub. L. 110-289, div. B, title I, § 2120(a)(1), July 30, 2008, 122 Stat. 2835**

**(j) Real estate loans by national banks**

Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

**(k) Rehabilitation of one- to four-family structures; definitions; eligibility; refinancing and extension; General Insurance Fund**

(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i),<sup>1</sup> and (j) of this section, except as modified by the provisions of this subsection.

(2) For the purpose of this subsection—

(A) the term “rehabilitation loan” means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit, made for the purpose of financing—

(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(B) the term “rehabilitation” means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provi-

sion of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project. The term “rehabilitation” may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 4851b of title 42.

(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary’s estimate of the value of the property before rehabilitation;

(B) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(C) be an acceptable risk, as determined by the Secretary; and

(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the Mutual Mortgage Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 1710 of this title. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 1715k(h) of this title, except that reference to “this subsection” in such paragraphs shall be construed as referring to this subsection.

**(l) Repealed. Pub. L. 90-448, title I, § 103(b), Aug. 1, 1968, 82 Stat. 486**

**(m) Repealed. Pub. L. 100-242, title IV, § 406(c), Feb. 5, 1988, 101 Stat. 1902**

**(n) Cooperative housing projects; definitions**

(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a co-

operative housing project which is covered by a blanket mortgage insured under this chapter or the construction of which was completed more than a year prior to the application for the mortgage insurance. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purposes of this subsection—

(A) The terms “home mortgage” and “mortgage” include a first or subordinate mortgage or lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms “appraised value of the property”, “value of the property”, and “value” include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term “property” includes a dwelling unit in such a cooperative project.

(C) The term “mortgagor” includes a person or persons giving a first or subordinate mortgage or lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

(o) **Repealed.** Pub. L. 110-289, div. B, title I, § 2120(a)(2), July 30, 2008, 122 Stat. 2835

(p) **Repealed.** Pub. L. 110-289, div. B, title I, § 2120(a)(3), July 30, 2008, 122 Stat. 2835

(q) **Repealed.** Pub. L. 110-289, div. B, title I, § 2120(a)(4), July 30, 2008, 122 Stat. 2835

(r) **Actions to reduce losses under single family mortgage insurance program**

The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this subchapter. Such actions shall include—

(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 1735f-11 of this title;

(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this subchapter be determined to be creditworthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement);

(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability; and

(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section, using the Fund to pay for such counseling.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.

(s) **Transferred**

(t) **Disclosure regarding interest due upon mortgage prepayment**

(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon November 28, 1990) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).

(u) **Accountability of mortgage lenders**

(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 1735f-17 of this title, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

(2) For purposes of this subsection—

(A) the term “area” means a metropolitan statistical area as established by the Office of Management and Budget;

(B) the term “mortgage charges” includes the interest rate, discount points, loan origi-

nation fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

(C) the term “mortgage charge rate” means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.

**(v) Use of FHA insurance with assistance under 42 U.S.C. 1437f**

The insurance of a mortgage under this section in connection with the assistance provided under section 1437f(y) of title 42 shall be the obligation of the Mutual Mortgage Insurance Fund.

**(w) Annual report**

The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

(1) an analysis of the income groups served by the single family insurance program, including—

(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

The report required under this subsection shall include the report required under section 1735f-18(c) of this title and the report required under section 1711(g)<sup>1</sup> of this title.

**(x) Management deficiencies report**

**(1) In general**

Not later than 60 days after October 21, 1998, and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31.

**(2) Contents of annual report**

Each report submitted under paragraph (1) shall include—

(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).

**(y) Requirements for mortgages for condominiums**

**(1) Project recertification requirements**

Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.4 of the Condominium Project Approval and Processing Guide of the FHA, the Secretary shall streamline the project certification requirements that are applicable to the insurance under this section for mortgages for condominium projects so that recertifications are substantially less burdensome than certifications. The Secretary shall consider lengthening the time between certifications for approved properties, and allowing updating of information rather than resubmission.

**(2) Commercial space requirements**

Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.1.3 of the Condominium Project Approval and Processing Guide of the FHA, in providing for exceptions to the requirement for the insurance of a mortgage on a condominium property under this section regarding the percentage of the floor space of a condominium property that may be used for nonresidential or commercial purposes, the Secretary shall provide that—

(A) any request for such an exception and the determination of the disposition of such request may be made, at the option of the requester, under the direct endorsement lender review and approval process or under the HUD review and approval process through the applicable field office of the Department; and

(B) in determining whether to allow such an exception for a condominium property, factors relating to the economy for the locality in which such project is located or specific to project,<sup>2</sup> including the total number of family units in the project, shall be considered.

Not later than the expiration of the 90-day period beginning on July 29, 2016, the Secretary shall issue regulations to implement this paragraph, which shall include any standards, training requirements, and remedies and penalties that the Secretary considers appropriate.

**(3) Transfer fees**

Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 1.8.8 of the Condominium Project Approval and Processing Guide of the FHA and section 203.41 of the Secretary's regulations (24 CFR 203.41), existing standards of the Federal Housing Finance Agency relating to encumbrances under private transfer fee covenants shall apply to the insurance of mortgages by the Secretary under this section to the same extent and in the same manner that such standards apply to the purchasing, investing in, and otherwise dealing in mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If the provisions of part 1228 of the Director of the Federal Housing Finance Agency's regulations (12 CFR part 1228) are amended or otherwise changed after July 29, 2016, the Secretary of Housing and Urban Development shall adopt any such amendments or changes for purposes of this paragraph, unless the Secretary causes to be published in the Federal Register a notice explaining why the Secretary will disregard such amendments or changes within 90 days after the effective date of such amendments or changes.

**(4) Owner-occupancy requirement****(A) Establishment of percentage requirement**

Not later than the expiration of the 90-day period beginning on July 29, 2016, the Secretary shall, by rule, notice, or mortgagee letter, issue guidance regarding the percentage of units that must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirements, including justifications for the percentage requirements, in order for a condominium project to be acceptable to the Secretary for insurance under this section of a mortgage within such condominium property.

**(B) Failure to act**

If the Secretary fails to issue the guidance required under subparagraph (A) before the expiration of the 90-day period specified in such clause, the following provisions shall apply:

**(i) 35 percent requirement**

In order for a condominium project to be acceptable to the Secretary for insurance under this section, at least 35 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirement.

**(ii) Other considerations**

The Secretary may increase the percentage applicable pursuant to clause (i) to a condominium project on a project-by-project or regional basis, and in determining such percentage for a project shall

consider factors relating to the economy for the locality in which such project is located or specific to project,<sup>2</sup> including the total number of family units in the project.

(June 27, 1934, ch. 847, title II, §203, 48 Stat. 1248; May 28, 1935, ch. 150, §29(a), 49 Stat. 299; Aug. 23, 1935, ch. 614, title III, §344(c), 49 Stat. 722; Feb. 3, 1938, ch. 13, §3, 52 Stat. 10; June 3, 1939, ch. 175, §§6–8, 53 Stat. 805, 806; June 28, 1941, ch. 261, §8, 55 Stat. 365; Oct. 15, 1943, ch. 259, §2, 57 Stat. 571; July 1, 1946, ch. 531, 60 Stat. 408; Aug. 10, 1948, ch. 832, title I, §101(g)–(k), 62 Stat. 1272; July 15, 1949, ch. 338, title II, §201(2), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, §1(2), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§103, 104(a), 122, 64 Stat. 51, 59; June 30, 1953, ch. 170, §3, 67 Stat. 121; Aug. 2, 1954, ch. 649, title I, §§104–110, 68 Stat. 591, 592; Aug. 7, 1956, ch. 1029, title I, §§102, 104(a), 70 Stat. 1091, 1092; Pub. L. 85–104, title I, §§101, 106, July 12, 1957, 71 Stat. 294, 297; Pub. L. 85–364, §1(a), Apr. 1, 1958, 72 Stat. 73; Pub. L. 86–372, title I, §§102, 103, title VIII, §809, Sept. 23, 1959, 73 Stat. 654, 688; Pub. L. 87–70, title I, §102(b), title VI, §§604(b), 605, 606, 612(a), June 30, 1961, 75 Stat. 157, 177, 178, 180; Pub. L. 88–560, title I, §§102, 103, 105(c)(1), Sept. 2, 1964, 78 Stat. 769, 772; Pub. L. 89–117, title II, §§203–206, title XI, §1108(c), Aug. 10, 1965, 79 Stat. 466, 504; Pub. L. 89–754, title III, §§301, 302, Nov. 3, 1966, 80 Stat. 1266; Pub. L. 90–19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90–448, title I, §103(b), title III, §§317, 318, title XI, §1106(d), Aug. 1, 1968, 82 Stat. 486, 512, 567; Pub. L. 91–152, title I, §§102(a), 113(a), Dec. 24, 1969, 83 Stat. 379, 383; Pub. L. 91–606, title III, §301(c), Dec. 31, 1970, 84 Stat. 1758; Pub. L. 93–288, title VII, §702(c), formerly title VI, §602(c), May 22, 1974, 88 Stat. 163, renumbered title VII, §702(c), Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 93–383, title III, §§302(a), 310(a), Aug. 22, 1974, 88 Stat. 676, 682; Pub. L. 93–449, §4(b), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 95–128, title III, §§303(a), (g), 304(a), 305, 307, Oct. 12, 1977, 91 Stat. 1132, 1133, 1134; Pub. L. 95–557, title I, §101(c)(1), (2), Oct. 31, 1978, 92 Stat. 2082, 2083; Pub. L. 95–619, title II, §248(a), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96–153, title III, §§310, 312(a), 318, Dec. 21, 1979, 93 Stat. 1114, 1116, 1119; Pub. L. 96–399, title III, §§321, 328, 333(a), 336(a), Oct. 8, 1980, 94 Stat. 1646, 1651, 1653, 1654; Pub. L. 97–253, title II, §201(a), (b), Sept. 8, 1982, 96 Stat. 789; Pub. L. 98–63, title I, July 30, 1983, 97 Stat. 321; Pub. L. 98–181, title I [title IV, §§404(b)(2), (3), 419, 423(a), (b)(1), 424(a), 425, 447], Nov. 30, 1983, 97 Stat. 1209, 1212, 1216–1218, 1228; Pub. L. 98–479, title II, §204(a)(2), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 99–601, Nov. 5, 1986, 100 Stat. 3357; Pub. L. 100–242, title IV, §§403–405(1), 406(a)–(b)(6), (c), 407(a)(1), 422(b), 423, 429(c), Feb. 5, 1988, 101 Stat. 1899–1902, 1914, 1918; Pub. L. 100–628, title X, §§1061–1063(a), Nov. 7, 1988, 102 Stat. 3274; Pub. L. 100–707, title I, §109(e)(2), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 852; Pub. L. 101–235, title I, §§132(a), 135, 143(a), (b), Dec. 15, 1989, 103 Stat. 2026, 2028, 2036; Pub. L. 101–402, §3, Oct. 1, 1990, 104 Stat. 866; Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1369; Pub. L. 101–508, title II, §§2101–2103(a), Nov. 5, 1990, 104 Stat. 1388–17; Pub. L. 101–625, title III, §§326(a), 327, 329, 330(a), title

IV, § 429, Nov. 28, 1990, 104 Stat. 4137, 4138, 4171; Pub. L. 102-40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-389, title II, Oct. 6, 1992, 106 Stat. 1591, 1593; Pub. L. 102-550, title I, § 185(c)(1), title V, §§ 503(a), 504-506(a), 507(a), title X, § 1012(k)(2), Oct. 28, 1992, 106 Stat. 3747, 3779-3782, 3907; Pub. L. 103-211, title I, Feb. 12, 1994, 108 Stat. 12; Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2314; Pub. L. 104-204, title IV, §§ 424, 425(a), 426, Sept. 26, 1996, 110 Stat. 2927, 2928; Pub. L. 105-65, title II, § 211, Oct. 27, 1997, 111 Stat. 1366; Pub. L. 105-276, title II, §§ 212, 224, 225(a), 228, Oct. 21, 1998, 112 Stat. 2486, 2489-2491; Pub. L. 106-74, title II, § 207, Oct. 20, 1999, 113 Stat. 1072; Pub. L. 106-281, § 2, Oct. 6, 2000, 114 Stat. 865; Pub. L. 106-377, § 1(a)(1) [title II, § 209(a), 225], Oct. 27, 2000, 114 Stat. 1441, 1441A-25, 1441A-30; Pub. L. 106-569, title XI, § 1103(f), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 107-73, title II, § 207(a), Nov. 26, 2001, 115 Stat. 674; Pub. L. 107-326, § 2, Dec. 4, 2002, 116 Stat. 2792; Pub. L. 108-386, § 8(b), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 108-447, div. I, title II, §§ 222, 223, Dec. 8, 2004, 118 Stat. 3321; Pub. L. 109-13, div. A, title VI, § 6073, May 11, 2005, 119 Stat. 300; Pub. L. 110-289, div. B, title I, §§ 2112(a), (b), 2113-2115, 2116(2), (3), 2118(b)(1), 2120(a)(1)-(4), (b), 2121, July 30, 2008, 122 Stat. 2830-2832, 2834, 2835; Pub. L. 111-229, § 1(a), Aug. 11, 2010, 124 Stat. 2483; Pub. L. 112-78, title IV, § 402(a), (b), Dec. 23, 2011, 125 Stat. 1289; Pub. L. 114-201, title III, § 301, July 29, 2016, 130 Stat. 806.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 1715z-10 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 110-289, div. B, title I, § 2120(a)(7), July 30, 2008, 122 Stat. 2835.

Section 1715m of this title, referred to in subsec. (g)(2)(D), was repealed by Pub. L. 110-289, div. B, title I, § 2120(a)(5), July 30, 2008, 122 Stat. 2835.

This chapter, referred to in subsecs. (g)(2)(F) and (n)(1), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

Subsection (i) of this section, referred to in subsec. (k)(1), was repealed by Pub. L. 110-289, div. B, title I, § 2120(a)(1), July 30, 2008, 122 Stat. 2835.

Section 1711(g) of this title, referred to in subsec. (w), was repealed by Pub. L. 110-289, div. B, title I, § 2118(c)(1), July 30, 2008, 122 Stat. 2835.

#### AMENDMENTS

2016—Subsec. (y). Pub. L. 114-201 added subsec. (y).

2011—Subsec. (c)(2)(C). Pub. L. 112-78, § 402(b), struck out subpar. (C) which related to requirement that the Secretary, in addition to the premiums under subpars. (A) and (B), establish and collect annual premium payments of up to 10 basis points of the remaining insured principal balance for any mortgage for which the Secretary collects an annual premium under subpar.(B). See Effective Date of 2011 Amendment note below.

Pub. L. 112-78, § 402(a), added subpar. (C).

2010—Subsec. (c)(2)(B). Pub. L. 111-229, § 1(a)(1), in introductory provisions, substituted “may” for “shall” and “1.5 percent” for “0.50 percent”.

Subsec. (c)(2)(B)(ii). Pub. L. 111-229, § 1(a)(2), substituted “may be in an amount not exceeding 1.55 percent” for “shall be in an amount not exceeding 0.55 percent”.

2008—Subsec. (b)(2). Pub. L. 110-289, § 2112(a)(2), which directed striking out second sentence in matter following subpar. (B) and all that followed through “sec-

tion 3103A(d) of title 38”, was executed in first undesignated par. after subpar. (B) by striking out “For purposes of this paragraph, the term ‘average closing cost’ means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages. Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38 prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction. As used herein, the term ‘veteran’ means any person who served on active duty in the armed forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 5303A(d) of title 38.”, to reflect the probable intent of Congress and amendment by Pub. L. 102-40. See 1991 Amendment note below.

Subsec. (b)(2)(A), (B). Pub. L. 110-289, § 2112(a)(1), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which related to maximum limits for principal loan obligation.

Subsec. (b)(9). Pub. L. 110-289, § 2113, amended par. (9) generally. Prior to amendment, par. (9) related to requirement that mortgagors other than veterans pay on account of the property at least 3 per centum, or such larger amount as the Secretary may determine, of the Secretary’s estimate of the cost of acquisition, excluding the mortgage insurance premium paid at the time the mortgage is insured, in cash or its equivalent.

Subsec. (c)(2). Pub. L. 110-289, § 2114(1), in introductory provisions, struck out “or of the General Insurance Fund pursuant to subsection (v) of this section and each mortgage that is insured under subsection (k) of this section or section 1715y(c) of this title,” after “Mutual Mortgage Insurance Fund”.

Subsec. (c)(2)(A). Pub. L. 110-289, § 2114(2), substituted “3 percent” for “2.25 percent” and “2.75 percent” for “2.0 percent”.

Subsec. (d). Pub. L. 110-289, § 2112(b), substituted “Except as provided in paragraph (2) of this subsection, notwithstanding” for “Notwithstanding any”, designated existing provisions as par. (1), and added par. (2).

Subsec. (i). Pub. L. 110-289, § 2120(a)(1), struck out subsec. (i) which related to Secretary’s authority to insure mortgages for single-family residences in suburban and outlying areas or small communities and certain farm homes.

Subsec. (k)(1). Pub. L. 110-289, § 2115(1), struck out “on and after 180 days following October 31, 1978” after “financial institutions”.

Subsec. (k)(5). Pub. L. 110-289, § 2115(2), substituted “Mutual Mortgage Insurance Fund” for “General Insurance Fund” and struck out “, except that all references in section 1710 of this title to the Mutual Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund” after “section 1710 of this title”.

Subsec. (n)(2)(A), (C). Pub. L. 110-289, § 2121, inserted “or subordinate mortgage or” before “lien”.



Subsec. (o). Pub. L. 110-289, §2120(a)(2), struck out subsec. (o) which related to insurance of mortgages on owner occupied homes in communities subject to adverse economic conditions resulting from Indian claims to ownership of land and obligation of Special Risk Insurance Fund.

Subsec. (p). Pub. L. 110-289, §2120(a)(3), struck out subsec. (p) which related to insurance of mortgages in communities subject to temporary adverse economic conditions as a result of claims to ownership of land in the community by an American Indian Tribe, band, or nation.

Subsec. (q). Pub. L. 110-289, §2120(a)(4), struck out subsec. (q) which related to insurance of mortgages secured by property on certain lands leased by Seneca Nation of New York Indians.

Subsec. (s). Pub. L. 110-289, §2116(3), redesignated and transferred subsec. (s) of this section to subsec. (e) of section 1708 of this title.

Subsec. (s)(4). Pub. L. 110-289, §2116(2), added par. (4) and struck out former par. (4) which read as follows: "the Administrator of the Farmers Home Administration;"

Subsec. (u)(2)(A). Pub. L. 110-289, §2120(b), substituted "means a metropolitan statistical area as established by the Office of Management and Budget;" for "shall have the meaning given the term under subsection (b)(2) of this section;"

Subsec. (v). Pub. L. 110-289, §2118(b)(1), substituted "The" for "Notwithstanding section 1708 of this title, the" and "Mutual Mortgage Insurance Fund." for "General Insurance Fund created pursuant to section 1735c of this title. The provisions of subsections (a) through (h), (j), and (k) of section 1710 of this title shall apply to such mortgages, except that (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 1710(f)(1) of this title shall be retained by the Secretary and credited to the General Insurance Fund."

2005—Subsec. (c)(1). Pub. L. 109-13, §6073(b)(2), struck out "or (k)" after "(2) under subsection (n)" and "charges under subsection (n)".

Pub. L. 109-13, §6073(b)(1), substituted "(2) under subsection (n)" for "(2) under subsections (n)".

Pub. L. 109-13, §6073(a), repealed Pub. L. 108-447, §222. See note below.

2004—Subsec. (c)(1). Pub. L. 108-447, §222, which directed the substitution of "subsection (n)" for "subsections (n) and (k)" and the striking out of "or (k)", was repealed by Pub. L. 109-13, §6073(a).

Subsec. (c)(2)(A). Pub. L. 108-447, §223, inserted "provided that the mortgagor refinances the unpaid principal obligation under this subchapter" before period at end.

Subsec. (s)(5). Pub. L. 108-386 struck out "or District bank" after "national bank".

2002—Subsec. (b). Pub. L. 107-326, §2(1)(A), substituted "shall comply with the following:" for "shall—" in introductory provisions.

Subsec. (b)(2). Pub. L. 107-326, §2(1)(C), transferred text of subsec. (b)(10)(B) so as to appear as second sentence of concluding provisions in par. (2).

Pub. L. 107-326, §2(1)(B)(ii)(III), in concluding provisions, struck out the eleventh sentence through the end which read as follows: "In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a one page analysis of mortgage products offered by that lender and for which the borrower would qualify. This notice shall include: (i) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under this subsection with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the bor-

rower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 1454(a)(2) of this title or section 1717(b)(2) of this title, as applicable), assuming prevailing interest rates; and (ii) a statement regarding when the mortgagor's requirement to pay the mortgage insurance premiums for a mortgage insured under this section would terminate or a statement that the requirement will terminate only if the mortgage is refinanced, paid off, or otherwise terminated."

Pub. L. 107-326, §2(1)(B)(ii)(II), in concluding provisions, struck out seventh through ninth sentences which read as follows: "Except with respect to mortgages executed by mortgagors who are veterans, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of \$50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 1715q of this title, or a similar amount determined by the Secretary if section 1715q of this title does not apply. Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage."

Pub. L. 107-326, §2(1)(B)(ii)(I), in concluding provisions, struck out second and third sentences which read as follows: "If the mortgage to be insured under this section covers property on which there is located a one-to-four-family residence, and the appraised value of the property, as of the date the mortgage is accepted for insurance, does not exceed \$50,000, the principal obligation may be in an amount not to exceed 97 percent of such appraised value. If the mortgagor is a veteran, and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of \$25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of \$25,000."

Subsec. (b)(2)(A). Pub. L. 107-326, §2(1)(B)(i), realigned margins of matter that precedes cl. (ii).

Subsec. (b)(2)(B). Pub. L. 107-326, §2(1)(B)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: "except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of \$25,000 but not in excess of \$125,000; and

"(iii) 90 percent of such value in excess of \$125,000."

Subsec. (b)(10). Pub. L. 107-326, §2(1)(C), (D), transferred text of subpar. (B) so as to appear as second sentence of concluding provisions in subsec. (b)(2) and struck out headings and text of remainder of par. (10) which related to calculation of downpayment.

Subsec. (f). Pub. L. 107-326, §2(2), added subsec. (f).

2001—Subsec. (c)(1). Pub. L. 107-73, §207(a)(1), substituted "subsections (n) or (k)" for "subsections (n) and (k)" in cl. (2) of first proviso.

Subsec. (c)(2). Pub. L. 107-73, §207(a)(2), in introductory provisions, struck out "and executed on or after October 1, 1994," after "1- to 4-family dwelling" and inserted "and each mortgage that is insured under subsection (k) of this section or section 1715y(c) of this title," after "subsection (v) of this section".

2000—Subsec. (b)(10)(A). Pub. L. 106-377, §1(a)(1) [title II, §225], substituted “mortgage closed on or before December 31, 2002, involving” for “mortgage closed on or before October 30, 2000 involving” in introductory provisions.

Pub. L. 106-281 substituted “closed on or before October 30, 2000” for “executed for insurance in fiscal years 1998, 1999, and 2000” in introductory provisions.

Subsec. (s). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(2)], redesignated subsec. (s), relating to disclosure regarding interest due upon mortgage prepayment, as (t).

Subsec. (t). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(2)], redesignated subsec. (s), relating to disclosure regarding interest due upon mortgage prepayment, as (t).

Pub. L. 106-377, §1(a)(1) [title II, §209(a)(1)], redesignated subsec. (t) as (u).

Subsec. (u). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(1)], redesignated subsec. (t) as (u).

Subsec. (v). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(3)], redesignated subsec. (v), relating to annual report, as (w).

Subsec. (w). Pub. L. 106-569, which directed the amendment of subsec. (v) relating to annual report by inserting concluding provisions, was executed by making the insertion in subsec. (w) to reflect the probable intent of Congress and the intervening redesignation of that subsec. (v) as (w) by Pub. L. 106-377, §1(a)(1) [title II, §209(a)(3)]. See below.

Pub. L. 106-377, §1(a)(1) [title II, §209(a)(3)], redesignated subsec. (v), relating to annual report, as (w).

1999—Subsec. (b)(2)(A)(ii). Pub. L. 106-74 inserted “the greater of the dollar amount limitation in effect under this section for the area on October 21, 1998, or” before “48 percent”.

1998—Subsec. (b)(2). Pub. L. 105-276, §225(a), inserted at end undesignated par. relating to disclosure notice furnished by original lender.

Subsec. (b)(2)(A). Pub. L. 105-276, §228(a), added cl. (ii) and struck out former cl. (ii) and concluding provisions which read as follows:

“(ii) 75 percent of the dollar amount limitation determined under section 1454(a)(2) of this title for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on September 28, 1994, or 38 percent of the dollar amount limitation determined under section 1454(a)(2) of this title for a residence of the applicable size; and”.

Subsec. (b)(2)(B). Pub. L. 105-276, §228(b), amended first sentence of concluding provisions generally. Prior to amendment, sentence read as follows: “For purposes of the preceding sentence, the term ‘area’ means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.”

Subsec. (b)(10). Pub. L. 105-276, §212(1), substituted “CALCULATION OF DOWNPAYMENT” for “ALASKA AND HAWAII” in heading.

Subsec. (b)(10)(A). Pub. L. 105-276, §212(2), substituted “executed for insurance in fiscal years 1998, 1999, and 2000” for “originated in the State of Alaska or the State of Hawaii and endorsed for insurance in fiscal years 1997 and 1998”.

Subsec. (x). Pub. L. 105-276, §224, added subsec. (x).

1997—Subsec. (b)(10)(A). Pub. L. 105-65 substituted “fiscal years 1997 and 1998” for “fiscal year 1997”.

1996—Subsec. (b)(9). Pub. L. 104-204, §425(a), inserted before period at end “: *Provided further*, That for purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 1707 of this title), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, such lien shall be subordinate to the mortgage and the sum of the principal obligation of the mortgage and the ob-

ligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage”.

Subsec. (b)(10). Pub. L. 104-204, §426, added par. (10).

Subsec. (c)(2)(A). Pub. L. 104-204, §424, inserted after first sentence “In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.0 percent of the amount of the original insured principal obligation of the mortgage.”

1994—Subsec. (b)(2)(A). Pub. L. 103-327 substituted cl. (ii) and concluding provisions for former cl. (ii) and concluding provisions which read as follows:

“(ii) 75 percent of the dollar amount limitation determined under section 1454(a)(2) of this title (as in effect on September 30, 1992) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992;”.

Subsec. (h). Pub. L. 103-211, effective for 18-month period following Feb. 12, 1994, for eligible persons, substituted “Robert T. Stafford Disaster Relief and Emergency Assistance Act” for “section 5122(2) and 5170 of title 42” and inserted at end “In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 18 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 1454(a)(2) of this title for single family residence, and not in excess of 100 percent of the appraised value.” See Applicability of 1994 Amendment note below.

Subsec. (k)(6). Pub. L. 103-211, effective for 18-month period following Feb. 12, 1994, for eligible persons, added par. (6) which read as follows: “The Secretary is authorized, for a temporary period not to exceed 18 months from the date on which the President has declared a major disaster to have occurred, to enter into agreements to insure a rehabilitation loan under this subsection which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 1454(a)(2) of this title for a residence of the applicable size, if such loan is secured by a structure and property that are within a jurisdiction in which the President has declared such disaster, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], and if such loan otherwise conforms to the loan-to-value ratio and other requirements of this subsection.” See Applicability of 1994 Amendment note below.

1992—Subsec. (b)(2). Pub. L. 102-550, §506(a), added undesignated par. prohibiting Secretary from insuring mortgage executed by first-time homebuyer involving principal obligation in excess of 97 percent of value of property, unless mortgagor completes approved counseling program or Secretary waives requirement.

Pub. L. 102-550, §505(a), substituted “Except with respect to mortgages executed by mortgagors who are veterans” for “Notwithstanding any other provision of this paragraph” in second undesignated par.

Pub. L. 102-550, §503(a), amended first sentence generally. Prior to amendment, first sentence read as follows: “Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

“(A) not to exceed the lesser of—

“(i) in the case of the 1-family residence, 95 percent of the median 1-family house price in the area (as determined by the Secretary); in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of

such median price; or in the case of a 4-family residence, 150 percent of such median price; or

“(ii) 75 percent of the dollar amount limitation determined under section 1454(a)(2) of this title (as adjusted annually under such section) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

“(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

“(i) 97 percent of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

“(ii) 95 percent of such value in excess of \$25,000 but not in excess of \$125,000; and

“(iii) 90 percent of such value in excess of \$125,000.”

Pub. L. 102-389 amended first sentence generally. Prior to amendment, first sentence read as follows:

“Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or \$76,000 in the case of a two-family residence; or \$92,000 in the case of a three-family residence, or \$107,000 in the case of a four-family residence; except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price; and (except as otherwise provided in this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of \$25,000.”

Pub. L. 102-389 inserted at end of second undesignated par. “Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage.”

Subsec. (b)(9). Pub. L. 102-550, § 505(b), substituted “(except with respect to a mortgage executed by a mortgagor who is a veteran)” for “(except in a case to which the next to the last sentence of paragraph (2) applies)”.

Subsec. (c)(2). Pub. L. 102-550, § 185(c)(1)(A), inserted “or of the General Insurance Fund pursuant to subsection (v) of this section” after “Fund” in introductory provisions.

Subsec. (c)(2)(A), (B). Pub. L. 102-550, § 507(a)(1), (2)(A), substituted “not exceeding” for “equal to”.

Subsec. (c)(2)(B)(ii). Pub. L. 102-550, § 507(a)(2)(B), substituted “not exceeding 0.55 percent” for “equal to 0.55 percent”.

Subsec. (k)(2)(B). Pub. L. 102-550, § 1012(k)(2), inserted at end “The term ‘rehabilitation’ may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 4851b of title 42.”

Subsec. (v). Pub. L. 102-550, § 504, added subsec. (v) relating to annual reports.

Pub. L. 102-550, § 185(c)(1)(B), added subsec. (v) relating to use of FHA insurance with assistance under 42 U.S.C. 1437f.

1991—Subsec. (b)(2). Pub. L. 102-40 substituted “section 5303A(d) of title 38” for “section 3103A(d) of title 38”.

1990—Subsec. (b)(2). Pub. L. 101-508, § 2102, inserted at end “Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of \$50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term ‘appraised value’ means the amount set forth in the written statement required under section 1715q of this title, or a similar amount determined by the Secretary if section 1715q of this title does not apply.”

Pub. L. 101-508, § 2101, substituted “185 percent of the dollar amount specified” for “150 percent (185 percent until October 31, 1990) of the dollar amount specified” after “exceed the lesser of (A)”.

Pub. L. 101-507 which directed the substitution of “(185 percent during fiscal year 1991)” for “(185 percent during fiscal year 1990)” could not be executed because “during fiscal year 1990” did not appear in text after amendment by Pub. L. 101-402. See below.

Pub. L. 101-402 substituted “until October 31, 1990” for “during fiscal year 1990”.

Subsec. (b)(9). Pub. L. 101-625, § 429, inserted “or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act,” before “the mortgagor’s payment”.

Subsec. (c). Pub. L. 101-508, § 2103(a), designated existing provisions as par. (1), added par. (2), and struck out at end of par. (1) “In the case of any mortgage secured by a 1- to 4-family dwelling, the total premium charge shall not exceed an amount equal to 3.8 percent of the original principal obligation of the mortgage if the Secretary requires (1) a single premium charge to cover the total premium obligation of the insurance of the mortgage; or (2) a periodic premium charge over less than the term of the mortgage.”

Subsec. (g)(1). Pub. L. 101-625, § 326(a), inserted at end “In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.”

Subsec. (r)(4). Pub. L. 101-625, § 327, added par. (4).

Subsec. (s). Pub. L. 101-625, § 329, added subsec. (s) relating to disclosure regarding interest due upon mortgage prepayment.

Subsec. (t). Pub. L. 101-625, § 330, added subsec. (t).

1989—Subsec. (b)(2). Pub. L. 101-144 inserted “(185 percent during fiscal year 1990)” after “(A) 150 percent”.

Subsec. (g)(2). Pub. L. 101-235, § 143(b), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of—

“(A) the appraised value of the dwelling;

“(B) the estimate of the Secretary of the replacement cost of the property;

“(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

“(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refi-

nance existing indebtedness secured by the property, and, in the case of a property refinanced under section 1715k(d)(3)(A) of this title, any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property.”

Subsec. (g)(2)(A). Pub. L. 101-235, § 143(a)(1), inserted “, or any other State or local government or an agency thereof” before semicolon at end.

Subsec. (g)(2)(B). Pub. L. 101-235, § 143(a)(2), inserted “, or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of title 26 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary” before semicolon at end.

Subsec. (g)(3), (4). Pub. L. 101-235, § 143(b)(2), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (r). Pub. L. 101-235, § 132(a)(1), amended first sentence generally, substituting “the single-family mortgage insurance programs carried out under this subchapter” for “the mortgage insurance program carried out under this section”.

Subsec. (r)(2), (3). Pub. L. 101-235, § 132(a)(2), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

“(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is executed, or (B) during the 24-month period following the date on which the mortgage is executed in the case of an investor originated mortgage; and

“(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability.”

Subsec. (s). Pub. L. 101-235, § 135, added subsec. (s).

1988—Subsec. (b)(2). Pub. L. 100-628, §§ 1061, 1062(b), clarified amendments by Pub. L. 100-242, §§ 405(1), 406(b)(1)(B).

Pub. L. 100-242, § 406(b)(1)(A), struck out “(whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes)” after “in the case of a two-family residence” in first sentence.

Pub. L. 100-242, § 404, substituted “150 percent” for “133 $\frac{1}{3}$  per centum” in cl. (A) of first sentence.

Pub. L. 100-242, § 423, inserted definition of “area”.

Pub. L. 100-242, § 406(b)(1)(B), struck out “to be occupied as the principal residence of the owner” after “residence”.

Pub. L. 100-242, § 405(1), which directed insertion of “, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38” before period at end of first undesignated paragraph, was executed by making the insertion after “other than dishonorable” at end of sentence defining “veteran”, to reflect the probable intent of Congress.

Subsec. (b)(8). Pub. L. 100-242, § 406(b)(2), struck out par. (8) which related to eligibility for insurance of a mortgage in the case of a mortgagor who is not occupant of the property.

Subsec. (c). Pub. L. 100-242, § 403, inserted provisions at end relating to total premium charge to be fixed by Secretary in case of any mortgage secured by 1- to 4-family dwelling.

Subsec. (g). Pub. L. 100-242, § 406(a), added subsec. (g).

Subsec. (g)(3)(F). Pub. L. 100-628, § 1062(a), added subpar. (F).

Subsec. (h). Pub. L. 100-707, § 109(e)(2), struck out “riot or civil disorder” after “hurricane, earthquake, storm,” and substituted “5170” for “5141”.

Pub. L. 100-242, § 406(b)(3), struck out “is the owner and occupant and” after “where the mortgagor”.

Subsec. (i). Pub. L. 100-242, § 406(b)(4), struck out “*Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property.” after “for a single-family residence:” and substituted “*Provided*, That

the Secretary” for “*Provided further*, That the Secretary”.

Subsec. (k)(3)(B). Pub. L. 100-242, § 429(c), substituted “borrower and the financial institution” for “mortgagor and the mortgagee”.

Subsec. (m). Pub. L. 100-242, § 406(c), struck out subsec. (m) which related to insurance of mortgages on dwellings that need not be designed for year-round occupancy.

Subsec. (o)(2). Pub. L. 100-242, § 406(b)(5), substituted “owner” for “owner occupant” in first sentence.

Subsec. (p)(2). Pub. L. 100-242, § 406(b)(6), substituted “owner” for “owner-occupant” in first sentence.

Subsec. (q)(1). Pub. L. 100-242, § 422(b), substituted “Secretary shall” for “Secretary may”.

Subsec. (r). Pub. L. 100-242, § 407(a)(1), added subsec. (r).

Subsec. (r)(2)(A), (B). Pub. L. 100-628, § 1063(a), substituted “date on which the mortgage is executed” for “date on which the mortgage is endorsed for insurance”.

1986—Subsec. (q). Pub. L. 99-601 added subsec. (q).

1984—Subsec. (n)(2)(A). Pub. L. 98-479 substituted “a” for “an” before “cooperative ownership”.

1983—Subsec. (b)(2). Pub. L. 98-181, § 424(a), struck out “(except as provided in the next to the last sentence of this paragraph)” and inserted “(except as otherwise provided in this paragraph)” and inserted after first sentence “If the mortgage to be insured under this section covers property on which there is located a one- to four-family residence to be occupied as the principal residence of the owner, and the appraised value of the property, as of the date the mortgage is accepted for insurance, does not exceed \$50,000, the principal obligation may be in an amount not to exceed 97 percent of such appraised value.”

Pub. L. 98-181, § 423(b)(1), struck out “: *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured” after “150 per centum of such median price”.

Subsec. (b)(5). Pub. L. 98-181, § 404(b)(2), substituted provision that the interest rate be at such rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance and service charges if any, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

Subsec. (b)(8). Pub. L. 98-181, § 425, substituted “the lesser of (A) the otherwise applicable maximum dollar amount prescribed under paragraph (2), or (B) 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance” for “85 per centum of the amount computed under the provisions of paragraph (2) of this subsection”.

Subsec. (c). Pub. L. 98-181, § 447, inserted “(1) under section 1715z-10, 1715z-12, 1715z-16, 1715z-17, or 1715z-18 of this title, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2)” after “fixed for insurance”.

Subsec. (d). Pub. L. 98-181, § 423(a), added subsec. (d).

Subsec. (h). Pub. L. 98-63 substituted “the applicable maximum dollar limit under subsection (b)” for “\$14,400”.

Subsec. (k)(3)(B). Pub. L. 98-181, § 404(b)(3), substituted provision that interest be at such a rate as agreed upon by the mortgagor and mortgagee for provision that interest be at a rate permitted by the Secretary for mortgages insured under this section, except that the Secretary could permit a higher rate with respect to the period beginning with the making of the loan and ending with the completion of the rehabilitation or such earlier time as determined by the Secretary.

Subsec. (n)(1). Pub. L. 98-181, § 419(1), inserted “or the construction of which was completed more than a year

prior to the application for the mortgage insurance" after "under this chapter".

Subsec. (n)(2)(A). Pub. L. 98-181, § 419(2), struck out "nonprofit" before "cooperative".

1982—Subsec. (b)(2). Pub. L. 97-253, § 201(a)(1), inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (b)(9). Pub. L. 97-253, § 201(a)(2), inserted "(excluding the mortgage insurance premium paid at the time the mortgage is insured)" after "cost of acquisition".

Subsec. (c). Pub. L. 97-253, § 201(b), inserted provision that with respect to mortgages for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

1980—Subsec. (b)(2). Pub. L. 96-399, § 336(a), inserted provisions authorizing the Secretary to increase maximum dollar amounts with respect to four-family residences.

Subsec. (b)(3). Pub. L. 96-399, § 333(a), struck out provisions relating to applicability to criteria of three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

Subsec. (k)(5). Pub. L. 96-399, § 321, substituted provisions relating to insurance benefits paid with respect to loans secured by a first mortgage, and insured under this subsection, and those secured by a mortgage other than a first mortgage, and insured under this subsection, for provisions relating to insurance benefits paid with respect to loans insured under this subsection.

Subsec. (p). Pub. L. 96-399, § 328, added subsec. (p).

1979—Subsec. (b)(2). Pub. L. 96-153, §§ 310, 312(a), excepted dwellings covered by a consumer protection or warranty plan acceptable to the Secretary and satisfying all requirements which would have been applicable if such dwellings had been approved for mortgage insurance prior to the beginning of construction from the limit on the maximum amount of mortgage on dwellings not approved for mortgage insurance prior to the beginning of construction, and substituted "\$67,500" for "\$60,000", "\$76,000" for "\$65,000" where it first appeared, "\$92,000" for "\$65,000" where it appeared the second time, and "\$107,000" for "\$75,000".

Subsec. (i). Pub. L. 96-153, § 318, substituted "two and one-half or more acres in size adjacent to an all-weather public road" for "five or more acres in size adjacent to a public highway" in last proviso.

1978—Subsec. (b)(2). Pub. L. 95-619 inserted provision that the amount insurable under this section could be increased by up to 20 per centum if such increase were necessary to account for the increased cost of a residence due to the installation of a solar energy system.

Subsec. (c). Pub. L. 95-557, § 101(c)(2), substituted "subsections (n) and (k) are not required" for "subsection (n) is not required" and "subsection (n) or (k) exceed 1 per centum" for "subsection (n) exceed 1 per centum".

Subsec. (k). Pub. L. 95-557, § 101(c)(1), generally revised subsec. (k) to meet the credit needs of owners of from one-to-four family properties who can afford market rate borrowing by insuring one hundred percent of the loan amount and covering the cost of rehabilitation, rehabilitation and refinancing existing debt, or the purchase and rehabilitation of properties.

1977—Subsec. (b)(2). Pub. L. 95-128, §§ 303(a), 304(a), substituted "\$60,000" for "\$45,000", "\$65,000" for

"\$48,750" wherever appearing, and "\$75,000" for "\$56,000" in provisions preceding cl. (i); struck out in cl. (i) following "97 per centum" parenthetical text "(but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum)"; substituted in first sentence "and (ii) 95 per centum of such value in excess of \$25,000" for "(ii) 90 per centum of such value in excess of \$25,000 but not in excess of \$35,000, and (iii) 80 per centum of such value in excess of \$35,000" and in second sentence "and (ii) 95 per centum of such value in excess of \$25,000" for "(ii) 90 per centum of such value in excess of \$25,000 but not in excess of \$35,000, and (iii) 85 per centum of such value in excess of \$35,000"; and inserted following the second sentence provision limiting the mortgage to 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance where the dwelling is not approved for mortgage insurance prior to the beginning of construction.

Subsec. (c). Pub. L. 95-128, § 305, inserted proviso respecting premium charges for insurance under subsec. (n) of this section.

Subsec. (i). Pub. L. 95-128, § 303(g), substituted provision which authorizes the Secretary to insure a mortgage hereunder which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsec. (b) of this section for prior limitation of such insurance on a mortgage which involved a principal obligation not in excess of \$16,200.

Subsec. (o). Pub. L. 95-128, § 307, added subsec. (o).

1974—Subsec. (b)(2). Pub. L. 93-383, § 302(a), substituted "\$45,000" for "\$33,000", "\$48,750" for "\$35,750" wherever appearing therein, and "\$56,000" for "\$41,250" in provisions preceding cl. (i).

Subsec. (b)(2)(i). Pub. L. 93-383, § 310(a)(1), substituted "\$25,000" for "\$15,000" in first and second sentences.

Subsec. (b)(2)(ii). Pub. L. 93-383, § 310(a)(2), substituted "\$25,000" for "\$15,000" and "\$35,000" for "\$25,000" in first and second sentences.

Subsec. (b)(2)(iii). Pub. L. 93-383, § 310(a)(3), substituted "\$35,000" for "\$25,000" in first and second sentences.

Subsec. (h). Pub. L. 93-288 substituted "sections 5122(2) and 5141 of title 42" for "section 4402(1) of title 42".

Subsec. (n). Pub. L. 93-449 added subsec. (n).

1970—Subsec. (h). Pub. L. 91-606 substituted reference to section "4402(1)" for "1855a(a)" of title 42.

1969—Subsec. (b)(2). Pub. L. 91-152, §§ 102(a), 113(a)(1), substituted "\$25,000" for "\$20,000" wherever appearing, "\$33,000" for "\$30,000", "\$35,750" for "\$32,500" wherever appearing, and "\$41,250" for "\$37,500".

Subsec. (h). Pub. L. 91-152, § 113(a)(2), substituted "\$14,400" for "\$12,000".

Subsec. (i). Pub. L. 91-152, § 113(a)(3), substituted "\$16,200" for "\$13,500".

Subsec. (m). Pub. L. 91-152, § 113(a)(4), substituted "\$18,000" for "\$15,000".

1968—Subsec. (h). Pub. L. 90-448, § 1106(d), authorized insurance of mortgages for reconstruction of homes destroyed or damaged as a result of riot or civil disorder.

Subsec. (i). Pub. L. 90-448, § 317, substituted "\$13,500" for "\$12,500".

Subsec. (l). Pub. L. 90-448, § 103(b), repealed subsec. (l) which authorized insurance of mortgages in areas affected by civil disorders. See section 1715n(e) of this title.

Subsec. (m). Pub. L. 90-448, § 318, added subsec. (m).

1967—Pub. L. 90-19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1) to (9), (c), (e), (h), (i), and (k).

Subsec. (b)(3), (9). Pub. L. 90-19, § 1(a)(4), substituted "Secretary's" for "Commissioner's".

1966—Subsec. (b)(2). Pub. L. 89-754, § 301, substituted "If the mortgagor is a veteran," for "If the mortgagor

is a veteran who has not received any direct, guaranteed, or insured loan under laws administered by the Veterans' Administration for the purchase, construction, or repair of a dwelling (including a farm dwelling) which was to be owned and occupied by him as his home."

Subsec. (l). Pub. L. 89-754, §302, added subsec. (l).

1965—Subsec. (b)(2). Pub. L. 89-117, §§203, 206(a), substituted "and (except as provided in the next to the last sentence of this paragraph) not to exceed" for "and not to exceed", and "80 per centum" for "75 per centum", and inserted provisions prescribing the amount of the principal obligation for veterans and defining "veteran".

Subsec. (b)(9). Pub. L. 89-117, §§204, 206(b), inserted "(except in a case to which the next to the last sentence of paragraph (2) applies)" and "or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 1436 of title 42".

Subsec. (i). Pub. L. 89-117, §205, substituted "\$12,500" for "\$11,000".

Subsec. (k). Pub. L. 89-117, §1108(c), substituted "the General Insurance Fund" for "a separate section 203 Home Improvement Account to be maintained as hereinafter provided under the Mutual Mortgage Insurance Fund" in cl. (3) of the first sentence and "the General Insurance Fund or in debentures executed in the name of such Fund" for "the section 203 Home Improvement Account or in debentures executed in the name of such Account" in cl. (4), and removed references to section 220 Housing Insurance Fund and section 203 Home Improvement Account elsewhere in the subsec., including provisions for the funding of a special revolving fund for carrying out the provisions of the subsec.

1964—Subsec. (b)(2). Pub. L. 88-560, §102(a), increased maximum amount of the principal obligation for one-family residences from \$25,000 to \$30,000, for two-family residences from \$27,500 to \$32,500, for three-family residences from \$27,500 to \$32,500, and for four-family residences from \$35,000 to \$37,500.

Subsec. (i). Pub. L. 88-560, §102(b), increased maximum amount of the principal obligation from \$9,000 to \$11,000.

Subsec. (k). Pub. L. 88-560, §§103, 105(c)(1), substituted in cl. (2) "an acceptable risk" for "economically sound", in cl. (4) provision for payment of insurance benefits "in cash out of the Section 203 Home Improvement Account or in debentures executed in the name of such Account" for provision for such payment "in debentures executed in the name of the Section 203 Home Improvement Account", and in the third sentence "Insurance benefits paid with respect to loans insured under this subsection shall be paid" for "Debentures issued with respect to loans insured under this subsection shall be issued"; and inserted the provision that "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner.", respectively.

1961—Subsec. (a). Pub. L. 87-70, §604(b), struck out proviso which limited the aggregate amount of principal obligations of all mortgages insured under this chapter to not more than \$7,750,000,000, and which permitted additional increases in such sum by not more than \$1,250,000,000 in the aggregate.

Subsec. (b)(2). Pub. L. 87-70, §605(a), (b), increased maximum amount of the principal obligation for one-family residences from \$22,500 to \$25,000, and for two-family residences from \$25,000 to \$27,500, and substituted "\$15,000" for "\$13,500" in two places, "\$20,000" for "\$18,000" in two places, and "75 per centum" for "70 per centum".

Subsec. (b)(3). Pub. L. 87-70, §§605(c), 612(a)(1), substituted "thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage" for "thirty years from the date of the insurance of the mortgage".

Subsec. (c). Pub. L. 87-70, §§606, 612(a)(2), reduced minimum premium charge from an amount equivalent to one-half of 1 per centum per annum to an amount equivalent to one-fourth of 1 per centum per annum, permitted the Commissioner to make the reduced premium charge applicable to each insured mortgage outstanding under the section or sections involved at the time the reduced charge is fixed, struck out provisos which related to premium charges for mortgages insured prior to Feb. 3, 1938, and for mortgages described in section 203(b)(2)(B) of the National Housing Act accepted for insurance prior to July 1, 1939, and substituted "particular insurance fund or account" for "particular insurance fund" in the first proviso of the second sentence.

Subsec. (e). Pub. L. 87-70, §102(b)(1), (2), substituted "eligibility of the loan or mortgage" for "eligibility of the mortgage", and "approved financial institution or approved mortgagee" for "approved mortgagee" in two places.

Subsec. (k). Pub. L. 87-70 §102(b)(3), added subsec. (k). 1959—Subsec. (b)(2). Pub. L. 86-372, §102(a), increased maximum amount of the principal obligation for one-family residences from \$20,000 to \$22,500, and for two-family residences from \$20,000 to \$25,000, increased the maximum amount of loans over \$13,500 from 85 per centum of the value in excess of \$13,500 but not in excess of \$16,000 to 90 per centum of the value in excess of \$13,500 but not in excess of \$18,000, and inserted provisions relating to dwellings approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction.

Subsec. (b)(8). Pub. L. 86-372, §102(b), inserted proviso making the 85 per centum limitation inapplicable if the mortgagor and mortgagee assume responsibility for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the 18th amortization payment of the mortgage, sold to a purchaser acceptable to the Commissioner who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

Subsec. (i). Pub. L. 86-372, §103, increased maximum amount of the principal obligation from \$8,000 to \$9,000, inserted parenthetical clause, and struck out provisions that limited the total amount of insurance outstanding at any one time for farm homes to not more than \$100,000,000.

Subsec. (j). Pub. L. 86-372, §809, added subsec. (j).

1958—Subsec. (b)(2). Pub. L. 85-364 substituted "\$13,500" for "\$10,000" in two places.

1957—Subsec. (b)(2). Pub. L. 85-104, §101(a), increased maximum amount of loan from 95 per centum of the first \$9,000 plus 75 per centum of excess above \$9,000, to 97 per centum of the first \$10,000 plus 85 per centum of the next \$6,000 and 70 per centum of the remainder, and struck out provisions authorizing President to increase former \$9,000 figure to \$10,000, eliminated provision that principal of mortgage shall not exceed 85 per centum if mortgagor is not occupant of property, and eliminated provision that mortgagor shall have paid at least 5 per centum cash payment. See subsec. (b)(8), (9).

Subsec. (b)(8), (9). Pub. L. 85-104, §101(b), added pars. (8) and (9).

Subsec. (d). Pub. L. 85-104, §106, repealed provisions which related to insurance of mortgages on farm properties.

Subsec. (i). Pub. L. 85-104, §101(c), amended provisions generally, and, among other changes, increased maximum loan from \$6,650 to \$8,000, and from 95 per centum to 97 per centum of value, and substituted provisions that mortgage obligation shall not exceed 85 per centum of value if mortgagor is not occupant, for provisions that (1) mortgagor be the owner and occupant and had paid at least 5 per centum cash, or (2) mortgagor be owner and occupant with whom a person or corporation having satisfactory credit standing had contracted to pay on his behalf all or part of downpayment, taking as security a note at not more than 4 per centum inter-

est, and to guarantee payment of insured mortgage, or (3) to be the builder constructing the dwelling in which case principal should not exceed 85 per centum of value or \$5,950.

1956—Subsec. (b)(2). Act Aug. 7, 1956, §§102(a), 104(a), inserted “unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance” before “90 per centum” in parenthetical clause, and inserted provision that in cases where mortgagor is a person 60 years of age or older, the downpayment required could be paid by a person other than the mortgagor under conditions prescribed by the Commissioner.

Subsec. (h). Act Aug. 7, 1956, §102(b), substituted “\$12,000” for “\$7,000”.

1954—Subsec. (b)(2). Act Aug. 2, 1954, §104, generally amended provisions to provide, among others, for an increase in, and equalization of, maximum mortgage amounts, with respect to new housing, substitution of a loan to value ratio of 95 per centum of the \$9,000 of value plus 75 per centum of the balance in excess of \$9,000, with Presidential authority to increase the \$9,000 figure to \$10,000 under certain conditions, and with respect to existing housing, substitution of a loan to value ratio of 90 per centum of the first \$9,000 of value plus 75 per centum of the balance in excess of \$9,000, with Presidential authority to increase the \$9,000 figure to \$10,000, and inserted a provision limiting the maximum loan to value ratio where the builder becomes the mortgagor, not to exceed 85 per centum of the mortgage loan which an owner-occupant could obtain.

Subsec. (b)(3). Act Aug. 2, 1954, §105, substituted a provision for a maximum maturity of 30 years or three-quarters of the Commissioner’s estimate of the remaining economic life of the building improvements, whichever is the lesser, for former provision carrying varying limits ranging from twenty to thirty years.

Subsec. (b)(5). Act Aug. 2, 1954, §106, fixed maximum statutory interest rate on mortgages at 5 per centum with authority in the Commissioner to increase the rate to not to exceed 6 per centum as he finds it necessary to meet the mortgage market; and permitted the allowance of service charges.

Subsec. (c). Act Aug. 2, 1954, §107, provided that debentures presented in payment of premium charges shall represent obligations of the particular insurance fund to which such premium charges are to be credited.

Subsec. (d). Act Aug. 2, 1954, §108, prohibited insurance of mortgages pursuant to this subsection after Aug. 2, 1954, except pursuant to commitments to insure issued on or before such date.

Subsecs. (f), (g). Act Aug. 2, 1954, §109, repealed subsec. (f) which related to refinance mortgages and subsec. (g) which related to higher loan to value ratio and longer maturity for single-family residences. See subsecs. (b)(2) and (b)(3) of this section.

Subsecs. (h), (i). Act Aug. 2, 1954, §110, added subsecs. (h) and (i).

1953—Subsec. (g). Act June 30, 1953, added subsec. (g). 1950—Act Apr. 20, 1950, §122, substituted “Commissioner” for “Administrator” wherever appearing.

Subsec. (a). Act Apr. 20, 1950, §103, increased statutory amount of insurance authority from \$6,750,000,000 to \$7,500,000,000 and provided that an additional \$1,250,000,000 in insurance authority could be made available with the authority of the President.

Subsec. (b)(2). Act Apr. 20, 1950, §104(a), inserted proviso to clause (A) to allow the Commissioner to increase the dollar limitation by not exceeding \$4,500 for each additional family dwelling unit, in excess of two located on such property, repealed clause (B), changed “\$9,500” to read “\$9,450”, “90” to “95” in clause (C), and changed clause (D) to provide that an insured mortgage could not exceed \$6,650 in amount and not exceed 95 per centum of the appraised value, except that the Commissioner is given discretionary authority to increase such dollar amount limitation by not exceeding \$950 for each additional bedroom in excess of two, and also to give Commissioner authority to increase the insurance limitation in any geographical area where he finds that cost levels so require.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted “\$6,000,000,000” for “\$5,500,000,000”, and “\$6,750,000,000” for “\$6,000,000,000”.

Act Aug. 30, 1949 substituted “\$5,500,000,000” for “\$5,300,000,000” and “\$6,000,000,000” for “\$5,500,000,000”.

Act July 15, 1949, substituted “\$5,300,000,000” for “\$4,000,000,000” and “\$5,500,000,000” for “\$5,000,000,000”.

1948—Subsec. (b)(2). Act Aug. 10, 1948, §101(g), (h)(1)–(3), (j)(1), substituted “\$6,300” for “\$5,400” in subpar. (B), substituted “\$9,500” for “\$8,600”, “\$7,000” for “\$6,000”, and “\$11,000” for “\$10,000” in subpar. (C), and added subpar. (D).

Subsec. (b)(3). Act Aug. 10, 1948, §101(i), (j)(2), substituted “on property approved for insurance prior to the beginning of construction” for “of the character described in paragraph (2)(B) of this subsection” and inserted “or not to exceed thirty years in the case of a mortgage insured under paragraph (2)(D) of this subsection”, at the end thereof.

Subsec. (b)(5). Act Aug. 10, 1948, §101(j)(3), inserted “or not to exceed 4 per centum per annum in the case of a mortgage insured under paragraph (2)(D) of this subsection, or not to exceed such percentum per annum, not in excess of 5 per centum, as the Administrator finds necessary to meet the mortgage market” at the end thereof.

Subsec. (c). Act Aug. 10, 1948, §101(k)(1), (2), struck out of last sentence “under this section or section 1715a of this title” after “accepted for insurance” and “and a mortgage on the same property is accepted for insurance at the time of such payment” after “herein set forth”.

1946—Subsec. (a). Act July 1, 1946, struck out second and third provisos providing for a limitation on the aggregate amount of mortgages outstanding, and limiting insuring of mortgages after July 1, 1946, respectively.

1943—Subsec. (a). Act Oct. 15, 1943, substituted “1946” for “1944” in third proviso.

1941—Subsec. (a). Act June 28, 1941, substituted “\$4,000,000,000” for “\$3,000,000,000”, “\$5,000,000,000” for “\$4,000,000,000”; and affected second and third provisos.

1939—Subsec. (a). Act June 3, 1939, §6, substituted “\$3,000,000” for “\$2,000,000”, “\$4,000,000” for “\$3,000,000”, generally revised second proviso and inserted third proviso.

Subsec. (b)(3). Act June 3, 1939, §7, struck out “until July 1, 1939”.

Subsecs. (e), (f). Act June 3, 1939, §8, added subsecs. (e) and (f).

1938—Subsecs. (a) to (d). Act Feb. 3, 1938, amended provisions generally.

1935—Subsec. (a)(1). Act Aug. 23, 1935, inserted “property and” before “project”.

Subsec. (c). Act May 28, 1935, inserted part of last sentence before the semicolon.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–78, title IV, §402(b), Dec. 23, 2011, 125 Stat. 1289, provided that the amendment made by section 402(b) is effective Oct. 1, 2021.

### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–289, div. B, title I, §2112(c), July 30, 2008, 122 Stat. 2831, provided that: “The amendments made by subsection (a) [amending this section] shall take effect upon the expiration of the date described in section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620) [Dec. 31, 2008].”

### EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108–447, div. I, title II, §223, Dec. 8, 2004, 118 Stat. 3321, provided in part that: “This provision [amending this section] shall apply to loans that become insured on or after date of enactment of this Act [Dec. 8, 2004].”

Amendment by Pub. L. 108–386 effective Oct. 30, 2004, and, except as otherwise provided, applicable with re-

spect to fiscal year 2005 and each succeeding fiscal year, see sections 8(i) and 9 of Pub. L. 108-386, set out as notes under section 321 of this title.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-73, title II, §207(b), Nov. 26, 2001, 115 Stat. 675, provided that: "The amendments made by subsection (a) [amending this section] shall—

"(1) apply only to mortgages that are executed on or after the date of enactment of this Act [Nov. 26, 2001]; and

"(2) be implemented in advance of any necessary conforming changes to regulations."

#### APPLICABILITY OF 1994 AMENDMENT

Pub. L. 103-211, title I, Feb. 12, 1994, 108 Stat. 12, provided in part that: "For higher mortgage limits and improved access to mortgage insurance for victims of the January 1994 earthquake in Southern California, title II of the National Housing Act, as amended [12 U.S.C. 1707 et seq.], is further amended, as follows:

"(1) [Amended this section.]

"(2) [Amended this section.]

"(3) [Amended section 1715y of this title.]

"Eligibility for loans made under the authority granted by the preceding paragraph [amending this section and section 1715y of this title] shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: *Provided*, That the provisions under this heading [amending this section and section 1715y of this title] shall be effective only for the 18-month period following the date of enactment of this Act [Feb. 12, 1994]."

#### EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title V, §503(b), Oct. 28, 1992, 106 Stat. 3779, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to mortgages executed on or after January 1, 1993."

Pub. L. 102-550, title V, §506(b), Oct. 28, 1992, 106 Stat. 3781, provided that: "The amendment made by subsection (a) [amending this section] shall apply to mortgages for which commitments for insurance are issued after the expiration of the 12-month period beginning on the date of the enactment of this Act [Oct. 28, 1992]."

#### EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 101-625, title III, §326(b), Nov. 28, 1990, 104 Stat. 4137, provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990]; or

"(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Amendment by Pub. L. 101-402 deemed to have taken effect as if enacted September 29, 1990, see section 1(a) of Pub. L. 101-494, set out as an Effective Date of Temporary Extension of Emergency Low Income Housing Preservation Act of 1987 and Correction of Any Repeal note under section 1715f of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-235, title I, §132(b), Dec. 15, 1989, 103 Stat. 2027, provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act [Dec. 15, 1989]; or

"(B) in accordance with the direct endorsement program (24 C.F.R. 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Pub. L. 101-235, title I, §143(c), Dec. 15, 1989, 103 Stat. 2036, provided that: "The amendments made by this section [amending this section] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act [Dec. 15, 1989]; or

"(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-242, title IV, §406(d), Feb. 5, 1988, 101 Stat. 1902, provided that: "The amendments made by this section [amending this section and sections 1715d, 1715g, 1715k, 1715l, 1715m, 1715n, 1715y, and 1715z of this title] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act [Feb. 5, 1988]; or

"(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a) [amending this section], if the original mortgagor was subject to such amendment."

Pub. L. 100-242, title IV, §407(a)(2), Feb. 5, 1988, 101 Stat. 1902, as amended by Pub. L. 100-628, title X, §1063(b), Nov. 7, 1988, 102 Stat. 3274, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to each mortgage originated pursuant to an application for commitment for insurance signed by the applicant on or after December 1, 1986."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-181, title I [title IV, §424(b)], Nov. 30, 1983, 97 Stat. 1217, provided that: "The amendment made by subsection (a) [amending this section] shall take effect only if the Secretary finds and reports to the Congress that such amendment, taking into account the higher loan-to-value ratio resulting from the advance payment of mortgage insurance premiums, will not adversely affect the actuarial soundness of the Federal Housing Administration mortgage insurance program." [For finding and report by Secretary and rule implementing the amendments effective June 24, 1985, see 49 F.R. 39686 and 50 F.R. 19924.]

Pub. L. 98-181, title I [title IV, §423(c)], Nov. 30, 1983, 97 Stat. 1217, provided that: "The amendments made by this section [amending this section and sections 1715e, 1715f, 1715y, and 1715z of this title] shall take effect only if the Secretary of Housing and Urban Development determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by such sections, is actuarially sound." [For determination by Secretary and rule implementing the amendments effective May 10, 1984, see 49 F.R. 12693.]

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-557, title I, §104, Oct. 31, 1978, 92 Stat. 2084, provided that: "The amendments made by this title



[enacting section 5319 of Title 42, The Public Health and Welfare, and amending this section, sections 1706e and 1717 of this title, and sections 1452b, 5304, 5305, 5307, and 5318 of Title 42] shall become effective October 1, 1978.”

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of Title 26, Internal Revenue Code.

#### EFFECTIVE DATE OF 1949 AMENDMENT

Amendment by act July 15, 1949, effective June 30, 1949, see section 202 of that act, set out as a note under section 1703 of this title.

#### REGULATIONS

Pub. L. 105-276, title II, § 225(b), Oct. 21, 1998, 112 Stat. 2490, provided that: “The Secretary of Housing and Urban Development shall develop the disclosure notice under subsection (a) [amending this section] within 150 days of the enactment [Oct. 21, 1998] through notice and comment rulemaking.”

#### IMPLEMENTATION

Pub. L. 111-229, § 1(b), Aug. 11, 2010, 124 Stat. 2483, provided that: “The Secretary may adjust the amount of any initial or annual premium charged pursuant to subsection (a) [amending this section] through notice published in the Federal Register or mortgagee letter. Such notice or mortgagee letter shall establish the effective date of any premium adjustment therein.”

#### TEMPORARY EXTENSION OF FHA MORTGAGE LIMIT

Pub. L. 101-494, § 4, Oct. 31, 1990, 104 Stat. 1185, provided that:

“(a) EXTENSION.—If upon enactment of this Act [see Effective Date of 1990 Amendments note above], section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) provides for an increase in the maximum dollar amount limitations on the principal obligations of mortgages insured under such section until October 31, 1990, then notwithstanding such section, such maximum dollar amount limitations may be increased (to the percent specified in such section) until November 30, 1990.

“(b) LIMITATIONS.—If upon enactment of this Act such section 203(b)(2) [12 U.S.C. 1709(b)(2)] provides for an increase in the maximum dollar amount limitations (referred to in subsection (a)) until a date other than October 31, 1990, this section shall not apply. This section shall not apply with respect to any amendment to section 203(b)(2) of the National Housing Act made after the date of the enactment of this Act [Oct. 31, 1990].”

#### TRANSITION PROVISIONS OF 1990 AMENDMENTS

Pub. L. 101-625, title III, § 326(c), Nov. 28, 1990, 104 Stat. 4137, provided that: “Any mortgage insurance provided under title II of the National Housing Act [this subchapter] before the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990], shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act [12 U.S.C. 1709(g)(1)], as such provisions existed before the date of the enactment of this Act.”

Pub. L. 101-508, title II, § 2103(b), (c), Nov. 5, 1990, 104 Stat. 1388-18, 1388-19, as amended by Pub. L. 102-550, title I, § 185(c)(3), title V, § 507(b), Oct. 28, 1992, 106 Stat. 3748, 3782, provided that:

“(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National Housing Act [12 U.S.C.

1709(c)] (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act shall be subject to the following requirements:

“(1) 1991 AND 1992.—For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

“(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount not exceeding 3.80 percent of the amount of the original insured principal obligation of the mortgage.

“(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

“(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

“(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

“(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

“(2) 1993 AND 1994.—For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

“(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount not exceeding 3.00 percent of the amount of the original insured principal obligation of the mortgage.

“(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

“(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

“(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

“(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

“(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

“(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending this section] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 5, 1990].”

#### TRANSITION PROVISIONS OF 1989 AMENDMENT

Pub. L. 101-235, title I, § 132(c), Dec. 15, 1989, 103 Stat. 2027, provided that: “Any mortgage insurance provided under title II of the National Housing Act [this sub-

chapter] as it existed immediately before the date of the enactment of this Act [Dec. 15, 1989], shall continue to be governed (to the extent applicable) by the provisions of section 203(r) of the National Housing Act [12 U.S.C. 1709(r)], as such section existed immediately before such date.”

Pub. L. 101-235, title I, §143(d), Dec. 15, 1989, 103 Stat. 2036, provided that: “Any mortgage insurance provided under title II of the National Housing Act [this subchapter], as it existed immediately before the date of the enactment of this Act [Dec. 15, 1989], shall continue to be governed (to the extent applicable) by the provisions amended by subsections (a) and (b) [amending this section] as such provisions existed immediately before such date.”

#### TRANSITION PROVISIONS OF 1988 AMENDMENT

Pub. L. 100-242, title IV, §406(e), Feb. 5, 1988, 101 Stat. 1902, provided that: “Any mortgage insurance provided under title II of the National Housing Act [this subchapter], as it existed immediately before the date of the enactment of this Act [Feb. 5, 1988], shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c) [this section and sections 1715d, 1715g, 1715k, 1715l, 1715m, 1715n, 1715y, 1715z of this title], as such provisions existed immediately before such date.”

#### IMPLEMENTATION OF 1982 AMENDMENT

Pub. L. 97-253, title II, §201(g), Sept. 8, 1982, 96 Stat. 790, provided that: “The amendments made by this section [amending this section and sections 1715e, 1715f, 1715y, and 1715z of this title], other than by subsection (b) [amending subsec. (c) of this section], may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound.”

#### EFFECT OF REPEAL OF SUBSEC. (b)(2)(B) OF THIS SECTION

Act Apr. 20, 1950, ch. 94, title I, §104(b), 64 Stat. 52, provided that: “The repeal of section 203(b)(2)(B) of said Act [former subsection (b)(2)(B) of this section], as provided by subsection (a) of this section, shall not affect the right of the Commissioner to insure under said section any mortgage (1) for the insurance of which application has been filed prior to the effective date of this Act [Apr. 20, 1950], or (2) with respect to a property covered by a mortgage insured under any section of the National Housing Act, as amended [this chapter].”

#### LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES

Pub. L. 110-289, div. B, title I, §2130, July 30, 2008, 122 Stat. 2842, provided that:

“(a) IN GENERAL.—Notwithstanding any other provision of law, including any provision of this title [see Short Title of 2008 Amendment note set out under section 1701 of this title] and any amendment made by this title—

“(1) for the period beginning on the date of the enactment of this title [July 30, 2008] and ending on October 1, 2009, the premiums charged for mortgage insurance under multifamily housing programs under the National Housing Act [12 U.S.C. 1701 et seq.] may not be increased above the premium amounts in effect under such program on October 1, 2006, unless the Secretary of Housing and Urban Development determines that, absent such increase, insurance of additional mortgages under such program would, under the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], require the appropriation of new budget authority to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a]) of such insurance; and

“(2) a premium increase pursuant to paragraph (1) may be made only if not less than 30 days prior to

such increase taking effect, the Secretary of Housing and Urban Development—

“(A) notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such increase; and

“(B) publishes notice of such increase in the Federal Register.

“(b) WAIVER.—The Secretary of Housing and Urban Development may waive the 30-day notice requirement under subsection (a)(2), if the Secretary determines that waiting 30-days before increasing premiums would cause substantial damage to the solvency of multifamily housing programs under the National Housing Act [12 U.S.C. 1701 et seq.].”

#### MUTUAL MORTGAGE INSURANCE FUND PREMIUMS

Pub. L. 103-66, title III, §3005, Aug. 10, 1993, 107 Stat. 340, provided that: “To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act [Aug. 10, 1993]). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate.”

#### REPORT ON HOME EQUITY CONVERSION MORTGAGES FOR THE ELDERLY

Pub. L. 98-181, title I [title IV, §448], Nov. 30, 1983, 97 Stat. 1228, directed Secretary of Housing and Urban Development to evaluate existing use of home equity conversion mortgages for the elderly and, not later than the expiration of the 1-year period following Nov. 30, 1983, submit to Congress a report setting forth the results of such evaluation. Such report to include an evaluation of whether use of such mortgages improves financial situation, or otherwise meets special needs, of elderly homeowners; an evaluation of any risks incurred by mortgagors as a result of use of such mortgages, and any recommendations of Secretary for appropriate safeguards to be included in such mortgages to minimize such risks; an evaluation of the potential for acceptance of such mortgages in the private market; and any recommendations of Secretary for establishment of a Federal program of insuring such mortgages.

#### STUDIES OF MORTGAGE INSURANCE PREMIUMS AND ALTERNATIVES TO STATUTORY MORTGAGE AMOUNTS

Pub. L. 96-153, title III, §309, Dec. 21, 1979, 93 Stat. 1114, directed Secretary of Housing and Urban Development to (a) conduct a study of the relative risks of loss for various classes of mortgages which may be insured under sections 1709(b) and 213 of this title, for the purpose of making recommendations on the advisability of reducing mortgage insurance premiums, and transmit the recommendations to Congress within 18 months from Dec. 21, 1979, and (b) conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured under subchapters I and II of this chapter and report to Congress on the results of the study together with recommendations for legislative, by Mar. 1, 1980.

#### INSURANCE PROGRAM OR HOMEOWNERS TO MEET MORTGAGE PAYMENTS IN TIMES OF PERSONAL ECONOMIC ADVERSITY

Pub. L. 90-448, §109, authorized Secretary of Housing and Urban Development to develop a plan of insurance to help homeowners meet mortgage payments in times of personal economic adversity, i.e., death, disability,

illness, and unemployment; required the program to be actuarially sound through the use of premiums, fees, extended or increased payment schedules, or other similar methods in conjunction with federal participation as necessary; directed the Secretary to report to Congress within 6 months of Aug. 1, 1968 and to recommend legislation, authorizing him to contract with companies, corporations, or joint enterprises formed to provide home mortgage insurance protection for the purpose of reinsuring insurance reserve funds, subsidizing premium payments for lower income mortgagors, or otherwise making possible insurance protection of homeowners; and authorized the Secretary, in preparing his recommendations, to consult with other agencies or instrumentalities of the United States which insure or guarantee home mortgages in order that any recommended legislation afford equal benefits to mortgagors participating in their programs.

**§ 1709-1. Repealed. Pub. L. 98-181, title I [title IV, § 404(a)], Nov. 30, 1983, 97 Stat. 1208**

Section, Pub. L. 90-301, §3(a), May 7, 1968, 82 Stat. 113; Pub. L. 90-448, title III, §315, Aug. 1, 1968, 82 Stat. 512; Pub. L. 91-78, §3, Sept. 30, 1969, 83 Stat. 125; Pub. L. 91-152, title IV, §401, Dec. 24, 1969, 83 Stat. 394; Pub. L. 91-351, title VI, §601, July 24, 1970, 84 Stat. 461; Pub. L. 92-213, §1, Dec. 22, 1971, 85 Stat. 775; Pub. L. 92-335, §1, July 1, 1972, 86 Stat. 405; Pub. L. 93-85, §2, Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, §3, Oct. 2, 1973, 87 Stat. 422; Pub. L. 93-234, title II, §208, Dec. 31, 1973, 87 Stat. 984; Pub. L. 93-383, title III, §§309(e), 317, Aug. 22, 1974, 88 Stat. 682, 685; Pub. L. 95-60, §2, June 30, 1977, 91 Stat. 257; Pub. L. 95-80, §2, July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, §302, Oct. 12, 1977, 91 Stat. 1131; Pub. L. 95-406, §2, Sept. 30, 1978, 92 Stat. 880; Pub. L. 95-557, title III, §302, Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96-71, §2, Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §2, Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title III, §302, Dec. 21, 1979, 93 Stat. 1112; Pub. L. 96-372, §3, Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96-399, title III, §§302, 332, Oct. 8, 1980, 94 Stat. 1639, 1652; Pub. L. 97-35, title III, §332, Aug. 13, 1981, 95 Stat. 413; Pub. L. 97-289, §2, Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98-35, §2, May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §2, Oct. 1, 1983, 97 Stat. 746, authorized the Secretary, until Dec. 1, 1983, to set the maximum interest rates for certain mortgage insurance programs, notwithstanding the authority of the Secretary of Housing and Urban Development to establish such rates, specified the criteria to be considered in establishing such rates, authorized the Secretary to provide that the interest rate applicable under section 1709(b) of this title be the negotiated interest rate specified in the commitment agreement, limited the amount of mortgages with such negotiated interest rates which may be insured and prohibited such negotiated interest rates with respect to mortgages subject to section 1715z-10 of this title.

**Statutory Notes and Related Subsidiaries**

**MORTGAGE CREDIT INTEREST RATES**

Pub. L. 90-301, §4, May 7, 1968, 82 Stat. 114, as amended by Pub. L. 90-565, Oct. 12, 1968, 82 Stat. 1001; Pub. L. 91-9, Apr. 11, 1969, 83 Stat. 7; Pub. L. 91-38, July 1, 1969, 83 Stat. 43, which established a Commission to study mortgage interest rates and to make recommendations to assure the availability of an adequate supply of mortgage credit at a reasonable cost to the consumer, directed the Commission to make an interim report not later than July 1, 1969, and a final report of its study and recommendations not later than August 1, 1969, to enable the President, Congress, and the Secretary of Housing and Urban Development to take necessary action before October 1, 1969, when the authorization for the increase in interest rates above present statutory ceilings will expire, and provided that the Commission cease to exist sixty days after the submission of its final report, was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

**§ 1709-1a. State constitutional and legal limits upon interest chargeable on loans, mortgages, or other interim financing arrangements; applicability; covered arrangements**

(a) The provisions of the constitution of any State expressly limiting the amount of interest which may be charged, taken, received, or reserved by certain classes of lenders and the provisions of any law of that State expressly limiting the amount of interest which may be charged, taken, received, or reserved shall not apply to—

(1) any loan or mortgage which is secured by a one- to four-family dwelling and which is (A) insured under title I or II [12 U.S.C. 1702 et seq. or 1707 et seq.] of the National Housing Act, or (B) insured, guaranteed, or made under chapter 37 of title 38; or

(2) any temporary construction loan or other interim financing if at the time such loan is made or financing is arranged, the intention to obtain permanent financing substantially by means of loans or mortgages so insured, guaranteed, or made is declared.

(b) The provisions of this section shall apply to such loans, mortgages, or other interim financing made or executed in any State until the effective date (after June 30, 1976) of a provision of law of that State limiting the amount of interest which may be charged, taken, received, or reserved on such loans, mortgages, or financing.

(Pub. L. 94-324, §8, June 30, 1976, 90 Stat. 722.)

**Editorial Notes**

**REFERENCES IN TEXT**

The National Housing Act, referred to in subsec. (a)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246. Titles I and II of the National Housing Act are classified generally to subchapters I (§1702 et seq.) and II (§1707 et seq.), respectively, of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

**CODIFICATION**

Section was enacted as part of the Veterans Housing Amendments Act of 1976, and not as part of the National Housing Act which comprises this chapter.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE**

Section effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of Title 38, Veterans' Benefits.

**§ 1709-2. Equity skimming; penalty; persons liable; one dwelling exemption**

Whoever, with intent to defraud, willfully engages in a pattern or practice of—

(1) purchasing one- to four-family dwellings (including condominiums and cooperatives) which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Department of Veterans Affairs, or the loan is made by the Department of Veterans Affairs,

(2) failing to make payments under the mortgage or deed of trust as the payments be-

come due, regardless of whether the purchaser is obligated on the loan, and

(3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

(Pub. L. 91-609, title IX, §912, Dec. 31, 1970, 84 Stat. 1814; Pub. L. 100-242, title IV, §416(a), Feb. 5, 1988, 101 Stat. 1907; Pub. L. 102-54, §13(d)(1), June 13, 1991, 105 Stat. 274.)

#### Editorial Notes

##### CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

##### AMENDMENTS

1991—Par. (1). Pub. L. 102-54 substituted “Department of Veterans Affairs” for “Veterans’ Administration” in two places.

1988—Pub. L. 100-242 inserted parenthetical reference to condominiums and cooperatives in par. (1), substituted “due, regardless of whether the purchaser is obligated on the loan” for “due” in par. (2), and substituted “\$250,000” for “\$5,000” and “5” for “three” in closing provisions.

#### § 1709a. Determination of loan-to-value ratios

The Secretary of Housing and Urban Development, in establishing maximum loan-to-value ratios for mortgages insured by him under the National Housing Act [12 U.S.C. 1701 et seq.], as amended by sections 101, 102, and 103 of this Act, shall determine that such ratios are in the public interest after taking into consideration (1) the effect of such ratios on the national economy and on conditions in the building industry, and (2) the availability or unavailability of residential mortgage credit assisted under the Servicemen’s Readjustment Act of 1944, as amended.

(Pub. L. 85-104, title I, §104, July 12, 1957, 71 Stat. 296; Pub. L. 90-19, §14(a), May 25, 1967, 81 Stat. 24.)

#### Editorial Notes

##### REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Amendments by sections 101, 102, and 103 of this act, referred to in text, refers to amendment of sections 1709(b), (i), 1715k(d)(3), and 1715m(b) of this title by Pub. L. 85-104. Section 1709(i) of this title was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(1), July 30, 2008, 122 Stat. 2835. Section 1715m of this title was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

The Servicemen’s Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch. 268, 58 Stat. 284, which was classified generally to chapter 11C (§§ 693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans’ Relief, and which was repealed by

section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans’ Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans’ Benefits, see Table preceding section 101 of Title 38, Veterans’ Benefits.

##### CODIFICATION

Section was enacted as part of the Housing Act of 1957, and not as part of the National Housing Act which comprises this chapter.

##### AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary of Housing and Urban Development” for “Federal Housing Commissioner”.

#### § 1709b. Repealed. Pub. L. 85-364, § 6, Apr. 1, 1958, 72 Stat. 77

Section, Pub. L. 85-104, title VI, §605, July 12, 1957, 71 Stat. 305, authorized Federal Housing Commissioner and Administrator of Veterans’ Affairs to fix reasonable limits on charges, fees, and discounts imposed upon builders, sellers, or purchasers.

#### § 1710. Payment of insurance

##### (a) In general

##### (1) Authorized claims procedures

The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 1709 of this title through any of the following methods:

##### (A) Assignment of mortgage

The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

- (i) all rights and interests arising under the mortgage;
- (ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;
- (iii) title evidence satisfactory to the Secretary; and
- (iv) such records relating to the mortgage transaction as the Secretary may require.

##### (B) Conveyance of title to property

The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

- (i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and
- (ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure pro-

ceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

**(C) Claim without conveyance of title**

The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

**(D) Preforeclosure sale**

The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

- (i) the sale of the mortgaged property has been approved by the Secretary;
- (ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and
- (iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

**(2) Payment for loss mitigation**

The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default or faces imminent default, as defined by the Secretary (including but not limited to actions such as special forbearance, loan modification, support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section subsection<sup>1</sup> (a)(1)(A) or section 1715u(c) of this title). No actions taken under this paragraph, nor any failure to act under this paragraph, by the Secretary or by a mortgagee shall be subject to judicial review.

**(3) Determination of claims procedure**

The Secretary shall publish guidelines for determining which of the procedures for payment of insurance under paragraph (1) are available to a mortgagee when it claims insurance benefits. At least one of the procedures for payment of insurance benefits specified in paragraph (1)(A) or (1)(B) shall be available to a mortgagee with respect to a mortgage, but the same procedure shall not be required to be available for all of the mortgages held by a mortgagee.

**(4) Servicing of assigned mortgages**

If a mortgage is assigned to the Secretary under paragraph (1)(A), the Secretary may permit the assigning mortgagee or its servicer to continue to service the mortgage for reasonable compensation and on terms and conditions determined by the Secretary. Neither the Secretary nor any servicer of the mortgage shall be required to forbear from collection of amounts due under the mortgage or otherwise pursue loss mitigation measures.

**(5) Calculation of insurance benefits**

Insurance benefits shall be paid in accordance with section 1735d of this title and shall be equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of—

- (A) assignment of the mortgage to the Secretary;
- (B) the institution of foreclosure proceedings;
- (C) the acquisition of the property after default other than by foreclosure; or
- (D) sale of the mortgaged property by the mortgagor.

**(6) Forbearance and recasting after default**

The mortgagee may, upon such terms and conditions as the Secretary may prescribe—

- (A) extend the time for the curing of the default and the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, to such time as the mortgagee determines is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent foreclosure or acquisition of the property by other means the Secretary may include in the amount of insurance benefits an amount equal to any unpaid mortgage interest; or

- (B) provide for a modification of the terms of the mortgage for the purpose of recasting, over the remaining term of the mortgage or over such longer period pursuant to guidelines as may be prescribed by the Secretary, the total unpaid amount then due, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered the “original principal obligation of the mortgage” for purposes of paragraph (5).

**(7) Termination of premium obligation**

The obligation of the mortgagee to pay the premium charges for insurance shall cease upon fulfillment of the appropriate requirements under which the Secretary may pay insurance benefits, as described in paragraph (1). The Secretary may also terminate the mortgagee’s obligation to pay mortgage insurance premiums upon receipt of an application filed by the mortgagee for insurance benefits under paragraph (1), or in the event the contract of insurance is terminated pursuant to section 1715t of this title.

<sup>1</sup> So in original.

**(8) Effect on payment of insurance benefits under section 1715u**

Nothing in this section shall limit the authority of the Secretary to pay insurance benefits under section 1715u of this title.

**(9) Treatment of mortgage assignment program**

Notwithstanding any other provision of law, or the Amended Stipulation entered as a consent decree on November 8, 1979, in *Ferrell v. Cuomo*, No. 73 C 334 (N.D. Ill.), or any other order intended to require the Secretary to operate the program of mortgage assignment and forbearance that was operated by the Secretary pursuant to the Amended Stipulation and under the authority of section 1715u of this title, prior to its amendment by section 407(b) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 45), no mortgage assigned under this section may be included in any mortgage foreclosure avoidance program that is the same or substantially equivalent to such a program of mortgage assignment and forbearance.

**(b) Consent to release of mortgagor or property**

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

**(c) Debentures; form and amounts**

Debentures issued under this section—

- (1) shall be in such form and amounts;
- (2) shall be subject to such terms and conditions;
- (3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and
- (4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

**(d) Debentures; issuance; negotiability; terms; tax exemptions**

The debentures issued under this section to any mortgagee<sup>2</sup> with respect to mortgages insured under section 1709 of this title shall be issued in the name of the Mutual Mortgage Insurance Fund as obligor and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default: *Provided*, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of

January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages insured under section 1709 or section 1713 of this title prior to February 3, 1938 shall be subject only to such Federal, State, and local taxes as the mortgages in exchange for which they are issued would be subject to in the hands of the holder of the debentures and shall be a liability of the Mutual Mortgage Insurance Fund, but such debentures shall be fully and unconditionally guaranteed as to principal and interest by the United States; but any mortgagee entitled to receive any such debentures may elect to receive in lieu thereof a cash adjustment and debentures issued as hereinafter provided and bearing the current rate of interest. Such debentures as are issued in exchange for property covered by the mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; and such debentures shall be paid out of the Mutual Mortgage Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event that the Mutual Mortgage Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this section, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

**(e) Certificate of claim**

(1) Subject to paragraph (2), the certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f).

<sup>2</sup> So in original. Probably should be "mortgagee".

(2) A certificate of claim shall not be issued and the provisions of paragraph (1) of this subsection shall not be applicable in the case of a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964.

**(f) Division of excess proceeds; settlement of certificates of claims and refunds to mortgagors**

(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amount realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 1709 of this title: *Provided*, That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim, together with the accrued interest increment thereon, shall be retained by the Secretary and credited to the applicable insurance fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is authorized, with respect to mortgages insured pursuant to commitments for insurance issued after August 11, 1955, and, with the consent of the mortgagee or mortgagor, as the case may be, with respect to mortgages insured pursuant to commitments issued prior to such date, to effect the settlement of certificates of claim and refunds to mortgagors at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: *Provided*, That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificates of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized, without awaiting the final liquidation of the Secretary's interest in the property, to settle any certificate of claim issued pursuant to subsection (e), with respect to which settlement had not been effected prior to September 2, 1964, by making payment in cash to the holder thereof of such amount not exceeding the face amount of the certificate of claim, together with the accrued interest thereon, as the Secretary may consider appropriate: *Provided*, That in any case where the certificate

of claim is settled in accordance with the provisions of this paragraph, any amounts realized after September 2, 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

**(g) Handling and disposal of property; settlement of claims**

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this section: *Provided*, That section 6101 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$1,000. The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided*, That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint: *And provided further*, That a conveyance or transfer of title to real or personal property or an interest therein to the Secretary of Housing and Urban Development, his successors and assigns, without identifying the Secretary therein, shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally named in such conveyance or transfer. The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe.

**(h) Disposition of assets in revitalization areas**

**(1) In general**

The purpose of this subsection is to require the Secretary to carry out a program under which eligible assets (as such term is defined in paragraph (2)) shall be made available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of revitalization areas. Notwithstanding the authority under the last sentence of subsection (g), the Secretary shall dispose

of all eligible assets under the program and shall establish the program in accordance with the requirements under this subsection.

**(2) Eligible assets**

For purposes of this subsection, the term “eligible asset” means any of the following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land):

**(A) Properties**

Any property that—

- (i) is designed as a dwelling for occupancy by 1 to 4 families;
- (ii) is located in a revitalization area;
- (iii) was previously subject to a mortgage insured under the provisions of this chapter; and
- (iv) is owned by the Secretary pursuant to the payment of insurance benefits under this chapter.

**(B) Mortgages**

Any mortgage that—

- (i) is an interest in a property that meets the requirements of clauses (i) and (ii) of subparagraph (A);
- (ii) was previously insured under the provisions of this chapter except for mortgages insured under or made pursuant to sections 1715z, 1715z-12, or 1715z-20 of this title; and
- (iii) is held by the Secretary pursuant to the payment of insurance benefits under this chapter.

For purposes of this subsection, an asset under this subparagraph shall be considered to be located in a revitalization area, or in the asset control area of a preferred purchaser, if the property described in clause (i) is located in such area.

**(3) Revitalization areas**

The Secretary shall designate areas as revitalization areas for purposes of this subsection. Before designation of an area as a revitalization area, the Secretary shall consult with affected units of general local government, States, and Indian tribes and interested nonprofit organizations. The Secretary may designate as revitalization areas only areas that meet one of the following requirements:

**(A) Very-low income area**

The median household income for the area is less than 60 percent of the median household income for—

- (i) in the case of any area located within a metropolitan area, such metropolitan area; or
- (ii) in the case of any area not located within a metropolitan area, the State in which the area is located.

**(B) High concentration of eligible assets**

A high rate of default or foreclosure for single family mortgages insured under this chapter has resulted, or may result, in the area—

- (i) having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas; or
- (ii) being detrimentally impacted by eligible assets in the vicinity of the area.

**(C) Low home ownership rate**

The rate for home ownership of single family homes in the area is substantially below the rate for homeownership in the metropolitan area.

**(4) Preference for sale to preferred purchasers**

The Secretary shall provide a preference, among prospective purchasers of eligible assets, for sale of such assets to any purchaser who—

- (A) is—
  - (i) the unit of general local government, State, or Indian tribe having jurisdiction with respect to the area in which are located the eligible assets to be sold; or
  - (ii) a nonprofit organization;

(B) in making a purchase under the program under this subsection—

- (i) establishes an asset control area, which shall be an area that consists of part or all of a revitalization area; and
- (ii) purchases all assets of the Secretary in the category or categories of eligible assets set forth in the sale agreement required under paragraph (7) that, at any time during the period which shall be set forth in the sale agreement—

- (I) are or become eligible for purchase under this subsection; and
- (II) are located in the asset control area of the purchaser; and

(C) has the capacity to carry out the purchase of the category or categories of eligible assets set forth in the sale agreement under the program under this subsection and under the provisions of this paragraph.

**(5) Agreements required for purchase**

**(A) Preferred purchasers**

Under the program under this subsection, the Secretary may sell an eligible asset as provided in paragraph (4) to a preferred purchaser only pursuant to a binding agreement by the preferred purchaser that the eligible asset will be used in conjunction with a home ownership plan that provides as follows:

- (i) The plan has as its primary purpose the expansion of home ownership in, and the revitalization of, the asset control area, established pursuant to paragraph (4)(B)(i) by the purchaser, in which the eligible asset is located.

(ii) Under the plan, the preferred purchaser has established, and agreed to meet, specific performance goals for increasing the rate of home ownership for eligible assets in the asset control area that are under the purchaser's control. The plan shall provide that the Secretary may waive or modify such goals or deadlines only upon a determination by the Secretary that a good faith effort has been



made in complying with the goals through the homeownership plan and that exceptional neighborhood conditions prevented attainment of the goal.

(iii) Under the plan, the preferred purchaser has established rehabilitation standards that meet or exceed the standards for housing quality established under subparagraph (B)(iii) by the Secretary, and has agreed that each asset property for an eligible asset purchased will be rehabilitated in accordance with such standards.

**(B) Non-preferred purchasers**

Under the program under this subsection, the Secretary may sell an eligible asset to a purchaser who is not a preferred purchaser only pursuant to a binding agreement by the purchaser that complies with the following requirements:

(i) The purchaser has agreed to meet specific performance goals established by the Secretary for home ownership of the asset properties for the eligible assets purchased by the purchaser, except that the Secretary may, by including a provision in the sale agreement required under paragraph (7), provide for a lower rate of home ownership in sales involving exceptional circumstances.

(ii) The purchaser has agreed that each asset property for an eligible asset purchased will be rehabilitated to comply with minimum standards for housing quality established by the Secretary for purposes of the program under this subsection.

**(6) Discount for preferred purchasers**

**(A) In general**

For the purpose of providing a public purpose discount for the bulk sales of eligible assets made under the program under this subsection by preferred purchasers, each eligible asset sold through the program under this subsection to a preferred purchaser shall be sold at a price that is discounted from the value of the asset, as based on the appraised value of the asset property (as such term is defined in paragraph (8)).

**(B) Appraisals**

The Secretary shall require that each appraisal of an eligible asset under this paragraph is based upon—

(i) the market value of the asset property in its “as is” physical condition, which shall take into consideration age and condition of major mechanical and structural systems; and

(ii) the value of the property appraised for home ownership.

**(C) Discounts**

The Secretary, in the sole discretion of the Secretary, shall establish the discount under this paragraph for an eligible asset. In determining the discount, the Secretary may consider the condition of the asset property, the extent of resources available to the preferred purchaser, the comprehensive revitalization plan undertaken by such purchaser, the fi-

nancial safety and soundness of the Mutual Mortgage Insurance Fund, and any other circumstances the Secretary considers appropriate<sup>3</sup>

**(7) Sale agreement**

The Secretary may sell an eligible asset under this subsection only pursuant to a sale agreement entered into under this paragraph with the purchaser, which shall include the following provisions:

**(A) Assets**

The sale agreement shall identify the category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser.

**(B) Revitalization area and asset control area**

The sale agreement shall identify—

(i) the boundaries of the specific revitalization areas (or portions thereof) in which are located the eligible assets that are covered by the agreement; and

(ii) in the case of a preferred purchaser, the asset control area established pursuant to paragraph (4)(B)(i) that is covered by the agreement.

**(C) Financing**

The sale agreement shall identify the sources of financing for the purchase of the eligible assets.

**(D) Binding agreements**

The sale agreement shall contain binding agreements by the purchaser sufficient to comply with—

(i) in the case of a preferred purchaser, the requirements under paragraph (5)(A), which agreements shall provide that the eligible assets purchased will be used in conjunction with a home ownership plan meeting the requirements of such paragraph, and shall set forth the terms of the homeownership plan, including—

(I) the goals of the plan for the eligible assets purchased and for the asset control area subject to the plan;

(II) the revitalization areas (or portions thereof) in which the homeownership plan is operating or will operate;

(III) the specific use or disposition of the eligible assets under the plan; and

(IV) any activities to be conducted and services to be provided under the plan; or

(ii) in the case of a purchaser who is not a preferred purchaser, the requirements under paragraph (5)(B).

**(E) Purchase price and discount**

The sale agreement shall establish the purchase price of the eligible assets, which in the case of a preferred purchaser shall provide for a discount in accordance with paragraph (6).

**(F) Housing quality**

The sale agreement shall provide for compliance of the eligible assets purchased with

<sup>3</sup> So in original. There probably should be a period.

the rehabilitation standards established under paragraph (5)(A)(iii) or the minimum standards for housing quality established under paragraph (5)(B)(ii), as applicable, and shall specify such standards.

**(G) Performance goals and sanctions**

The sale agreement shall set forth the specific performance goals applicable to the purchaser, in accordance with paragraph (5), shall set forth any sanctions for failure to meet such goals and deadlines, and shall require the purchaser to certify compliance with such goals.

**(H) Period covered**

The sale agreement shall establish—

(i) in the case of a preferred purchaser, the time period referred to in paragraph (4)(B)(ii); and

(ii) in the case of a purchaser who is not a preferred purchaser, the time period for purchase of eligible assets that may be covered by the purchase.

**(I) Other terms**

The agreement shall contain such other terms and conditions as may be necessary to require that eligible assets purchased under the agreement are used in accordance with the program under this subsection.

**(8) Definitions**

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

**(A) Asset control area**

The term “asset control area” means the area established by a preferred purchaser pursuant to paragraph (4)(B)(i).

**(B) Asset property**

The term “asset property” means—

(i) with respect to an eligible asset that is a property, such property; and

(ii) with respect to an eligible asset that is a mortgage, the property that is subject to the mortgage.

**(C) Eligible asset**

The term “eligible asset” means an asset described in paragraph (2).

**(D) Nonprofit organization**

The term “nonprofit organization” means a private organization that—

(i) is organized under State or local laws;

(ii) has no part of its net earnings inuring to the benefit of any member, shareholder, founder, contributor, or individual; and

(iii) complies with standards of financial responsibility that the Secretary may require.

**(E) Preferred purchaser**

The term “preferred purchaser” means a purchaser described in paragraph (4).

**(F) Unit of general local government**

The term “unit of general local government” means any city, town, township, county, parish, village, or other general purpose political subdivision of a State, and any

agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection.

**(G) State**

The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to provisions of this subsection.<sup>4</sup>

**(H) Indian tribe**

The term “Indian tribe” has the same meaning as in section 1715z-13(i)(I)<sup>5</sup> of this title.

**(9) Secretary’s discretion**

The Secretary shall have the authority to implement and administer the program under this subsection in such manner as the Secretary may determine. The Secretary may, in the sole discretion of the Secretary, enter into contracts to provide for the proper administration of the program with such public or nonprofit entities as the Secretary determines are qualified.

**(10) Regulations**

The Secretary shall issue regulations to implement the program under this subsection through rulemaking in accordance with the procedures established under section 553 of title 5 regarding substantive rules. Such regulations shall take effect not later than the expiration of the 2-year period beginning on October 21, 1998.

**(i) Mortgagor’s or mortgagee’s interest in property or claim conveyed**

No mortgagee or mortgagor shall have, and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

**(j) Foreclosure; payment and cessation of obligation**

In the event that any mortgagee under a mortgage insured under section 1709 of this title (other than a mortgagee receiving insurance benefits under clause (1)(A) of the second sentence of subsection (a)) forecloses on the mortgaged property but does not convey such property to the Secretary in accordance with this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge re-

<sup>4</sup> So in original. Probably should be “subsection.”

<sup>5</sup> So in original. Probably should be section “1715z-13(i)(1)”.

quired under the provisions of section 1709(c) of this title, and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

**(k) Repealed. Pub. L. 105-276, title VI, § 601(c), Oct. 21, 1998, 112 Stat. 2673**

**(I) Nullification of right of redemption of single family mortgages**

(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(A) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(3) For purposes of this subsection:

(A) The term “contract mortgagee” means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

(B) the<sup>6</sup> term “mortgage” means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under

applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(C) The term “Secretary-held single family mortgage” means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

(i) was formerly insured by the Secretary under any section of this subchapter; or

(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this subchapter.

(D) the term “single-family mortgage” means a mortgage that covers property on which is located a 1-to-4 family residence.

(June 27, 1934, ch. 847, title II, § 204, 48 Stat. 1249; May 28, 1935, ch. 150, § 29(c), 49 Stat. 300; Feb. 19, 1937, ch. 12, 50 Stat. 20; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 12; June 3, 1939, ch. 175, §§ 9, 10, 53 Stat. 806; June 28, 1941, ch. 261, § 9, 55 Stat. 365; Oct. 14, 1943, ch. 258, § 1, 57 Stat. 570; Aug. 10, 1948, ch. 832, title I, § 101(l), (q), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§ 105, 122, 64 Stat. 52, 59; Sept. 1, 1951, ch. 378, title VI, § 604(a), 65 Stat. 314; Aug. 2, 1954, ch. 649, title I, §§ 111, 112(a), 113, 68 Stat. 593, 594; Aug. 11, 1955, ch. 783, title I, § 102(a), 69 Stat. 635; Pub. L. 85-104, title I, §§ 107, 108(a), July 12, 1957, 71 Stat. 297; Pub. L. 86-372, title I, §§ 114(b), 117, Sept. 23, 1959, 73 Stat. 662, 664; Pub. L. 87-70, title VI, § 612(b), (c), June 30, 1961, 75 Stat. 180; Pub. L. 88-560, title I, §§ 104(a), 105(a), Sept. 2, 1964, 78 Stat. 769, 770; Pub. L. 89-117, title XI, § 1108(d), Aug. 10, 1965, 79 Stat. 504; Pub. L. 90-19, § 1(a)(2), (3), (4), (d), May 25, 1967, 81 Stat. 17, 18; Pub. L. 98-181, title I [title IV, § 426], Nov. 30, 1983, 97 Stat. 1218; Pub. L. 100-242, title V, § 569, Feb. 5, 1988, 101 Stat. 1948; Pub. L. 100-628, title X, § 1064(a), (b), Nov. 7, 1988, 102 Stat. 3275; Pub. L. 101-235, title I, § 136, Dec. 15, 1989, 103 Stat. 2028; Pub. L. 102-550, title V, § 516(a), Oct. 28, 1992, 106 Stat. 3790; Pub. L. 104-99, title IV, § 407(a), Jan. 26, 1996, 110 Stat. 45; Pub. L. 104-134, title I, § 101(e) [title II, § 221(a)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-290; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-276, title VI, §§ 601(a), (c), (d), 602, Oct. 21, 1998, 112 Stat. 2670, 2673, 2674; Pub. L. 108-447, div. I, title II, § 221, Dec. 8, 2004, 118 Stat. 3320; Pub. L. 111-22, div. A, title II, § 203(c), May 20, 2009, 123 Stat. 1644.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Housing Amendments of 1955, referred to in subsec. (f)(2), is act Aug. 11, 1955, ch. 783, 69 Stat. 635. For complete classification of this Act to the Code, see Short Title of 1955 Amendments note set out under section 1701 of this title and Tables.

This chapter, referred to in subsecs. (g) and (h), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§ 1701 et seq.). For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

In subsec. (g), “section 6101 of title 41” substituted for “section 3709 of the Revised Statutes” on authority

<sup>6</sup> So in original. Probably should be capitalized.

of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111-22, §203(c)(3), substituted “subsection (a)(1)(A) or section 1715u(c) of this title” for “paragraph (1)(A)”.

Pub. L. 111-22, §203(c)(1), (2), inserted “or faces imminent default, as defined by the Secretary” after “default” and “support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale,” after “loan modification.”

2004—Subsec. (h)(2). Pub. L. 108-447, §221(1)(A), substituted “following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land)” for “following assets of the Secretary” in introductory provisions.

Subsec. (h)(2)(B)(ii). Pub. L. 108-447, §221(1)(B), inserted “except for mortgages insured under or made pursuant to sections 1715z, 1715z-12, or 1715z-20 of this title” after “chapter”.

Subsec. (h)(2)(C). Pub. L. 108-447, §221(1)(C), struck out heading and text of subpar. (C). Text read as follows: “Any contingent future interest of the Secretary in an asset described in subparagraph (A) or (B).”

Subsec. (h)(3). Pub. L. 108-447, §221(2), inserted “, States, and Indian tribes” after “government” in second sentence.

Subsec. (h)(4)(A)(i). Pub. L. 108-447, §221(3)(A), inserted “, State, or Indian tribe” after “government”.

Subsec. (h)(4)(B)(ii). Pub. L. 108-447, §221(3)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “purchases all interests of the Secretary in all assets of the Secretary that, at any time during the period which shall be set forth in the sale agreement required under paragraph (7)—

“(I) are or become eligible assets; and

“(II) are located in the asset control area of the purchaser; and”.

Subsec. (h)(4)(C). Pub. L. 108-447, §221(3)(C), substituted “purchase of the category or categories of eligible assets set forth in the sale agreement under” for “purchase of eligible assets under”.

Subsec. (h)(6)(C). Pub. L. 108-447, §221(4)(A), amended heading and text of subpar. (C) generally. Prior to amendment, subpar. (C) set out discount classes, including standard, deep, and minimal discounts.

Subsec. (h)(6)(D). Pub. L. 108-447, §221(4)(B), struck out heading and text of subpar. (D). Text read as follows: “The Secretary shall, in the sole discretion of the Secretary, establish a method for determining which discount under clause (i) or (ii) subparagraph (C) shall be provided for an eligible asset that is described in such clause (i) and sold to a preferred purchaser. The method may result in the assignment of discounts on any basis consistent with subparagraph (C) that the Secretary considers appropriate to carry out the purposes of this subsection.”

Subsec. (h)(7)(A). Pub. L. 108-447, §221(5), substituted “category or categories of eligible assets to be purchased and, based on the purchaser’s capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser” for “eligible assets to be purchased and the interests sold”.

Subsec. (h)(8)(F). Pub. L. 108-447, §221(6)(A), inserted “, and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection” after “State”.

Subsec. (h)(8)(G), (H). Pub. L. 108-447, §221(6)(B), added subpars. (G) and (H).

1998—Subsec. (a). Pub. L. 105-276, §601(a), inserted heading and amended text generally, substituting present provisions for provisions which authorized

mortgagee of foreclosed property to receive insurance benefit upon conveyance to Secretary of title and assignment of claims, or upon foreclosure sale or approved sale after default where at least fair market value was received, set maintenance of property as condition of receipt of benefit, provided that obligation to pay premium would cease upon conveyance and assignment and debentures would issue having par value equal to value of mortgage, and set forth provisions detailing amounts to be included in debentures or cash payment and provisions authorizing extension or modification of mortgage where default was due to circumstances beyond control of mortgagor.

Subsec. (g). Pub. L. 105-276, §601(d), inserted at end “The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe.”

Subsecs. (h), (i). Pub. L. 105-276, §602, added subsec. (h) and redesignated former subsec. (h) as (i).

Subsec. (k). Pub. L. 105-276, §601(c), struck out subsec. (k) which read as follows: “Notwithstanding any other provision of this section or of section 1739 or 1750c of this title and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Secretary after September 23, 1959 in accordance with such sections, the Secretary may (1) include in debentures reasonable payments made by the mortgagee with the approval of the Secretary for the purpose of protecting, operating, or preserving the property, and taxes imposed upon any deed or any other instrument by which the property was acquired by the mortgagee and transferred or conveyed to the Secretary; (2) include in debentures as a portion of foreclosure costs (to the extent that foreclosure costs may be included in such debentures by any other provision of this chapter) payments made by the mortgagee for the cost of acquiring the property and conveying and evidencing title to the property to the Secretary; and (3) terminate the mortgagee’s obligation to pay mortgage insurance premiums upon receipt of an application for debentures filed by the mortgagee, or in the event the contract of insurance is terminated pursuant to section 1715t of this title.”

1996—Subsec. (a). Pub. L. 104-134, in penultimate proviso of last sentence, substituted “special forbearance” for “special foreclosure”.

Pub. L. 104-99 inserted “: *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to the foreclosure of a mortgage that is in default, which actions may include special foreclosure, loan modification, and deeds in lieu of foreclosure, all upon terms and conditions as the mortgagee shall determine in the mortgagee’s sole discretion, within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review.” before period at end of last sentence.

1992—Subsec. (a). Pub. L. 102-550, §516(a)(1), in fifth sentence, substituted “issue to the mortgagee debentures having a par value” for “, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value”.

Subsec. (c). Pub. L. 102-550, §516(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: “Debentures issued under this section shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed \$350, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the Mutual Mortgage Insurance Fund.”

Subsec. (d). Pub. L. 102-550, § 516(a)(3), (4), in first sentence, substituted “issued in the name of” for “executed in the name of” and “and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations” for “, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable” and in fifth sentence, substituted “and, in the case of debentures issued in certificated registered form, such guaranty” for “and such guaranty”.

1989—Subsec. (a). Pub. L. 101-235, § 136(a), inserted after third sentence “As a condition of the receipt of such benefits, the mortgagee shall maintain or assure the maintenance of the mortgaged property (in such manner as the Secretary shall by regulation provide) during the period beginning on the taking of the possession or other acquisition of the mortgaged property by the mortgagee and ending on conveyance to the Secretary or other disposition of the mortgaged property in accordance with this section, and funds expended by the mortgagee in meeting such obligation shall be included, to the extent provided in this subsection or in subsection (k) of this section, in debentures or other insurance payment pursuant to this section.”

Subsec. (g). Pub. L. 101-235, § 136(b), inserted after first sentence “The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program.”

1988—Subsec. (a). Pub. L. 100-628, § 1064(a)(1), (2), in second sentence, substituted “(1)(A) upon sale” for “(1) upon sale”, inserted cl. (B), and substituted “; and (2)” for “, and (2)”.

Pub. L. 100-628, § 1064(b)(1), in third sentence, substituted “November 30, 1983 (on or after November 7, 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence),” for “the effective date of this sentence”.

Pub. L. 100-628, § 1064(b)(2)(A), in fifth sentence, struck out “foreclosure” before “sale of the property: *Provided*”.

Subsec. (j). Pub. L. 100-628, § 1064(b)(2)(B), inserted “clause (1)(A) of” before “the second sentence”.

Subsec. (l). Pub. L. 100-242 added subsec. (l).

1983—Subsec. (a). Pub. L. 98-181, § 426(a), inserted provision authorizing the Secretary to make the benefit of the insurance available to the mortgagee upon sale of the insured property at foreclosure and assignment of all claims to the Secretary and provision relating to payment of benefits pursuant to a commitment to insure issued on or after the effective date of this sentence [Nov. 30, 1983], and substituted “any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates, and, in the case of insurance benefits paid in accordance with the second sentence of this section, any amount received upon the foreclosure sale of the property” for “and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates”.

Subsec. (j). Pub. L. 98-181, § 426(b), inserted “(other than a mortgagee receiving insurance benefits under the second sentence of subsection (a))” after “section 1709 of this title”.

1967—Pub. L. 90-19, § 1(a)(2), substituted “Secretary of Housing and Urban Development” for “Federal Housing Commissioner” in subsec. (g).

Pub. L. 90-19, § 1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subssecs. (a) to (d), (e)(1), (f)(1), (f)(1)(i), (ii), (f)(2), (3), (g), (h), (j), and (k).

Subsec. (f)(3). Pub. L. 90-19, § 1(a)(4), substituted “Secretary’s” for “Commissioner’s” wherever appearing.

Subsec. (g). Pub. L. 90-19, § 1(d), substituted “an officer” for “the Commissioner or by any Assistant Commissioner”.

1965—Subsec. (a). Pub. L. 89-117, § 1108(d)(1), struck out reference to section 1715a of this title after reference to section 1709 of this title in first sentence.

Subsec. (c). Pub. L. 89-117, § 1108(d)(2), substituted “Mutual Mortgage Insurance Fund” for “Fund as to mortgages insured under section 1709 of this title and from the Housing Fund as to mortgages insured under section 1715a of this title”.

Subsec. (d). Pub. L. 89-117, § 1108(d)(3)–(6), removed all references to debentures issued with respect to mortgages insured under section 1715a of this title and to the Housing Insurance Fund and substituted Mutual Mortgage Insurance Fund for Fund wherever appearing.

Subsec. (f). Pub. L. 89-117, § 1108(d)(7), struck out provision of subpar. (1)(i) calling for retention of excess by Commissioner and credit to the Housing Insurance Fund in the case of mortgages insured under section 1713 of this title.

1964—Subsec. (a). Pub. L. 88-560, § 104(a), 105(a)(1)–(3), (6)(B), amended provisions as follows; section 104(a), in proviso reading “*And provided further*, That with respect to any mortgage covering a one-, two-, three-, or four-family residence”, struck out “and it is probable that the mortgage will be restored to good standing within a reasonable period of time” after “control of the mortgagor”, substituted “upon such terms and conditions” for “under such regulations and conditions”, incorporated authority of Commissioner to “extend the time for curing default and enter into an agreement with the mortgage providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures” in cl. (1), and provided for remainder of cl. (1), cl. (2) and consideration of the principal amount of the mortgage, as modified, as the “original principal obligation of the mortgage” for purpose of computing total face value of debentures to be issued or cash payment to be made by Commissioner to a mortgagee; section 105(a)(1) substituted in third sentence “charges for the administration, operation, maintenance and repair of community-owned property or the maintenance and repair of the mortgaged property, the obligation for which arises out of a covenant filed for record and approved by the Commissioner prior to the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums” for “insurance on the mortgaged property, and any mortgage insurance premiums paid after either of such dates”; section 105(a)(2) inserted provisos reading “*And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964, the Commissioner may include in debentures or in the cash payment on amount not to exceed the foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner” and “*And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the Commissioner may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e)), included in debentures or in the cash payment, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee”; section 105(a)(3) struck out from proviso reading “*And provided further*, That with respect to mortgages to which the provisions of sections 532 and 536 of Appendix To Title 50 apply” the words “and the payment of insurance premiums” after “on account of interest on debentures” and inserted after such proviso “*And provided further*, That where the claim is paid in cash there shall be included in the cash payment an amount equivalent to the compensation for loss of debenture interest that would be included in computing debentures if such claim were being paid in debentures”; and section 105(a)(6)(B) substituted “and (sub-j) to subsection (e)(2) of this section) a certificate of claim” for “and a certificate of claim” in second sentence.

Subsec. (c). Pub. L. 88-560, §105(a)(4), increased limitation on the difference between the value of the mortgage and the aggregate face value of the debentures issued from \$50 to \$350.

Subsec. (d). Pub. L. 88-560, §105(a)(5), substituted “: *Provided*, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Commissioner, in his discretion, may establish by regulation. The debentures” for “, except that debentures issued pursuant to the provisions of section 1715k(f), 1715(g), and 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner, and” in second sentence.

Subsec. (e). Pub. L. 88-560, §105(a)(6)(A), designated existing provisions as par. (1), substituted “Subject to paragraph (2), the certificate” for “The certificate”, and added par. (2).

Subsec. (f). Pub. L. 88-560, §105(a)(7)–(11), designated introductory par. as par. (1) and substituted “If, after deducting (in such manner and amount as the Commissioner shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Commissioner, the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith exceed the face value” for “If the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith, after deducting all expenses incurred by the Commissioner in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value”; redesignated former par. (1) as (i) and inserted proviso; redesignated former par. (2) as (ii); designated concluding par. as par. (2) and inserted proviso; and added par. (3), respectively.

1961—Subsec. (d). Pub. L. 87-70, §612(b), permitted debentures issued pursuant to provisions of section 1715k(f), 1715(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

Subsec. (g). Pub. L. 87-70, §612(c), included instruments relating to personal property, and inserted proviso requiring that a conveyance or transfer of title to real or personal property or an interest therein to the Federal Housing Commissioner, his successors and assigns, without identifying the Commissioner therein, shall be deemed a proper conveyance or transfer.

1959—Subsec. (a). Pub. L. 86-372, §114(b), authorized the Commissioner, with respect to any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, if he finds after notice of default, that the default was due to circumstances beyond the control of the mortgagor and it is probable that the mortgage will be restored to good standing within a reasonable period of time, to extend the time for curing default and to enter into an agreement with the mortgagee providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures.

Subsec. (k). Pub. L. 86-372, §117, substituted “and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Commissioner after September 23, 1959 in accordance with such section” for “with respect to any debentures issued pursuant to this section or section 1739 or 1750c of this title”, and inserted provisions authorizing inclusion as a portion of the foreclosure costs payments made by the mortgagee for the cost of acquiring the property and conveying the evidencing title to the property to the Commissioner, and permitting the termination of the mortgagee’s obligation to pay mortgage insurance premiums in the event the contract of insurance is terminated pursuant to section 1715t of this title.

1957—Subsec. (d). Pub. L. 85-104, §108(a), substituted “established by the Commissioner pursuant to section 1715o of this title” for “determined by the Commissioner, with the approval of the Secretary of the Treas-

ury, at the time the mortgage was offered for insurance, but not to exceed 3 per centum per annum” in second sentence.

Subsec. (k). Pub. L. 85-104, §107, added subsec. (k).

1955—Subsec. (f). Act Aug. 11, 1955, authorized the Commissioner to effect the settlement of certificates of claim and refunds to mortgagors.

1954—Subsec. (a). Act Aug. 2, 1954, §111(l), permitted a mortgagee to receive in debentures amounts paid by it for Federal taxes imposed on a deed to it and on a deed to the Commissioner; (2) substituted, in second proviso, “or under section 1715e of this title, or with respect to any mortgage accepted for insurance under section 1709 of this title on or after August 2, 1954,” for “or under section 1715e of this title”; and (3) inserted proviso permitting direct conveyances to the Commissioner.

Subsec. (d). Act Aug. 2, 1954, §112(a), substituted provision for a straight 20-year maturity on debentures for former provision that the debentures should mature “three years after the 1st day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued, except that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures” in second sentence.

Subsec. (j). Act Aug. 2, 1954, §113, added subsec. (j).

1951—Subsec. (d). Sept. 1, 1951, inserted in second sentence the provision that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures.

1950—Act Apr. 20, 1950, §122, substituted “Commissioner” for “Administrator” wherever appearing.

Subsec. (a). Act Apr. 20, 1950, §105, inserted “or under section 1715e of this title” in second proviso.

1948—Subsec. (a). Act Aug. 10, 1948, §101(l)(1), (2), struck out “prior to July 1, 1944” in first proviso and inserted second proviso.

Subsec. (f). Act Aug. 10, 1948, §101(q), inserted “if the mortgage was insured under section 1709 of this title and shall be retained by the Administrator and credited to the Housing Insurance Fund if the mortgage was insured under section 1713 of this title” before the colon in par. (1).

1943—Subsec. (a). Act Oct. 14, 1943, inserted proviso.

1941—Subsec. (a). Act June 28, 1941, substituted “July 1, 1944” for “July 1, 1941” in last sentence.

1939—Subsec. (a). Act June 3, 1939, §9, amended last sentence generally.

Subsec. (g). Act June 3, 1939, §10, inserted last sentence.

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally.

Subsecs. (g), (h). Act Feb. 3, 1938, added subsecs. (g) and (h).

1937—Subsec. (b). Act Joint Res. Feb. 19, 1937, substituted “July 1, 1939” for “July 1, 1937”.

1935—Subsec. (a). Act May 28, 1935, amended last sentence generally.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title VI, §601(b), Oct. 21, 1998, 112 Stat. 2673, provided that: “The Secretary shall publish a notice in the Federal Register stating the effective date of the terms and conditions prescribed by the Secretary under section 204(a)(1) of the National Housing Act [12 U.S.C. 1710(a)(1)], as amended by subsection (a) of this section. Subsections (a) and (k) of section 204 of the National Housing Act [12 U.S.C. 1710(a), (k)], as in effect immediately before such effective date, shall continue to apply to any mortgage insured under section 203 of the National Housing Act [12 U.S.C. 1709] before such effective date, except that the Secretary may, at the request of the mortgagee, pay insurance benefits as provided in subparagraphs (A) and (D) of section 204(a)(1) of such Act [12 U.S.C. 1710(a)(1)(A), (D)] to cal-

culate insurance benefits in accordance with section 204(a)(5) of such Act [12 U.S.C. 1710(a)(5)].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-99, title IV, §407(c), Jan. 26, 1996, 110 Stat. 46, as amended by Pub. L. 104-134, title I, §101(e) [title II, §221(d)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291; re-numbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-204, title II, §203, Sept. 26, 1996, 110 Stat. 2894; Pub. L. 105-33, title II, §2002(1), Aug. 5, 1997, 111 Stat. 257, provided that: “Except as provided in subsection (e) [110 Stat. 46, repealed by Pub. L. 105-33, §2002(2)], the amendments made by subsections (a) and (b) [amending this section and section 1715u of this title] shall apply with respect to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.] that are executed before, on, or after October 1, 1997.”

#### EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 2, 1954, ch. 649, title I, §112(e), 68 Stat. 593, provided that: “This section [amending this section and sections 1713, 1748b, and 1750c of this title] shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to the effective date of the Housing Act of 1954 [Aug. 2, 1954].”

#### REGULATIONS

Pub. L. 104-134, title I, §101(e) [title II, §221(c)(1)], Apr. 26, 1996, 110 Stat. 1321-291, provided that: “Not later than 30 days after the date of enactment of this Act [Apr. 26, 1996], the Secretary of Housing and Urban Development shall issue interim regulations to implement section 407 of the Balanced Budget Downpayment Act, I [Pub. L. 104-99, amending this section and section 1715u of this title and enacting provisions set out as a note above], and the amendments to the National Housing Act made by that section.”

Pub. L. 104-99, title IV, §407(d), Jan. 26, 1996, 110 Stat. 46, which directed the Secretary of Housing and Urban Development to issue interim regulations to implement section 407 of Pub. L. 104-99 and amendments made by that section (amending this section and section 1715u of this title and enacting provisions set out as a note above) not later than 60 days after Jan. 26, 1996, was repealed by Pub. L. 104-134, title I, §101(e) [title II, §221(c)(2)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291; re-numbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 100-628, title X, §1064(c), Nov. 7, 1988, 102 Stat. 3275, provided that: “In developing regulations to carry out the amendments made by this section [amending this section], the Secretary of Housing and Urban Development may delegate to mortgagees the authority to make determinations on behalf of the Secretary, and the Secretary shall rely on certifications and post audit reviews to the greatest extent possible.”

#### HOMEOWNERSHIP PRESERVATION

Pub. L. 110-289, div. B, title I, §2125, July 30, 2008, 122 Stat. 2840, provided that: “The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

“(1) develop and implement a plan to improve the Federal Housing Administration’s loss mitigation process; and

“(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.”

#### ASSET CONTROL AREA DEMONSTRATION PROGRAM AGREEMENTS, CONTRACTS, AND REGULATIONS

Pub. L. 107-206, title I, §1303, Aug. 2, 2002, 116 Stat. 897, provided that: “The Secretary of Housing and Urban Development shall begin to enter into new

agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105-276 [amending this section] not later than September 15, 2002: *Provided*, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602: *Provided further*, That the Department shall develop proposed regulations for this program not later than September 15, 2002.”

#### TRANSFER OF HUD ASSETS IN REVITALIZATION AREAS

Pub. L. 106-554, §1(a)(7) [title I, §142], Dec. 21, 2000, 114 Stat. 2763, 2763A-618, provided that: “In carrying out the program under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)), upon the request of the chief executive officer of a county or the government of appropriate jurisdiction and not later than 60 days after such request is made, the Secretary of Housing and Urban Development shall designate as a revitalization area all portions of such county that meet the criteria for such designation under paragraph (3) of such section.”

#### SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND VETERANS’ ADMINISTRATION ASSISTED HOUSING; STUDY AND RECOMMENDATIONS TO CONGRESS ON REDUCTION AND STANDARDIZATION OF COSTS

Pub. L. 91-351, title VII, §701, July 24, 1970, 84 Stat. 461, provided that:

“(a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act [this chapter] or under chapter 37 of title 38, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans’ Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

“(1) be established after consultation between the Secretary and the Administrator;

“(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

“(3) be based on the Secretary’s and the Administrator’s estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

“(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act [July 24, 1970] with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas.”

#### § 1711. General Surplus and Participating Reserve Accounts

##### (a) Establishment; abolishment of General Reinsurance Account

The Secretary shall establish as of July 1, 1954, in the Mutual Mortgage Insurance Fund a General Surplus Account and a Participating Reserve Account. All of the assets of the General Reinsurance Account shall be transferred to the General Surplus Account whereupon the General Reinsurance Account shall be abolished. There shall be transferred from the various group accounts to the Participating Reserve Account as of July 1, 1954, an amount equal to the aggregate amount which would have been distributed under the provisions of this section in effect on June 30, 1954, if all outstanding mortgages in such group accounts had been paid in full on said date. All of the remaining balances of said group accounts shall as of said date be trans-

ferred to the General Surplus Account whereupon all of said group accounts shall be abolished.

**(b) Credits and charges**

The aggregate net income thereafter received or any net loss thereafter sustained by the Mutual Mortgage Insurance Fund in any semi-annual period shall be credited or charged to the General Surplus Account and/or the Participating Reserve Account in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice.

**(c) Distribution of funds to terminating mortgagors**

Upon termination of the insurance obligation of the Mutual Mortgage Insurance Fund by payment of any mortgage insured thereunder, the Secretary is authorized to distribute to the mortgagor a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That, in no event, shall any such distributable share exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance. The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.

**(d) Rights and liabilities**

No mortgagor or mortgagee of any mortgage insured under section 1709 of this title shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Fund and the determination of the Secretary as to the amount to be paid by him to any mortgagor shall be final and conclusive.

**(e) Actuarial status of entire Fund**

In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.

**(f) Capital ratio for Mutual Mortgage Insurance Fund**

(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after November 5, 1990, and maintains such ratio thereafter, subject to paragraph (2).

(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after November 5, 1990, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

(3) Upon the expiration of the 24-month period beginning on November 5, 1990, the Secretary

shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

(4) For purposes of this subsection:

(A) The term “capital” means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 1735f-16 of this title.

(B) The term “capital ratio” means the ratio of capital to unamortized insurance-in-force.

(C) The term “economic net worth” means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

(D) The term “unamortized insurance-in-force” means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

(June 27, 1934, ch. 847, title II, § 205, 48 Stat. 1250; May 28, 1935, ch. 150, § 29(b), 49 Stat. 300; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 15; June 3, 1939, ch. 175, § 11, 53 Stat. 807; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; June 30, 1953, ch. 170, § 4, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, § 114, 68 Stat. 594; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101-508, title II, §§ 2104, 2105, Nov. 5, 1990, 104 Stat. 1388-19; Pub. L. 102-550, title V, § 508(a), Oct. 28, 1992, 106 Stat. 3782; Pub. L. 110-289, div. B, title I, § 2118(c)(1), July 30, 2008, 122 Stat. 2835.)

**Editorial Notes**

**AMENDMENTS**

2008—Subsecs. (g), (h). Pub. L. 110-289 struck out subsecs. (g) and (h) which related to annual independent audit of Mutual Mortgage Insurance Fund and adjustment of premiums, respectively.

1992—Subsec. (c). Pub. L. 102-550 inserted at end “The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.”

1990—Subsec. (e). Pub. L. 101-508, § 2104, added subsec. (e).

Subsecs. (f) to (h). Pub. L. 101-508, § 2105, added subsecs. (f) to (h).

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (a) to (d) of this section.

1954—Act Aug. 2, 1954, amended section generally to eliminate the former group accounts and substitute therefor a general surplus account and participating reserve account.

1953—Subsec. (c). Act June 30, 1953, inserted sentence relating to semi-annual transfer of group accounts, and, in remainder of section, changed the provisions relating to settlement of accounts.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator” wherever appearing.

1939—Subsec. (b). Act June 3, 1939, inserted “prior to July 1, 1939”.

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally, and among other changes, struck out subsec. (f).



1935—Subsec. (f). Act May 28, 1935, substituted “annual premium charge” for “premium charge” in first sentence.

#### Statutory Notes and Related Subsidiaries

##### EXCEPTION TO STATUTE OF LIMITATIONS

Pub. L. 102-550, title V, § 508(b), Oct. 28, 1992, 106 Stat. 3782, provided that: “Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act [12 U.S.C. 1711(c)], the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act [Oct. 28, 1992] in accordance with procedures in effect on such date.”

#### § 1712. Investment of funds

Moneys in the Fund not needed for the current operations of the Department of Housing and Urban Development related to insurance under section 1709 of this title shall be deposited with the Treasurer of the United States to the credit of the Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued under the provisions of section 1710 of this title. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued, and the several group accounts to which such debentures have been charged shall be charged with the amounts used in making such purchases.

(June 27, 1934, ch. 847, title II, § 206, 48 Stat. 1252; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 16; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Pub. L. 90-19, § 1(a)(1), (3), (e), May 25, 1967, 81 Stat. 17, 18; Pub. L. 91-609, title I, § 117(a), Dec. 31, 1970, 84 Stat. 1774.)

#### Editorial Notes

##### AMENDMENTS

1970—Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1967—Pub. L. 90-19 substituted “Department of Housing and Urban Development” and “Secretary” for “Federal Housing Administration” and “Commissioner”, respectively, and inserted “related to insurance under section 1709 of this title” before “shall be deposited”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator”.

1938—Act Feb. 3, 1938, among other changes, inserted “or in bonds or other obligations guaranteed as to principal and interest by” in first sentence, and inserted third sentence.

#### § 1712a. Indexing of FHA multifamily housing loan limits

##### (a) Method of indexing

The dollar amounts set forth in—

- (1) section 1713(c)(3)(A) of this title;
- (2) section 1715e(b)(2)(A) of this title;
- (3) section 1715k(d)(3)(B)(iii)(I) of this title;
- (4) section 1715l(d)(3)(ii)(I) of this title;
- (5) section 1715l(d)(4)(ii)(I) of this title;
- (6) section 1715v(c)(2)(A) of this title; and
- (7) section 1715y(e)(3)(A) of this title;

(collectively hereinafter referred to as the “Dollar Amounts”) shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board’s adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

##### (b) Notification

The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.

(June 27, 1934, ch. 847, title II, § 206A, as added Pub. L. 107-326, § 5(a), Dec. 4, 2002, 116 Stat. 2794.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Home Ownership and Equity Protection Act of 1994, referred to in subsec. (a), is subtitle B (§§ 151-158) of title I of Pub. L. 103-325, Sept. 23, 1994, 108 Stat. 2190, which enacted sections 1639 and 1648 of Title 15, Commerce and Trade, amended sections 1602, 1604, 1610, 1640, 1641, and 1647 of Title 15, and enacted provisions set out as notes under sections 1601 and 1602 of Title 15. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 1601 of Title 15 and Tables.

#### § 1713. Rental housing insurance

##### (a) Definitions

As used in this section—

(1) The term “mortgage” means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which there is located or upon which there is to be constructed a building or buildings designed principally for residential use, or upon which there is located or to be constructed facilities for manufactured homes, and the term “first mortgage” means such classes of first liens as are commonly given to secure advances (including but not being limited to advances during construction) on, or the unpaid purchase price of, real estate under

the laws of the State, in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and may be in the form of trust mortgages or mortgage indentures or deeds of trust securing notes, bonds, or other credit instruments.

(2) The term "mortgagee" means the original lender under a mortgage, and its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

(3) The term "mortgagor" means the original borrower under a mortgage and its successors and assigns.

(4) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with the periodic payments provided for in the mortgage.

(5) The term "slum or blighted area" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

(6) The term "rental housing" means housing, the occupancy of which is permitted by the owner thereof in consideration of the payment of agreed charges, whether or not, by the terms of the agreement, such payment over a period of time will entitle the occupant to the ownership of the premises or space in a manufactured home court or park properly arranged and equipped to accommodate manufactured homes.

(7) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

#### **(b) Insurance of additional mortgages**

In addition to mortgages insured under section 1709 of this title, the Secretary is authorized to insure mortgages as defined in this section (including advances on such mortgages during construction) which cover property held by—

(1) Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations restricted by Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation; or

(2) any other mortgagor approved by the Secretary. The Secretary may, in the Secretary's discretion, require any such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation so as to provide reasonable rentals to tenants and a reasonable return on the investment. Any such regulations or restrictions shall continue for such period or periods as the Secretary, in the Secretary's discretion, may require, including until the termination of all obligations of the

Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage. The Secretary may make such contracts with and acquire, for not to exceed \$100, such stock or interest in the mortgagor as he may deem necessary to render effective any such regulations or restrictions. The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

The insurance of mortgages under this section is intended to facilitate particularly the production of rental accommodations, at reasonable rents, of design and size suitable for family living. The Secretary is, therefore, authorized in the administration of this section to take action, by regulation or otherwise, which will direct the benefits of mortgage insurance hereunder primarily to those projects which make adequate provision for families with children, and in which every effort has been made to achieve moderate rental charges.

Notwithstanding any other provisions of this section, the Secretary may not insure any mortgage under this section (except a mortgage with respect to a manufactured home park designed exclusively for occupancy by elderly persons) unless the mortgagor certifies under oath that in selecting tenants for the property covered by the mortgage he will not discriminate against any family by reason of the fact that there are children in the family, and that he will not sell the property while the insurance is in effect unless the purchaser so certifies, such certification to be filed with the Secretary. Violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed \$500.

#### **(c) Eligibility for insurance; mortgage limits**

To be eligible for insurance under this section a mortgage on any property or project shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, § 304(a)(1), Aug. 22, 1974, 88 Stat. 677.

(2) Not to exceed 90 per centum of the estimated value of the property or project (when the proposed improvements are completed): *Provided*, That this limitation shall not apply to mortgages on housing in Alaska or in Guam, but such a mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the value of the property or project as such term is used in this paragraph may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest accruing during construction, and other miscellaneous charges incident to construction and approved by the Secretary): *And provided further*, That nothing contained in this section shall preclude the insurance of mortgages covering existing construction located in slum or blighted areas, as defined in paragraph (5) of subsection (a) of this section, and the Sec-

retary may require such repair or rehabilitation work to be completed as is, in his discretion, necessary to remove conditions detrimental to safety, health, or morals; and

(3)(A) Not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$38,025 per family unit without a bedroom, \$42,120 per family unit with one bedroom, \$50,310 per family unit with two bedrooms, \$62,010 per family unit with three bedrooms, and \$70,200 per family unit with four or more bedrooms, or not to exceed \$17,460 per space; except that as to projects to consist of elevator type structures the Secretary may in his discretion, increase the dollar amount limitations per family unit to not to exceed \$43,875 per family unit without a bedroom, \$49,140 per family unit with one bedroom, \$60,255 per family unit with two bedrooms, \$75,465 per family unit with three bedrooms, and \$85,328 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design;

(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>1</sup> of this title (as such section existed immediately before November 30, 1983) is involved. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>1</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

The mortgage shall provide for complete amortization by periodic payments (unless otherwise approved by the Secretary) within such term as the Secretary shall prescribe, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as

he may prescribe and the mortgage may provide for such release. No mortgage shall be accepted for insurance under this section or section 1715a<sup>1</sup> of this title unless the Secretary finds that the property or project, with respect to which the mortgage is executed, is economically sound. Such property or project may include five or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

**(d) Premium, appraisal, and inspection charges**

The Secretary shall collect a premium charge for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures issued by the Secretary under any subchapter and section of this chapter, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund at par plus accrued interest. In addition to the premium charge herein provided for the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project during construction: *Provided*, That such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

**(e) Adjusted premium charge on payment of mortgage**

In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Secretary is authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until such maturity date.

**(f) Repealed. Pub. L. 89-117, title XI, § 1108(e)(3), Aug. 10, 1965, 79 Stat. 504**

**(g) Payment of insurance after default**

The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this section shall be considered a default under such mortgage and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loans not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits

<sup>1</sup> See References in Text note below.

made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transactions. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value equal to the original principal face amount of the mortgage plus such amount as the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default, less the sum of (i) that part of the amount of the principal obligation that has been repaid by the mortgagor, (ii) an amount equivalent to 1 per centum of the unpaid amount of such principal obligation, and (iii) any net income received by the mortgagee from the property: *Provided*, That the mortgagee in the event of a default under the mortgage may, at its option and in accordance with regulations of, and in a period to be determined by, the Secretary, proceed to foreclose on and obtain possession of or otherwise acquire such property from the mortgagor after default, and receive the benefits of the insurance as herein provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of the rules and regulations of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims that may have been released with the consent of the Secretary. Upon such conveyance and assignment, the obligation of the mortgagee to pay the premium charges for insurance shall cease and the mortgagee shall be entitled to receive the benefits of the insurance as provided in this subsection, except that in such event the 1 per centum deduction, set out in (ii) hereof, shall not apply. Notwithstanding any other provision of this chapter, upon receipt, after September 2, 1964, of an application for insurance benefits on a mortgage insured under this chapter, the Secretary may terminate the mortgagee's obligation to pay premium charges on the mortgage.

**(h) Certificate of claim; division of excess proceeds**

The certificate of claim issued under this section shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Secretary provided for in subsection (g), the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the mortgage and a reason-

able amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. If the net amount realized from the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the property covered by such mortgage and all claims in connection with such property, after deducting all expenses incurred by the Secretary in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims, exceeds the face value of the debentures issued and the cash adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Secretary and credited to the General Insurance Fund; and

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

**(i) Debentures; execution; negotiability; terms; tax exemptions**

Debentures issued under this section shall be executed in the name of the General Insurance Fund as obligor, shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations, and shall be dated as of the date of default as determined in subsection (g) of this section, except that debentures issued pursuant to the provisions of section 1715k(f), section 1715l(g), and section 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Secretary and shall bear interest from such date. They shall bear interest at a rate established by the Secretary pursuant to section 1715o of this title payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed

on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

**(j) Debentures; form and amounts**

Debentures issued under this section—

- (1) shall be in such form and amounts;
- (2) shall be subject to such terms and conditions;
- (3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and
- (4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

**(k) Acquisition of property by conveyance or foreclosure**

The Secretary is authorized either to (1) acquire possession of and title to any property, covered by a mortgage insured under this section and assigned to him, by voluntary conveyance in extinguishment of the mortgage indebtedness, or (2) institute proceedings for foreclosure on the property covered by any such insured mortgage and prosecute such proceedings to conclusion. The Secretary at any sale under foreclosure may, in his discretion, for the protection of the General Insurance Fund, bid any sum up to but not in excess of the total unpaid indebtedness secured by the mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses, and may become the purchaser of the property at such sale. In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 1701z-11(a)(1) of this title. The Secretary is authorized to pay from the General Insurance Fund such sums as may be necessary to defray such taxes, insurance, costs, fees, and other expenses in connection with the acquisition or foreclosure of property under this section. Pending such acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to any mortgage assigned to him under the provisions of subsection (g), to exercise all the rights of a mortgagee under such mortgage, including the right to sell such mortgage, and to take such action and advance such sums as may be necessary to preserve or protect the lien of such mortgage.

**(l) Handling and disposal of property; settlement of claims**

Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall also have power, for the protection of the interests of the General Insurance Fund, to pay out of the General Insurance Fund all expenses or charges in connection with, and

to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in his discretion, any property acquired by him under this section, and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to him in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose on any property secured by any mortgage assigned and transferred to or held by him: *Provided*, That section 6101 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$1,000.

**(m) Repealed. Pub. L. 89-117, title XI, § 1108(e)(3), Aug. 10, 1965, 79 Stat. 504**

**(n) Default or payment; rights of parties**

In the event that a mortgage insured under this section becomes in default through failure of the mortgagor to make any payment due under or provided to be paid by the terms of the mortgage and such mortgage continues in default for a period of thirty days, but the mortgagee does not foreclose on or otherwise acquire the property, or does not assign and transfer such mortgage and the credit instrument secured thereby to the Secretary, in accordance with subsection (g), and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of subsection (e), and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay the annual premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

**(o) Reissue of prior insurance**

The Secretary, with the consent of the mortgagee and the mortgagor of a mortgage insured under this section prior to February 3, 1938, shall be empowered to reissue such mortgage insurance in accordance with the provisions of this section as amended by the National Housing Act Amendments of 1938, and any such insurance not so reissued shall not be affected by the enactment of such Act.

**(p) Repealed. Pub. L. 89-117, title XI, § 1108(e)(3), Aug. 10, 1965, 79 Stat. 504**

**(q) Repealed. Pub. L. 85-104, title I, § 111, July 12, 1957, 71 Stat. 297**

**(r) Service charge for mortgages assigned to and held by the Secretary**

Notwithstanding any other provision of this chapter, the Secretary is authorized to include in any mortgage insured under any subchapter of this chapter after September 23, 1959, a provision requiring the mortgagor to pay a service

charge to the Secretary in the event such mortgage is assigned to and held by the Secretary. Such service charge shall not exceed the amount prescribed by the Secretary for mortgage insurance premiums applicable to such mortgage.

(June 27, 1934, ch. 847, title II, § 207, 48 Stat. 1252; Aug. 23, 1935, ch. 614, title III, § 344(d), 49 Stat. 722; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 16; June 3, 1939, ch. 175, § 12, 53 Stat. 807; Mar. 28, 1941, ch. 31, § 4(b), 55 Stat. 62; July 1, 1948, ch. 784, § 6, 62 Stat. 1209; Aug. 10, 1948, ch. 832, title I, § 101 (m-p, r), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§ 106-112, 122, 64 Stat. 52-54, 59; Sept. 1, 1951, ch. 378, title VI, §§ 604(b), 605, 65 Stat. 314; July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; June 30, 1953, ch. 170, § 5, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, §§ 112(b), 115-117, 68 Stat. 593-595; Aug. 11, 1955, ch. 783, title I, § 102(b), (c), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, §§ 103, 104(b), (c), 70 Stat. 1092; Pub. L. 85-104, title I, §§ 108(b), 109-111, July 12, 1957, 71 Stat. 297; Pub. L. 86-70, § 10(a), (b), June 25, 1959, 73 Stat. 142; Pub. L. 86-372, title I, § 104, Sept. 23, 1959, 73 Stat. 655; Pub. L. 86-624, § 6, July 12, 1960, 74 Stat. 411; Pub. L. 87-70, title VI, § 607, June 30, 1961, 75 Stat. 178; Pub. L. 88-560, title I, §§ 105(b), 106, 107(a), 108, Sept. 2, 1964, 78 Stat. 772, 774, 776; Pub. L. 89-117, title II, § 207(a), title XI, § 1108(e), Aug. 10, 1965, 79 Stat. 467, 504; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-301, § 3(b), May 7, 1968, 82 Stat. 114; Pub. L. 91-152, title I, §§ 103(a), (b), 113(b), title IV, § 403(c)(2), Dec. 24, 1969, 83 Stat. 380, 383, 395; Pub. L. 93-383, title III, §§ 303(a), 304(a), Aug. 22, 1974, 88 Stat. 676, 677; Pub. L. 94-173, § 3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, § 8(a), (b)(1), Aug. 3, 1976, 90 Stat. 1071; Pub. L. 95-557, title III, § 311(a), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 95-619, title II, § 248(b), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96-153, title III, §§ 313(b), 314, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96-399, title III, §§ 308(c)(1), 310(a), Oct. 8, 1980, 94 Stat. 1640, 1641; Pub. L. 97-35, title III, §§ 338(b), 339B(a), (c), Aug. 13, 1981, 95 Stat. 416, 417; Pub. L. 97-377, title I, § 101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §§ 404(b)(4), 407(c), 431(a), 435, 446(a)], Nov. 30, 1983, 97 Stat. 1209, 1211, 1220, 1222, 1228; Pub. L. 98-479, title II, § 204(a)(3), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 100-242, title I, § 182, title IV, § 426(a), (h), Feb. 5, 1988, 101 Stat. 1871, 1915, 1916; Pub. L. 102-550, title V, §§ 509(a), 516(b), Oct. 28, 1992, 106 Stat. 3782, 3790; Pub. L. 103-233, title III, § 306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 107-73, title II, § 213(a), Nov. 26, 2001, 115 Stat. 676; Pub. L. 107-326, § 5(b)(1), Dec. 4, 2002, 116 Stat. 2794; Pub. L. 108-186, title III, § 302(b), (c)(1), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110-161, div. K, title II, § 221(1), Dec. 26, 2007, 121 Stat. 2436.)

### Editorial Notes

#### REFERENCES IN TEXT

Section 1715a of this title, referred to in subsec. (c), which related to additional housing insurance, was repealed by act June 3, 1939, ch. 175, § 13, 53 Stat. 807.

Section 1720 of this title, referred to in subsec. (c)(3)(B), was repealed by Pub. L. 98-181, title I [title IV, § 483(a)], Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (c)(3)(B), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

This chapter, referred to in subsecs. (d), (g) and (r), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§ 1701 et seq.). For complete classification of this Act to the Code, see Tables.

The National Housing Act Amendments of 1938, referred to in subsec. (o), is act Feb. 3, 1938, ch. 13, 42 Stat. 8, section 3 of which amended this section generally. For complete classification of this Act to the Code, see section 1701a of this title and Tables.

#### CODIFICATION

In subsec. (l), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

#### AMENDMENTS

2007—Subsec. (c)(3)(B). Pub. L. 110-161 substituted "170 percent" for "140 percent" after "not to exceed" in two places and "215 percent in high cost areas" for "170 percent in high cost areas".

2003—Subsec. (c)(3)(A). Pub. L. 108-186, § 302(c)(1), substituted "\$17,460" for "\$11,250".

Subsec. (c)(3)(B). Pub. L. 108-186, § 302(b), substituted "140 percent in" for "110 percent in" and inserted ", or 170 percent in high cost areas," after "and by not to exceed 140 percent".

2002—Subsec. (c)(3). Pub. L. 107-326, § 5(b)(1)(B), which directed substitution of "(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for "and accept that the Secretary" through "in this paragraph", was executed by making the substitution for "and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph", to reflect the probable intent of Congress.

Pub. L. 107-326, § 5(b)(1)(A), inserted subpar. (A) designation after "(3)".

2001—Subsec. (c)(3). Pub. L. 107-73 substituted "\$38,025", "\$42,120", "\$50,310", "\$62,010", and "\$70,200" for "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$56,160", respectively, "\$11,250" for "\$9,000", and "\$43,875", "\$49,140", "\$60,255", "\$75,465", and "\$85,328" for "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

1994—Subsec. (c)(3). Pub. L. 103-233 substituted "\$56,160" for "\$59,160".

1992—Subsec. (c)(3). Pub. L. 102-550, § 509(a), substituted "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160" for "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800", respectively, and "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262" for "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885", respectively.

Subsec. (g). Pub. L. 102-550, § 516(b)(1), in second sentence, substituted "issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value" for ", subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value".

Subsec. (i). Pub. L. 102-550, § 516(b)(2), (3), in first sentence, substituted "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations" for "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable", and in fourth sentence substituted "and, in the case of debentures issued in certificated registered form, such guaranty" for "and such guaranty".

Subsec. (j). Pub. L. 102-550, § 516(b)(4), added subsec. (j) and struck out former subsec. (j) which read as follows: "Debentures issued under this section shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provision for redemption, if any, as may be pre-

scribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the amount of debentures to which the mortgagee is entitled under this section, and the aggregate face value of the debentures issued, not to exceed \$50, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund."

1988—Subsec. (c)(3). Pub. L. 100-242, § 426(a), (h), substituted "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" for "\$19,500", "\$21,600", "\$25,800", "\$31,800", and "\$36,000", respectively, and "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" for "\$22,500", "\$25,200", "\$30,900", "\$38,700", and "\$43,758", respectively, and substituted "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area."

Subsec. (k). Pub. L. 100-242, § 182, inserted provisions after second sentence directing the Secretary to act consistently with the goal established in section 1701z-11(a)(1) of this title in determining the amount to be bid.

1984—Subsec. (i). Pub. L. 98-479 substituted "section 1715k(f), section 1715(g), and section 1715x of this title" for "section 1715k(f), 1715(g), and section 1715x of this title".

1983—Subsec. (a)(7). Pub. L. 98-181, § 407(c), inserted "American Samoa," after "Pacific Islands,".

Subsec. (b). Pub. L. 98-181, § 431(a)(3), in first undesignated par. following par. (2) struck out "and directed" after "therefore, authorized".

Pub. L. 98-181, § 435, in second undesignated par. following par. (2) substituted "the Secretary may not insure any mortgage under this section (except a mortgage with respect to a manufactured home park designed exclusively for occupancy by elderly persons)" for "no mortgage shall be insured hereunder".

Subsec. (b)(2). Pub. L. 98-181, § 431(a)(1), (2), substituted provision permitting the Secretary discretionary authority to regulate rents and other charges for such period or periods as the Secretary, in his discretion, may require for provision which required the Secretary to regulate rents and other charges until the termination of all obligations of the Secretary under the insurance and during such further time as the Secretary was owner, holder, or reinsurer of the mortgage, and substituted "any such regulations and restrictions" for "the regulations and restrictions".

Subsec. (c). Pub. L. 98-181, § 446(a), which directed that "(unless otherwise approved by the Secretary)" be inserted after "periodic payments" in first undesignated par. of par. (3), was executed to the undesignated par. following par. (3) to reflect the probable intent of Congress.

Pub. L. 98-181, § 404(b)(4), which directed the substitution of provision that the interest rate for the mortgage be such a rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest, exclusive of premium charges for insurance, not exceed 5¼ per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed

such per centum per annum not in excess of 6 per centum per annum as the Secretary finds necessary to meet the mortgage market in first undesignated par. of par. (3), was executed to the undesignated par. following par. (3) to reflect the probable intent of Congress.

1982—Subsec. (c)(3). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

1981—Subsec. (a)(1), (6). Pub. L. 97-35, § 339B(c), provided that for purposes of section 308(c)(1) of Pub. L. 96-399, the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively. See 1980 Amendment note below.

Subsec. (c)(3). Pub. L. 97-35, §§ 338(b), 339B(a), substituted "\$9,000" for "\$8,000" and made minor changes in nomenclature.

1980—Subsec. (a)(1), (6). Pub. L. 96-399, § 308(c)(1), which directed substitution of "manufactured home" for "mobile home" wherever appearing, was executed by substituting "manufactured home" for "mobile home" and "manufactured homes" for "mobile homes" wherever appearing pursuant to Pub. L. 97-35, § 339B(c). See 1981 Amendment note above.

Subsec. (c)(3). Pub. L. 96-399, § 310(a), inserted provisions relating to residential energy conservation measures.

1979—Subsec. (c)(3). Pub. L. 96-153, §§ 313(b), 314, in first sentence of first unnumbered par. substituted "\$8,000" for "\$3,900", "75 per centum" for "50 per centum" and inserted exception that where the Secretary determines it necessary on a project by project basis, the dollar amount limitations may be exceeded by not to exceed 90 per centum in such an area.

1978—Subsec. (c). Pub. L. 95-557 substituted "may include five" for "may include eight" in concluding par.

Subsec. (c)(3). Pub. L. 95-619 provided that the amount insurable under this section could be increased by up to 20 per centum if such increase were necessary to account for the increased cost of a residence due to the installation of a solar energy system.

1976—Subsec. (c)(3). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$19,500" for "\$13,000", "\$21,600" for "\$18,000", "\$25,800" for "\$21,500", "\$31,800" for "\$26,500", "\$36,000" for "\$30,000", "\$3,900" for "\$3,250", "\$22,500" for "\$15,000", "\$25,200" for "\$21,000", "\$30,900" for "\$25,750", "\$38,700" for "\$32,250", and "\$43,758" for "\$36,465".

1975—Subsec. (c)(3). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93-383, § 304(a)(1), struck out par. (1) which set forth limits on principal obligation of not to exceed \$20,000,000, or not to exceed \$50,000,000 if executed by a mortgagor under subsec. (b)(1) of this section.

Subsec. (c)(3). Pub. L. 93-383, §§ 303(a), 304(a)(2), substituted "\$3,250" for "\$2,500", "\$13,000" for "\$9,900", "\$15,000" for "\$11,550", "\$18,000" for "\$13,750", "\$21,000" for "\$16,500", "\$21,500" for "\$16,500", "\$25,750" for "\$19,800", "\$26,500" for "\$20,350", "\$30,000" for "\$23,100", "\$32,250" for "\$24,750", and "\$36,465" for "\$28,050", and struck out limitation of \$1,000,000 per mortgage for trailer courts or parks.

1969—Subsec. (a)(1). Pub. L. 91-152, § 103(a)(1)(A), substituted "mobile homes" for "trailer coach mobile dwellings".

Subsec. (a)(6). Pub. L. 91-152, § 103(a)(1)(B), (C), substituted "mobile home court" for "trailer court" and "mobile homes" for "trailer coach mobile dwellings".

Subsec. (a)(7). Pub. L. 91-152, § 403(c)(2), inserted "the Trust Territory of the Pacific Islands," after "Guam,".

Subsec. (c)(3). Pub. L. 91-152, §§ 103(a)(2), (b), 113(b)(1), (2), substituted "\$2,500 per space or \$1,000,000 per mort-

gage for mobile home courts or parks" for "\$1,800 per space or \$500,000 per mortgage for trailer courts or parks", "\$9,900" for "\$9,000", "\$11,550" for "\$10,500", "\$13,750" for "\$12,500", "\$16,500" from "\$15,000" whenever appearing therein, "\$19,800" for "\$18,000", "\$20,350" for "\$18,500", "\$23,100" for "\$21,000", "\$24,750" for "\$22,500", and "\$28,050" for "\$25,500".

1968—Subsec. (c)(3). Pub. L. 90-301 limited interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (b)(2), (c)(2), (3), (d), (e), (g), (h), (h)(1), (h)(2), (h)(2)(i), (j) to (l), (n), (o), and (r).

1965—Subsec. (b). Pub. L. 89-117, §1108(e)(4), substituted "General Insurance Fund" for "Housing Fund".

Subsec. (c)(3). Pub. L. 89-117, §207(a), substituted "\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms" for "and \$18,500 per family unit with three or more bedrooms" and "\$22,500 per family unit with three bedrooms, and \$25,000 per family unit with four or more bedrooms" for "and \$22,500 per family unit with three or more bedrooms".

Subsec. (d). Pub. L. 89-117, §1108(e)(1), (2), removed reference to collection of premium charges for the insurance of mortgages under section 1715a of this title and substituted "debentures issued by the Commissioner under any subchapter and section of this chapter, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund" for "debentures of the Housing Insurance Fund issued by the Commissioner under this subchapter".

Subsec. (f). Pub. L. 89-117, §1108(e)(3), repealed subsec. (f) which created the Housing Insurance Fund.

Subsecs. (h) to (l). Pub. L. 89-117, §1108(e)(4), substituted "General Insurance Fund" for "Housing Insurance Fund" and "Housing Fund" wherever appearing.

Subsec. (m). Pub. L. 89-117, §1108(e)(3), repealed subsec. (m) which provided for credits and charges in the Housing Insurance Fund.

Subsec. (p). Pub. L. 89-117, §1108(e)(3), repealed subsec. (p) which provided for the disposition of surplus moneys in the Housing Insurance Fund and the investment of such moneys.

1964—Subsec. (c)(2). Pub. L. 88-560, §106, substituted "Provided, That this limitation shall not apply" for "Provided, That except with respect to a mortgage executed by a mortgagor coming within the provisions of subsection (b)(1) of this section or a mortgage on a trailer court or park, such mortgage shall not exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project exclusive of public utilities and streets and organization and legal expenses: *Provided, further, That this limitation shall not apply*" before "to mortgages on housing in Alaska."

Subsec. (c)(3). Pub. L. 88-560, §107(a), changed limits on mortgages for property or project attributable to dwelling use from "\$2,500 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "\$9,000 per family unit without a bedroom, \$12,500 per family unit with one bedroom, \$15,000 per family unit with two bedrooms, and \$18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of \$2,500 per room to not exceed \$3,000 per room and the dollar amount limitation of \$9,000 per family unit to not exceed \$9,400 per family unit" to dollar amount limitations "per family unit to not to exceed \$10,500 per family unit without a bedroom, \$15,000 per family unit with one bedroom, \$18,000 per family unit with two bedrooms, and \$22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision

authorizing such an increase "by not to exceed \$1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (g). Pub. L. 88-560, §105(b), inserted provision for termination of mortgagee's obligation to pay premium charges on the mortgage.

Subsec. (k). Pub. L. 88-560, §108, struck out second sentence providing for mandatory acquisition or foreclosure within one year of multifamily project in default.

1961—Subsec. (b)(2). Pub. L. 87-70, §607(1), struck out provisions from first paragraph which limited the Commissioner's authority to insure mortgages to property held by private corporations, associations, cooperative societies which are legal agents of owner-occupants, or trusts formed or created for the purpose of rehabilitating slum or blighted areas, or providing housing for rent or sale.

Subsec. (c)(3). Pub. L. 87-70, §607(2), (3), inserted "(excluding exterior land improvements as defined by the Commissioner)" and substituted "\$1,800 per space" for "\$1,500 per space".

Subsec. (i). Pub. L. 87-70, §607(4), permitted debentures issued pursuant to the provisions of section 1715k(f), 1715(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

1960—Subsec. (a)(7). Pub. L. 86-624 struck out "Hawaii," before "Puerto Rico".

1959—Subsec. (a)(7). Pub. L. 86-70, §10(a), struck out "Alaska," before "Hawaii".

Subsec. (b). Pub. L. 86-372, §104(e)(1), struck out exceptions that related to housing for elderly persons from the two unnumbered paragraphs following par. (2).

Subsec. (c). Pub. L. 86-372, §104(c), (e)(2), struck out provisions that authorized insurance of mortgages not more than \$8,100 if the entire property or project was specially designed for the use and occupancy of elderly persons and the mortgagor is a financially qualified nonprofit organization, and substituted in the unnumbered paragraph following par. (3) "5¼ per centum per annum" for "4½ per centum per annum".

Subsec. (c)(1). Pub. L. 86-372, §104(a), substituted "\$20,000,000" for "\$12,500,000".

Subsec. (c)(2). Pub. L. 86-70, §10(b), substituted "Alaska" for "the Territory of Alaska".

Subsec. (c)(3). Pub. L. 86-372, §104(b), substituted "\$2,500" for "\$2,250" in two places, "\$9,000" for "\$8,100" in two places, "\$3,000" for "\$2,700", "\$9,400" for "\$8,400", "\$1,250 per room" for "\$1,000 per room", "\$1,500 per space" for "\$1,000 per space", and "\$500,000" for "\$300,000".

Subsec. (f). Pub. L. 86-372, §104(e)(3), substituted "sections 1715a, 1715e, 1715v, and 1715w of this title" for "sections 1715a and 1715e of this title" in two places.

Subsec. (r). Pub. L. 86-372, §104(d), added subsec. (r).

1957—Subsec. (c). Pub. L. 85-104, §110, inserted in unnumbered paragraph following par. (3), "(or \$8,400 per family unit in the case of projects to consist of elevator-type structures)" and "and may permit single elderly persons to use and occupy such units".

Subsec. (c)(3). Pub. L. 85-104, §109, struck out "per room" after "limitations", and inserted "without regard to the number of rooms being less than four, or four or more,".

Subsec. (i). Pub. L. 85-104, §108(b), substituted in second sentence, "established by the Commissioner pursuant to section 1715o of this title" for "determined by the Commissioner, with the approval of the Secretary of the Treasury, at the time the mortgage was insured, but not to exceed 3 per centum per annum".

Subsec. (q). Pub. L. 85-104, §111, repealed provisions which related to insurance of mortgages by Federal National Mortgage Association. See section 1715e of this title.

1956—Subsec. (b). Act Aug. 7, 1956, §104(b), inserted "(except provisions relating to housing for elderly persons)" before "to take" in paragraph following par. (2), and inserted "(except with respect to housing designed for elderly persons, with occupancy preference therefor,



as provided in the paragraph following paragraph (3) of subsection (c) of this section)" after "hereunder" in second unnumbered par. following par. (2).

Subsec. (c). Act Aug. 7, 1956, §104(c), substituted provisions of unnumbered par. following par. (3) that in certain housing for elderly persons, the mortgage may involve a principal obligation of \$8,100 per family unit and 90 percent of the replacement cost, for former provisions that if the number of bedrooms is equal or exceeds two per family unit, and the principal obligation does not exceed \$7,200 per family unit, the mortgage may involve a principal obligation not in excess of 90 percent of the value of the property.

Subsec. (c)(2). Act Aug. 7, 1956, §103(a), substituted "90 per centum" for "80 per centum".

Subsec. (c)(3). Act Aug. 7, 1956, §103(b), increased limits on mortgages from \$2,000 per room to \$2,250 per room, from \$7,200 to \$8,100 where the number of rooms in the project is less than 4 per family unit, from \$2,400 to \$2,700 per room and \$7,500 to \$8,400 per family unit for elevator type structures, and inserted provision allowing Commissioner to increase dollar amount limitations by not to exceed \$1,000 per room.

1955—Subsec. (a). Act Aug. 11, 1955, §102(b)(1), (2), inserted provisions relating to trailer coach mobile dwellings in par. (1)(B), and included space in a trailer court or park in the definition of "rental housing" in par. (6).

Subsec. (c). Act Aug. 11, 1955, §102(b)(5), amended last paragraph to authorize insurance of mortgages on rental properties having eight or more family units.

Subsec. (c)(1). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on the maximum amount of a mortgage.

Subsec. (c)(2). Act Aug. 11, 1955, §102(b)(3), inserted "or mortgage on a trailer court or park".

Subsec. (c)(3). Act Aug. 11, 1955, §102(b)(4), inserted "or not to exceed \$1,000 per space or \$300,000 per mortgage for trailer courts or parks".

1954—Subsec. (c)(2). Act Aug. 2, 1954, §115(1), (2), inserted the proviso relating to mortgage insurance with respect to construction in slum or blighted areas, and inserted the reference to Guam.

Subsec. (c)(3). Act Aug. 2, 1954, §115(3), struck out the \$10,000 per family-unit limitation, and inserted provisions permitting an increase in the limitations of \$2,000 per room and \$7,200 per family unit (less than four rooms) to \$2,400, and \$7,500, respectively, for elevator-type structures.

Subsec. (d). Act Aug. 2, 1954, §116, inserted in first sentence "of the Housing Insurance Fund" after "debentures".

Subsec. (h). Act Aug. 2, 1954, §117, at end of first sentence, inserted provision relating to inclusion of foreclosure costs, costs of acquisition, and costs of conveyance to the Commissioner.

Subsec. (i). Act Aug. 2, 1954, §112(b), substituted in second sentence a twenty-year period for the ten-year period, with respect to the maturity of debentures.

1953—Subsec. (c). Act June 30, 1953, §5(a), added par. following par. (3).

Subsec. (c)(2). Act June 30, 1953, §5(a), substituted "80 per centum of the estimated value of the property or project (when the proposed improvements are completed)" for limitation of 90 per centum of value attributable to dwelling use up to \$7,000 per family unit, 60 per centum of such value over \$7,000 and up to \$10,000, and 90 per centum of value attributable to non-dwelling use.

Subsec. (c)(3). Act June 30, 1953, §5(a), substituted provisions for maximum mortgage amount of \$2,000 per room (or \$7,200 per family unit if the number of rooms does not equal or exceed four per family unit), up to \$10,000 per family unit, for provisions which fixed a limitation of \$8,100 per family unit (or \$7,200 if the number of rooms was less than four per family unit), provided for amortization of the mortgage and rate of interest, provided for consent to release of part of mortgaged property, prohibited acceptance of mortgages on properties not economically sound, and provided for inclu-

sion with mortgaged properties adequate commercial and community facilities.

Subsec. (i). Act June 30, 1953, §5(b), substituted in second sentence, "ten" years for "twenty" years.

1952—Subsec. (a)(7). Act July 14, 1952, inserted "Guam," after "District of Columbia,".

1951—Subsec. (c)(2). Act Sept. 1, 1951, §605, in cl. (i), substituted "of the property or project attributable to dwelling use" for "of the property or project"; in cl. (ii), inserted "and" after "unit"; and added cl. (iii).

Subsec. (c)(3). Act Sept. 1, 1951, §605, substituted "four per family unit" for "four and one-half per family unit".

Subsec. (i). Act Sept. 1, 1951, §604(b), substituted in second sentence the provision that such debentures shall mature twenty years after the date thereof, for the provision that they should mature three years after the first day of July following the maturity date of the mortgage in exchange for which the debentures were issued.

1950—Act Apr. 20, 1950, §122, substituted "Commissioner" for "Administrator" wherever appearing.

Subsec. (b). Act Apr. 20, 1950, §106, added last two unnumbered pars.

Subsec. (c)(2). Act Apr. 20, 1950, §107(1), provided that the mortgage would not exceed 90% of the first \$7,000 estimated value of the property and 60% of such estimated value in excess of \$7,000 and not in excess of \$10,000.

Subsec. (c)(3). Act Apr. 20, 1950, §107(2), (3), provided a dollar mortgage limitation of \$8,100 per family unit or \$7,200 per family unit if the number of rooms did not equal or exceed four and one-half per family unit, and struck out " , except that with respect to mortgages insured under the provisions of the second proviso of paragraph (2) of this subsection, which mortgages are authorized to have a maturity of not exceeding forty years from the date of insurance of the mortgage, such interest rate shall not exceed 4 per centum per annum" in first sentence of last par.

Subsec. (d). Act Apr. 20, 1950, §108, struck out "one-half of" before "1 per centum" in proviso.

Subsec. (f). Act Apr. 20, 1950, §109, inserted "and section 1715e" before "of this title" wherever appearing.

Subsec. (g). Act Apr. 20, 1950, §110, inserted "and any mortgage insurance premiums paid after default" after "preservation of the property" in cl. (C) of last sentence, and substituted proviso of last sentence for the one reading "That the mortgagee in event of a default under the mortgage, may, at its option and in accordance with rules and regulations to be prescribed by the Commissioner, proceed to foreclose on or otherwise acquire the property as provided in the case of a mortgage which is in default under section 1715a of this title and receive the benefits of the insurance as provided in such section".

Subsec. (h). Act Apr. 20, 1950, §111, substituted "under this section" after "claim issued" in first sentence for "by the Commissioner to any mortgagee upon the assignment of the mortgage to the Commissioner".

Subsec. (i). Act Apr. 20, 1950, §112, struck out first sentence and substituted "Debentures issued under this section shall be executed in the name of the Housing Insurance Fund as obligor, shall be signed by the Commissioner by either his written or engraved signature, shall be negotiable, and shall be dated as of the date of default as determined in subsection (g) of this section and shall bear interest from such date".

1948—Subsec. (b)(1) Act Aug. 10, 1948, §101(m), substituted "restricted by Federal or State laws or regulations of State banking or insurance departments" for "formed under and restricted by Federal or State housing laws".

Subsec. (c). Act Aug. 10, 1948, §101(n)(1)–(3), amended first sentence generally, inserted "except that with respect to mortgages insured under the provisions of the second proviso of paragraph numbered (2) of this subsection, which mortgages are hereby authorized to have a maturity of not exceeding forty years from the date of the insurance of the mortgage, such interest rate

shall not exceed 4 per centum per annum” at end of second sentence, and inserted last sentence.

Act July 1, 1948, inserted proviso.

Subsec. (g). Act Aug. 10, 1948, §101(o), substituted, in cl. (ii), “(1)” for “(2)”.

Subsec. (h). Act Aug. 10, 1948, §101(p), substituted “retained by the Housing Administrator and credited to the Housing Insurance Fund” for “paid to the mortgagor of such property”.

Subsec. (q). Act Aug. 10, 1948, §101(r), added subsec. (q).

1941—Subsec. (a)(1). Act Mar. 28, 1941, §4(b)(1), struck out “district or territory”.

Subsec. (a)(7). Act Mar. 28, 1941, §4(b)(2), added par. (7).

1939—Subsec. (c). Act June 3, 1939, amended first sentence generally.

1938—Act of Feb. 3, 1938, amended section generally.

1935—Act Aug. 23, 1935, inserted “property” before “project” in last sentence.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-181, title I [title IV, §431(c)], Nov. 30, 1983, 97 Stat. 1220, provided that: “The amendments made in this section [amending this section and section 1715y of this title] shall not apply with respect to mortgages insured by the Secretary of Housing and Urban Development before the date of the enactment of this Act [Nov. 30, 1983].”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 112(b) of act Aug. 2, 1954, as not applicable in any case where the mortgage involved was insured or the commitment for the insurance was issued prior to Aug. 2, 1954, see section 112(e) of that act, set out as a note under section 1710 of this title.

#### REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, §3(b), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

#### REGULATIONS

Pub. L. 102-550, title V, §509(h), Oct. 28, 1992, 106 Stat. 3783, provided that: “The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g) [amending this section and sections 1715e, 1715k, 1715l, 1715v, and 1715y of this title], which shall take effect not later than the expiration of the 1-year period beginning on the date of the enactment of this Act [Oct. 28, 1992].”

#### DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Pub. L. 101-625, title III, §328, Nov. 28, 1990, 104 Stat. 4138, as amended by Pub. L. 102-242, title II, §226, Dec. 19, 1991, 105 Stat. 2307, provided that:

“(a) **AUTHORITY.**—Not later than the expiration of the 60-day period beginning on the date of enactment this Act [Nov. 28, 1990], the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act [12 U.S.C. 1713, 1715l, 1715n, 1715w, 1715z-6] that delegates processing functions to selected approved mortgagees or other individuals and entities expressly approved by the Department of Housing and Urban Development. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals,

and mortgage amounts and to execute a firm commitment.

“(b) **FULL INSURANCE PROGRAM.**—Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act [this chapter] under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.”

#### LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

Pub. L. 98-181, title I [title IV, §446(f)], Nov. 30, 1983, 97 Stat. 1228, provided that: “The aggregate number of dwelling units included in properties covered by mortgages insured pursuant to the authority granted in the amendments made by this section [amending sections 1713, 1715k, 1715l, and 1715v of this title] in any fiscal year may not exceed 10,000.”

#### AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Pub. L. 88-560, title I, §107(g), Sept. 2, 1964, 78 Stat. 776, as amended by Pub. L. 90-19, §21(a), May 25, 1967, 81 Stat. 25, provided that if the Secretary of Housing and Urban Development determined that it would be inequitable to apply the provisions of the National Housing Act as amended by section 107 [amending sections 1713, 1715e, 1715k, 1715l, 1715v, and 1748h-2 of this title] to a project which had been submitted for his consideration prior to Sept. 2, 1964, such provisions could be applied to such project without regard to the amendments made by section 107.

### Executive Documents

#### TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

### § 1714. Taxation

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title II, §208, 48 Stat. 1252; Feb. 3, 1938, ch. 13, §3, 52 Stat. 22; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

### Editorial Notes

#### AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator”.

1938—Act Feb. 3, 1938, corrected error in spelling of “subdivision”.

### § 1715. Statistical and economic surveys

The Secretary shall cause to be made in connection with the insurance programs such statistical surveys and legal and economic studies as he shall deem useful to guide the development of housing and the creation of a sound mortgage market in the United States, and shall publish from time to time the results of such

surveys and studies. Expenses of such studies and surveys, and expenses of publication and distribution of the results of such studies and surveys, shall be charged as a general expense of such insurance fund or funds, as the Secretary shall determine.

(June 27, 1934, ch. 847, title II, § 209, 48 Stat. 1252; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22; Mar. 28, 1941, ch. 31, § 4(c), 55 Stat. 62; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Pub. L. 87-70, title VI, § 612(d), June 30, 1961, 75 Stat. 181; Pub. L. 89-117, title XI, § 1108(f), Aug. 10, 1965, 79 Stat. 504; Pub. L. 90-19, § 1(a)(3), (f), May 25, 1967, 81 Stat. 17, 18.)

#### Editorial Notes

##### AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing and inserted “in connection with the insurance programs” after “made”.

1965—Pub. L. 89-117 struck out “or account or accounts,” after “fund or funds.”

1961—Pub. L. 87-70 substituted “shall be charged as a general expense of such insurance fund or funds, or account or accounts, as the Commissioner shall determine” for “shall be charged as a general expense of the Fund, the Housing Fund, and the Defense Housing Insurance Fund in such proportion as the Commissioner shall determine”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator” wherever appearing.

1941—Act Mar. 28, 1941, substituted “Fund, the Housing Fund, and the Defense Housing Insurance Fund” for “Fund and the Housing Fund”.

1938—Act Feb. 3, 1938, inserted “and the Housing Fund in such proportion as the Administrator shall determine” after “Fund”.

#### § 1715a. Repealed. June 3, 1939, ch. 175, § 13, 53 Stat. 807

Section, act June 27, 1934, ch. 847, title II, § 210, as added by act Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22, related to additional housing insurance.

#### Statutory Notes and Related Subsidiaries

##### APPLICATIONS PRIOR TO REPEAL

Act June 3, 1939, ch. 175, § 13, 53 Stat. 807, which repealed this section, also provided: “That the Administrator is authorized to insure under said section [this section] any mortgage for the insurance of which an application has been filed with him prior to the effective date of this act [June 3, 1939].”

#### § 1715b. Rules and regulations

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title II, § 211, as added Feb. 3, 1938, ch. 13, § 3, 52 Stat. 23; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17.)

#### Editorial Notes

##### AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator”.

#### Statutory Notes and Related Subsidiaries

##### REGULATIONS

Pub. L. 98-479, title I, § 104(f), Oct. 17, 1984, 98 Stat. 2226, required Secretary of Housing and Urban Development, not later than Oct. 31, 1984, to issue regulations to carry out amendments made to section 1715z-7 of this title by section 436 of Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181, title I [titles I-V].

#### § 1715c. Labor standards

(a) The Secretary shall not insure under section 1713 or section 1715a of this title or under section 1743 of this title pursuant to any application for insurance filed subsequent to the effective date of this section, or under section 1715e of this title, or under subchapter VII pursuant to any application filed subsequent to sixty days after April 20, 1950, or under section 1748b or 1748h-2 of this title, or under section 1750g of this title, a mortgage or investment which covers property on which there is or is to be located a dwelling or dwellings, or a housing project, the construction of which was or is to be commenced subsequent to such date, unless the principal contractor files a certificate or certificates (at such times, in course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or the housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor, in accordance with sections 3141-3144, 3146, and 3147 of title 40, prior to the beginning of construction and after the date of the filing of the application for insurance. The provisions of this section shall also apply to the insurance of any loan or mortgage under section 1715k or section 1715x of this title which covers property on which there is located a dwelling or dwellings designed principally for residential use for twelve or more families. The provisions of this section shall apply to the insurance under section 1715l of this title of any mortgage described in subsection (d)(3) or (d)(4) and (deeming the term “construction” as used in the first sentence of this subsection to mean rehabilitation) of any mortgage described in subsection (h)(1) or section 1715z(j)(1) of this title which covers property on which there is located a dwelling or dwellings designed principally for residential use for more than eight families; except that compliance with such provisions may be waived by the Secretary—

(1) with respect to mortgages described in such subsection (d)(3) or (d)(4), in cases or classes of cases where laborers or mechanics (not otherwise employed at any time in the construction of the project) voluntarily donate their services without compensation for the purpose of lowering their housing costs in a cooperative housing project and the Secretary determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction, and

(2) with respect to mortgages described in such subsection (h)(1) or section 1715z(j)(1) of

this title, in cases or classes of cases where prospective owners of such dwellings, voluntarily donate their services without compensation, or other persons (not otherwise employed at any time in the rehabilitation of the property) voluntarily donate their services without compensation, and the Secretary determines that any amounts saved thereby are fully credited to the nonprofit organization undertaking the rehabilitation.

The provisions of this section shall also apply to the insurance of any mortgage under sections 1715v, 1715w, or 1715z-1 of this title except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction. The provisions of this section shall also apply to the insurance of any mortgage under section 1715y(d) of this title. The provisions of this section shall also apply to the insurance of any mortgage under section 1715z-7 of this title, except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction; and each laborer or mechanic employed on any facility covered by a mortgage insured under section 1715z-7 of this title shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be. The provisions of this section shall also apply to the insurance of any mortgage under subchapter IX-B; and each laborer or mechanic employed on any facility covered by a mortgage insured under such subchapter IX-B shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be.

(b) The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(c) There is authorized to be appropriated for the remainder of the fiscal year ending June 30, 1939, and for each fiscal year thereafter, a sum sufficient to meet all necessary expenses of the Department of Labor in making the determinations provided for in subsection (a).

(June 27, 1934, ch. 847, title II, §212, as added June 3, 1939, ch. 175, §14, 53 Stat. 807; amended May 26, 1942, ch. 319, §10, 56 Stat. 303; Aug. 8, 1949, ch. 403, §3, 63 Stat. 576; Apr. 20, 1950, ch. 94, title I, §§113, 122, 64 Stat. 54, 59; Sept. 1, 1951, ch.

378, title II, §203, 65 Stat. 303; Aug. 2, 1954, ch. 649, title I, §118, 68 Stat. 595; Pub. L. 86-372, title I, §110(f), title II, §201(b), title VII, §704(c), Sept. 23, 1959, 73 Stat. 661, 667, 686; Pub. L. 87-70, title VI, §612(e), June 30, 1961, 75 Stat. 181; Pub. L. 88-349, §3, July 2, 1964, 78 Stat. 239; Pub. L. 88-560, title I, §119(b), Sept. 2, 1964, 78 Stat. 782; Pub. L. 89-117, title I, §102(c), title II, §201(b)(4), Aug. 10, 1965, 79 Stat. 454, 465; Pub. L. 89-754, title III, §311, title V, §503, Nov. 3, 1966, 80 Stat. 1270, 1277; Pub. L. 90-19, §1(a) (3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §101(d), title II, §201(b)(1), title XV, §1502, Aug. 1, 1968, 82 Stat. 484, 501, 600; Pub. L. 91-609, title I, §110(c), Dec. 31, 1970, 84 Stat. 1772; Pub. L. 101-235, title I, §133(d)(2), Dec. 15, 1989, 103 Stat. 2027.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1715a of this title, referred to in subsec. (a), which related to additional housing insurance, was repealed by section 13 of act June 3, 1939, ch. 175, 53 Stat. 807.

Effective date of this section, referred to in subsec. (a), probably means June 3, 1939, the date of enactment of act June 3, 1939.

Subsections (d)(3), (d)(4), and (h)(1), referred to in subsec. (a), are references to such subsections in section 1715l of this title.

##### CODIFICATION

"Sections 3141-3144, 3146, and 3147 of title 40" substituted in subsec. (a) for "the Davis-Bacon Act, as amended" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

##### AMENDMENTS

1989—Subsec. (a). Pub. L. 101-235 struck out seventh sentence which read as follows: "The provisions of this section shall also apply to insurance under subchapter IX-A of this chapter with respect to laborers and mechanics employed in land development financed with the proceeds of any mortgage insured under that subchapter."

1970—Subsec. (a). Pub. L. 91-609 inserted reference to other organization in sixth sentence.

1968—Subsec. (a). Pub. L. 90-448 inserted references to sections 1715z(j)(1) and 1715z-1 of this title, and made provisions of this section applicable to the insurance of mortgages under section 1715z-7 of this title, permitted waiver of compliance in cases or classes of cases where laborers or mechanics, not otherwise employed on the project, voluntarily donate their services without compensation for the purpose of lowering costs and savings are fully credited to the nonprofit corporation or association, and required payment of overtime to laborers or mechanics employed on facilities covered by a mortgage insured under section 1715z-7 of this title.

1967—Subsecs. (a), (b). Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1966—Subsec. (a). Pub. L. 89-754 defined "construction" in third sentence, made provisions of this section applicable to mortgage described in subsec. (h)(1) covering property improved with residential dwellings for use by more than eight families, provided for waiver of requirement of compliance with respect to mortgages described in subsec. (d)(3) or (d)(4) and subsec. (h)(1), made the provisions of this section applicable to insurance of mortgage under subchapter IX-B of this chapter, and provided for overtime compensation for work on group practice facilities covered by mortgage insurance under such subchapter IX-B.

1965—Subsec. (a). Pub. L. 89-117 substituted "described in subsection (d)(3) or (d)(4)" for "described in subsection (d)(3) in the case of a cooperative or a lim-

ited profit mortgagor, or in subsection (d)(4) thereof", and applied provisions of this section to insurance under subchapter IX-A of this chapter with respect to laborers and mechanics employed in land development financed with the proceeds of any mortgage insured under that subchapter.

1964—Subsec. (a). Pub. L. 88-560 inserted provision that this section shall also apply to the insurance of any mortgage under section 1715y(d) of this title.

Pub. L. 88-349 inserted "in accordance with the Davis-Bacon Act, as amended".

1961—Subsec. (a). Pub. L. 87-70 made section applicable to the insurance of mortgages under section 1715x of this title and to insurance under section 1715f of this title of mortgages described in subsec. (d)(3) thereof in the case of a cooperative or a limited profit mortgagor.

1959—Subsec. (a). Pub. L. 86-372 substituted "or under section 1748b or 1748h-2 of this title" for "or under subchapter VIII of this chapter", and inserted provisions making this section applicable to the insurance under section 1715 of this title of any mortgage described in subsection (d)(4) thereof, and to the insurance of any mortgage under section 1715v or 1715w of this title.

1954—Subsec. (a). Act Aug. 2, 1954, inserted sentence making section applicable to insurance of any mortgage under section 1715k of this title which covers property on which is located a dwelling or dwellings designed principally for residential use for twelve or more families.

1951—Subsec. (a). Act Sept. 1, 1951, inserted reference to section 1750g of this title after "subchapter VIII of this chapter,".

1950—Act Apr. 20, 1950, §122, substituted "Commissioner" for "Administrator" wherever appearing.

Subsec. (a). Act Apr. 20, 1950, §113, substituted "or under section 213 of this title, or under title VII pursuant to any application filed subsequent to sixty days after the date of enactment of the Housing Act of 1950, or under title VIII, a mortgage or investment" for "or under subchapter VIII of this chapter".

1949—Subsec. (a). Act Aug. 8, 1949, inserted "or under subchapter VIII of this chapter" after "effective date of this section".

1942—Subsec. (a). Act May 26, 1942, inserted reference to section 1743 of this title.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-349, §4, July 2, 1964, 78 Stat. 240, provided that: "The amendments made by this Act [amending this section, section 276a of former Title 40, Public Buildings, Property, and Works, and section 1114 of former Title 49, Transportation] shall take effect on the ninetieth day after the date of enactment of this Act [July 2, 1964], but shall not affect any contract in existence on such effective date or made thereafter pursuant to invitations for bids outstanding on such effective date and the rate of payments specified by section 1(b)(2) of the Act of March 3, 1931, as amended by this Act [now 40 U.S.C. 3141(2)(B)], shall, during a period of two hundred and seventy days after such effective date, become effective only in those cases and reasonable classes of cases as the Secretary of Labor, acting as rapidly as practicable to make such rates of payments fully effective, shall by rule of regulation provide."

##### ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

#### § 1715d. Insurance of mortgages on property in Alaska, Guam, Hawaii, and Virgin Islands

If the Secretary of Housing and Urban Development finds that, because of higher costs pre-

vailing in Alaska, Guam, Hawaii, or the Virgin Islands, it is not feasible to construct dwellings or manufactured home courts or parks on property located in Alaska, Guam, Hawaii, or the Virgin Islands without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided in this chapter, the Secretary may, by regulations or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under this chapter covering property located in Alaska, Guam, Hawaii, or the Virgin Islands in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable (including increased mortgage amounts in geographical areas where cost levels so require) by more than one-half thereof. No mortgage with respect to a project or property in Alaska, Guam, Hawaii, or the Virgin Islands shall be accepted for insurance under this chapter unless the Secretary finds that the project or property is an acceptable risk giving consideration to the acute housing shortage in Alaska, Guam, Hawaii, or the Virgin Islands: *Provided*, That any such mortgage may be insured or accepted for insurance without regard to any requirement in any other section of this chapter that the Secretary find the project or property to be economically sound or an acceptable risk. Notwithstanding any of the provisions of this chapter or any other law, the Alaska Housing Authority or the Government of Guam, the Virgin Islands, or Hawaii or any agency or instrumentality thereof shall be eligible as mortgagor or mortgagee, as the case may be, for any of the purposes of mortgage insurance under the provisions of this chapter. Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2) where the Alaska Housing Authority or the Government of Guam, the Virgin Islands, or Hawaii or any agency or instrumentality thereof is the mortgagor or mortgagee, for the insurance of a mortgage under any provisions of this chapter, the Secretary is authorized to insure the mortgage (including advances thereon where otherwise authorized), and to make commitments for the insuring of any such mortgages prior to the date of their execution or disbursement thereon, under such provision (and this section) without regard to any requirement that the mortgagor shall have paid a prescribed amount on account of such property. Without limiting the authority of the Secretary under any other provision of law, the Secretary is authorized, with respect to any mortgagor in such case (except where the Alaska Housing Authority is the mortgagor or mortgagee), to require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Secretary determines advisable to provide reasonable rentals and sales prices and a reasonable return on the investment.

(June 27, 1934, ch. 847, title II, §214, as added Apr. 23, 1949, ch. 89, §2(a), 63 Stat. 57; amended Sept. 1, 1951, ch. 378, title VI, §606, 65 Stat. 315; July 14,

1952, ch. 723, §10(a)(3), 66 Stat. 603; June 30, 1953, ch. 170, §25(a), (c), 67 Stat. 128; Pub. L. 86-70, §10(c), June 25, 1959, 73 Stat. 142; Pub. L. 86-372, title I, §106, Sept. 23, 1959, 73 Stat. 657; Pub. L. 90-19, §1(a)(2), (3), May 25, 1967, 81 Stat. 17; Pub. L. 91-152, title IV, §418(e), Dec. 24, 1969, 83 Stat. 402; Pub. L. 96-399, title III, §308(c)(1), Oct. 8, 1980, 94 Stat. 1640; Pub. L. 98-479, title II, §204(a)(4), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 100-242, title IV, §406(b)(7), Feb. 5, 1988, 101 Stat. 1901; Pub. L. 101-625, title III, §333, Nov. 28, 1990, 104 Stat. 4141.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

##### CODIFICATION

Section is comprised of section 214 of act June 27, 1934, as added by section 2(a) of act Apr. 23, 1949, which insofar as Alaska, Hawaii, and Guam individually are concerned, was, formerly, also set out as sections 484d, 723, and 1425 of Title 48, Territories and Insular Possessions. Section 2(b) of act Apr. 23, 1949, which was formerly classified to sections 484e, 724 and 1426 of Title 48, was repealed by act Aug. 2, 1954, ch. 649, title II, §205, 68 Stat. 622.

##### AMENDMENTS

1990—Pub. L. 101-625 amended section catchline generally, inserting reference to Virgin Islands, substituted “Alaska, Guam, Hawaii, or the Virgin Islands,” for “Alaska, Guam, or Hawaii,” after “costs prevailing in”, “Alaska, Guam, Hawaii, or the Virgin Islands” for “Alaska or in Guam or Hawaii” wherever appearing, and inserted “, the Virgin Islands,” after “Government of Guam” wherever appearing.

1988—Pub. L. 100-242 struck out “shall be the owner and occupant of the property or” before “shall have paid a prescribed amount” in fourth sentence.

1984—Pub. L. 98-479 substituted “Insurance of mortgages on property in Alaska, Guam, and Hawaii” for “Construction of dwellings or mobile home courts or parks in Alaska, Guam, and Hawaii; increased maximum for mortgage insurance; conditions and limitations” in section catchline, and substituted “Notwithstanding” for “Nowwithstanding” at beginning of third sentence.

1980—Pub. L. 96-399 substituted “manufactured” for “mobile”.

1969—Pub. L. 91-152 extended to mobile home courts or parks the special provisions applicable to properties located in Alaska, Guam, or Hawaii.

1967—Pub. L. 90-19 substituted “Secretary of Housing and Urban Development” for “Federal Housing Commissioner” and “Secretary” for “Commissioner”, respectively, wherever appearing.

1959—Pub. L. 86-372 inserted “(including increased mortgage amounts in geographical areas where cost levels so require)” after “maximum or maxima otherwise applicable”.

Pub. L. 86-70 substituted “Alaska, Guam,” for “the Territory of Alaska or in Guam”.

1953—Act June 30, 1953, §25(a), inserted “or Hawaii” after “Guam” wherever appearing.

Act June 30, 1953, §25(c), substituted in fourth sentence “Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2)” for “Upon application by the mortgagee,”; and inserted sentence beginning “Without limiting the authority”.

1952—Act July 14, 1952, inserted “or in Guam” after “Alaska” wherever appearing, inserted “or maxima”

after “maximum,” and inserted “or the Government of Guam or any agency or instrumentality thereof” after “Alaska Housing Authority” wherever appearing.

1951—Act Sept. 1, 1951, substituted “one-half” for “one-third” in first sentence.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100-242, set out as a note under section 1709 of this title.

##### STUDY AND REPORT RESPECTING UTILIZATION OF FACTORY-BUILT AND OTHER APPROPRIATE TYPES OF HOUSING FOR INDIAN, ETC., HOUSING PROGRAMS

Pub. L. 96-399, title III, §323, Oct. 8, 1980, 94 Stat. 1647, directed Secretary of Housing and Urban Development to study feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Natives, and not later than eighteen months after Oct. 8, 1980, to transmit a report to Congress containing the findings and conclusions of such study, including a comparison of costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used.

##### TERMINATION OF PURCHASES OF OBLIGATIONS

No additional notes or obligations to be purchased after June 24, 1954, from funds appropriated pursuant to the Alaska Housing Act, as amended, which is classified, in part, to this section, see section 1701g-5 of this title, and References in Text note thereunder.

##### REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with notes and other obligations purchased pursuant to the Alaska Housing Act, as amended, which is classified, in part, to this section, see section 1701g-5 of this title, and References in Text note thereunder.

#### Executive Documents

##### ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868, 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

#### § 1715e. Cooperative housing insurance

##### (a) Projects insurable

In addition to mortgages insured under section 1713 of this title, the Secretary is authorized to insure mortgages as defined in section 1713(a) of this title (including advances on such mortgages during construction), which cover property held by—

(1) a nonprofit cooperative ownership housing corporation or nonprofit cooperative ownership housing trust, the permanent occupancy of the dwellings of which is restricted to

members of such corporation or to beneficiaries of such trust;

(2) a nonprofit corporation or nonprofit trust organized for the purpose of construction of homes for members of the corporation or for beneficiaries of the trust; or

(3) a mortgagor, approved by the Secretary which (A) has certified to the Secretary, as a condition of obtaining the insurance of a mortgage under this section, that upon completion of the property or project covered by such mortgage it intends to sell such property or project to a nonprofit corporation or nonprofit trust of the character described in paragraph (1) of this subsection at the actual cost of such property or project as certified pursuant to section 1715r of this title and will faithfully and diligently make and carry out all reasonable efforts to consummate such sale, and (B) shall be regulated or restricted by the Secretary as to rents, charges, capital structure, rate of return, and methods of operation during any period while it holds the mortgaged property or project; and for such purpose the Secretary may make such contracts with, and acquire for not to exceed \$100 such stock or interest in, any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulation, such stock or interest to be paid for out of the Cooperative Management Housing Insurance Fund and to be redeemed by such mortgagor at par upon the sale of such property or project to such nonprofit corporation or nonprofit trust;

which corporations or trusts referred to in paragraphs (1) and (2) of this subsection are regulated or restricted for the purposes and in the manner provided in paragraphs (1) and (2) of subsection (b) of section 1713 of this title: *Provided*, That as applied to mortgages the mortgage insurance for which is the obligation of the Management Fund, the reference to the General Insurance Fund in section 1713(b)(2) of this title shall be construed to refer to the Management Fund. Nothing in this section may be construed to prevent membership in a nonprofit housing cooperative from being held in the name of a trust, the beneficiary of which shall occupy the dwelling unit in accordance with rules and regulations prescribed by the Secretary.

**(b) Eligibility conditions for projects under subsection (a)(1) of this section**

To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of this section shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, § 304(b), Aug. 22, 1974, 88 Stat. 678.

(2)(A) not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$41,207 per family unit without a bedroom, \$47,511 per family unit with one bedroom, \$57,300 per family unit with two bedrooms, \$73,343 per family unit with three bedrooms, and \$81,708 per family unit with four or more bedrooms, and not

to exceed 98 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed: *Provided*, That as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$43,875 per family unit without a bedroom, \$49,710 per family unit with one bedroom, \$60,446 per family unit with two bedrooms, \$78,197 per family unit with three bedrooms, and \$85,836 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>1</sup> of this title (as such section existed immediately before November 30, 1983) is involved; and (ii) in the case of a mortgagor of the character described in paragraph (3) of subsection (a) the mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed; and (iii) upon the sale of a property or project by a mortgagor of the character described in paragraph (3) of subsection (a) to a nonprofit cooperative ownership housing corporation or trust within two years after the completion of such property or project the mortgage given to finance such sale shall involve a principal obligation in an amount not to exceed the maximum amount computed in accordance with this subparagraph (B)(i)..<sup>2</sup>

**(c) Eligibility conditions for projects under subsection (a)(2) of this section**

To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of this section shall involve a principal obligation in an amount not to exceed a sum computed on the basis of a separate mortgage for each single-family dwelling (irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling or dwellings) comprising the property or project, equal to the total of each of the maximum principal obligations of such mortgages which would meet

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original.

the requirements of section 1709(b)(2) of this title if the mortgagor were the owner and occupant who had made any required payment on account of the property prescribed in such paragraph.

**(d) Amortization; release from mortgage lien; individual insurance; commercial and community facilities**

Any mortgage insured under this section shall provide for complete amortization by periodic payments within such term as the Secretary may prescribe but not to exceed 40 years from the beginning of amortization of the mortgage, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and a mortgage on any project of a corporation or trust of the character described in paragraph (2) of subsection (a) of this section may provide that, at any time after the completion of the construction of the project, such mortgage may be replaced, in whole or in part, by individual mortgages covering each individual dwelling in the project in amounts not to exceed the unpaid balance of the blanket mortgage allocable to the individual property. Each such individual mortgage may be insured under this section. Property covered by a mortgage, insured under this section, on a property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of this section may include five or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants. Property held by a corporation or trust of the character described in paragraph numbered (2) of subsection (a) of this section which is covered by a mortgage insured under this section may include such community facilities, and property held by a mortgagor of the character described in paragraph numbered (3) of subsection (a) of this section which is covered by a mortgage insured under this section may include such commercial and community facilities, as the Secretary deems adequate to serve the occupants.

**(e) Applicability of sections 1710 and 1713 of this title**

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall be applicable to mortgages insured under this section except individual mortgages insured pursuant to subsection (d) of this section covering the individual dwellings in the project, and as to such individual mortgages the provisions of subsections (a), (c), (d), (e), (f), (g), (h),<sup>1</sup> (j), and (k)<sup>1</sup> of section 1710 of this title shall be applicable: *Provided*, That as applied to mortgages or loans the insurance for which is the obligation of the Management Fund (1) all references to the General Insurance Fund shall be construed to refer to the Management Fund, and (2) all references to section 1713 of this title shall be construed to refer to subsections (a)(1), (a)(3) (if the project involved is acquired by a cooperative corporation), (i), and (j) of this section.

**(f) Technical advice and assistance**

The Secretary is authorized, with respect to mortgages insured or to be insured under this section, to furnish technical advice and assistance in the organization of corporations or trusts of the character described in subsection (a) of this section and in the planning, development, construction, and operation of their housing projects.

**(g) Housing projects designed for single person occupancy**

Nothing in this chapter shall be construed to prevent the insurance of a mortgage under this section covering a housing project designed for occupancy by single persons, and dwelling units in such a project shall constitute family units within the meaning of this section.

**(h) Failure to sell to a nonprofit organization**

In the event that a mortgagor of the character described in paragraph (3) of subsection (a) obtains an insured mortgage loan pursuant to this section and fails to sell the property or project covered by such mortgage to a nonprofit housing corporation or nonprofit housing trust of the character described in paragraph (1) of subsection (a), the Secretary is authorized to refuse, for such period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsor type mortgage loans made to such mortgagor or to any other investor-sponsor mortgagor where, in the determination of the Secretary, any of its stockholders were identified with such mortgagor.

**(i) Mortgages executed by consumer cooperatives covering existing structures**

Nothing in this chapter shall be construed to prevent the insurance of a mortgage executed by a mortgagor of the character described in paragraph (1) of subsection (a) of this section covering property upon which dwelling units and related facilities have been constructed prior to the filing of the application for mortgage insurance hereunder: *Provided*, That the Secretary determines that the consumer interest is protected and that the mortgagor will be a consumer cooperative. In the case of properties other than new construction, the limitations in this section upon the amount of the mortgage shall be based upon the appraised value of the property for continued use as a cooperative rather than upon the Secretary's estimate of the replacement cost. As to any project on which construction was commenced after September 23, 1959, the mortgage on such project shall be eligible for insurance under this section only in those cases where the construction was subject to inspection by the Secretary and where there was compliance with the provisions of section 1715c of this title. As to any project on which construction was commenced prior to September 23, 1959, such inspection, and compliance with the provisions of section 1715c of this title, shall not be a prerequisite.

**(j) Insurance of supplementary cooperative loans**

(1) With respect to any property covered by a mortgage insured under this section (or any cooperative housing project covered by a mortgage



insured under section 1713 of this title as in effect prior to April 20, 1950), the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. The Secretary is further authorized to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) with respect to any property purchased from the Federal Government by a non-profit corporation or trust of the character described in paragraph (1) of subsection (a), if the property is covered by an uninsured mortgage representing a part of the purchase price. As used in this subsection "supplementary cooperative loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing any of the following:

(A) Improvements or repairs of the property covered by such mortgage;

(B) Community facilities necessary to serve the occupants of the property; or

(C) Cooperative purchases and resales of memberships in order to provide necessary refinancing for resales of memberships which involve increases in equity; but in such resales by the cooperative the downpayments by the new members shall not be less than those made on the original sales of such memberships.

(2) To be eligible for insurance under this subsection, a supplementary cooperative loan shall—

(A) be limited to an amount which, when added to the outstanding mortgage indebtedness on the property, creates a total outstanding indebtedness which does not exceed the original principal obligation of the mortgage; except that, in the case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsection (b);

(B) have a maturity satisfactory to the Secretary but not to exceed the remaining term of the mortgage; except that, in the case of repairs or improvements to a property covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of such property, the loan may have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage;

(C) be secured in such manner as the Secretary may require;

(D) contain such other terms, conditions, and restrictions as the Secretary may prescribe; and

(E) represent the obligation of a borrower of the character described in paragraph (1) of subsection (a).

**(k) Cooperative Management Housing Insurance Fund**

There is hereby created a Cooperative Management Housing Insurance Fund (hereinafter referred to as the "Management Fund"). The Management Fund shall be used by the Secretary as a revolving fund for carrying out the provisions of this section with respect to mortgages or loans insured, on or after August 10, 1965, under subsections (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), and (j). The Management Fund shall also be used as a revolving fund for mortgages, loans, and commitments transferred to it pursuant to subsection (m). The Secretary is directed to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsection (m) minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans, plus such other amounts as the Secretary determines to be necessary and appropriate. General expenses of operation of the Department of Housing and Urban Development relating to mortgages or loans which are the obligation of the Management Fund may be charged to the Management Fund.

**(l) General Surplus Account; Participating Reserve Account**

The Secretary shall establish in the Management Fund, as of August 10, 1965, a General Surplus Account and a Participating Reserve Account. The aggregate net income thereafter received or any net loss thereafter sustained by the Management Fund, in any semiannual period, shall be credited or charged to the General Surplus Account or the Participating Reserve Account or both in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice. Upon termination of the insurance obligation of the Management Fund by payment of any mortgage or loan insured under this section, and at such time or times prior to such termination as the Secretary may determine, the Secretary is authorized to distribute to the mortgagor or borrower a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That in no event shall the amount of the distributable share exceed the aggregate scheduled annual premiums of the mortgagor or borrower to the year of payment of the share less the total amount of any share or shares previously distributed by the Secretary to the mortgagor or borrower: *And provided further*, That in no event may a distributable share be distributed until any funds transferred from the General Insurance Fund to the Management Fund pursuant to subsection (o) have been repaid in full to the General Insurance Fund. No mortgagor, mortgagee, borrower, or lender shall have any vested right in a credit balance in any

such account or be subject to any liability arising out of the mutuality of the Management Fund. The determination of the Secretary as to the amount to be paid by him to any mortgagor or borrower shall be final and conclusive.

**(m) Transfer of insurance to Management Fund**

The Secretary is authorized to transfer to the Management Fund commitments for insurance issued under subsections (a)(1), (i), and (j) prior to August 10, 1965, and to transfer to the Management Fund the insurance of any mortgage or loan insured prior to August 10, 1965, under subsection (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), or (j): *Provided*, That the insurance of any mortgage or loan shall not be transferred under the provisions of this subsection if on August 10, 1965, the mortgage or loan is in default and the mortgagee or lender has notified the Secretary in writing of its intention to file an insurance claim. Any insurance or commitment not so transferred shall continue to be an obligation of the General Insurance Fund.

**(n) Payment of premium charges in debentures**

Notwithstanding the limitations contained in other provisions of this chapter, premium charges for mortgages or loans the insurance of which is the obligation of either the Management Fund or the General Insurance Fund may be payable in debentures issued in connection with mortgages or loans transferred to the Management Fund or in connection with mortgages or loans insured pursuant to commitments transferred to the Management Fund, as provided in subsection (m) of this section. Premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund may be payable in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

**(o) Transfer of funds between Management Fund and General Insurance Fund; investment of monies**

Notwithstanding any other provision of this chapter the Secretary is authorized to transfer funds between the Cooperative Management Housing Insurance Fund and the General Insurance Fund in such amounts and at such times as he may determine, taking into consideration the requirements of each such Fund, to assist in carrying out effectively the insurance programs for which such Funds were respectively established. Moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the Cooperative Management Housing Insurance Fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, pur-

chase in the open market debentures which are the obligations of the Cooperative Management Housing Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this subsection. Debentures so purchased shall be canceled and not reissued.

**(p) Increase in maximum mortgage amounts for solar energy systems and energy conservation measures**

Notwithstanding any other provision of this section, the project mortgage amounts which may be insured under this section may be increased by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>1</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(June 27, 1934, ch. 847, title II, § 213, as added Apr. 20, 1950, ch. 94, title I, § 114, 64 Stat. 54; amended Oct. 26, 1951, ch. 577, § 4, 65 Stat. 648; June 30, 1953, ch. 170, § 6, 67 Stat. 123; Aug. 2, 1954, ch. 649, title I, §§ 119, 120, 68 Stat. 595, 596; Aug. 11, 1955, ch. 783, title I, § 102(c)-(e), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, § 105(a)-(c), 70 Stat. 1093, 1094; Pub. L. 85-104, title I, § 112, July 12, 1957, 71 Stat. 297; Pub. L. 86-372, title I, §§ 105, 116(b), Sept. 23, 1959, 73 Stat. 655, 664; Pub. L. 87-70, title VI, § 608, June 30, 1961, 75 Stat. 179; Pub. L. 88-560, title I, §§ 107(b), 109(a), Sept. 2, 1964, 78 Stat. 774, 777; Pub. L. 89-117, title II, § 207(b), 208, title XI, § 1108(g), Aug. 10, 1965, 79 Stat. 467, 468, 505; Pub. L. 89-754, title III, §§ 303, 304, Nov. 3, 1966, 80 Stat. 1266, 1267; Pub. L. 90-19, § 1(a)(1), (3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-301, § 3(c), May 7, 1968, 82 Stat. 114; Pub. L. 90-488, title III, § 313, title XVII, § 1722(e), Aug. 1, 1968, 82 Stat. 511, 610; Pub. L. 91-152, title I, § 113(c), Dec. 24, 1969, 83 Stat. 383; Pub. L. 91-609, title I, § 117(b), Dec. 31, 1970, 84 Stat. 1774; Pub. L. 93-383, title III, §§ 303(b), 304(b), (c), 311(b), Aug. 22, 1974, 88 Stat. 677, 678, 683; Pub. L. 94-173, § 3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, § 8(a), (b)(2), Aug. 3, 1976, 90 Stat. 1071; Pub. L. 96-153, title III, § 314, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96-399, title III, § 310(b), Oct. 8, 1980, 94 Stat. 1642; Pub. L. 97-35, title III, § 339B(a), Aug. 13, 1981, 95 Stat. 417; Pub. L. 97-253, title II, § 201(c), Sept. 8, 1982, 96 Stat. 789; Pub. L. 97-377, title I, § 101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §§ 404(b)(5), 423(b)(2)], Nov. 30, 1983, 97 Stat. 1209, 1216; Pub. L. 100-242, title IV, § 426(b), (h), Feb. 5, 1988, 101 Stat. 1915, 1916; Pub. L. 102-550, title V, § 509(b), Oct. 28, 1992, 106 Stat. 3783; Pub. L. 103-233, title III, § 306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 106-74, title II, § 221, Oct. 20, 1999, 113 Stat. 1076; Pub. L. 107-73, title II, § 213(b), Nov. 26, 2001, 115 Stat. 676; Pub. L. 107-326, § 5(b)(2), Dec. 4, 2002, 116 Stat. 2794; Pub. L. 108-186, title III, § 302(b), (c)(2), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110-161, div. K, title II, § 221(1), Dec. 26, 2007, 121 Stat. 2436.)

## Editorial Notes

## REFERENCES IN TEXT

Section 1720 of this title, referred to in subsec. (b)(2)(B)(i), was repealed by Pub. L. 98-181, title I [title IV, § 483(a)], Nov. 30, 1983, 97 Stat. 1240.

Subsection (h) of section 1710 of this title, referred to in subsec. (e), was redesignated subsec. (i) by Pub. L. 105-276, title VI, § 602(1), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (e), was repealed by Pub. L. 105-276, title VI, § 601(c), Oct. 21, 1998, 112 Stat. 2673.

This chapter, referred to in subsecs. (g), (i), (n) and (o), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

Section 8211 of title 42, referred to in subsec. (p), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

## AMENDMENTS

2007—Subsec. (b)(2)(B)(i). Pub. L. 110-161 substituted “170 percent” for “140 percent” after “not to exceed” in two places and “215 percent in high cost areas” for “170 percent in high cost areas”.

2003—Subsec. (b)(2)(A). Pub. L. 108-186, § 302(c)(2), substituted “\$41,207”, “\$47,511”, “\$57,300”, “\$73,343”, “\$81,708”, “\$49,710”, “\$60,446”, “\$78,197”, and “\$85,836” for “\$38,025”, “\$42,120”, “\$50,310”, “\$62,010”, “\$70,200”, “\$49,140”, “\$60,255”, “\$75,465”, and “\$85,328”, respectively.

Subsec. (b)(2)(B)(i). Pub. L. 108-186, § 302(b), substituted “140 percent in” for “110 percent in” and inserted “, or 170 percent in high cost areas,” after “and by not to exceed 140 percent”.

2002—Subsec. (b)(2). Pub. L. 107-326 inserted subpar. (A) designation after “(2)” and substituted “; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)” for “; *Provided further*, That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph”, “; and (ii) in the case of a mortgagor” for “; *Provided further*, That in the case of a mortgagor”, “; and (iii) upon the sale of a property” for “; *And provided further*, That upon the sale of a property”, and “with this subparagraph (B)(i).” for “with this subsection without regard to the preceding proviso”.

2001—Subsec. (b)(2). Pub. L. 107-73 substituted “\$38,025”, “\$42,120”, “\$50,310”, “\$62,010”, and “\$70,200” for “\$30,420”, “\$33,696”, “\$40,248”, “\$49,608”, and “\$56,160”, respectively, and “\$43,875”, “\$49,140”, “\$60,255”, “\$75,465”, and “\$85,328” for “\$35,100”, “\$39,312”, “\$48,204”, “\$60,372”, and “\$68,262”, respectively.

1999—Subsec. (a). Pub. L. 106-74 inserted at end “Nothing in this section may be construed to prevent membership in a nonprofit housing cooperative from being held in the name of a trust, the beneficiary of which shall occupy the dwelling unit in accordance with rules and regulations prescribed by the Secretary.”.

1994—Subsec. (b)(2). Pub. L. 103-233 substituted “\$56,160” for “\$59,160”.

1992—Subsec. (b)(2). Pub. L. 102-550 substituted “\$30,420”, “\$33,696”, “\$40,248”, “\$49,608”, and “\$59,160” for “\$25,350”, “\$28,080”, “\$33,540”, “\$41,340”, and “\$46,800”, respectively, and “\$35,100”, “\$39,312”, “\$48,204”, “\$60,372”, and “\$68,262” for “\$29,250”, “\$32,760”, “\$40,170”, “\$50,310”, and “\$56,885”, respectively.

1988—Subsec. (b)(2). Pub. L. 100-242 substituted “\$25,350”, “\$28,080”, “\$33,540”, “\$41,340”, and “\$46,800” for “\$19,500”, “\$21,600”, “\$25,800”, “\$31,800”, and “\$36,000”, respectively, and “\$29,250”, “\$32,760”, “\$40,170”, “\$50,310”, and “\$56,885” for “\$22,500”,

“\$25,200”, “\$30,900”, “\$38,700”, and “\$43,758”, respectively, and substituted “not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved” for “not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area”.

1983—Subsec. (b)(2). Pub. L. 98-181, § 423(b)(2), struck out “: *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured” after “involved” in such area”.

Subsec. (d). Pub. L. 98-181, § 404(b)(5), substituted provision that the interest rate for the mortgage be such a rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest, exclusive of premium charges for insurance, not exceed 5¼ per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum per annum as the Secretary finds necessary to meet the mortgage market.

1982—Subsec. (b)(2). Pub. L. 97-377 inserted “(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)” after “90 per centum”.

Pub. L. 97-253 inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

1981—Subsec. (p). Pub. L. 97-35 inserted “therein” after “installation” and struck out “therein” after “measure”.

1980—Subsec. (p). Pub. L. 96-399 added subsec. (p).

1979—Subsec. (b)(2). Pub. L. 96-153 in second proviso substituted “75 per centum” for “50 per centum”, and inserted exception that the dollar amount limitations may be exceeded not to exceed 90 per centum where the Secretary determines it necessary.

1976—Subsec. (b)(2). Pub. L. 94-375 substituted “50 per centum in any geographical area” for “75 per centum in any geographical area”, “\$19,500” for “\$13,000”, “\$21,600” for “\$18,000”, “\$25,800” for “\$21,500”, “\$31,800” for “\$26,500”, “\$36,000” for “\$30,000”, “\$22,500” for “\$15,000”, “\$25,200” for “\$21,000”, “\$30,900” for “\$25,750”, “\$38,700” for “\$32,250”, and “\$43,758” for “\$36,465”.

1975—Subsec. (b)(2). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (b)(1). Pub. L. 93-383, § 304(b), struck out par. (1) which set forth limits on principal obligation of not to exceed \$20,000,000, or not to exceed \$25,000,000 if mortgage is executed by a mortgagor regulated under Federal, State, local laws.

Subsec. (b)(2). Pub. L. 93-383, §§ 303(b), 311(b), substituted “\$13,000” for “\$9,900”, “\$15,000” for “\$11,550”, “\$18,000” for “\$13,750”, “\$21,000” for “\$16,500”, “\$21,500” for “\$16,500”, “\$25,750” for “\$19,800”, “\$26,500” for “\$20,350”, “\$30,000” for “\$23,100”, “\$32,250” for “\$24,750”, “\$36,465” for “\$28,050”, and “98 per centum” for “97 per centum”.

Subsec. (c). Pub. L. 93-383, §304(c), struck out “not to exceed \$12,500,000 and” after “an amount”.

1970—Subsec. (o). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1969—Subsec. (b)(2). Pub. L. 91-152 substituted “\$9,900” for “\$9,000”, “\$11,550” for “\$10,500”, “\$13,750” for “\$12,500”, “\$16,500” for “\$15,000” wherever appearing, “\$19,800” for “\$18,000”, “\$20,350” for “\$18,500”, “\$23,100” for “\$21,000”, “\$24,750” for “\$22,500”, and “\$28,050” for “\$25,500”.

1968—Subsec. (d). Pub. L. 90-301 substituted provisions limiting interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market for former provisions limiting the rate to 5¼ per centum per annum on individual mortgages covering individual dwellings in the project.

Subsec. (j)(1). Pub. L. 90-448, §313(1), authorized the Secretary to make commitments to insure and to insure supplementary cooperative loans with respect to any property purchased from the Federal Government by a nonprofit corporation or trust of the character described in subsec. (a) (1) of this section, if the property is covered by an uninsured mortgage representing a part of the purchase price.

Subsec. (j)(2)(B). Pub. L. 90-448, §313(2), permitted the loan to have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage in the case of repairs or improvements to a property covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of such property.

Subsec. (o). Pub. L. 90-448, §1722(e), required deposit with the Treasurer or investment in bonds or other obligations of, or in bonds or obligations guaranteed as to principal and interest by, the United States, of moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund, authorized purchase in the open market of debentures which are obligations of the fund, and directed that debentures so purchased be canceled and not reissued.

1967—Pub. L. 90-19, §1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subssecs. (a), (a)(3), (b)(2), (d), (f), (h), (i), (j)(1), (2)(B), (C), (k) to (m), and (o).

Subsec. (i). Pub. L. 90-19, §1(a)(4), substituted “Secretary’s” for “Commissioner’s”.

Subsec. (k). Pub. L. 90-19, §1(a)(1), substituted “Department of Housing and Urban Development” for “Federal Housing Administration”.

1966—Subsec. (j)(2)(A). Pub. L. 89-754, §304, provided that, in case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsec. (b) of this section.

Subsec. (k). Pub. L. 89-754, §303(c)(1), directed the Secretary rather than the Commissioner to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsec. (m) of this section minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans.

Subsec. (l). Pub. L. 89-754, §303(c)(2), struck out reference to subsec. (k) in second proviso.

Subsec. (m). Pub. L. 89-754, §303(a), struck out before the proviso “, but only in cases where the consent of the mortgagee or lender to the transfer is obtained or a request by the mortgagee or lender for the transfer is

received by the Commissioner within such period of time after August 10, 1965, as the Commissioner shall prescribe”.

Subsec. (n). Pub. L. 89-754, §303(b), substituted “the insurance of which is the obligation of either the Management Fund or the General Insurance Fund” for “insured under this section and sections 1713, 1715v and 1715w of this title” and inserted provision for payment of premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

1965—Subsec. (a). Pub. L. 89-117, §§208(b)(1), 1108(g)(1), inserted proviso construing reference to General Insurance Fund in section 1713(b)(2) of this title as a reference to Management Fund and substituted “Cooperative Management Housing Insurance Fund” for “Housing Fund” in par. (3).

Subsec. (b)(2). Pub. L. 89-117, §207(b)(1), substituted “\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms” for “and \$18,500 per family unit with three or more bedrooms” and “\$22,500 per family unit with three bedrooms, and \$25,500 per family unit with four or more bedrooms” for “and \$22,500 per family unit with three or more bedrooms”.

Subsec. (c). Pub. L. 89-117, §207(b)(2), struck out limitation which prohibited the principal obligation from exceeding a sum equal to the maximum amount which does not exceed either of the limitations on the amount of the principal obligations of the mortgage prescribed by par. (2) of subsec. (b) of this section.

Subsec. (e). Pub. L. 89-177, §§208(b)(2), 1108(g)(2), inserted proviso construing all references to General Insurance Fund as references to Management Fund and all references to section 1713 of this title as references to subssecs. (a)(1), (a)(3), (i) and (j) of this section and struck out reference to subssecs. (m) and (p) of section 1713 of this title.

Subsecs. (k) to (o). Pub. L. 89-117, §208(a), added subssecs. (k) to (o).

1964—Subsec. (b)(2). Pub. L. 88-560, §107(b), changed limits on mortgages for property or project attributable to dwelling use from “\$2,500 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)” to “\$9,000 per family unit without a bedroom, \$12,500 per family unit with one bedroom, \$15,000 per family unit with two bedrooms, and \$18,500 per family unit with three or more bedrooms”, changed such mortgage limits on project consisting of elevator-type structures from a sum “of \$2,500 per room to not exceed \$3,000 per room and the dollar amount limitation of \$9,000 per family unit to not exceed \$9,400 per family unit” to dollar amount limitations “per family unit to not to exceed \$10,500 per family unit without a bedroom, \$15,000 per family unit with one bedroom, \$18,000 per family unit with two bedrooms, and \$22,500 per family unit with three or more bedrooms”, and substituted provision authorizing an increase “by not to exceed 45 per centum” of any of such limits because of cost levels for former provision authorizing such an increase “by not to exceed \$1,250 per room without regard to the number of rooms being less than four, or four or more”.

Subsec. (j)(1)(C). Pub. L. 88-560, §109(a), added cl. (C).

1961—Subsec. (b)(2). Pub. L. 87-70, §608(a)(1), inserted “(excluding exterior land improvements as defined by the Commissioner)”.

Subsec. (d). Pub. L. 87-70, §608(a)(2), substituted “five or more family units” for “eight or more family units”.

Subsec. (h). Pub. L. 87-70, §608(a)(3), substituted “the Commissioner is authorized to refuse, for such period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsor type mortgage loans made to such mortgagor or to any other investor-sponsor mortgagor where, in the determination of the Commissioner, any of its stockholders were identified with such mort-

gagor” for “such mortgagor shall not thereafter be eligible by reason of such paragraph (3) for insurance of any additional mortgage loans pursuant to this section”.

Subsec. (j). Pub. L. 87-70, §608(b), added subsec. (j). 1959—Subsec. (b)(1). Pub. L. 86-372, §105(a), substituted “\$20,000,000” for “\$12,500,000”.

Subsec. (b)(2). Pub. L. 86-372, §105(b), increased mortgage limits per room from \$2,250 to \$2,500 and per family unit from \$8,100 to \$9,000 for elevator type structures from \$2,700 to \$3,000 per room and from \$8,400 to \$9,400 per family unit, maximum amount of loan from 90 per centum to 97 per centum of replacement cost and in case of a mortgagor of character described in subsec. (a)(3) of this section from 85 per centum to 90 per centum of replacement cost, changed authorization of Commissioner to increase dollar amount limitation per room where cost levels so require by increasing room limit from \$1,000 to \$1,250, and struck out provisions which authorized a loan of 95 per centum of replacement cost if 50 per centum of membership consisted of veterans.

Subsec. (d). Pub. L. 86-372, §105(c), (d), substituted “5¼ per centum” for “4½ per centum” and “5¾ per centum”, for “5 per centum”, and inserted provisions permitting property held by a corporation or trust of the character described in subsec. (a)(2) of this section which is covered by a mortgage insured under this section to include such community facilities, and property held by a mortgagor of the character described in subsec. (a)(3) of this section which is covered by a mortgage insured under this section to include such commercial and community facilities, as the Commissioner deems adequate to serve the occupants.

Subsec. (e). Pub. L. 86-372, §116(b), inserted reference to subsec. (k) of section 1710 of this title.

Subsec. (i). Pub. L. 86-372, §105(e), added subsec. (i). 1957—Subsec. (e). Pub. L. 85-104 substituted “(h), and (j) of section 1710 of this title” for “and (h) of section 1710 of this title”.

1956—Subsec. (a). Act Aug. 7, 1956, §105(a), struck out “or” at end of par. (1), inserted “or” at end of par. (2), added par. (3), and inserted “referred to in paragraphs (1) and (2) of this subsection” after “which corporations or trusts” in provisions following par. (3).

Subsec. (b)(2). Act Aug. 7, 1956, §105(b), substituted “50 per centum” for “65 per centum”, inserted for purposes of defining “veteran”; service from Apr. 6, 1917, to Nov. 12, 1918, substituted service prior to Feb. 1, 1955, for former provision leaving determination of date to President, and inserted provision authorizing Commissioner to increase dollar limits per room by not to exceed \$1,000 per room.

Subsec. (h). Act Aug. 7, 1956, §105(c), added subsec. (h).

1955—Subsec. (b)(1). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on maximum amount of a mortgage.

Subsec. (b)(2). Act Aug. 11, 1955, §102(d), provided that maximum amount of a mortgage to be insured may be determined on basis of estimated replacement cost.

Subsec. (c). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on maximum amount of a mortgage.

Subsec. (d). Act Aug. 11, 1955, §102(e), authorized mortgage insurance for structures consisting of eight or more family units.

1954—Subsec. (b)(1). Act Aug. 2, 1954, §119(a), permitted insured cooperative housing mortgages to be as high as \$25,000,000 in amount if the mortgagor cooperative is regulated or supervised by Federal or State law as to rents, charges, and methods of operations.

Subsec. (b)(2). Act Aug. 2, 1954, amended par. (2) generally, to:

1. Change, with respect to nonveteran projects, the per family or per room mortgage amount limitations from \$8,100 per family unit or \$1,800 per room, to \$2,250 per room and with a per family unit limitation of \$8,100 applicable only if the number of rooms is less than four;

2. Provide for changing from a cost basis to a valuation basis;

3. Change the basis for allowing increases for veteran membership so that in all cases such increases would be made only if 65 per cent of members are veterans, instead of making such increases on the basis of percentage allowances for percentage of veteran membership; and

4. Authorize an increase to the per room and per family mortgage amount limitation for elevator-type structures.

Subsec. (c)(1). Act Aug. 2, 1954, §119(b), with respect to the reference to section 1709(b)(2) of this title, struck out the reference to “paragraph (A), paragraph (C), or paragraph (D)” of the section, the paragraph designations having been struck out by another section of the same act.

Subsec. (f). Act Aug. 2, 1954, §120, struck out sentence providing for the appointment of an Assistant Commissioner.

1953—Subsec. (d). Act June 30, 1953, substituted, in first sentence, “4½ per centum per annum, except that individual mortgages insured pursuant to this subsection covering the individual dwellings in the project may bear interest at not to exceed 5 per centum per annum,” for “4 per centum per annum”.

1951—Subsec. (b)(2). Act Oct. 26, 1951, struck out “of World War II” wherever appearing and inserted proviso thus making section applicable to veterans of Korean war.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1983 AMENDMENT

For effective date of amendment by section 423(b)(2) of Pub. L. 98-181, see section 423(c) of Pub. L. 98-181, set out as a note under section 1709 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97-253 to be implemented only if the Secretary determines that the program of advance payment of insurance premiums, considering the effect of said amendment, is actuarially sound, see section 201(g) of Pub. L. 97-253, set out as a note under section 1709 of this title.

#### REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, §3(c), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

#### SPECIAL ASSISTANT FOR COOPERATIVE HOUSING

Act Aug. 11, 1955, ch. 783, title I, §102(h), 69 Stat. 636, as amended by Pub. L. 89-754, title X §1020(h), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 94-375, §18, Aug. 3, 1976, 90 Stat. 1077, provided that: “In the performance of, and with respect to, the functions, powers, and duties vested in him by section 213 of the National Housing Act [this section], section 221(d)(3), section 235, section 236, section 241, section 243, section 246, and section 203(n) of the National Housing Act [sections 1715(d)(3), 1715z, 1715z-1, 1715z-6, 1715z-8, 1715z-11, and 1709(n) of this title], and section 101 of the Housing and Urban Development Act of 1965 [section 1701s of this title] or section 8 of the United States Housing Act of 1937 [section 1437f of Title 42, The Public Health and Welfare] (insofar as the provisions of such sections relate to cooperative housing), the Secretary of Housing and Urban Development, notwithstanding the provisions of any other law, shall appoint a Special Assistant for Cooperative Housing, and provide the Special Assistant with ade-

quate staff, whose sole responsibility will be to expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner and Assistant Secretary for Housing Management. The person so appointed shall be fully sympathetic with the purposes of such sections."

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (b)(2) of this section by section 107(b) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

#### § 1715f. Process of applications and issuance of commitments

The Secretary is authorized to process applications and issue commitments with respect to insurance of mortgages under section 1706c of this title and subchapter II, VI, VIII, or X of this chapter, even though the permanent mortgage financing may not be insured under this chapter, and in the event the mortgage is not so insured the Secretary is authorized to charge an additional application fee determined by him to be reasonable. The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(June 27, 1934, ch. 847, title II, §215, as added Apr. 20, 1950, ch. 94, title I, §115, 64 Stat. 56; amended Sept. 1, 1951, ch. 378, title II, §204, 65 Stat. 303; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

##### AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1951—Act Sept. 1, 1951, inserted a reference to subchapter X of this chapter.

#### § 1715g. Insurance of mortgage where mortgagor is not occupant of property

The Secretary is hereby authorized to insure any mortgage otherwise eligible for insurance under any of the provisions of this chapter without regard to any requirement with respect to the occupancy of the mortgagor of the property at the time of insurance, where the Secretary is satisfied that the inability of the mortgagor to meet such requirement is by reason of his entry on active duty in a uniformed service subsequent to the filing of an application for insurance and the mortgagor expresses an intent to meet such requirement upon his release from active duty.

(June 27, 1934, ch. 847, title II, §216, as added Sept. 1, 1951, ch. 378, title VI, §607, 65 Stat. 315; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81

Stat. 17; Pub. L. 91-621, §7(a), Dec. 31, 1970, 84 Stat. 1865; Pub. L. 100-242, title IV, §406(b)(8), Feb. 5, 1988, 101 Stat. 1901.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

##### AMENDMENTS

1988—Pub. L. 100-242 substituted "with respect to the occupancy of the mortgagor" for "that the mortgagor be the occupant" and "meet such requirement" for "occupy the property" wherever appearing.

1970—Pub. L. 91-621 substituted "on active duty in a uniformed service" and "release from active duty" for "into military service" and "discharge from military service".

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100-242, set out as a note under section 1709 of this title.

#### § 1715h. Repealed. Pub. L. 100-242, title IV, § 401(a)(1), Feb. 5, 1988, 101 Stat. 1898

Section, act June 27, 1934, ch. 847, title II, §217, as added Sept. 1, 1951, ch. 378, title VI, §607, 65 Stat. 315; amended July 14, 1952, ch. 723, §2, 66 Stat. 601; June 30, 1953, ch. 170, §7, 67 Stat. 123; Aug. 2, 1954, ch. 649, title I, §121, 68 Stat. 596; Mar. 11, 1955, ch. 10, 69 Stat. 11; Aug. 11, 1955, ch. 783, title I, §102(f), 69 Stat. 636; Aug. 7, 1956, ch. 1029, title I, §106, 70 Stat. 1094; June 4, 1958, Pub. L. 85-442, 72 Stat. 176; Sept. 23, 1959, Pub. L. 86-372, title I, §107, 73 Stat. 657; May 25, 1961, Pub. L. 87-38, 75 Stat. 85; June 30, 1961, Pub. L. 87-70, title VI, §604(c), 75 Stat. 177; Aug. 10, 1965, Pub. L. 89-117, title II, §202(b), 79 Stat. 465; Sept. 30, 1969, Pub. L. 91-78, §2(b), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91-152, title I, §101(b), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91-432, §1(b), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91-473, §1(b), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91-525, §1(b), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91-609, title I, §101(b), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92-503, §1(b), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93-85, §1(b), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93-117, §1(b), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93-383, title III, §316(b), 88 Stat. 685; June 30, 1977, Pub. L. 95-60, §1(b), 91 Stat. 257; July 31, 1977, Pub. L. 95-80, §1(b), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95-128, title III, §301(b), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95-406, §1(b), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95-557, title III, §301(b), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96-71, §1(b), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96-105, §1(b), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96-153, title III, §301(b), 93 Stat. 1111; Oct. 3, 1980, Pub. L. 96-372, §1(b), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96-399, title III, §301(b), 94 Stat. 1638; Aug. 13, 1981, Pub. L. 97-35, title III, §331(b), 95 Stat. 412; Oct. 6, 1982, Pub. L. 97-289, §1(b), 96 Stat. 1230; May 26, 1983, Pub. L. 98-35, §1(b), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98-109, §1(b), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98-181, title I [title IV, §401(b)], 97 Stat. 1207; Oct. 17, 1984, Pub. L. 98-479, title II, §204(a)(5), 98 Stat. 2232; Oct. 8, 1985, Pub. L. 99-120, §1(b), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99-156, §1(b), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99-219, §1(b), 99 Stat. 1730; Mar.

27, 1986, Pub. L. 99-267, §1(b), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99-272, title III, §3007(b), 100 Stat. 104; May 2, 1986, Pub. L. 99-289, §1(b), 100 Stat. 412; June 24, 1986, Pub. L. 99-345, §1, 100 Stat. 673; Sept. 30, 1986, Pub. L. 99-430, 100 Stat. 986; Sept. 30, 1987, Pub. L. 100-122, §1, 101 Stat. 793; Nov. 5, 1987, Pub. L. 100-154, 101 Stat. 890; Nov. 17, 1987, Pub. L. 100-170, 101 Stat. 914; Dec. 3, 1987, Pub. L. 100-179, 101 Stat. 1018; Dec. 21, 1987, Pub. L. 100-200, 101 Stat. 1327, prohibited (except with respect to insurance of a loan or mortgage pursuant to section 1703, 1715l, 1715z, 1715z-1, 1715z-9, or 1715z-10 of this title or subchapter VIII, IX-A, or IX-B of this chapter (subject to any limitations thereunder on the time of such insurance)) the insurance of any loan or mortgage under this chapter after Mar. 15, 1988, except pursuant to a commitment to insure before such date.

**§ 1715i. Repealed. Pub. L. 86-372, title I, § 108, Sept. 23, 1959, 73 Stat. 657**

Section, act June 27, 1934, ch. 847, title II, §218, as added July 14, 1952, ch. 723, §8, 66 Stat. 603, authorized a credit for application fees paid in cases where an application for mortgage insurance under section 1743 of this title was received on or before March 1, 1950, and the mortgagee applied for insurance of a mortgage under section 1713 of this title with respect to the same property or project.

**§ 1715j. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507**

Section, act June 27, 1934, ch. 847, title II, §219, as added June 30, 1953, ch. 170, §8, 67 Stat. 123; amended Aug. 2, 1954, ch. 649, title I, §122, 68 Stat. 596; July 12, 1957, Pub. L. 85-104, title I, §113, 71 Stat. 298; June 30, 1961, Pub. L. 87-70, title VI, §612(f), 75 Stat. 181, authorized the Commissioner to transfer funds from one or more to one or more of the following funds and accounts as he deems necessary to carry out programs for which such funds and accounts were established: Title I Insurance Account, Title I Housing Insurance Fund, Section 203 Home Improvement Account, Housing Insurance Fund, War Housing Insurance Fund, Housing Investment Insurance Fund, Armed Services Housing Mortgage Insurance Fund, National Defense Housing Insurance Fund, Section 220 Housing Insurance Fund, Section 220 Home Improvement Account, Section 221 Housing Insurance Fund, Experimental Housing Insurance Fund, Apartment Unit Insurance Fund, and the Servicemen's Mortgage Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

**§ 1715k. Rehabilitation and neighborhood conservation housing insurance**

**(a) Purpose of section**

The purpose of this section is to aid in the elimination of slums and blighted conditions and the prevention of the deterioration of residential property by supplementing the insurance of mortgages under sections 1709 and 1713 of this title with a system of loan and mortgage insurance designed to assist the financing required for the rehabilitation of existing dwelling accommodations and the construction of new dwelling accommodations where such dwelling accommodations are located in an area referred to in paragraph (1) of subsection (d) of this section.

**(b) Authorization**

The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (including advances during construction on mortgages covering property of the character described in paragraph (3)(B) of

subsection (d) of this section) which is eligible for insurance as hereinafter provided, and, upon such terms and conditions as he may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

**(c) Definitions**

As used in this section, the terms “mortgage”, “first mortgage”, “mortgagee”, “mortgagor”, “maturity date”, and “State” shall have the same meaning as in section 1707 of this title.

**(d) Eligibility for insurance; conditions; limits**

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A) be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] before August 2, 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended), or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949 [42 U.S.C. 1462], or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468], or (v) an area, designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation, or preservation: *Provided*, That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been approved for such area by the governing body of the locality involved and by the Secretary of Housing and Urban Development, and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further*, That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such section 111 [42 U.S.C. 1462]) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

(B) meet such standards and conditions as the Secretary shall prescribe to establish the acceptability of such property for mortgage insurance under this section.

(2) The mortgaged property shall be held by—

(A) a mortgagor approved by the Secretary, and the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed \$100 stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulations. Such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance; or

(B) by Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations or other legal entities restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

(3) The mortgage shall—

(A)(i) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed the applicable maximum principal obligation which may be insured in the area under section 1709(b) of this title; or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) the applicable maximum principal obligation secured by a four-family residence which may be insured in the area under section 1709(b) of this title plus not to exceed \$9,165 for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum of (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90 per centum) of \$25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of \$25,000: *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount

equal to the sum of (1) 100 per centum of \$25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of \$25,000. As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 5303A(d) of title 38; and

(ii) in no case involving refinancing have a principal obligation in an amount exceeding the sum of the estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project, plus any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property; or

(B)(i) Repealed. Pub. L. 93-383, title III, § 304(d), Aug. 22, 1974, 88 Stat. 678.

(ii) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost of the property or project may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949 [42 U.S.C. 1460(c)(8)], and, in such case the foregoing limitations upon the amount of the mortgage shall be based upon the appraised value of the property as of the date the mortgage is accepted for insurance;

(iii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary),



\$38,025 per family unit without a bedroom, \$42,120 per family unit with one bedroom, \$50,310 per family unit with two bedrooms, \$62,010 per family unit with three bedrooms, and \$70,200 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$43,875 per family unit without a bedroom, \$49,140 per family unit with one bedroom, \$60,255 per family unit with two bedrooms, \$75,465 per family unit with three bedrooms, and \$85,328 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and (II) with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title) which are applicable to units with two, three, or four or more bedrooms; (III) the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>1</sup> of this title (as such section existed immediately before November 30, 1983) is involved; (IV) That nothing contained in this<sup>2</sup> subparagraph (B)(iii)(I) shall preclude the insurance of mortgages covering existing multifamily dwellings to be rehabilitated or reconstructed for the purposes set forth in subsection (a) of this section; (V) the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>1</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure; and

(iv) include such nondwelling facilities as the Secretary deems desirable and con-

sistent with the urban renewal plan or, where appropriate, with the locally developed strategy for neighborhood improvement, conservation or preservation: *Provided*, That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community.

(4) The mortgage shall provide for complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of paragraph (3)(A) of this subsection not to exceed the maximum maturity prescribed by the provisions of section 1709(b)(3) of this title. The mortgage shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee and contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in the Secretary's discretion prescribe.

**(e) Release of mortgagor or part of property**

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

**(f) Entitlement of mortgagee to benefits; payment in cash or debentures; acquisition of mortgages; applicability of other provisions**

The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (3)(A) of subsection (d) of this section as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h),<sup>1</sup> (j), and (k)<sup>1</sup> of section 1710 of this title shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 1709 of this title shall be construed to refer to this section;

(2) as to mortgages meeting the requirements of paragraph (3)(B) of subsection (d) of this section, as provided in section 1713(g) of this title with respect to mortgages insured under said section 1713, and the provisions of subsections (h), (i), (j), (k), and (l) of section 1713 of this title shall be applicable to such mortgages insured under this section, and all references therein to the Housing Insurance

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The word "this" probably should not appear.

Fund or the Housing Fund shall be construed to refer to the General Insurance Fund; or

(3) as to mortgages meeting the requirements of this section that are insured or initially endorsed for insurance on or after June 30, 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

**(g) Repealed. Pub. L. 89-117, title XI, § 1108(h)(3), Aug. 10, 1965, 79 Stat. 505**

**(h) Home improvement loans; eligibility; conditions; refinancing; premium charge; defaults; debentures; exception; limitation**

(1) To assist further in the conservation, improvement, repair, and rehabilitation of property located in the area of an urban renewal project or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468], as provided in paragraph (1) of subsection (d) of this section, the Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure home improvement loans (including advances during construction or improvement) made by financial institutions on and after June 30, 1961. As used in this subsection—

(A) the term “home improvement loan” means a loan, advance of credit, or purchase of

an obligation representing a loan or advance of credit made—

(i) for the purpose of financing the improvement of an existing structure (or in connection with an existing structure) which was constructed not less than ten years prior to the making of such loan, advance of credit, or purchase, and which is used or will be used primarily for residential purposes: *Provided*, That a home improvement loan shall include a loan, advance, or purchase with respect to the improvement of a structure which was constructed less than ten years prior to the making of such loan, advance, or purchase if the proceeds are or will be used primarily for major structural improvements, or to correct defects which were not known at the time of the completion of the structure or which were caused by fire, flood, windstorm, or other casualty; or

(ii) for the purpose of enabling the borrower to pay that part of the cost of the construction or installation of sidewalks, curbs, gutters, street paving, street lights, sewers, or other public improvements, adjacent to or in the vicinity of property owned by him and used primarily for residential purposes, which is assessed against him or for which he is otherwise legally liable as the owner of such property;

(B) the term “improvement” means conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement, or remodeling; and

(C) the term “financial institution” means a lender approved by the Secretary as eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title.

(2) To be eligible for insurance under this subsection, a home improvement loan shall—

(i) not exceed the Secretary's estimate of the cost of improvement, or \$12,000 per family unit, whichever is the lesser, and be limited as required by paragraph (11): *Provided*, That the Secretary may, by regulation, increase such amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require;

(ii) be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Secretary) creates a total outstanding indebtedness which does not exceed the limits provided in subsection (d)(3) for properties (of the same type) other than new construction;

(iii) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(iv) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan;

(v) comply with such other terms, conditions, and restrictions as the Secretary may prescribe; and

(vi) represent the obligation of a borrower who is the owner of the property improved, or a lessee of the property under a lease for not less than 99 years which is renewable or under a lease having an expiration date in excess of

10 years later than the maturity date of the loan.

(3) Any home improvement loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection.

(4) Repealed. Pub. L. 89-117, title XI, § 1108(h)(3), Aug. 10, 1965, 79 Stat. 505.

(5) The Secretary is authorized to fix a premium charge for the insurance of home improvement loans under this subsection but in the case of any such loan such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 1 per centum per annum of the amount of the principal obligation of the loan outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the financial institution either in cash or in debentures (at par plus accrued interest) issued by the Secretary as obligations of the General Insurance Fund, in such manner as may be prescribed by the Secretary, and the Secretary may require the payment of one or more such premium charges at the time the loan is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the loan. If the Secretary finds upon presentation of a loan for insurance and the tender of the initial premium charge or charges so required that the loan complies with the provisions of this subsection, such loan may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event the principal obligation of any loan accepted for insurance under this subsection is paid in full prior to the maturity date, the Secretary is authorized to refund to the financial institution for the account of the borrower all, or such portions as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(6) In cases of defaults on loans insured under this subsection, upon receiving notice of default, the Secretary, in accordance with such regulations as he may prescribe, may acquire the loan and any security therefor upon payment to the financial institution in cash or in debentures (as provided in the loan insurance contract) of a total amount equal to the unpaid principal balance of the loan, plus any accrued interest, any advances approved by the Secretary made previously by the financial institution under the provisions of the loan instruments, and reimbursement for such collection costs, court costs, and attorney fees as may be approved by the Secretary. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(7) Debentures issued under this subsection shall be executed in the name of the General Insurance Fund as obligor, shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations, and shall be dated as of the date the loan is assigned to the Secretary and shall bear inter-

est from that date. They shall bear interest at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature ten years after their date of issuance. They shall be exempt from taxation as provided in section 1713(i) of this title with respect to debentures issued under that section. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, the guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amounts so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures. Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(8) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to home improvement loans insured under this subsection, and for the purposes of this subsection references in subsections (c), (d), and (h) of section 1703 of this title to "this section" or "this subchapter" shall be construed to refer to this subsection.

(9)(A) Notwithstanding any other provisions of this chapter, no home improvement loan executed in connection with the improvement of a structure for use as rental accommodations for five or more families shall be insured under this subsection unless the borrower has agreed (i) to certify, upon completion of the improvement and prior to final endorsement of the loan, either that the actual cost of improvement equaled or exceeded the proceeds of the home improvement loan, or the amount by which the proceeds of the loan exceed the actual cost, as the case may be, and (ii) to pay forthwith to the financial institution, for application to the reduction of the principal of the loan, the amount, if any, certified to be in excess of the actual cost of improvement. Upon the Secretary's approval of the borrower's certification as required under this paragraph, the certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the borrower.

(B) As used in subparagraph (A), the term "actual cost" means the cost to the borrower of the improvement, including the amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organization and legal expenses, such allocations of general overhead

items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus a reasonable allowance for builder's profit if the borrower is also the builder, as defined by the Secretary, and excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the improvement.

(10) Notwithstanding any other provision of this chapter, the Secretary is authorized and empowered (i) to make expenditures and advances out of funds made available by this chapter to preserve and protect his interest in any security for, or the lien or priority of the lien securing, any loan or other indebtedness owing to, insured by, or acquired by the Secretary or by the United States under this subsection, or section 1703 or 1709(k) of this title; and (ii) to bid for and to purchase at any foreclosure or other sale or otherwise acquire property pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of any loan or other indebtedness owing to or acquired by the Secretary or by the United States under this subsection or section 1703 or 1709(k) of this title. The authority conferred by this paragraph may be exercised as provided in the last sentence of section 1710(g) of this title.

(11) Notwithstanding any other provision of this chapter, no home improvement loan made in whole or in part for the purpose specified in clause (A)(ii) of the second sentence of paragraph (1) shall be insured under this subsection if such loan (or the portion thereof which is attributable to such purpose), when added to the aggregate principal balance of any outstanding loans insured under this subsection or section 1709(k) of this title which were made to the same borrower for the purpose so specified (or the portion of such aggregate balance which is attributable to such purpose), would exceed \$10,000 or such additional amount as the Secretary has by regulation prescribed in any geographical area where he finds cost levels so require pursuant to the authority vested in him by the proviso in paragraph (2)(i) of this subsection.

(June 27, 1934, ch. 847, title II, § 220, as added Aug. 2, 1954, ch. 649, title I, § 123, 68 Stat. 596; amended Aug. 11, 1955, ch. 783, title I, § 102(c), (g), 69 Stat. 635, 636; Aug. 7, 1956, ch. 1029, title I, § 107, title III, § 307(b), 70 Stat. 1094, 1102; Pub. L. 85-10, § 3, Mar. 27, 1957, 71 Stat. 8; Pub. L. 85-104, title I, §§ 102, 112, July 12, 1957, 71 Stat. 295, 297; Pub. L. 85-364, § 1(b), Apr. 1, 1958, 72 Stat. 73; Pub. L. 86-372, title I, §§ 109, 116(b), Sept. 23, 1959, 73 Stat. 657, 664; Pub. L. 87-70, title I, § 102(a), title VI, §§ 609, 612(g), June 30, 1961, 75 Stat. 154, 179, 181; Pub. L. 88-560, title I, §§ 105(c)(1), 107(c), 110-113, Sept. 2, 1964, 78 Stat. 772, 775, 777, 778; Pub. L. 89-117, title II, §§ 207(c), 209-211, title III, § 311(c), (d), title XI, § 1108(h), Aug. 10, 1965, 79 Stat. 467, 469, 470, 478, 505; Pub. L. 89-754, title III, §§ 305, 306, Nov. 3, 1966, 80 Stat. 1267; Pub. L. 90-19, § 1(a)(3), (4), (g), May 25, 1967, 81 Stat. 17, 18; Pub. L. 90-448, title III, § 311(a), title XVII, § 1722(g), Aug. 1, 1968, 82 Stat. 510, 611; Pub. L. 91-152, title I, §§ 102(b), 104, 113(d), Dec. 24, 1969, 83 Stat. 380, 381, 384; Pub. L. 93-383, title III, §§ 302(b), 303(c), 304(d), 310(b), Aug. 22, 1974, 88 Stat. 676-678, 682; Pub. L. 94-173, § 3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, § 8(a), (b)(3), Aug. 3,

1976, 90 Stat. 1071, 1072; Pub. L. 95-24, title I, § 105(b), Apr. 30, 1977, 91 Stat. 56; Pub. L. 95-128, title III, §§ 303(b), 304(b), Oct. 12, 1977, 91 Stat. 1132, 1133; Pub. L. 96-153, title III, §§ 312(b), 314, Dec. 21, 1979, 93 Stat. 1116, 1117; Pub. L. 96-399, title III, §§ 310(c), 311, 333(b), 336(b), Oct. 8, 1980, 94 Stat. 1642, 1643, 1653, 1654; Pub. L. 97-35, title III, § 339B(a), Aug. 13, 1981, 95 Stat. 417; Pub. L. 97-377, title I, § 101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §§ 404(b)(6), (7), 432(a), 446(c)], Nov. 30, 1983, 97 Stat. 1209, 1220, 1228; Pub. L. 100-242, title IV, §§ 405(2), 406(b)(9), 426(c), (h), Feb. 5, 1988, 101 Stat. 1899, 1901, 1916; Pub. L. 102-40, title IV, § 402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-550, title V, §§ 509(c), 516(c), Oct. 28, 1992, 106 Stat. 3783, 3791; Pub. L. 103-233, title III, § 306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 107-73, title II, § 213(c), Nov. 26, 2001, 115 Stat. 676; Pub. L. 107-326, § 5(b)(3), Dec. 4, 2002, 116 Stat. 2795; Pub. L. 108-186, title III, § 302(b),(d), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 108-213, § 2, Apr. 1, 2004, 118 Stat. 571; Pub. L. 110-161, div. K, title II, § 221(2), Dec. 26, 2007, 121 Stat. 2436.)

### Editorial Notes

#### REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in subsecs. (d)(1)(A), (B)(ii), and (h)(1), is act July 15, 1949, ch. 338, 63 Stat. 413. Title I of the Housing Act of 1949, which was classified generally to subchapter II (§1450 et seq.) of chapter 8A of Title 42, The Public Health and Welfare, including sections 110, 111, and 117 [42 U.S.C. 1460, 1462, 1468], was omitted from the Code pursuant to section 5316 of Title 42 which terminated the authority to make loans or grants under such title I after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

Section 1720 of this title, referred to in subsec. (d)(3)(B)(iii)(III), was repealed by Pub. L. 98-181, title I [title IV, § 483(a)], Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (d)(3)(B)(iii)(V), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

Subsection (h) of section 1710 of this title, referred to in subsec. (f)(1), was redesignated subsec. (i) by Pub. L. 105-276, title VI, § 602(1), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (f)(1), was repealed by Pub. L. 105-276, title VI, § 601(c), Oct. 21, 1998, 112 Stat. 2673.

This chapter, referred to in subsec. (h)(9) to (11), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2007—Subsec. (d)(3)(B)(iii)(III). Pub. L. 110-161 substituted "section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis" for "section 1712a of this title) by not to exceed 140 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent, or 170 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis".

2004—Subsec. (d)(3)(B)(iii)(V). Pub. L. 108-213 struck out "with respect to rehabilitation projects involving not more than five family units," after "(V)".

2003—Subsec. (d)(3)(B)(iii). Pub. L. 108-186 substituted “; (III)” for “with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II),” redesignated subcls. (III) and (IV) as (IV) and (V), respectively, substituted “140 percent in” for “110 percent in,” and inserted “, or 170 percent in high cost areas,” after “and by not to exceed 140 percent”.

2002—Subsec. (d)(3)(B)(iii). Pub. L. 107-326 inserted subcl. (I) designation after “(iii)” and substituted “design; and (II)” for “design; and except that,” “any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title)” for “any of the foregoing dollar amount limitations contained in this clause,” “with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title)” for “: *Provided*, That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause (as determined after the application of the preceding proviso), “; (III)” for “: *Provided further*,,” “subparagraph (B)(iii)(I) shall preclude” for “subparagraph shall preclude”, and “; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects” for “: *And provided further*, That the Secretary may further increase any of the dollar amount limitations which would otherwise apply for the purpose of this clause”.

2001—Subsec. (d)(3)(B)(iii). Pub. L. 107-73 substituted “\$38,025”, “\$42,120”, “\$50,310”, “\$62,010”, and “\$70,200” for “\$30,420”, “\$33,696”, “\$40,248”, “\$49,608”, and “\$56,160”, respectively, and “\$43,875”, “\$49,140”, “\$60,255”, “\$75,465”, and “\$85,328” for “\$35,100”, “\$39,312”, “\$48,204”, “\$60,372”, and “\$68,262”, respectively.

1994—Subsec. (d)(3)(B)(iii). Pub. L. 103-233 substituted “\$56,160” for “\$59,160”.

1992—Subsec. (d)(3)(B)(iii). Pub. L. 102-550, § 509(c), substituted “\$30,420”, “\$33,696”, “\$40,248”, “\$49,608”, and “\$59,160” for “\$25,350”, “\$28,080”, “\$33,540”, “\$41,340”, and “\$46,800”, respectively, and “\$35,100”, “\$39,312”, “\$48,204”, “\$60,372”, and “\$68,262” for “\$29,250”, “\$32,760”, “\$40,170”, “\$50,310”, and “\$56,885”, respectively.

Subsec. (h)(7). Pub. L. 102-550, § 516(c), in first sentence, substituted “shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations” for “shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable”, in fourth sentence, substituted “and, in the case of debentures issued in certificated registered form, the guaranty” for “and the guaranty”, inserted after fifth sentence “Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.” and struck out at end “Debentures issued under this subsection shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and they may be in coupon or registered form. Any difference between the amount of the debentures to which the financial institution is entitled, and the aggregate face value of the debentures issued, not to exceed \$50, shall be adjusted by the payment of cash by the Secretary to the financial institution from the General Insurance Fund.”

1991—Subsec. (d)(3)(A)(i). Pub. L. 102-40 substituted “section 5303A(d) of title 38” for “section 3103A(d) of title 38”.

1988—Subsec. (d)(3)(A)(i). Pub. L. 100-242, § 405(2), inserted before semicolon at end “, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38”.

Subsec. (d)(3)(A)(ii) to (iv). Pub. L. 100-242, § 406(b)(9), redesignated former cl. (iv) as (ii) and struck out “(except as provided in cl. (iii))”, and struck out former cls. (ii) and (iii) which read as follows:

“(ii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, have a principal obligation in an amount not to exceed 93 per centum of the amount computed under the provisions of clause (i);

“(iii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for the purpose of sale, have a principal obligation in an amount not to exceed 85 per centum of the amount computed under the provisions of clause (i), or in the alternative, in an amount equal to the amount computed under the provisions of clause (i) if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof, or by such greater amount as may be required to meet the limitations of clause (iv), in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness; and”.

Subsec. (d)(3)(B)(iii). Pub. L. 100-242, § 426(c), (h), substituted “\$25,350”, “\$28,080”, “\$33,540”, “\$41,340”, and “\$46,800” for “\$19,500”, “\$21,600”, “\$25,800”, “\$31,800”, and “\$36,000”, respectively, and “\$29,250”, “\$32,760”, “\$40,170”, “\$50,310”, and “\$56,885” for “\$22,500”, “\$25,200”, “\$30,900”, “\$38,700”, and “\$43,758”, respectively, and substituted “not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved” for “not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area”.

1983—Subsec. (d)(3)(B)(ii). Pub. L. 98-181, § 432(a), struck out proviso that in no case involving refinancing would the mortgage exceed the estimated cost of repair and rehabilitation and the amount, as determined by the Secretary, required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(4). Pub. L. 98-181, § 404(b)(6), substituted provision that the interest rate be at such rate as agreed upon by the mortgagor and mortgagee for provision that the interest rate, exclusive of premium charges for insurance and service charges if any, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

Pub. L. 98-181, § 446(c), inserted “(unless otherwise approved by the Secretary)” after “periodic payments”.

Subsec. (h)(2)(iii). Pub. L. 98-181, § 404(b)(7), substituted provision that the rate of interest be such rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest not exceed the rate prescribed by the Secretary, but not in excess of 6 per centum per annum of the amount of the principal obligation outstanding at any time, and such other charges as approved by the Secretary.

1982—Subsec. (d)(3)(B)(iii). Pub. L. 97-377 inserted “(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)” after “90 per centum”.

1981—Subsec. (d)(3)(B)(iii). Pub. L. 97-35 inserted “therein” after “installation” and struck out “therein” after “measure”.

1980—Subsec. (d)(1)(A)(v). Pub. L. 96-399, § 311(a), added cl. (v).

Subsec. (d)(3)(A)(i). Pub. L. 96-399, § 336(b), substituted provisions relating to the applicable maximum principal obligation which may be insured in the area under section 1709(b) of this title, for provisions setting forth dollar amounts of \$67,500 for one-family property, \$76,000 for two-family, \$92,000 for three-family, and \$107,000 for four-family or more than four-family, and substituted “\$9,165” for “\$8,250”.

Subsec. (d)(3)(B)(iii). Pub. L. 96-399, § 310(c), inserted proviso relating to increases in dollar amount limitations.

Subsec. (d)(3)(B)(iv). Pub. L. 96-399, § 311(b), inserted provisions relating to locally developed strategy for neighborhood improvement, etc.

Subsec. (h)(2)(iv). Pub. L. 96-399, § 333(b), struck out “or three-quarters of the remaining economic life of the structure, whichever is the lesser” after “loan”.

1979—Subsec. (d)(3)(A)(i). Pub. L. 96-153, § 312(b), substituted “\$67,500” for “\$60,000”, “\$76,000” for “\$65,000” where it first appeared, “\$92,000” for “\$65,000” where it appeared the second time, “\$107,000” for “\$75,000”, and “\$8,250” for “\$7,700”.

Subsec. (d)(3)(B)(iii). Pub. L. 96-153, § 314, in first proviso substituted “75 per centum” for “50 per centum” and inserted exception that the dollar amount limitations may be exceeded not to exceed 90 per centum where the Secretary determines it to be necessary.

1977—Subsec. (d)(1)(A)(ii). Pub. L. 95-24 struck out “in a community respecting which the Secretary of Housing and Urban Development has made the determination provided for by section 101(c) of the Housing Act of 1949, as amended” after “(as defined in title I of the Housing Act of 1949, as amended)”.

Subsec. (d)(3)(A). Pub. L. 95-128 substituted “\$60,000” for “\$45,000”, “\$65,000” for “\$48,750” and “\$75,000” for “\$56,000” wherever appearing in provisions preceding cl. (1); substituted in text preceding first proviso “and (2) 95 per centum of such value in excess of \$25,000” for “(2) 90 per centum of such replacement cost in excess of \$25,000 but not in excess of \$35,000, (3) 80 per centum of such replacement cost in excess of \$35,000” and in second proviso “and (2) 95 per centum of such value in excess of \$25,000” for “(2) 90 per centum of such replacement cost in excess of \$25,000 but not in excess of \$35,000, and (3) 85 per centum of such replacement cost in excess of \$35,000”.

1976—Subsec. (d)(3)(B)(iii). Pub. L. 94-375 substituted “50 per centum in any geographical area” for “75 per centum in any geographical area”, “\$19,500” for “\$13,000”, “\$21,600” for “\$18,000”, “\$25,800” for “\$21,500”, “\$31,800” for “\$26,500”, “\$36,000” for “\$30,000”, “\$22,500” for “\$15,000”, “\$25,200” for “\$21,000”, “\$30,900” for “\$25,750”, “\$38,700” for “\$32,250”, and “\$43,758” for “\$36,465”.

1975—Subsec. (d)(3)(B)(iii). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (d)(3)(A)(i). Pub. L. 93-383, § 302(b), substituted “\$45,000” for “\$33,000”, “\$48,750” for “\$35,750”,

and “\$56,000” for “\$41,250” wherever appearing in provisions preceding cl. (1).

Subsec. (d)(3)(A)(i)(1). Pub. L. 93-383, § 310(b)(1), substituted “\$25,000” for “\$15,000”.

Subsec. (d)(3)(A)(i)(2). Pub. L. 93-383, § 310(b)(2), substituted “\$25,000” for “\$15,000” and “\$35,000” for “\$25,000”.

Subsec. (d)(3)(A)(i)(3). Pub. L. 93-383, § 310(b)(3), substituted “\$35,000” for “\$25,000”.

Subsec. (d)(3)(B)(i). Pub. L. 93-383, § 304(d), struck out cl. (i) which set forth mortgage ceiling of \$50,000,000.

Subsec. (d)(3)(B)(iii). Pub. L. 93-383, § 303(c), substituted “\$13,000” for “\$9,900”, “\$15,000” for “\$11,550”, “\$18,000” for “\$13,750”, “\$21,000” for “\$16,500”, “\$21,500” for “\$16,500”, “\$25,750” for “\$19,800”, “\$26,500” for “\$20,350”, “\$30,000” for “\$23,100”, “\$32,250” for “\$24,750”, and “\$36,465” for “\$28,050”.

1969—Subsec. (d)(3)(A)(i). Pub. L. 91-152, §§ 102(b), 113(d)(1), substituted “\$7,700” for “\$7,000”, “\$25,000” for “\$20,000” wherever appearing, “\$33,000” for “\$30,000”, “\$35,750” for “\$32,500”, and “\$41,250” for “\$37,500” wherever appearing.

Subsec. (d)(3)(B)(i). Pub. L. 91-152, § 104, substituted provisions that the mortgage not exceed \$50,000,000 for provisions that the mortgage not exceed \$30,000,000, or, if executed by a mortgagor within subsec. (d)(2)(B) of this section, not exceed \$50,000,000.

Subsec. (d)(3)(B)(iii). Pub. L. 91-152, § 113(d)(2), (3), substituted “\$9,900” for “\$9,000”, “\$11,550” for “\$10,500”, “\$13,750” for “\$12,500”, “\$16,500” for “\$15,000” wherever appearing, “\$19,800” for “\$18,000”, “\$20,350” for “\$18,500”, “\$23,100” for “\$21,000”, “\$24,750” for “\$22,500”, and “\$28,050” for “\$25,000”.

Subsec. (h)(2)(i). Pub. L. 91-152, § 113(d)(4), substituted “\$12,000” for “\$10,000”.

1968—Subsec. (d)(2)(B). Pub. L. 90-448, § 1722(g), substituted “corporations or other legal entities restricted by or under” for “corporations restricted by”.

Subsec. (d)(3)(B)(ii). Pub. L. 90-448, § 311(a), inserted proviso to permit the mortgage to involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 1460(c)(8) of Title 42.

1967—Pub. L. 90-19, § 1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (b), (d)(1)(B), (d)(2)(A), (d)(3)(A)(i), (iii), (iv), (d)(3)(B)(ii) to (iv), (d)(4), (e), (f)(3), (h) (1), (h)(1)(C), (h)(2)(i) to (v), (h)(3), (5) to (7), (h)(9)(B), and (h)(10), (11).

Pub. L. 90-19, § 1(a)(4), substituted “Secretary’s” for “Commissioner’s” wherever appearing in subsecs. (d)(3)(A)(i)(B), (ii) and (h)(2)(i), (9)(A).

Subsec. (d)(1)(A). Pub. L. 90-19, § 1(g)(1)–(4), substituted “Secretary of Housing and Urban Development” and “Secretary” for “Housing and Home Finance Administrator” and “Administrator” wherever appearing, “determination” for “certification to the Commissioner”, and “determined” for “certified to the Commissioner” wherever appearing, respectively.

1966—Subsec. (d)(3)(A)(i). Pub. L. 89-754, § 305, increased the rate in cl. (3) from 75 to “80 per centum of such replacement cost in excess of \$20,000” and inserted proviso respecting mortgage limits of a mortgagor who is a veteran and the mortgage to be insured covers property upon which there is located a dwelling designed principally for a one-family residence and definition of “veteran”.

Subsec. (d)(3)(B)(iii). Pub. L. 89-754, § 306, provided that with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the dollar amount limitations contained in this clause which are applicable to units with two, three, or four or more bedrooms, inserted “as determined after the application of the preceding proviso” before “by not to exceed 45 per centum”, and substituted “Provided further, That nothing” for “Provided, That nothing”.

1965—Subsec. (d)(1)(A). Pub. L. 89-117, § 311(c), inserted cl. (iv).

Subsec. (d)(2). Pub. L. 89-117, § 1108(h)(1), substituted “the General Insurance Fund” for “the section 220 Housing Insurance Fund” wherever appearing.

Subsec. (d)(3)(A)(i). Pub. L. 89-117, § 209(1), struck out a second proviso which, in a case involving refinancing, prohibited the mortgage to exceed the estimated cost of repair and rehabilitation and the amount required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(3)(A)(ii). Pub. L. 89-117, § 209(2), substituted provisions prohibiting the mortgage, in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, to have a principal obligation in an amount in excess of 93 per centum of the amount computed under the provisions of cl. (i) for provisions which prohibited the mortgage, in a case where a mortgagor is not the occupant of the property, to have a principal obligation in excess of an amount equal to 85 per centum of the amount computed under cl. (i).

Subsec. (d)(3)(A)(iii), (iv). Pub. L. 89-117, § 209(2), added cls. (iii) and (iv).

Subsec. (d)(3)(B)(iii). Pub. L. 89-117, § 207(c), substituted "\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms" for "and \$18,500 per family unit with three or more bedrooms" and "\$22,500 per family unit with three bedrooms, and \$25,500 per family unit with four or more bedrooms" for "and \$22,500 per family unit with three or more bedrooms".

Subsec. (d)(3)(B)(iv). Pub. L. 89-117, § 210, substituted "desirable and consistent with the urban renewal plan" for "adequate to serve the needs of the occupants of the property and of other housing in the neighborhood", and inserted proviso.

Subsec. (f). Pub. L. 89-117, § 1108(h)(1), (2), substituted "the General Insurance Fund" for "the section 220 Housing Insurance Fund" wherever appearing and, in par. (3), struck out provision that, as to mortgages acquired hereunder, all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the section 220 Housing Insurance Fund.

Subsec. (g). Pub. L. 89-117, § 1108(h)(3), repealed subsec. (g) which created the section 220 Housing Insurance Fund, provided for transfer of funds thereto, and authorized purchase and cancellation of debentures and the receipt and payment of charges and fees.

Subsec. (h)(1). Pub. L. 89-117, § 311(d), inserted "or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 1468 of title 42".

Subsec. (h)(2)(i). Pub. L. 89-117, § 211(a), inserted proviso permitting the Commissioner by regulation to increase the amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require.

Subsec. (h)(4). Pub. L. 89-117, § 1108(h)(3), repealed par. which created the Home Improvement Account and provided for the transfer of funds thereto, credit and charges to such Account, and disposition of surplus moneys.

Subsec. (h)(5), (7). Pub. L. 89-117, § 1108(h)(4), substituted "General Insurance Fund" for "section 220 Home Improvement Account" wherever appearing.

Subsec. (h)(11). Pub. L. 89-117, § 211(b), inserted "or such additional amount as the Commissioner has by regulation prescribed in any geographical area where he finds cost levels so require pursuant to the authority vested in him by proviso in paragraph (2)(i) of this subsection".

1964—Subsec. (d)(3)(A)(i). Pub. L. 88-560, § 110, increased the maximum amount of the principal obligation for one-family residences from \$25,000 to \$30,000, for two-family residences from \$27,500 to \$32,500, for three-family residences from \$30,000 to \$32,500, for four-family residences from \$35,000 to \$37,500, and for more-than-four-family residences from \$35,000 to \$37,500.

Subsec. (d)(3)(B)(i). Pub. L. 88-560, § 111, substituted "\$30,000,000" for "\$20,000,000".

Subsec. (d)(3)(B)(iii). Pub. L. 88-560, § 107(c), changed limits on mortgages for property or project attributable to dwelling use from "\$2,500 per room (or \$9,000

per family unit if the number of rooms in such property or project is less than four per family unit)" to "\$9,000 per family unit without a bedroom, \$12,500 per family unit with one bedroom, \$15,000 per family unit with two bedrooms, and \$18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of \$2,500 per room to not exceed \$3,000 per room and the dollar amount limitation of \$9,000 per family unit to not exceed \$9,400 per family unit" to dollar amount limitations "per family unit to not to exceed \$10,500 per family unit without a bedroom, \$15,000 per family unit with one bedroom, \$18,000 per family unit with two bedrooms, and \$22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed \$1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (f)(3). Pub. L. 88-560, § 105(c)(1), inserted "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

Subsec. (h)(1). Pub. L. 88-560, § 112(a), designated definitions of "home improvement loan", "improvement", and "financial institution" in second sentence as cls. (A)(i), (B), and (C), respectively, and added cl. (A)(ii) to definition of "home improvement loan".

Subsec. (h)(2)(i). Pub. L. 88-560, § 112(b), inserted ", and be limited as required by paragraph (11) of this subsection".

Subsec. (h)(2)(vi). Pub. L. 88-560, § 113, substituted "an expiration date in excess of 10 years later than the maturity date of the loan" for "a period of not less than 50 years to run from the date of the loan".

Subsec. (h)(6). Pub. L. 88-560, § 105(c)(1), inserted "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

Subsec. (h)(11). Pub. L. 88-560, § 112(c), added par. (11). 1961—Subsec. (a). Pub. L. 87-70, § 102(a)(2), substituted "loan and mortgage insurance" for "mortgage insurance".

Subsec. (d)(3)(A)(i). Pub. L. 87-70, § 102(a)(1), 609, increased the maximum amount of the principal obligation for one-family residences from \$22,500 to \$25,000, and for two-family residences from \$25,000 to \$27,500, substituted "\$15,000" for "\$13,500" in two places, "\$20,000" for "\$18,000" in two places, "75 per centum" for "70 per centum", and "shall be based upon the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation rather than upon the Commissioner's estimate of the replacement cost" for "shall be based upon appraised value rather than upon the Commissioner's estimate of the replacement cost" in proviso relating to limitations upon the amount of the mortgage in the case of properties other than new construction, and inserted proviso which limits, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(3)(B)(ii). Pub. L. 87-70, § 102(a)(1), substituted "shall be based upon the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation rather than upon the Commissioner's estimate of the replacement cost" for "shall be based upon appraised value rather than upon the Commissioner's estimate of the replacement cost" in proviso relating to limitations upon the amount of the mortgage in the case of properties other than new construction, and inserted the proviso which limits, in

cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project.

Subsec. (f)(3). Pub. L. 87-70, § 612(g), added par. (3).

Subsec. (h). Pub. L. 87-70, § 102(a)(3), added subsec. (h). 1959—Subsec. (d)(3)(A)(i). Pub. L. 86-372, § 109(a)(1), (2), increased the maximum amount of the principal obligation for one-family residences from \$20,000 to \$22,500, for two-family residences from \$20,000 to \$25,000, and for three-family residences from \$27,500 to \$30,000, and increased the maximum amount of loans over \$13,500 from 85 percent of the value in excess of \$13,500 but not in excess of \$16,000 to 90 percent of the value in excess of \$13,500 but not in excess of \$18,000.

Pub. L. 86-372, § 109(a)(3), inserted proviso in subsec. (d)(3)(A)(ii) making the 85 per centum limitation inapplicable if the mortgagor and mortgagee assume responsibility for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the 18th amortization payment of the mortgage, sold to a purchaser acceptable to the Commissioner who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

Subsec. (d)(3)(B)(i). Pub. L. 86-372, § 109(b), substituted “\$20,000,000” for “\$12,500,000”.

Subsec. (d)(3)(B)(iii). Pub. L. 86-372, § 109(c)–(e), inserted “(excluding exterior land improvements as defined by the Commissioner)” after “dwelling use”, and substituted “\$2,500” for “\$2,250” in two places, “\$9,000” for “\$8,100” in two places, “\$3,000” for “\$2,700”, “\$9,400” for “\$8,400”, and “\$1,250” for “\$1,000”.

Subsec. (d)(3)(B)(iv). Pub. L. 86-372, § 109(e), added cl. (iv).

Subsec. (f)(1). Pub. L. 86-372, § 116(b), inserted reference to subsec. (k) of section 1710 of this title.

1958—Subsec. (d)(3)(A)(i). Pub. L. 85-364 substituted “\$13,500” for “\$10,000” in two places.

1957—Subsec. (d)(3). Pub. L. 85-104, § 102, amended provisions generally, and, among other changes, raised maximum mortgage obligation from 95 to 97 percent, inserted “unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance”, and as to estimated replacement cost, raised figure from \$9,000 to \$10,000 and provided for 85 percent of such replacement cost in excess of \$10,000 and 70 percent in excess of \$16,000, in lieu of former provisions allowing 75 percent of such cost in excess of \$9,000 with Presidential authority to increase dollar amounts to \$10,000.

Subsec. (d)(3)(B)(iii). Pub. L. 85-10 substituted “without regard to the number of rooms being less than four, or four or more” for “or per family unit, as the case may be”, in second proviso.

Subsec. (f)(1). Pub. L. 85-104, § 112, substituted “(h), and (j) of section 1710 of this title” for “and (h) of section 1710 of this title”.

1956—Subsec. (d)(1)(A). Act Aug. 7, 1956, § 307(b), provided mortgage insurance assistance for urban renewal areas under section 1462 of this title without requiring the programs required of areas in cl. (i) or cl. (ii).

Subsec. (d)(3)(B)(ii). Act Aug. 7, 1956, § 107(a), inserted “, and shall include an allowance for builder’s and sponsor’s profit and risk of 10 per centum of all of the foregoing items except the land unless the Commissioner, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage” after “approved by the Secretary”.

Subsec. (d)(3)(B)(iii). Act Aug. 7, 1956, § 107(b), substituted “Provided further” for “except”, substituted “any of the foregoing dollar amount limitations” for “the foregoing limits” and inserted “or per family unit, as the case may be,” after “\$1,000 per room”.

1955—Subsec. (d)(3)(A). Act Aug. 11, 1955, § 102(g)(1), provided that the maximum amount of a mortgage to be insured may be determined on the bases of estimated replacement cost, and required determination upon ap-

praised value in case of properties other than new construction.

Subsec. (d)(3)(B). Act Aug. 11, 1955, § 102(c), (g)(2), increased from \$5,000,000 to \$12,500,000 the limitation on the maximum amount of a mortgage, provided that the maximum amount of a mortgage to be insured may be determined on the bases of estimated replacement cost, and required determination upon appraised value in case of properties other than new construction.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(9) of Pub. L. 100-242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgage signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100-242, set out as a note under section 1709 of this title.

##### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

For limitation on the number of dwelling units with mortgages not providing for complete amortization pursuant to authority granted by amendment to subsec. (d)(4) by section 446 of Pub. L. 98-181, see section 446(f) of Pub. L. 98-181, set out as a note under section 1713 of this title.

#### AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendments to subsec. (d)(3)(B)(iii) of this section by section 107(c) of Pub. L. 88-560 or pre-amended provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

##### LABOR STANDARDS

Application of section 1715c of this title, relating to labor standards, to certain mortgage insurance under this section, see subsec. (a) of section 1715c.

### § 1715l. Housing for moderate income and displaced families

#### (a) Purpose

This section is designed to assist private industry in providing housing for low and moderate income families and displaced families.

#### (b) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure under this section as hereinafter provided any mortgage (including advances during construction on mortgages covering property of the character described in paragraphs (3) and (4) of subsection (d) of this section) which is eligible for insurance as provided herein and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

#### (c) Definitions

As used in this section, the terms “mortgage”, “first mortgage”, “mortgagee”, “mortgagor”,



“maturity date” and “State” shall have the same meaning as in section 1707 of this title.

**(d) Eligibility for insurance; conditions; limits**

To be eligible for insurance under this section, a mortgage shall—

(1) have been made to and be held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Secretary under subsection (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations, relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, and shall involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount (A) not to exceed (i) \$31,000 (or \$36,000, if the mortgagor's family includes five or more persons) in the case of a property upon which there is located a dwelling designed principally for a single-family residence, (ii) \$35,000 in the case of a property upon which there is located a dwelling designed principally for a two-family residence, (iii) \$48,600 in the case of a property upon which there is located a dwelling designed principally for a three-family residence, or (iv) \$59,400 in the case of a property upon which there is located a dwelling designed principally for a four-family residence, except that the Secretary may increase the foregoing amounts to not to exceed \$36,000 (or \$42,000 if the mortgagor's family includes five or more persons), \$45,000, \$57,600, and \$68,400, respectively, in any geographical area where he finds that cost levels so require; and (B) not to exceed the appraised value of the property (as of the date the mortgage is accepted for insurance): *Provided*, That (i)(1) in the case of a displaced family, he shall have paid on account of the property at least \$200 in the case of a single-family dwelling, \$400 in the case of a two-family dwelling, \$600 in the case of a three-family dwelling, and \$800 in the case of a four-family dwelling, or (2) in the case of any other family, he shall have paid on account of the property at least 3 per centum of the Secretary's estimate of its acquisition cost (excluding the mortgage insurance premium paid at the time the mortgage is insured), in cash or its equivalent; which amount in either instance may include amounts to cover settlement costs and initial payments for taxes, hazard insurance, and other prepaid expenses; or (ii) in the case of repair and rehabilitation, the amount of the mortgage shall not exceed the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property: *Provided further*, That the mortgagor shall to the maximum extent

feasible be given the opportunity to contribute the value of his labor as equity in such dwelling; or

(3) if executed by a mortgagor which is a public body or agency (and, except with respect to a project assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which certifies that it is not receiving financial assistance from the United States exclusively pursuant to such Act [42 U.S.C. 1437 et seq.]) a cooperative (including an investor-sponsor who meets such requirements as the Secretary may impose to assure that the consumer interest is protected), or a limited dividend corporation (as defined by the Secretary), or a private nonprofit corporation or association, or other mortgagor approved by the Secretary, and regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as in the opinion of the Secretary will effectuate the purposes of this section—

(i) Repealed. Pub. L. 93-383, title III, § 304(e)(1), Aug. 22, 1974, 88 Stat. 678.

(ii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary) \$42,048 per family unit without a bedroom, \$48,481 per family unit with one bedroom, \$58,469<sup>1</sup> per family unit with two bedrooms, \$74,840 per family unit with three bedrooms, and \$83,375 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$44,250 per family unit without a bedroom, \$50,724 per family unit with one bedroom, \$61,680 per family unit with two bedrooms, \$79,793 per family unit with three bedrooms, and \$87,588 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>2</sup> of this title (as such sec-

<sup>1</sup> So in original. Probably should be preceded by a dollar sign.

<sup>2</sup> See References in Text note below.

tion existed immediately before November 30, 1983) is involved; and

(iii) not exceed (1) in the case of new construction, the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary), or (2) in the case of repair and rehabilitation, the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation: *Provided*, That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949 [42 U.S.C. 1460(c)(8)], and, in such case, the amount of the mortgage shall not exceed the appraised value of the property as of the date the mortgage is accepted for insurance: *Provided further*, That in the case of any mortgagor other than a nonprofit corporation or association, cooperative (including an investor-sponsor), or public body, or a mortgagor meeting the special requirements of subsection (e)(1), the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section: *Provided further*, That such property or project, when constructed, or repaired and rehabilitated, shall be for use as a rental or cooperative project, and low and moderate income families or displaced families shall be eligible for occupancy in accordance with such regulations and procedures as may be prescribed by the Secretary and the Secretary may adopt such requirements as he determines to be desirable regarding consultation with local public officials where such consultation is appropriate by reason of the relationship of such project to projects under other local programs; or

(4) if executed by a mortgagor and which is approved by the Secretary—

(i) Repealed. Pub. L. 93-383, title III, §304(e)(2), Aug. 22, 1974, 88 Stat. 678.

(ii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$37,843 per family unit without a bedroom, \$42,954 per family unit with one bedroom, \$51,920 per family unit with two bedrooms, \$65,169 per family unit with three bedrooms, and \$73,846 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$40,876 per family unit without a bedroom, \$46,859 per family unit with one bedroom, \$56,979 per family unit with two bedrooms, \$73,710 per family unit with three bedrooms, and \$80,913 per family unit with

four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>2</sup> of this title (as such section existed immediately before November 30, 1983) is involved;

(iii) not exceed (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items, except the land, unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage); and

(iv) not exceed 90 per centum of the sum of the estimated cost of repair and rehabilitation (including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 4851b of title 42) and the Secretary's estimate of the value of the property before repair and rehabilitation if the proceeds of the mortgage are to be used for the repair and rehabilitation of a property or project: *Provided*, That the Secretary may, in his discretion, require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed \$100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations, with such stock or interest being paid for out of the General Insurance Fund and being required to be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; and contain such terms and provisions

with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe: *Provided*, That a mortgage insured under the provisions of subsection (d)(3) shall bear interest (exclusive of any premium charges for insurance and service charge, if any) at not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined, from time to time by the Secretary of the Treasury at the request of the Secretary, by estimating the average market yield to maturity on all outstanding marketable obligations of the United States, and by adjusting such yield to the nearest one-eighth of 1 per centum, and there shall be no differentiation in the rate of interest charged under this proviso as between mortgagors under subsection (d)(3) on the basis of differences in the types or classes of such mortgagors, and

(6) provide for complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of subsection (d)(2) not to exceed from the date of the beginning of amortization of the mortgage (i) 40 years in the case of a displaced family, (ii) 35 years in the case of any other family if the mortgage is approved for insurance prior to construction, except that the period in such case may be increased to not more than 40 years where the mortgagor is not able, as determined by the Secretary, to make the required payments under a mortgage having a shorter amortization period, and (iii) 30 years in the case of any other family where the mortgage is not approved for insurance prior to construction.

**(e) "Mortgagor" defined; release of mortgagor or part of property**

(1) A mortgagor which may be approved by the Secretary as provided in subsection (d)(3) includes a mortgagor which, as a condition of obtaining insurance of the mortgage and prior to the submission of its application for such insurance, has entered into an agreement (in form and substance satisfactory to the Secretary) with a private nonprofit corporation eligible for an insured mortgage under the provisions of subsection (d)(3), that the mortgagor will sell the project when it is completed to the corporation at the actual cost of the project, as certified pursuant to section 1715r of this title. The mortgagor to whom the property is sold shall be regulated or supervised by the Secretary as provided in subsection (d)(3) to effectuate its purposes.

(2) The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

**(f) Compliance with standards; nondwelling facilities in projects in urban renewal areas; number of family units; premium charges; housing for low-income purchasers; expiration of mortgage insurance authority; "family" defined; single occupants in subsection (d)(3) housing; use of certain housing facilities for classroom purposes; return of advances for capital improvements**

The property or project shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants: *Provided*, That in the case of any such property or project located in an urban renewal area, the provisions of section 1715k(d)(3)(B)(iv) of this title shall apply with respect to the nondwelling facilities which may be included in the mortgage: *Provided further*, That, in the case of a mortgage which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), the provisions of section 1715k(d)(3)(B)(iv) of this title shall only apply if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

A property or project covered by a mortgage insured under the provisions of subsection (d)(3) or (d)(4) shall include five or more family units: *Provided*, That such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities, and such projects may include central dining and other shared facilities. The Secretary is authorized to adopt such procedures and requirements as he determines are desirable to assure that the dwelling accommodations provided under this section are available to displaced families. Notwithstanding any provision of this chapter, the Secretary, in order to assist further the provision of housing for low and moderate income families, in his discretion and under such conditions as he may prescribe, may insure a mortgage which meets the requirements of subsection (d)(3) of this section as in effect after June 30, 1961, or which meets the requirements of subsection (h), (i), or (j) with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as the Secretary may determine, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to reimburse the General Insurance Fund for any net losses in connection with such insurance. Any person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q<sup>2</sup> of this title, or who is a displaced person, shall be deemed to be a family within the meaning of the terms "family" and "families" as those terms are used in this section. Low- and moderate-income persons who are less than 62 years of age shall be eligible for occupancy of dwelling units in a project financed with a mortgage insured under subsection (d)(3). In any case in which it is determined in accordance with regulations of the

Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the proviso in section 1715k(d)(3)(B)(iv) of this title except the requirement that the project be predominantly residential).

As used in this section the terms “displaced family”, “displaced families”, and “displaced person” shall mean a family or families, or a person, displaced from an urban renewal area, or as a result of governmental action, or as a result of a major disaster as determined by the President pursuant to the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

(A) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)];

(B) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(C) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

Assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

**(g) Entitlement of mortgagee to benefits; applicability of other provisions; debentures; “going Federal rate” defined; transfer of original credit instrument**

The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (2) of subsection (d) of this section, paragraph (5) of subsection (h) of this section, or paragraph (2) of subsection (i) of this section, as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h),<sup>2</sup> (j), and (k)<sup>2</sup> of section 1710 of this title

shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 1709 of this title shall be construed to refer to this section; or

(2) as to mortgages meeting the requirements of paragraph (3) or (4) of subsection (d) of this section, paragraph (1) of subsection (h) of this section, or paragraph (2) of subsection (j) of this section as provided in section 1713(g) of this title with respect to mortgages insured under said section 1713, and the provisions of subsections (h), (i), (j), (k), and (l) of section 1713 of this title shall be applicable to such mortgages insured under this section; or

(3) as to mortgages meeting the requirements of this section which are insured or initially endorsed for insurance on or after June 30, 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage, and after the acquisition of any such mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 1710 and 1713 of this title relating to the issuance of debentures shall apply with respect to debentures issued under this paragraph, and the appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance is paid in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(4)(A) in the event any mortgage insured under this section pursuant to a commitment to insure entered into before November 30, 1983, is not in default at the expiration of

twenty years from the date the mortgage was endorsed for insurance, the mortgagee shall, within a period thereafter to be determined by the Secretary, have the option to assign, transfer, and deliver to the Secretary the original credit instrument and the mortgage securing the same and receive the benefits of the insurance as hereinafter provided in this paragraph, upon compliance with such requirements and conditions as to the validity of the mortgage as a first lien and such other matters as may be prescribed by the Secretary at the time the loan is endorsed for insurance. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for insurance shall cease, and the Secretary shall issue to the mortgagee debentures having a par value equal to the amount of the original principal obligation of the mortgage which was unpaid on the date of the assignment, plus accrued interest to such date. Debentures issued pursuant to this paragraph shall be issued in the same manner and subject to the same terms and conditions as debentures issued under paragraph (1) of this subsection, except that the debentures issued pursuant to this paragraph shall be dated as of the date the mortgage is assigned to the Secretary, shall mature ten years after such date, and shall bear interest from such date at the going Federal rate determined at the time of issuance. The term "going Federal rate" as used herein means the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (consisting of January through June or July through December) which includes the issuance date of such debentures, which applicable rate for each such six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of eight to twelve years from the first day of such month of May or November (or, if no such obligations are outstanding, the obligation next shorter than eight years and the obligation next longer than twelve years, respectively, shall be used), and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. The Secretary shall have the same authority with respect to mortgages assigned to him under this paragraph as contained in sections 1713(k) and 1713(l) of this title as to mortgages insured by the Secretary and assigned to him under section 1713 of this title.

(B) In processing a claim for insurance benefits under this paragraph, the Secretary may direct the mortgagee to assign, transfer, and deliver the original credit instrument and the mortgage securing it directly to the Government National Mortgage Association in lieu of assigning, transferring, and delivering the credit instrument and the mortgage to the Secretary. Upon the assignment, transfer, and delivery of the credit instrument and the

mortgage to the Association, the mortgage insurance contract shall terminate and the mortgagee shall receive insurance benefits as provided in subparagraph (A). The Association is authorized to accept such loan documents in its own name and to hold, service, and sell such loans as agent for the Secretary. The mortgagor's obligation to pay a service charge in lieu of a mortgage insurance premium shall continue as long as the mortgage is held by the Association or by the Secretary. The Secretary shall have the same authority with respect to mortgages assigned to the Secretary or the Association under this subparagraph as provided by section 1715n(c) of this title.

(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as "participation certificates"). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances may the Sec-

retary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

(I) the maturity date of the loan;

(II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or

(III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

(vi) The Secretary shall implement the requirements imposed by this subparagraph

within 30 days from November 5, 1990, and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of November 5, 1990.

(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

(viii) This subparagraph shall not apply after December 31, 2002, except that this subparagraph shall continue to apply if the Secretary receives a mortgagee's written notice of intent to assign its mortgage to the Secretary on or before such date. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.

(ix) The authority of the Secretary to conduct multifamily auctions under this paragraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 661a of title 2), including the cost of modifying loans.

**(h) Insurance of mortgages to finance purchase and rehabilitation by nonprofit organizations of housing for resale to low-income purchasers, and insurance of mortgages executed for the purpose of financing rehabilitation or improvement of dwellings owned and occupied by mortgagors who purchased from nonprofit organizations**

(1) In addition to mortgages insured under the other provisions of this section, the Secretary is authorized, upon application by the mortgagee, to insure under this subsection as hereinafter provided any mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization to finance the purchase and rehabilitation of deteriorating or substandard housing for subsequent resale to low-income home purchasers and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit corporation or association, approved by the Secretary, for financing the purchase and rehabilitation (with the intention of subsequent resale) of property comprising one or more

tracts or parcels, whether or not contiguous, upon which there is located deteriorating or substandard housing consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established;

(B) be secured by the property which is to be purchased and rehabilitated with the proceeds thereof;

(C) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of the rehabilitation;

(D) bear interest (exclusive of premium charges for insurance and service charge, if any) at the rate in effect under the proviso in subsection (d)(5) at the time of execution;

(E) provide for complete amortization (subject to paragraph (5)(E)) by periodic payments within such term as the Secretary may prescribe; and

(F) provide for the release of individual single-family dwellings from the lien of the mortgage upon the sale of the rehabilitated dwellings in accordance with paragraph (5).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property to be rehabilitated is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the rehabilitation to be carried out by the mortgagor plus its related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed \$50,000,000.

(5)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement (in form and substance satisfactory to the Secretary) that it will offer to sell the dwellings involved, upon completion of their rehabilitation, to individuals or families (hereinafter referred to as "low-income purchasers") determined by the Secretary to have incomes below the maximum amount specified (with respect to the area involved) in section 1701s(c)(1) of this title.

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to low-income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount equal to that portion of the unpaid balance of the principal mortgage covering the property (insured under paragraph (1)) which is allocable to the individual dwelling involved; and

(ii) bear interest at the same rate as the principal mortgage or such lower rate, not less than 1 per centum, as the Secretary may pre-

scribe if in his judgment the purchaser's income is sufficiently low to justify the lower rate, and provide for complete amortization within a term equal to the remaining term (determined without regard to subparagraph (E)) of such principal mortgage: *Provided*, That, if the rate of interest initially prescribed is less than the rate borne by the principal mortgage and the purchaser's income (as determined on the basis of periodic review) subsequently rises, the rate of interest so prescribed shall be increased (but not above the rate borne by such principal mortgage), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide.

(C) The price for which any individual dwelling is sold to a low-income purchaser under this paragraph shall be the amount of the mortgage covering the sale as determined under subparagraph (B), except that the purchaser shall in addition thereto be required to pay on account of the property at the time of purchase such amount (which shall not be less than \$200, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate in the circumstances.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the principal mortgage, and such mortgage shall thereupon be replaced by an individual mortgage insured under this paragraph to the extent of the portion of its unpaid balance which is allocable to the dwelling covered by such individual mortgage. Until all of the individual dwellings in the property covered by the principal mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time as though they constituted rental units in a project covered by a mortgage which is insured under subsection (d)(3) (and which receives the benefits of the interest rate provided for in the proviso in subsection (d)(5)).

(E) Upon the sale under this paragraph of all of the individual dwellings in the property covered by the principal mortgage, and the release of all individual dwellings from the lien of the principal mortgage, the insurance of the principal mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(F) Any mortgage insured under this paragraph shall contain a provision that if the low-income mortgagor does not continue to occupy the property the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time of commitment for insurance of the principal mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) the nonprofit organization which executed the principal mortgage, (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(6) In addition to the mortgages that may be insured under paragraphs (1) and (5), the Sec-

retary is authorized to insure under this subsection at any time within one year after August 1, 1968, upon such terms and conditions as he may prescribe, mortgages which are executed by individuals or families that meet the income criteria prescribed in paragraph (5)(A) and are executed for the purpose of financing the rehabilitation or improvement of single-family dwellings of detached, semidetached, or row construction that are owned in each instance by a mortgagor who has purchased the dwelling from a nonprofit organization of the type described in this subsection. To be eligible for such insurance, a mortgage shall—

(A) be in a principal amount not exceeding the lesser of \$18,000 or the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property;

(B) bear interest (exclusive of premium charges for insurance and service charge, if any) at 3 per centum per annum or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the mortgagor's income is sufficiently low to justify the lower rate: *Provided*, That, if the rate of interest initially prescribed is less than 3 per centum per annum and the mortgagor's income (as determined on the basis of periodic review) subsequently rises, the rate shall be increased (but not above 3 per centum), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide;

(C) involve a mortgagor that shall have paid on account of the property at the time of the rehabilitation such amount (which shall not be less than \$200 in cash or its equivalent, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate under the circumstances; and

(D) contain a provision that, if the low-income mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for insurance of the mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit organization which has been engaged in purchasing and rehabilitating deteriorating and substandard housing with financing under a mortgage insured under paragraph (1) of this subsection, (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(7) Where the Secretary has approved a plan of family unit ownership, the terms "single-family dwelling", "single-family dwellings", "indi-

vidual dwelling", and "individual dwellings" shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(8) For purposes of this subsection, the terms "single-family dwelling" and "single-family dwellings" (except for purposes of paragraph (7)) shall include a two-family dwelling which has been approved by the Secretary.

**(i) Conversion of insured project to plan of family unit ownership; sale of units; agreements for maintenance; release from lien of project mortgage; insurance of mortgages financing purchase of individual family units; eligibility for insurance; definitions**

(1) The Secretary is authorized, with respect to any project involving a mortgage insured under subsection (d)(3) which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), to permit a conversion of the ownership of such project to a plan of family unit ownership. Under such plan, each family unit shall be eligible for individual ownership and provision shall be included for the sale of the family units, together with an undivided interest in the common areas and facilities which serve the project, to low or moderate income purchasers. The Secretary shall obtain such agreements as he determines to be necessary to assure continued maintenance of the common areas and facilities. Upon such sale, the family unit and the undivided interest in the common areas shall be released from the lien of the project mortgage.

(2)(A) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection mortgages financing the purchase of individual family units under the plan prescribed in paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) be executed by a mortgagor having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5);

(ii) involve a principal obligation (including such initial service charges, and such appraisal, inspection, and other fees, as the Secretary shall approve) in an amount not to exceed the Secretary's estimate of the appraised value of the family unit, including the mortgagor's interest in the common areas and facilities, as of the date the mortgage is accepted for insurance;

(iii) bear interest at a rate determined by the Secretary (which may vary in accordance with the regulations of the Secretary promulgated pursuant to the last sentence of paragraph (4) of this subsection) but not less than the below-market rate in effect under the proviso of subsection (d)(5) at the date of the commitment for insurance; and

(iv) provide for complete amortization by periodic payments within such term as the Secretary may prescribe, but not to exceed



forty years from the beginning of amortization of the mortgage.

(B) The price for which the individual family unit is sold to the low or moderate income purchaser shall not exceed the appraised value of the property, as determined under subparagraph (A)(ii), except that the purchaser shall be required to pay on account of the property at the time of purchase at least such amount, in cash or its equivalent (which shall be not less than 3 per centum of such price, but which may be applied in whole or in part toward closing costs), as the Secretary may determine to be reasonable and appropriate.

(3) Upon the sale of all of the family units covered by the project mortgage, and the release of all of the family units (including the undivided interest allocable to each unit in the common areas and facilities) from the lien of the project mortgage, the insurance of the project mortgage shall be terminated and no adjusted premium charge shall be collected by the Secretary upon such termination.

(4) Any mortgage covering an individual family unit insured under this subsection shall contain a provision that, if the original mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for the insurance of the project mortgage; except that the requirement for an increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit purchaser approved by the Secretary, or (ii) a low or moderate income purchaser who has an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5). The mortgage shall also contain a provision that, if the Secretary determines that the annual income of the original mortgagor (or a purchaser described in clause (ii) of the preceding sentence) has increased to an amount enabling payment of a greater rate of interest, the interest rate of the individual mortgage may be increased up to the highest rate permissible under the regulations of the Secretary for mortgages insured under this section, effective at the time the commitment was issued for the insurance of the mortgage.

(5) For the purpose of this subsection—

(i) the term “mortgage”, when used in relation to a mortgage insured under paragraph (2) of this subsection, includes a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term lease-hold interest in, a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project; and

(ii) the term “common areas and facilities” includes the land and such commercial, community, and other facilities as are approved by the Secretary.

**(j) Conversion of insured rental projects to cooperatives; eligibility for membership; insurance of cooperative mortgages financing purchase of projects; eligibility for insurance**

(1) The Secretary is authorized, with respect to any rental project involving a mortgage insured under subsection (d)(3) which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), to permit a conversion of the ownership of such project to a cooperative approved by the Secretary. Membership in such cooperative shall be made available only to those families having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) which bears interest at such below-market rate: *Provided*, That families residing in the rental project at the time of its conversion to a cooperative who do not meet such income limits may be permitted to become members in the cooperative under such special terms and conditions as the Secretary may prescribe.

(2) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection cooperative mortgages financing the purchase of projects meeting the requirements of paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) involve a principal obligation (including such initial service charges and appraisal, inspection, and other fees as the Secretary shall approve) in an amount not exceeding the appraised value of the property for continued use as a cooperative, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after the payment of all operating expenses, taxes, and required reserves;

(ii) bear interest at the below-market rate prescribed in the proviso of subsection (d)(5); and

(iii) provide for complete amortization within such term as the Secretary may prescribe.

**(k) Increase in maximum insurance amounts for costs incurred from solar energy systems and energy conservation measures**

With respect to any project insured under subsection (d)(3) or (d)(4), the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of those subsections by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>2</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

**(I) Rental charges; “eligible multifamily housing” defined**

(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family’s adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)] for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

(2) For purposes of this subsection, the term “eligible multifamily housing” means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and assisted under section 1701s of this title or section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f]; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5).

(June 27, 1934, ch. 847, title II, § 221, as added Aug. 2, 1954, ch. 649, title I, § 123, 68 Stat. 599; amended Aug. 11, 1955, ch. 783, title I, § 102(c), (j), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, § 108, title III, § 307(c), 70 Stat. 1094, 1102; Pub. L. 85-104, title I, § 112, July 12, 1957, 71 Stat. 297; Pub. L. 86-372, title I, §§ 110(a)(1), (2), (b)-(e), 116(b), Sept. 23, 1959, 73 Stat. 658-661, 664; Pub. L. 87-70, title I, § 101(a), June 30, 1961, 75 Stat. 149; Pub. L. 88-54, June 29, 1963, 77 Stat. 73; Pub. L. 88-560, title I, §§ 105(c)(2), 107(d), 114, title II, §§ 202, 203(b), Sept. 1, 1964, 78 Stat. 772, 775, 778, 783, 784; Pub. L. 89-117, title I, § 102(a), (b), title II, § 207(d), title XI, § 1108(i), Aug. 10, 1965, 79 Stat. 454, 467, 505; Pub. L. 89-754, title III, §§ 307-310(c), Nov. 3, 1966, 80 Stat. 1268-1270; Pub. L. 89-769, § 4, Nov. 6, 1966, 80 Stat. 1317; Pub. L. 90-19, § 1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §§ 101(b), (c), 105, title III, §§ 305, 306, 311(b), 316, Aug. 1, 1968, 82 Stat. 483, 488, 508, 510, 512; Pub. L. 91-78, § 2(c), Sept. 30, 1969, 83 Stat. 125; Pub. L. 91-152, title I, §§ 101(c), 113(e), Dec. 24, 1969, 83 Stat. 379, 384; Pub. L. 91-432, § 1(c), Oct. 2, 1970, 84 Stat. 887; Pub. L. 91-473, § 1(c), Oct. 21, 1970, 84 Stat. 1064; Pub. L. 91-525, § 1(c), Dec. 1, 1970, 84 Stat. 1384; Pub. L. 91-606, title III, § 301(d), Dec. 31, 1970, 84 Stat. 1758; Pub. L. 91-609, title I, §§ 101(c), 114(a), 114[115](a), Dec. 31, 1970, 84 Stat. 1770, 1773; Pub. L. 92-503, § 1(c), Oct. 18, 1972, 86 Stat. 906; Pub. L. 93-85, § 1(c), Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, § 1(c), Oct. 2, 1973, 87 Stat. 421; Pub. L. 93-288, title VII, § 702(d), formerly title VI, § 602(d), May 22, 1974, 88 Stat. 163, renumbered title VII, § 702(d), Pub. L. 103-337, div. C, title XXXIV, § 3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 93-383, title III, §§ 302(c), 303(d), (e), 304(e), 316(c), 319(a), Aug. 22, 1974, 88 Stat. 676-678, 685, 686; Pub. L. 94-173, §§ 3, 4(a), Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, §§ 3(d), 8(a), (b)(4), (5), Aug. 3, 1976, 90 Stat. 1069, 1071, 1072; Pub. L. 95-24, title I, § 106, Apr. 30, 1977, 91 Stat. 56; Pub. L. 95-60, § 1(c), June 30, 1977, 91 Stat. 257; Pub. L. 95-80, § 1(c), July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, §§ 301(c), 303(c), Oct. 12, 1977, 91 Stat. 1131, 1132; Pub. L. 95-406, § 1(c), Sept. 30, 1978, 92 Stat. 879;

Pub. L. 95-557, title III, §§ 301(c), 325, Oct. 31, 1978, 92 Stat. 2096, 2104; Pub. L. 96-71, § 1(c), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, § 1(c), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title III, §§ 301(c), 314, Dec. 21, 1979, 93 Stat. 1111, 1117; Pub. L. 96-372, § 1(c), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title III, §§ 301(c), 310(d), 333(c), (d), Oct. 8, 1980, 94 Stat. 1638, 1642, 1653; Pub. L. 97-35, title III, §§ 331(c), 339B(a), Aug. 13, 1981, 95 Stat. 412, 417; Pub. L. 97-253, title II, § 201(d), Sept. 8, 1982, 96 Stat. 789; Pub. L. 97-289, § 1(c), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 97-377, title I, § 101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-35, § 1(c), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, § 1(c), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title IV, §§ 401(c), 404(b)(8), 408, 409, 423(b)(3), 432(b), (c), 446(d)], Nov. 30, 1983, 97 Stat. 1207, 1209, 1211, 1217, 1220, 1228; Pub. L. 98-479, title II, § 204(a)(6), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 99-120, § 1(c), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99-156, § 1(c), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99-219, § 1(c), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99-267, § 1(c), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99-272, title III, § 3007(c), Apr. 7, 1986, 100 Stat. 104; Pub. L. 99-289, § 1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, § 1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, § 1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100-242, title IV, §§ 401(a)(2), 406(b)(10)-(13), 426(d), (e), (h), Feb. 5, 1988, 101 Stat. 1898, 1901, 1916; Pub. L. 100-707, title I, § 109(e)(3), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 101-508, title II, § 2201, Nov. 5, 1990, 104 Stat. 1388-21; Pub. L. 101-625, title VI, §§ 611(b)(2), 612(b), Nov. 28, 1990, 104 Stat. 4278, 4279; Pub. L. 102-550, title V, §§ 509(d), (e), 516(d), title X, § 1012(l), Oct. 28, 1992, 106 Stat. 3783, 3791, 3907; Pub. L. 104-134, title I, § 101(e) [title II, § 219], Apr. 26, 1996, 110 Stat. 1321-257, 1321-290; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-276, title II, § 222, Oct. 21, 1998, 112 Stat. 2489; Pub. L. 106-377, § 1(a)(1) [title II, § 209(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A-25; Pub. L. 107-73, title II, § 213(d), (e), Nov. 26, 2001, 115 Stat. 676, 677; Pub. L. 107-326, § 5(b)(4), (5), Dec. 4, 2002, 116 Stat. 2795; Pub. L. 108-186, title III, § 302(b), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110-161, div. K, title II, § 221(1), Dec. 26, 2007, 121 Stat. 2436.)

**Editorial Notes**

**REFERENCES IN TEXT**

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Section 1720 of this title, referred to in subsec. (d)(3)(ii)(II), (4)(ii)(II) was repealed by Pub. L. 98-181, title I [title IV, § 483(a)], Nov. 30, 1983, 97 Stat. 1240.

The United States Housing Act of 1937, and “such act”, referred to in subsecs. (d)(3), (h)(5)(F), (6)(D), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§ 1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

Section 110 of the Housing Act of 1949 [42 U.S.C. 1460], referred to in subsec. (d)(3)(iii), was omitted from the Code pursuant to section 5316 of Title 42, which terminated authority to make grants or loans under title I of that Act [42 U.S.C. 1450 et seq.] after Jan. 1, 1975.

This chapter, referred to in subsec. (f), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

Section 1701q of this title, referred to in subsec. (f), was amended generally by Pub. L. 101-625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, no longer contains provisions related to handicapped persons.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (f), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (f), is section 201 of Pub. L. 95-557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z-1a of this title and amended section 1715z-1 of this title.

Subsection (h) of section 1710 of this title, referred to in subsec. (g)(1), was redesignated subsec. (i) by Pub. L. 105-276, title VI, §602(l), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (g)(1), was repealed by Pub. L. 105-276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (g)(4)(C), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitles A and B of title II, which were formerly set out as a note under this section and which amended section 1715z-6 of this title, were amended generally by Pub. L. 101-625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitles C and D of title II amended section 1715z-15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare. Another subtitle C of title II of Pub. L. 100-242, as added by Pub. L. 102-550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

Section 8211 of title 42, referred to in subsec. (k), was omitted from the Code pursuant to section 8229 of Title 42, which terminated authority under that section on June 30, 1989.

#### CODIFICATION

In subsec. (g)(4)(A), “November 30, 1983,” was substituted for “the effective date of this clause”, meaning the date of enactment of Pub. L. 98-181.

#### AMENDMENTS

2007—Subsec. (d)(3)(ii)(II), (4)(ii)(II). Pub. L. 110-161 substituted “170 percent” for “140 percent” after “not to exceed” in two places and “215 percent in high cost areas” for “170 percent in high cost areas”.

2003—Subsec. (d)(3)(ii)(II), (4)(ii)(II). Pub. L. 108-186 substituted “140 percent in” for “110 percent in” and inserted “, or 170 percent in high cost areas,” after “and by not to exceed 140 percent”.

2002—Subsec. (d)(3)(ii). Pub. L. 107-326, §5(b)(4), inserted “(I)” after “(ii)” and substituted “; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 1712a of this title)” for “; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause”.

Subsec. (d)(4)(ii). Pub. L. 107-326, §5(b)(5), inserted “(I)” after “(ii)” and substituted “; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have

been adjusted in accordance with section 1712a of this title)” for “; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause”.

2001—Subsec. (d)(3)(ii). Pub. L. 107-73, §213(d), substituted “\$42,048”, “\$48,481”, “\$58,469”, “\$74,840”, and “\$83,375” for “\$33,638”, “\$38,785”, “\$46,775”, “\$59,872”, and “\$66,700”, respectively, and “\$44,250”, “\$50,724”, “\$61,680”, “\$79,793”, and “\$87,588” for “\$35,400”, “\$40,579”, “\$49,344”, “\$63,834”, and “\$70,070”, respectively.

Subsec. (d)(4)(ii). Pub. L. 107-73, §213(e), substituted “\$37,843”, “\$42,954”, “\$51,920”, “\$65,169”, and “\$73,846” for “\$30,274”, “\$34,363”, “\$41,536”, “\$52,135”, and “\$59,077”, respectively, and “\$40,876”, “\$46,859”, “\$56,979”, “\$73,710”, and “\$80,913” for “\$32,701”, “\$37,487”, “\$45,583”, “\$58,968”, and “\$64,730”, respectively.

2000—Subsec. (g)(4)(C)(viii). Pub. L. 106-377 inserted “, except that this subparagraph shall continue to apply if the Secretary receives a mortgagee’s written notice of intent to assign its mortgage to the Secretary on or before such date” after “December 31, 2002”.

1998—Subsec. (g)(4)(C)(viii). Pub. L. 105-276, §222(1), substituted “December 31, 2002” for “September 30, 1996” in first sentence.

Subsec. (g)(4)(C)(ix). Pub. L. 105-276, §222(2), added cl. (ix).

1996—Subsec. (g)(4)(C)(viii). Pub. L. 104-134 substituted “1996” for “1995” in first sentence.

1992—Subsec. (d)(3)(ii). Pub. L. 102-550, §509(d), substituted “\$33,638”, “\$38,785”, “\$46,775”, “\$59,872”, “\$66,700”, “\$35,400”, “\$40,579”, “\$49,344”, “\$63,834”, and “\$70,070” for “\$28,032”, “\$32,321”, “\$38,979”, “\$49,893”, “\$55,583”, “\$29,500”, “\$33,816”, “\$41,120”, “\$53,195”, and “\$58,392”, respectively.

Subsec. (d)(4)(ii). Pub. L. 102-550, §509(e), substituted “\$30,274”, “\$34,363”, “\$41,536”, “\$52,135”, “\$59,077”, “\$32,701”, “\$37,487”, “\$45,583”, “\$58,968”, and “\$64,730” for “\$25,228”, “\$28,636”, “\$34,613”, “\$43,446”, “\$49,231”, “\$27,251”, “\$31,239”, “\$37,986”, “\$49,140”, and “\$53,942”, respectively.

Subsec. (d)(4)(iv). Pub. L. 102-550, §1012(l), inserted “(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 4851b of title 42)” after “cost of repair and rehabilitation”.

Subsec. (g)(4)(A). Pub. L. 102-550, §516(d), which directed substitution of “issue to the mortgagee debentures having a par value” for “, subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value”, was executed to text which read “having a total face value” instead of “having total face value”, to reflect the probable intent of Congress.

1990—Subsec. (f). Pub. L. 101-625, §611(b)(2), added fourth undesignated paragraph relating to authority of Secretary in establishing rental charges for project covered by mortgage bearing below market interest rate prescribed in proviso to subsec. (d)(3) of this section to include an amount that would permit return of advances to owner.

Subsec. (g)(4)(C). Pub. L. 101-508 added subpar. (C).

Subsec. (l). Pub. L. 101-625, §612(b), added subsec. (l).

1988—Subsec. (d)(2). Pub. L. 100-242, §406(b)(10)(A), substituted “residence, except that the Secretary” for “residence: *Provided*, That a mortgage secured by property upon which there is located a dwelling designed principally for a two-, three-, or four-family residence shall not be insured under this section except in the case of a dwelling for occupancy by the mortgagor: *Provided further*, That the Secretary”.

Pub. L. 100-242, §406(b)(10)(B), which directed that par. (2) be amended by striking out “*Provided*, That (i)” and all that follows through “(1) in” and inserting “*Provided*, That (i)(1) in”, was executed by substituting “*Provided*, That (i)(1) in the case of a displaced family” for “*Provided further*, That (i) if the mortgagor is the owner and an occupant of the property at the time of insurance, (1) in the case of a displaced family”, to re-

flect the probable intent of Congress and the fact that the provision being struck out began with “*Provided further*” rather than “*Provided*”.

Pub. L. 100-242, § 406(b)(10)(C), struck out “*Provided further*, That nothing contained herein shall preclude the Secretary from issuing a commitment to insure, and insuring a mortgage pursuant thereto, where the mortgagor is not the owner and an occupant of the property, if the property is to be built or acquired and repaired or rehabilitated for sale, and the insured mortgage financing is required to facilitate the construction, or the repair or rehabilitation, of the dwelling and to provide financing pending the subsequent sale thereof to a qualified owner who is also an occupant thereof, but in such instances the mortgage shall not exceed 85 per centum of the appraised value.”.

Pub. L. 100-242, § 406(b)(10)(D), which directed that par. (2) be amended in last proviso by substituting “That the mortgagor shall” for “That, if the mortgagor is the owner and an occupant of the property such mortgagor shall”, was executed by substituting “That the mortgagor shall” for “That, if the mortgagor is the owner and an occupant of the property, such mortgagor shall”, to reflect the probable intent of Congress and the fact that a comma appears before “such” in provisions being struck out.

Subsec. (d)(3)(ii). Pub. L. 100-242, § 426(d), substituted “\$28,032”, “\$38,979”, “\$49,893”, “\$55,583”, “\$29,500”, “\$33,816”, “\$41,120”, “\$53,195”, and “\$58,392” for “\$21,563”, “\$29,984”, “\$38,379”, “\$42,756”, “\$22,692”, “\$26,012”, “\$31,631”, “\$40,919”, and “\$44,917”, respectively.

Pub. L. 100-242, § 426(d), which directed that cl. (ii) be amended by substituting “\$32,321” for “\$24,862”, was executed by substituting “\$32,321” for “\$24,662” to reflect the probable intent of Congress.

Pub. L. 100-242, § 426(h), substituted “not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved” for “not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area”.

Subsec. (d)(4)(ii). Pub. L. 100-242, § 426(e), (h), substituted “\$25,228”, “\$28,636”, “\$34,613”, “\$43,446”, “\$49,231”, “\$27,251”, “\$31,239”, “\$37,986”, “\$49,140”, and “\$53,942” for “\$19,406”, “\$22,028”, “\$26,625”, “\$33,420”, “\$37,870”, “\$20,962”, “\$24,030”, “\$29,220”, “\$37,800”, and “\$41,494”, respectively, and substituted “not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved” for “not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph

may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area”.

Subsec. (d)(6)(ii). Pub. L. 100-242, § 406(b)(11), struck out “is an owner-occupant of the property and” after “where the mortgagor”.

Subsec. (f). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

Pub. L. 100-242, § 401(a)(2), struck out “No mortgage shall be insured under this section after March 15, 1988, except pursuant to a commitment to insure before that date, or except a mortgage covering property which the Secretary finds will assist in the provision of housing for displaced families.”

Pub. L. 100-200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100-179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100-170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100-154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100-122 substituted “October 31, 1987” for “September 30, 1987”.

Subsec. (h)(6). Pub. L. 100-242, § 406(b)(12), struck out “and occupied” after “or row construction that are owned” in introductory provisions.

Subsec. (h)(8). Pub. L. 100-242, § 406(b)(13), struck out “if one of the units is to be occupied by the owner” after “approved by the Secretary”.

1986—Subsec. (f). Pub. L. 99-430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99-345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99-289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99-272 made amendment identical to Pub. L. 99-219. See 1985 Amendment note below.

Pub. L. 99-267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsec. (f). Pub. L. 99-219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120 substituted “November 14, 1985” for “September 30, 1985”.

1984—Subsec. (d)(3)(iii). Pub. L. 98-479 substituted “rehabilitated” for “rehabilitated” before “by a local public agency”.

1983—Subsec. (d)(2)(A). Pub. L. 98-181, § 423(b)(3), struck out “; *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured” before “; and (B)”.

Subsec. (d)(3)(iii). Pub. L. 98-181, § 432(b), struck out proviso that in no case involving refinancing would the mortgage exceed the estimated cost of repair and rehabilitation and the amount, as determined by the Secretary, required to refinance existing indebtedness secured by the property or project, and substituted “*Provided*, That” for “*Provided further*, That”.

Subsec. (d)(4)(iv). Pub. L. 98-181, § 432(c), struck out proviso that in no case involving refinancing would the mortgage exceed the estimated cost of repair and rehabilitation and the amount, as determined by the Secretary, required to refinance existing indebtedness secured by the property or project, and substituted “*Provided*, That” for “*Provided further*, That”.

Subsec. (d)(5). Pub. L. 98-181, § 404(b)(8), substituted “at such rate as may be agreed upon by the mortgagor and the mortgagee” for “(exclusive of premium charges for insurance and service charge, if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market”.

Subsec. (d)(6). Pub. L. 98-181, § 446(d), inserted "(unless otherwise approved by the Secretary)" after "periodic payments".

Subsec. (f). Pub. L. 98-181, § 401(c), substituted "September 30, 1985" for "November 30, 1983".

Pub. L. 98-109 substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98-35 substituted "September 30, 1983" for "May 20, 1983".

Subsec. (g)(4)(A). Pub. L. 98-181, §§ 408, 409, designated existing provision as subpar. (A) and inserted "pursuant to a commitment to insure entered into before November 30, 1983," after "this section".

Subsec. (g)(4)(B). Pub. L. 98-181, § 408, added subpar. (B).

1982—Subsec. (d)(2)(A). Pub. L. 97-253, § 201(d)(1), inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (d)(2)(B)(i)(2). Pub. L. 97-253, § 201(d)(2), (3), inserted "(excluding the mortgage insurance premium paid at the time the mortgage is insured)" after "of its acquisition cost" and struck out "mortgage insurance premium," after "hazard insurance,".

Subsec. (d)(3)(ii). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

Subsec. (d)(4)(ii). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

Subsec. (f). Pub. L. 97-289 substituted "May 20, 1983" for "September 30, 1982".

1981—Subsec. (f). Pub. L. 97-35, § 331(c), substituted "1982" for "1981".

Subsec. (k). Pub. L. 97-35, § 339B(a), inserted "therein" after "installation" and struck out "therein" after "measure".

1980—Subsec. (d)(6). Pub. L. 96-399, § 333(c), struck out proviso relating to maturity of a mortgage insured under subsection (d)(2) of this section.

Subsec. (f). Pub. L. 96-399, § 301(c), substituted "September 30, 1981" for "October 15, 1980".

Pub. L. 96-372 substituted "October 15, 1980" for "September 30, 1980".

Subsec. (i)(2)(A)(iv). Pub. L. 96-399, § 333(d), struck out applicability to determinations of lesser amount, if so determined, of three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

Subsec. (k). Pub. L. 96-399, § 310(d), added subsec. (k).

1979—Subsec. (d)(3)(ii). Pub. L. 96-153, § 314, substituted "75 per centum" for "50 per centum" and inserted exception that the dollar amount limitations may be exceeded not to exceed 90 per centum where the Secretary determines it to be necessary.

Subsec. (d)(4)(ii). Pub. L. 96-153, § 314, substituted "75 per centum" for "50 per centum" and inserted exception that the dollar amount limitations may be exceeded by not to exceed 90 per centum where the Secretary determines it to be necessary.

Subsec. (f). Pub. L. 96-153 substituted "September 30, 1980" for "November 30, 1979".

Pub. L. 96-105 substituted "November 30, 1979" for "October 31, 1979".

Pub. L. 96-71 substituted "October 31, 1979" for "September 30, 1979".

1978—Subsec. (d)(3)(ii). Pub. L. 95-557, § 325(a), substituted "\$21,563", "\$24,662", "\$29,984", "\$38,379", and "\$42,756" for "\$16,860", "\$18,648", "\$22,356", "\$28,152", and "\$31,884", respectively, and "\$22,692", "\$26,012", "\$31,631", "\$40,919", and "\$44,917" for "\$19,680",

"\$22,356", "\$26,496", "\$33,120", and "\$38,400", respectively.

Subsec. (d)(4)(ii). Pub. L. 95-557, § 325(b), substituted "\$19,406", "\$22,028", "\$26,625", "\$33,420", and "\$37,870" for "\$18,450", "\$20,625", "\$24,630", "\$29,640", and "\$34,846", respectively.

Subsec. (f). Pub. L. 95-557, § 301(c), substituted "September 30, 1979" for "October 31, 1978".

Pub. L. 95-406 substituted "October 31, 1978" for "September 30, 1978".

1977—Subsec. (d)(2)(A). Pub. L. 95-128, § 303(c), substituted "\$31,000" for "\$25,000", "\$36,000" for "\$29,000" in two places, "\$42,000" for "\$33,000", "\$35,000" for "\$28,000", "\$48,600" for "\$38,880", "\$59,400" for "\$47,520", "\$45,000" for "\$36,000", "\$57,600" for "\$46,080" and "\$68,400" for "\$54,720".

Subsec. (d)(4). Pub. L. 95-24 struck out "other than a mortgagor referred to in subsection (d)(3) of this section," after "if executed by a mortgagor".

Subsec. (f). Pub. L. 95-128, § 301(c), substituted "September 30, 1978" for "September 30, 1977".

Pub. L. 95-80 substituted "September 30, 1977" for "July 31, 1977".

Pub. L. 95-60 substituted "July 31, 1977" for "June 30, 1977".

1976—Subsec. (d)(2)(A). Pub. L. 94-375, § 3(d), substituted "\$25,000" for "\$21,600", "\$29,000" for "\$25,200" in two places, and "\$33,000" for "\$28,800".

Subsec. (d)(3)(ii). Pub. L. 94-375, § 8(b)(4), substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$16,860" for "\$11,240", "\$18,648" for "\$15,540", "\$22,356" for "\$18,630", "\$28,152" for "\$23,460", "\$31,884" for "\$26,570", "\$19,680" for "\$13,120", "\$22,356" for "\$18,630", "\$26,496" for "\$22,080", "\$33,120" for "\$27,600", and "\$38,400" for "\$32,000".

Subsec. (d)(4)(ii). Pub. L. 94-375, § 8(b)(5), substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$18,450" for "\$12,300", "\$20,625" for "\$17,188", "\$24,630" for "\$20,525", "\$29,640" for "\$24,700", "\$34,846" for "\$29,038", "\$20,962" for "\$13,975", "\$24,030" for "\$20,025", "\$29,220" for "\$24,350", "\$37,800" for "\$31,500", and "\$41,494" for "\$34,578".

1975—Subsec. (d)(3)(ii). Pub. L. 94-173, § 3, raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

Subsec. (d)(4)(ii). Pub. L. 94-173, § 3, raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

Subsec. (f). Pub. L. 94-173, § 4(a), struck out a provision limiting to 10 per centum the number of dwelling units available to low and moderate income persons under the age of 62 in a project financed with a mortgage issued under subsection (d)(3) of this section.

1974—Subsec. (d)(2)(A). Pub. L. 93-383, § 302(c), substituted "\$21,600" for "\$18,000", "\$25,200" for "\$21,000" wherever appearing, "\$28,000" for "\$24,000", "\$28,800" for "\$24,000", "\$36,000" for "\$30,000", "\$38,880" for "\$32,400", "\$46,080" for "\$38,400", "\$47,520" for "\$39,600", and "\$54,720" for "\$45,600".

Subsec. (d)(3). Pub. L. 93-383, § 319(a), inserted exception for certification of projects assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937.

Subsec. (d)(3)(i). Pub. L. 93-383, § 304(e)(1), struck out cl. (i) which set forth mortgage ceiling of \$12,500,000.

Subsec. (d)(3)(ii). Pub. L. 93-383, § 303(d), substituted "\$11,240" for "\$9,200", "\$13,120" for "\$10,925", "\$15,540" for "\$12,937.50", "\$16,200" for "\$13,500", "\$18,630" for "\$15,525", "\$22,080" for "\$18,400", "\$23,460" for "\$19,550", "\$26,570" for "\$22,137.50", "\$27,600" for "\$23,000", and "\$32,000" for "\$26,162.50".

Subsec. (d)(4)(i). Pub. L. 93-383, § 304(e)(2), struck out cl. (i) which set forth mortgage ceiling of \$12,500,000.

Subsec. (d)(4)(ii). Pub. L. 93-383, § 303(e), substituted "\$12,300" for "\$9,200", "\$13,975" for "\$10,525", "\$17,188" for "\$12,937.50", "\$20,025" for "\$15,525", "\$20,525" for "\$15,525", "\$24,350" for "\$18,400", "\$24,700" for "\$19,550", "\$29,038" for "\$22,137.50", "\$31,500" for "\$23,000", and "\$34,578" for "\$26,162.50".

Subsec. (f). Pub. L. 93-383, §316(c), substituted "June 30, 1977" for "October 1, 1974".

Pub. L. 93-288 substituted "the Disaster Relief Act of 1974" for "the Disaster Relief Act of 1970".

1973—Subsec. (f). Pub. L. 93-117 extended the mortgage insurance authority under this section from Oct. 1, 1973, to Oct. 1, 1974.

Pub. L. 93-85 extended the mortgage insurance authority under this section from June 30, 1973, to Oct. 1, 1973.

1972—Subsec. (f). Pub. L. 92-503 extended the mortgage insurance authority under this section from October 1, 1972 to June 30, 1973.

1970—Subsec. (f). Pub. L. 91-609 in second par., substituted "October 1, 1972" for "January 1, 1971"; provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project; dispensed with need for kitchen facilities in family units in projects for displaced, elderly, or handicapped families, but permitted inclusion of central dining and other shared facilities; provided that any person who is a displaced person shall be deemed to be a family; and, in third par., substituted "the terms 'displaced family', 'displaced families', and 'displaced person' shall mean a family or families, or a person" for "the terms 'displaced family' and 'displaced families' shall mean a family or families", respectively.

Pub. L. 91-606 substituted "the Disaster Relief Act of 1970" for "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

1969—Subsec. (d)(2). Pub. L. 91-152, §113(e)(1), (2), substituted "\$18,000" for "\$15,000", "\$21,000" for "\$17,500", wherever appearing, "\$24,000" for "\$20,000" wherever appearing, "\$30,000" for "\$25,000", "\$32,400" for "\$27,000", "\$38,400" for "\$32,000", "\$39,600" for "\$33,000", and "\$45,600" for "\$38,000".

Subsec. (d)(3)(ii). Pub. L. 91-152, §113(e)(3), (4), substituted "\$9,200" for "\$8,000", "\$10,925" for "\$9,500", "\$12,937.50" for "\$11,250", "\$15,525" for "\$13,500" wherever appearing, "\$18,400" for "\$16,000", "\$19,550" for "\$17,000", "\$22,137.50" for "\$19,250", "\$23,000" for "\$20,000", and "\$26,162.50" for "\$22,750".

Subsec. (d)(4)(ii). Pub. L. 91-152, §113(e)(5), (6), substituted "\$9,200" for "\$8,000", "\$10,925" for "\$9,500", "\$12,937.50" for "\$11,250", "\$15,525" for "\$13,500" wherever appearing, "\$18,400" for "\$16,000", "\$19,550" for "\$17,000", "\$22,137.50" for "\$19,250", "\$23,000" for "\$20,000", and "\$26,162.50" for "\$22,750".

Subsec. (f). Pub. L. 91-152, §101(c), substituted "October 1, 1970" for "January 1, 1970".

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (h)(6)(A). Pub. L. 91-152, §113(e)(7), substituted "\$18,000" for "\$15,000".

1968—Subsec. (d)(2)(A). Pub. L. 90-448, §§101(b)(1), 305, increased maximum amount of mortgages for single-family residences from \$12,500 to \$15,000 (or \$17,500 if mortgagor's family includes five or more persons), and in geographical areas where costs levels so require from \$15,000 to \$17,500 (or \$20,000 if the mortgagor's family includes five or more persons), and §305(d)(2)(A) substituted "the mortgagor" for "a displaced family" in first proviso.

Subsec. (d)(2)(B). Pub. L. 90-448, §101(b)(2), inserted ", in cash or its equivalent" in cl. (2), and inserted proviso directing that a mortgagor who is the owner and an occupant of the property be given the opportunity to contribute the value of his labor as equity in such dwelling.

Subsec. (d)(3)(iii). Pub. L. 90-448, §311(b), inserted proviso to permit the mortgage to involve the financing of

the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 1460(c)(8) of title 42.

Subsec. (f). Pub. L. 90-448, §§105(d), 306, authorized the Secretary to insure mortgages meeting the requirements of subsec. (i) or (j) of this section, struck out "if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to community and shopping facilities" from first proviso, and inserted proviso making provisions of section 1715k(d)(3)(B)(iv) applicable, in the case of a mortgage which bears interest at the below-market interest rate prescribed in subsec. (d)(5) of this section, only if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

Subsec. (g)(1). Pub. L. 90-448, §105(b), included mortgages meeting requirements of par. (2) of subsec. (i) of this section.

Subsec. (g)(2). Pub. L. 90-448, §105(c), included mortgages meeting requirements of par. (2) of subsec. (j) of this section.

Subsec. (h)(2)(A). Pub. L. 90-448, §316(a), reduced number of one-family dwellings from five or more to four or more, and permitted the mortgage to cover four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established.

Subsec. (h)(4). Pub. L. 90-448, §101(c)(2), increased aggregate principal balance of mortgages insured from \$20,000,000 to \$50,000,000.

Subsec. (h)(5)(B)(ii). Pub. L. 90-448, §101(c)(1), permitted mortgage to bear interest at such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment purchaser's income is sufficiently low to justify the lower rate, and inserted proviso requiring rate of interest to be increased if purchaser's income subsequently rises.

Subsec. (h)(6). Pub. L. 90-448, §101(c)(3), added par. (6).

Subsec. (h)(7), (8). Pub. L. 90-448, §316(b), added pars. (7) and (8).

Subsecs. (i), (j). Pub. L. 90-448, §105(a), added subsecs. (i) and (j).

1967—Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (d)(1) to (3), (d)(3)(ii), (iii), (d)(4), (d)(4)(ii) to (iv), (d)(5), (6), (e)(1), (2), (f), and (g)(3), (4).

Subsec. (d). Pub. L. 90-19, §1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing in pars. (2), (3)(iii), (4)(iv), and (6).

1966—Subsec. (a). Pub. L. 89-769, §4(a), substituted "displaced families" for "families displaced from urban renewal areas or as a result of governmental action".

Subsec. (d)(2), (6). Pub. L. 89-769, §4(a), substituted "displaced family" for "family displaced from an urban renewal area or as a result of governmental action" wherever appearing.

Subsec. (d)(2)(A). Pub. L. 89-754, §307, increased maximum amount of mortgages for single-family and two-family residences from \$11,000 and \$18,000 to \$12,500 and \$20,000, respectively.

Subsec. (d)(3)(iii). Pub. L. 89-769, §4(a), substituted "displaced families" for "families displaced by urban renewal or other governmental action".

Subsec. (f). Pub. L. 89-769, §4(a), (b), substituted "displaced families" for "families displaced from urban renewal areas or as a result of governmental action", and inserted definition of "displaced family" and "displaced families".

Pub. L. 89-754, §§308, 309, 310(c), inserted in first sentence provision for nondwelling facilities in projects in urban renewal areas, inserted provision respecting single occupants in housing under subsec. (d)(3) of this section, and inserted in fourth sentence "or which meet the requirements of subsection (h)", respectively.

Subsec. (g)(1). Pub. L. 89-754, §310(b)(1), inserted "or paragraph (5) of subsection (h) of this section".

Subsec. (g)(2). Pub. L. 89-754, §310(b)(2), inserted "or paragraph (1) of subsection (h) of this section".

Subsec. (h). Pub. L. 89-754, §310(a), added subsec. (h). A prior subsec. (h) was repealed by Pub. L. 89-117, title XI, §1108(i)(4), Aug. 10, 1965, 79 Stat. 505.

1965—Subsec. (d)(3)(ii). Pub. L. 89-117, §207(d), substituted “\$17,000 per family unit with three bedrooms, and \$19,250 per family unit with four or more bedrooms” for “and \$17,000 per family unit with three or more bedrooms” and “\$20,000 per family unit with three bedrooms, and \$22,750 per family unit with four or more bedrooms” for “and \$20,000 per family unit with three or more bedrooms”.

Subsec. (d)(4). Pub. L. 89-117, §§207(d), 1108(i)(1), substituted “\$17,000 per family unit with three bedrooms, and \$19,250 per family unit with four or more bedrooms” for “and \$17,000 per family unit with three or more bedrooms” and “\$20,000 per family unit with three bedrooms, and \$22,750 per family unit with four or more bedrooms” for “and \$20,000 per family unit with three or more bedrooms” in subpar. (ii) and substituted “General Insurance Fund” for “section 221 Housing Insurance Fund” wherever appearing.

Subsec. (d)(5). Pub. L. 89-117, §102(b), substituted “not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined” for “not less than the annual rate of interest determined” in proviso.

Subsec. (f). Pub. L. 89-117, §§102(a), 1108(i)(1), substituted “this section after October 1, 1969” for “subsection (d)(2) or (d)(4) after September 30, 1965, or under subsection (d)(3) after September 30, 1965” and substituted “General Insurance Fund” for “section 221 Housing Insurance Fund”.

Subsec. (g)(1). Pub. L. 89-117, §1108(i)(1), substituted “General Insurance Fund” for “section 221 Housing Insurance Fund”.

Subsec. (g)(2). Pub. L. 89-117, §1108(i)(2), struck out provision that all references in section 1713 to the Housing Insurance Fund or the Housing Fund shall be construed to refer to the section 221 Housing Insurance Fund.

Subsec. (g)(3). Pub. L. 89-117, §1108(i)(1), (3), substituted “General Insurance Fund” for “section 221 Housing Insurance Fund” and struck out provision that all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the section 221 Housing Insurance Fund.

Subsec. (h). Pub. L. 89-117, §1108(i)(4), repealed subsec. (h) which created the section 221 Housing Insurance Fund, provided for the transfer of funds thereto, authorized the purchase and cancellation of debentures and the credit and payment of charges and fees.

1964—Subsec. (d)(3). Pub. L. 88-560, §114(a), inserted “, or other mortgagor approved by the Commissioner, and” after “or association”.

Subsec. (d)(3)(ii), (4)(ii). Pub. L. 88-560, §107(d)(1), (2), changed limits on mortgages for property or project attributable to dwelling use from “\$2,250 per room (or \$8,500 per family unit if the number of rooms in such property or project is less than four per family unit)” to “\$8,000 per family unit without a bedroom, \$11,250 per family unit with one bedroom, \$13,500 per family unit with two bedrooms, and \$17,000 per family unit with three or more bedrooms”, changed such mortgage limits on project consisting of elevator-type structures from a sum “of \$2,250 per room to not to exceed \$2,750 per room, and the dollar amount limitation of \$8,500 per family unit to not to exceed \$9,000 per family unit” to dollar amount limitations “per family unit to not to exceed \$9,500 per family unit without a bedroom, \$13,500 per family unit with one bedroom, \$16,000 per family unit with two bedrooms, and \$20,000 per family unit with three or more bedrooms”, and substituted provision authorizing an increase “by not to exceed 45 per centum” of any of such limits because of cost levels for former provision authorizing such an increase “by not to exceed \$1,000 per room without regard to the number of rooms being less than four, or four or more”.

Subsec. (d)(3)(iii). Pub. L. 88-560, §114(c), inserted “Provided further, That in the case of any mortgagor other than a nonprofit corporation or association, cooperative (including an investor-sponsor), or public body, or a mortgagor meeting the special requirements

of subsection (e)(1), the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section”.

Subsec. (e). Pub. L. 88-560, §114(b), added par. (1) and designated existing provisions as par. (2).

Subsec. (f). Pub. L. 88-560, §§114(d), 202, 203(b), extended the mortgage insurance authority under subsec. (d)(2) and (4) of this section from July 1, 1965 to Sept. 30, 1965, inserted definition of “family”, and substituted in such definition “person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q of this title,” for “person who is sixty-two years of age or over”.

Subsec. (g)(3). Pub. L. 88-560, §105(c)(2), substituted a period for “; or” and inserted “If the insurance is paid in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner.”

1963—Subsec. (f). Pub. L. 88-54 extended mortgage insurance authority under subsec. (d)(2) and (4) of this section from July 1, 1963, to July 1, 1965.

1961—Pub. L. 87-70, §101(a)(1), added section catchline.

Subsec. (a). Pub. L. 87-70, §101(a)(2), redefined the purpose of this section as one to assist private industry in providing housing for low and moderate income families and families displaced from urban renewal areas or as a result of governmental action, and eliminated provisions which required localities, communities or environs of communities to request the mortgage insurance, which limited the number of dwelling units to not more than the aggregate number which the Housing Administrator certified to the Commissioner, and which authorized assistance for relocation of families to be displaced as the result of governmental action in a community to those cases in which a certification by the Housing Administrator pursuant to section 1451(c) of title 42 has been made, or there is being carried out a project covered by a Federal aid contract executed, or prior approval granted, under subchapter II of chapter 8A of title 42, or there is being carried out an urban renewal project assisted under section 1462 of title 42.

Subsec. (b). Pub. L. 87-70, §101(a)(3), empowered the Commissioner to insure advances during construction on mortgages covering property of the character described in pars. (3) and (4) of subsec. (d) of this section.

Subsec. (d)(2). Pub. L. 87-70, §101(a)(4), (5), increased the maximum amount of mortgages for single-family residences from \$9,000 to \$11,000, three-family residences from \$25,000 to \$27,000 and for four-family residences from \$32,000 to \$33,000, increased the maximum amount of mortgages that the Commissioner may authorize in cases where he finds the cost levels so require from \$12,000 to \$15,000 for single-family residences, \$20,000 to \$25,000 for two-family residences, \$27,500 to \$32,000 for three-family residences and \$35,000 to \$38,000 for four-family residences, required families other than those displaced from an urban renewal area or as a result of Government action to pay on account of the property at least 3 per centum of the Commissioner's estimate of its acquisition cost, prohibited insurance of mortgages for dwellings designed principally for two-, three-, or four-family residences except in the case of dwellings for occupancy by a family displaced from an urban renewal area or as a result of governmental action, and eliminated provisions which required the Commissioner to prescribe procedures relating to priorities in occupancy of the remaining units of two-, three-, and four-family dwellings after occupancy of one unit by the owner.

Subsec. (d)(3). Pub. L. 87-70, §101(a)(6), included public bodies and agencies which certify that they are not receiving financial assistance exclusively pursuant to the United States Housing Act of 1937 cooperatives, and limited dividend corporations, increased the maximum amount of mortgages from not more than \$9,000 per family unit for such part of such property or project as may be attributable to dwelling use to not more than \$2,250 per room (or \$8,500 per family unit if the number

of rooms is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), empowered the Commissioner to increase the maximum from \$2,250 to \$2,750 per room and from \$8,500 to \$9,000 per family unit to compensate for higher costs incident to the construction of elevator-type structures, and in geographical areas which the cost levels so require from \$2,250 to \$3,250 per room, increased the maximum amount of the mortgage in the case of repair and rehabilitation from not more than the Commissioner's estimate of the value of the property when the proposed repair and rehabilitation is completed to not more than the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation, limited, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project, and eliminated provisions which required the property or project to be for use as rental accommodations for ten or more families eligible for occupancy.

Subsec. (d)(4). Pub. L. 87-70, § 101(a)(7)-(10), substituted "other than a mortgagor referred to in subsection (d)(3) of this section" for "which is not a non-profit organization" in opening provisions, increased the maximum amount of mortgages from not more than \$9,000 per family unit for such part of such property or project as may be attributable to dwelling use to not more than \$2,250 per room (or \$8,500 per family unit if the number of rooms is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), empowered the Commissioner to increase the maximum from \$2,250 to \$2,750 per room and from \$8,500 to \$9,000 per family unit to compensate for higher costs incident to the construction of elevator-type structures, and in geographical areas which the cost levels so require from \$2,250 to \$3,250 per room, increased the maximum amount of the mortgage in the case of repair and rehabilitation from not more than 90 per centum of the Commissioner's estimate of the value of the property or project when the proposed repair and rehabilitation is completed to not more than 90 per centum of the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation, limited, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project, and eliminated provisions which required the property or project to be for use as rental accommodations for ten or more families eligible for occupancy.

Subsec. (d)(5). Pub. L. 87-70, § 101(a)(10), (11), struck out provisions which required the mortgage to provide for complete amortization by periodic payments within such terms as the Commissioner may prescribe, but not to exceed 40 years from the date of insurance of the mortgage or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser, and inserted proviso requiring the mortgage to bear interest at not less than the annual rate of interest determined by estimating the average market yield to maturity on all outstanding marketable obligations of the United States, and by adjusting such yield to the nearest one-eighth of 1 per centum.

Subsec. (d)(6). Pub. L. 87-70, § 101(a)(10), added par. (6).

Subsec. (f). Pub. L. 87-70, § 101(a)(12), required a property or project covered by a mortgage insured under subsec. (d)(3) or (d)(4) of this section to include five or more family units, empowered the Commissioner to adopt such procedures and requirements to assure that the dwelling accommodations provided under this section are available to families displaced from urban renewal areas or as a result of governmental action, au-

thorized the Commissioner to insure a mortgage which meets subsec. (d)(3) of this section with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as he may determine, and prohibited insurance of mortgages under subsec. (d)(2) or (d)(4) of this section after July 1, 1963, or under subsec. (d)(3) of this section after July 1, 1965, except pursuant to a commitment to insure before that date or except a mortgage covering property which will assist in the provision of housing for families displaced from urban renewal areas or as a result of governmental action.

Subsec. (g)(3), (4). Pub. L. 87-70, § 101(a)(13), (14), added par. (3), redesignated former par. (3) as (4), and substituted "this paragraph" for "this paragraph (3)".

Subsec. (h). Pub. L. 87-70, § 101(a)(15), inserted "cash payments," after "cash adjustments," in last sentence.

1959—Subsec. (a). Pub. L. 86-372, § 110(a)(1), (2), inserted provisions in first par. to authorize assistance in relocating families residing in the environs of a community described in cl. (2) which are to be displaced as the result of governmental action, inserted provisions in second par. making mortgage insurance available in environs of communities and substituted "in or near any such community" for "in any such community" in second proviso of second par.

Subsec. (d)(2). Pub. L. 86-372, § 110(b), required a mortgage to be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Commissioner under subsec. (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations, relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, increased the maximum amount of the mortgage on a single-family residence in a high cost area from \$10,000 to \$12,000, authorized insurance of mortgages for two-, three-, and four-family residences and required the Commissioner to prescribe such procedures as are necessary to secure to families, referred to in subsec. (a) of this section, priorities in occupancy of the remaining units of two-, three-, and four-family dwellings after occupancy of one unit by the owner.

Subsec. (d)(3). Pub. L. 86-372, § 110(c)(1), (2), substituted "\$12,000" for "\$10,000", and "not in excess of (1) in the case of new construction, the amount which the Commissioner estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Commissioner), or (2) in the case of repair and rehabilitation, the Commissioner's estimate of the value of the property when the proposed repair and rehabilitation is completed: *Provided*, That such property or project, when constructed, or repaired and rehabilitated, shall be for use as rental accommodations for ten or more families eligible for occupancy as provided in this section; or" for "not in excess of the Commissioner's estimate of the value of the property or project when constructed, or repaired and rehabilitated, for use as rental accommodations for ten or more families eligible for occupancy as provided in this section; and".

Subsec. (d)(4), (5). Pub. L. 86-372, § 110(c)(3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (f). Pub. L. 86-372, § 110(d), authorized the property or project to include such commercial and community facilities as the Commissioner deems adequate to serve the occupants.

Subsec. (g)(1). Pub. L. 86-372, § 116(b), inserted reference to subsec. (k) of section 1710 of this title.

Subsec. (g)(2). Pub. L. 86-372, § 110(e), substituted "paragraph (3) or (4)" for "paragraph (3)".

1957—Subsec. (g)(1). Pub. L. 85-104 substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

1956—Subsec. (a). Act Aug. 7, 1956, § 307(c), inserted in first sentence " , or (3) there is being carried out an



urban renewal project assisted under section 1462 of title 42” and substituted “clause (2) or (3)” for “clause (2)” each place it appears in last proviso.

Subsec. (d). Act Aug. 7, 1956, §108, substituted “\$9,000” for “\$7,600” and “\$10,000” for “\$8,600” in pars. (2) and (3); amended par. (2) to allow mortgage insurance for appraised value and to require at least \$200 initial payment, which amount could include prepaid expenses, in lieu of former provisions which allowed mortgage to be insured up to 95 percent of the appraised value and required at least a 5 percent initial payment; eliminated “95 per centum of” after “not in excess of” and inserted “or the Federal Housing Commissioner” after “agencies thereof” in par. (3) and substituted “forty” for “thirty” in par. (4).

1955—Subsec. (a). Act Aug. 11, 1955, §102(j), authorized assistance in relocating families from urban renewal areas even though such families are not required to leave the area.

Subsec. (d)(3). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on the maximum amount of a mortgage.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(10)–(13) of Pub. L. 100–242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100–242, set out as a note under section 1709 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

For effective date of amendment by section 423(b)(3) of Pub. L. 98–181, see section 423(c) of Pub. L. 98–181, set out as a note under section 1709 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 of Title 26, Internal Revenue Code.

#### IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 to be implemented only if Secretary determines that program of advance payment of insurance premiums, considering the effect of said amendment, is actuarially sound, see section 201(g) of Pub. L. 97–253, set out as a note under section 1709 of this title.

#### DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101–625, set out as a note under section 1713 of this title.

#### EFFECTIVE DATE OF TEMPORARY EXTENSION OF EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987 AND CORRECTION OF ANY REPEAL

Pub. L. 101–494, §1, Oct. 31, 1990, 104 Stat. 1185, provided that:

“(a) EFFECTIVE DATE OF EXTENDER.—Public Law 101–402 [amending section 1709 of this title and section 11319 of Title 42, The Public Health and Welfare, and amending provisions set out as a note below] shall be deemed to have taken effect as if such law were enacted on September 29, 1990.

“(b) STATUS OF ACT.—The Emergency Low Income Housing Preservation Act of 1987 [title II of Pub. L. 100–242] (12 U.S.C. 1715f note) shall be deemed to have been in effect on and after September 29, 1990, as if Public Law 101–402 had been enacted on September 29, 1990.

“(c) CORRECTION OF ANY REPEAL.—The provisions of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715f note), other than section 203, are amended to read as such provisions were in effect on September 29, 1990. The amendment made by this subsection shall take effect as if this Act were enacted on September 29, 1990.

“(d) EFFECTIVE DATE.—If the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, which was approved Nov. 28, 1990] is enacted before the enactment of this Act [Oct. 31, 1990], this section shall be deemed to have taken effect immediately before the enactment of the Cranston-Gonzalez National Affordable Housing Act.”

#### PRESERVATION OF LOW-INCOME HOUSING

The Emergency Low Income Housing Preservation Act of 1987, consisting of title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, amended the National Housing Act, the United States Housing Act of 1937, and the Housing Act of 1949, and enacted provisions formerly set out as a note under this section. The provisions set out as a note under this section consisted of subtitles A and B [§§201–203, 221–230, and 231–235] of title II of Pub. L. 100–242, as amended by Pub. L. 100–628, title X, §§1021–1027, Nov. 7, 1988, 102 Stat. 3270, 3271; Pub. L. 101–235, title II, §§201, 202(a)–(c), 203(b), Dec. 15, 1989, 103 Stat. 2037, 2038; Pub. L. 101–402, §1, Oct. 1, 1990, 104 Stat. 866; Pub. L. 101–494, §1(c), 2(a), Oct. 31, 1990, 104 Stat. 1185, which set up a temporary program for the prepayment of mortgages on low income housing insured under the National Housing Act that terminated on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act (Nov. 28, 1990). The Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625] amended subtitles A and B of title II of Pub. L. 100–242 generally, changing the name of title II of Pub. L. 100–242 to the “Low-Income Housing Preservation and Resident Homeownership Act of 1990”. As amended, subtitles A and B of title II are classified generally to subchapter I (§4101 et seq.) of chapter 42 of this title. Prior to the general revision by Pub. L. 101–625, subtitles A and B of title II read as follows:

#### “SUBTITLE A—GENERAL PROVISIONS

##### “SEC. 201. SHORT TITLE.

“This title [amending sections 1715z–6 and 1715z–15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare] may be cited as the “Emergency Low Income Housing Preservation Act of 1987”.

##### “SEC. 202. FINDINGS AND PURPOSE.

“(a) FINDINGS.—The Congress finds that—

“(1) in the next 15 years, more than 330,000 low income housing units insured or assisted under sections 221(d)(3) and 236 of the National Housing Act [12 U.S.C. 1715f(d)(3), 1715z–1] could be lost as a result of the termination of low income affordability restrictions;

“(2) in the next decade, more than 465,000 low income housing units produced with assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] could be lost as a result of the expiration of the rental assistance contracts;

“(3) some 150,000 units of rural low income housing financed under section 515 of the Housing Act of 1949 [42 U.S.C. 1485] are threatened with loss as a result of the prepayment of mortgages by owners;

“(4) the loss of this privately owned and federally assisted housing, which would occur in a period of sharply rising rents on unassisted housing and extremely low production of additional low rent housing, would inflict unacceptable harm on current tenants and would precipitate a grave national crisis in the supply of low income housing that was neither anticipated nor intended when contracts for these units were entered into;

“(5) the loss of this affordable housing, to encourage the production of which the public has provided substantial benefits over past years, would irreparably damage hard-won progress toward such important and long-established national objectives as—

“(A) providing a more adequate supply of decent, safe, and sanitary housing that is affordable to low income Americans;

“(B) increasing the supply of housing affordable to low income Americans that is accessible to employment opportunities; and

“(C) expanding housing opportunities for all Americans, particularly members of disadvantaged minorities;

“(6) the provision of an adequate supply of low income housing has depended and will continue to depend upon a strong, long-term partnership between the public and private sectors that accommodates a fair return on investment;

“(7) recent reductions in Federal housing assistance and tax benefits related to low income housing have increased the incentives for private industry to withdraw from the production and management of low income housing;

“(8) efforts to retain this housing must take account of specific financial and market conditions that differ markedly from project to project;

“(9) a major review of alternative responses to this threatened loss of affordable housing is now being undertaken by numerous private sector task forces as well as State and local organizations; and

“(10) until the Congress can act on recommendations that will emerge from this review, interim measures are needed to avoid the irreplaceable loss of low income housing and irrevocable displacement of current tenants.

“(b) PURPOSE.—It is the purpose of this title—

“(1) to preserve and retain to the maximum extent practicable as housing affordable to low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance;

“(2) to minimize the involuntary displacement of tenants currently residing in such housing; and

“(3) to continue the partnership between all levels of government and the private sector in the production and operation of housing that is affordable to low income Americans.

#### “SEC. 203. TERMINATION OF CERTAIN PROVISIONS.

“(a) IN GENERAL.—Effective on November 30, 1990, or the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990], whichever is earlier—

“(1) subtitles B and D [amending sections 1715z-6 and 1715z-15 of this title and sections 1437f and 1485 of Title 42, The Public Health and Welfare and enacting provisions set out in this note] are repealed; and

“(2) each provision of law amended by subtitle B or D is amended to read as it would without such amendment.

“(b) SAVINGS PROVISION.—The repeal or amendment of any provision under subsection (a) shall have no effect on any action taken or authorized under the provision prior to such repeal or amendment.

#### “SUBTITLE B—PREPAYMENT OF MORTGAGES INSURED UNDER NATIONAL HOUSING ACT

#### “SEC. 221. GENERAL PREPAYMENT LIMITATION.

“(a) PRIOR APPROVAL OF PLAN OF ACTION.—An owner of eligible low income housing may prepay, and a mort-

gagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary of Housing and Urban Development under this subtitle. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act [12 U.S.C. 1715t] only in accordance with a plan of action approved by the Secretary under this subtitle.

“(b) ALTERNATIVE PREPAYMENT MORATORIUM.—In the event any court of the United States or any State invalidates the requirements established in this subtitle (1) an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and a mortgagee may not accept prepayment of, a mortgage on such housing during the 2-year period following the date of such invalidation, and (2) an insurance contract with respect to eligible low-income housing located in the geographic area subject to the jurisdiction of such court may not be terminated pursuant to section 229 of the National Housing Act [12 U.S.C. 1715t] during the 2-year period following the date of such invalidation.

#### “SEC. 222. NOTICE OF INTENT.

“An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the mortgage or regulatory agreement (including a request to terminate the insurance contract pursuant to section 229 of the National Housing Act [12 U.S.C. 1715t]) shall file with the Secretary a notice of the intent of the owner in such form and manner as the Secretary shall prescribe. The owner shall simultaneously file the notice of intent with any appropriate State or local government agency for the jurisdiction within which the housing is located.

#### “SEC. 223. PLAN OF ACTION.

“(a) PREPARATION AND SUBMISSION.—Upon receipt of a notice of intent, the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action, which information shall include a description of the Federal incentives authorized under this title, and any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan. The owner shall submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe. The owner may simultaneously submit the plan of action to any appropriate State or local government agency for the jurisdiction within which the housing is located, which agency shall, in reviewing the plan, consult with representatives of the tenants of the housing.

“(b) CONTENTS.—The plan of action shall include—

“(1) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing;

“(2) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and any appropriate State or local agencies;

“(3) a description of any proposed changes in the low income affordability restrictions;

“(4) a description of any change in ownership that is related to prepayment;

“(5) an assessment of the effect of the proposed changes on existing tenants;

“(6) a statement of the effect of the proposed changes on the supply of housing affordable to lower and very low income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

“(7) any other information that the Secretary determines is necessary to achieve the purposes of this title.

“(c) REVISIONS.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle.

“(d) AUTHORITY TO LIMIT CONTENTS OF PLAN.—The Secretary shall limit the amount of appraisal, market

area, and demographic information required under this section in the case of a plan of action requesting incentives.

“SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

“(a) AGREEMENTS BY SECRETARY.—After receiving a plan of action from an owner of eligible low income housing, the Secretary may enter into such agreements as are necessary to satisfy the criteria for approval under section 225.

“(b) PERMISSIBLE INCENTIVES.—Agreements entered into under subsection (a) that by modifications to the existing regulatory agreement or mortgage extend the low income affordability restrictions through the term of the mortgage or, in the case of the prepayment of a mortgage, by a recorded instrument impose low income affordability restrictions (including the obligations specified in the regulatory agreement) through a period equivalent to the term of the original mortgage may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to achieve the purposes of this title:

“(1) An increase in the allowable distribution or other measures to increase the rate of return on investment.

“(2) Revisions to the method of calculating equity.

“(3) Increased access to residual receipts accounts or excess replacement reserves.

“(4) Provision of insurance for a second mortgage under section 241(f) of the National Housing Act [12 U.S.C. 1715z-6(f)].

“(5) An increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], or (subject to the availability of amounts provided in appropriation Acts) additional assistance under such section 8 or an extension of any project-based assistance attached to the housing.

“(6) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1715z-1a].

“(7) Other actions, authorized in other provisions of law, to facilitate a transfer or sale of the project to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Secretary.

“(8) Other incentives authorized in law.

“SEC. 225. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

“(a) PLAN OF ACTION INVOLVING TERMINATION OF LOW INCOME AFFORDABILITY RESTRICTIONS.—The Secretary may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

“(1) implementation of the plan of action will not materially increase economic hardship for current tenants (and will not in any event result in (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower)) or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available, determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

“(2)(A) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

“(i) the availability of decent, safe, and sanitary housing affordable to lower income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

“(ii) the ability of lower income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

“(iii) the housing opportunities of minorities in the community within which the housing is located; or

“(B) the plan has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction within which the housing is located as being in accordance with a State strategy approved by the Secretary under section 226.

“(b) PLAN OF ACTION INCLUDING INCENTIVES.—The Secretary may approve a plan of action that includes incentives only upon finding that—

“(1) the package of incentives is necessary to provide a fair return on the investment of the owner;

“(2) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title; and

“(3) binding commitments have been made to ensure that—

“(A) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage;

“(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

“(C) current tenants shall not be involuntarily displaced (except for good cause);

“(D) any increase in rent contributions for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)], whichever is lower;

“(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

“(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

“(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

“(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse effect on current income eligible tenants; and

“(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

“(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs.

“(c) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8 [of the United States Housing Act of 1937, 42 U.S.C. 1437f], the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the pur-

pose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):—

“(1) Modification of the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

“(2) If action under paragraph (1) is not feasible, release of an owner from the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

“(3) If action under paragraphs (1) and (2) would, in the determination of the Secretary, result in the default of the insured loan, approval of the revised plan of action, notwithstanding subsection (a), that involves the termination of low-income affordability restrictions.

At least 30 days prior to making a request under the preceding sentence, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under subsection (b).

“(d) RELOCATION OF DISPLACED TENANTS.—Any plan of action shall specify actions that the Secretary and the owner shall take to ensure that any tenants, displaced as a result of a plan of action approved under subsection (a) or as a result of modifications taken pursuant to subsection (c), are relocated to affordable housing.

#### “SEC. 226. ALTERNATIVE STATE STRATEGY.

“(a) CRITERIA FOR APPROVAL.—The Secretary may approve a State strategy for purposes of section 225(a) only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

“(1) current tenants will not be involuntarily displaced (except for good cause);

“(2) housing opportunities for minorities will not be adversely affected in the communities within which the housing is located;

“(3) any increase in rent for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenants or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)], whichever is lower, except that any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if such increase exceeds 10 percent;

“(4) housing approved under the State strategy will remain affordable to very low-income, lower income or moderate income families and persons for not less than the remaining term of the original mortgage, if the housing is to be made available for rental, or for not less than 40 years, if the housing is to be made available for homeownership;

“(5)(A) not less than 80 of all units in eligible low income housing approved under the State strategy shall be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applies to the housing on January 1, 1987; and

“(B) not less than 60 percent of the units in any one project shall remain available and affordable to such families or persons, within which not less than 20 percent of the units shall remain available and affordable to very low income families or persons as determined by the Secretary with adjustments for smaller and larger families;

“(6) expenditures for rehabilitation, maintenance and operation shall be at a level necessary to maintain the housing as decent, safe and sanitary for the period specified in paragraph (4);

“(7) not less than 25 percent of new assistance required to maintain low income affordability in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low-income tax credits, State or local tax concessions, and other incentives provided by the State or local governments; and

“(8) for each unit of eligible low income housing approved under the State strategy that is not retained as affordable to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide with State funds 1 additional unit of comparable housing in the same market area that is available and affordable to such families or persons, and such units or funds shall be made available before the Secretary approves the State strategy.

#### “(b) ADDITIONAL REQUIREMENTS.—

“(1) The Secretary may not approve a State strategy until the State has entered into all of the agreements necessary to carry out the strategy.

“(2) Each State strategy shall include any other provision that the Secretary determines to be necessary to implement an approved State strategy.

“(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into such agreements as are necessary to implement an approved State strategy, which agreements may include incentives that are authorized in other provisions of this subtitle.

#### “SEC. 227. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

“(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

#### “(b) NOTIFICATION OF APPROVAL.—

“(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

“(A) the reasons for withholding approval; and

“(B) the actions that could be taken to meet the criteria for approval.

“(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

#### “SEC. 228. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

“(a) IN GENERAL.—If a plan of action cannot be approved within 300 days after a plan of action is submitted, the Secretary may, upon the request of the owner, modify existing regulatory agreements to—

“(1) prevent involuntary displacement of current tenants (except for good cause);

“(2) ensure that adequate expenditures will be made for maintenance and operation of the housing;

“(3) extend any expiring project-based assistance on the housing for the term of the agreement;

“(4) permit an increase in the allowable distribution that could be accommodated by a rise in rents on occupied units to rise to a level no higher than 30 percent of the adjusted income of the current tenants, as determined by the Secretary, except that rents shall not exceed the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)] and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years unless such increase is less than 10 percent; and

“(5) ensure that units becoming vacant during the term of the agreement are made available in accordance with section 225(b)(3)(F).

“(b) EXPIRATION.—Agreements entered into under this section shall expire upon the expiration of the 4-year period beginning on the date of the enactment of this Act [Feb. 5, 1988]. Upon the expiration of the agreements, the housing covered by the agreements shall be subject to any law then affecting low income affordability restrictions.

“SEC. 229. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

“The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under section 225. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this title.

“SEC. 230. RIGHT OF CONVERSION TO ALTERNATIVE PREPAYMENT SYSTEM.

“Any agreement to extend low income affordability restrictions under section 225(b) shall, for 4 years from the date of the enactment of this Act [Feb. 5, 1988], provide the owner the right to convert to any system of incentives and restrictions provided in law during such period, with such adjustments as the Secretary determines are appropriate to compensate for the value of any benefits the owner had received under this title.

“SEC. 232. REPORT TO CONGRESS.

“Not later than 1 year after the date of the enactment of this Act [Feb. 5, 1988], the Secretary shall submit to the Congress a report setting forth the activities carried out under this subtitle. The report shall include a description of the plans of action approved under subsections (a) and (b) of section 225 and an analysis of the extent to which the plans retain housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons. The report shall also include a detailed description of (1) the actions taken by the Secretary to ensure meaningful participation by affected tenants; and (2) the incentives developed by the Secretary under section 224 to ensure compliance with this subtitle.

“SEC. 233. DEFINITIONS.

“For purposes of this subtitle:

“(1) The term ‘eligible low income housing’ means any housing financed by a loan or mortgage—

“(A) that is—

“(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715f(d)(3)] and assisted under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s] or section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

“(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

“(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act [12 U.S.C. 1715z-1]; or

“(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

“(B) that, under regulation or contract in effect before the date of the enactment of this Act [Feb. 5, 1988], is or will within 1 year become eligible for prepayment without prior approval of the Secretary.

“(2) The term ‘low income affordability restrictions’ means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

“(3) The terms ‘lower income families or persons’ and ‘very low-income families or persons’ mean families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of

the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

“(4) The term ‘moderate income families or persons’ means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

“(5) The term ‘owner’ means the current or subsequent owner or owners of eligible low income housing.

“(6) The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(7) The term ‘termination of low income affordability restrictions’ means any elimination or relaxation of low income affordability restrictions (other than those permitted under an approved plan of action under section 225(b)).

“SEC. 234. REGULATIONS.

“The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of this Act [Feb. 5, 1988]. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

“SEC. 235. EFFECTIVE DATE.

“The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.”

[Pub. L. 101-494, §2(b), Oct. 31, 1990, 104 Stat. 1185, provided that: “If the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625, which was approved Nov. 28, 1990] is enacted on or after October 31, 1990, this section [amending section 203(a) of Pub. L. 100-242 set out above] shall be deemed to have taken effect on October 30, 1990.”]

NEHEMIAH HOUSING OPPORTUNITY GRANTS

Pub. L. 100-242, title VI (§§601-613), Feb. 5, 1988, 101 Stat. 1951, as amended by Pub. L. 102-139, title II, Oct. 28, 1991, 105 Stat. 759; Pub. L. 102-550, title I, §183, Oct. 28, 1992, 106 Stat. 3738, established the Nehemiah Housing Opportunity Fund to provide assistance in the form of grants to nonprofit organizations for the construction, rehabilitation, and financing of housing for families not otherwise able to afford homeownership. Pub. L. 101-625, title II, §289(a)(3), (b), Nov. 28, 1990, 104 Stat. 4128, which is classified to section 12839(a)(3), (b) of Title 42, The Public Health and Welfare, provided that, except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans be made after Oct. 1, 1991, under title VI of Pub. L. 100-242, and effective Oct. 1, 1991, title VI of Pub. L. 100-242 is repealed.

LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

For limitation on the number of dwelling units with mortgages not providing for complete amortization pursuant to authority granted by amendment to subsec. (d)(6) by section 446 of Pub. L. 98-181, see section 446(f) of Pub. L. 98-181, set out as a note under section 1713 of this title.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (d)(3)(ii), (4)(ii) of this section by section 107(d)(1), (2) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY

Pub. L. 93-383, title III, §319(b), Aug. 22, 1974, 88 Stat. 686, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100

Stat. 2095, provided that: “With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Acts [subsec. (d)(3) of this section] and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [section 1437f of title 42], the interest paid on such obligation shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986 [chapter 1 of title 26].”

**§ 1715m. Repealed. Pub. L. 110-289, div. B, title I, § 2120(a)(5), July 30, 2008, 122 Stat. 2835**

Section, act June 27, 1934, ch. 847, title II, § 222, as added Aug. 2, 1954, ch. 649, title I, § 124, 68 Stat. 603; amended Pub. L. 85-104, title I, §§ 103, 112, July 12, 1957, 71 Stat. 296, 297; Pub. L. 86-372, title I, §§ 111, 116(b), Sept. 23, 1959, 73 Stat. 661, 664; Pub. L. 88-560, title I, § 115, Sept. 2, 1964, 78 Stat. 779; Pub. L. 89-117, title II, § 212, title XI, § 1108(j), Aug. 10, 1965, 79 Stat. 470, 505; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title III, § 301, Aug. 1, 1968, 82 Stat. 505; Pub. L. 91-152, title I, §§ 102(c), 105, 113(f), Dec. 24, 1969, 83 Stat. 380, 381, 384; Pub. L. 91-621, § 7(b), Dec. 31, 1970, 84 Stat. 1865; Pub. L. 93-383, title III, §§ 302(d), 310(c), Aug. 22, 1974, 88 Stat. 676, 682; Pub. L. 95-128, title III, §§ 303(d), 304(c), Oct. 12, 1977, 91 Stat. 1132, 1133; Pub. L. 96-153, title III, § 312(c), Dec. 21, 1979, 93 Stat. 1116; Pub. L. 96-399, title III, § 336(c), Oct. 8, 1980, 94 Stat. 1654; Pub. L. 100-242, title IV, § 406(b)(14), Feb. 5, 1988, 101 Stat. 1901; Pub. L. 109-241, title IX, § 902(f), July 11, 2006, 120 Stat. 567, related to mortgage insurance for servicemen.

**§ 1715n. Miscellaneous mortgage insurance**

**(a) Projects covered**

Notwithstanding any of the provisions of this chapter and without regard to limitations upon eligibility contained in any section or subchapter of this chapter, other than the limitation in section 1709(g) of this title, the Secretary is authorized, upon application by the mortgagee, to insure or make commitments to insure under any section or subchapter of this chapter any mortgage—

(1) 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, Seventy-sixth Congress, as amended; Public Law 781, Seventy-sixth Congress, as amended; or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof); or

(2) executed in connection with the sale by the Secretary of Housing and Urban Development, or by any public housing agency with the approval of the Secretary, 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 the provisions of Public Law 671, Seventy-sixth Congress; or

(3) 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 vil-

lage properties or employee's housing under the jurisdiction of Tennessee Valley Authority, or of any housing under the jurisdiction of the Department of the Interior located within the town area of Coulee Dam, Washington, acquired by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works: *Provided*, That for the purpose of the application of this subchapter to sales by the Secretary of the Interior pursuant to subsections 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957, the selling price of the property involved shall be deemed to be the appraised value, of any permanent housing under the jurisdiction of the Department of the Interior constructed under the Boulder Canyon Project Act of December 21, 1928, as amended and supplemented [43 U.S.C. 617 et seq.] located within the Boulder City municipal area: *Provided*, That for purposes of the application of this subchapter to sales by the Secretary of the Interior pursuant to subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958, the selling price of the property involved shall be deemed to be the appraised value; or

(4) 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 [42 U.S.C. 2301 et seq.]; *Provided*, That such insurance shall be issued without regard to any preferences or priorities except those prescribed by this chapter or the Atomic Energy Community Act of 1955, as amended; or

(5) executed in connection with the sale by a State or municipality, or an agency, instrumentality, or political subdivision of 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 of veterans of World War II, or Korean veterans, their families, and others; or

(6) 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 paragraphs (1), (2), (3), and (4) above; or

(7) given to refinance an existing mortgage insured under this chapter, or an existing mortgage held by the Secretary that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), provided that—

(A) the principal amount of any such refinancing mortgage shall not exceed the original principal amount or the unexpired term of such existing mortgage and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, except that (i) the principal amount of any such refinancing mortgage may equal the out-

standing balance of an existing mortgage insured pursuant to section 1715z-10<sup>1</sup> of this title, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; (ii) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; (iii) in any case involving the refinancing of a loan in which the Secretary determines 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 insured mortgage, such refinancing mortgage may have a term not more than twelve years in excess of the unexpired term of such existing insured mortgage; and (iv) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract; and

(B) a mortgage of the character described in paragraphs (1) through (6) of this subsection shall have a maturity and a principal obligation not in excess of the maximums prescribed under the applicable section or subchapter of this chapter, except that in no case may the principal obligation of a mortgage referred to in paragraph (5) of this subsection exceed 90 per centum of the appraised value of the mortgaged property, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(C) a mortgage that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note) and is refinanced under this paragraph may have a term of not more than 30 years; or

(8) executed in connection with the sale by the Government of any housing acquired pursuant to section 3374 of title 42.

**(b) Insurance of mortgages given to refinance mortgages covering existing property or projects in urban renewal areas**

Notwithstanding any of the provisions of this subchapter and without regard to limitations upon eligibility contained in section 1715l of this title, the Secretary may in his discretion insure under section 1715l(d)(3) of this title any mortgage executed by a mortgagor of the character described therein where such mortgage is given to refinance a mortgage covering an existing property or project (other than a one- to four-family structure) located in an urban renewal area, if the Secretary finds that such insurance will facilitate the occupancy of dwelling units in the property or project by families of low or moderate income or families displaced from an urban renewal area or displaced as a result of governmental action.

**(c) Insurance of certain assigned mortgages**

The Secretary shall also have authority to insure under this chapter any mortgage assigned to the Secretary in connection with payment under a contract of mortgage insurance or executed in connection with the sale by the Secretary, including a sale through another entity acting under authority of the fourth sentence of section 1710(g) of this title, of any property acquired under any section or subchapter of this chapter without regard to any limitations or requirements contained in this chapter upon the eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement.

**(d) Insurance of loans made to cover operating losses of certain projects having existing mortgages insured by Secretary**

(1) Notwithstanding any other provision of this chapter, the Secretary is authorized to insure loans made to cover the operating losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term "operating loss" means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

(2) To be eligible for insurance pursuant to this paragraph—

(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after February 5, 1988; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

(C) the loan shall be in an amount not exceeding the operating loss.

(3) To be eligible for insurance pursuant to this paragraph—

(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after February 5, 1988; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

<sup>1</sup> See References in Text note below.

(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B). The Secretary is authorized to collect a premium charge for insurance of loans pursuant to this subsection in an amount computed at the same premium rate as is applicable to the original mortgage. This premium shall be payable in cash or in debentures of the insurance fund under which the loan is insured at par plus accrued interest. In the event of a failure of the borrower to make any payment due under such loan or under the original mortgage, both the loan and original mortgage shall be considered in default, and if such default continues for a period of thirty days, the lender shall be entitled to insurance benefits, computed in the same manner as for the original mortgage, except that in determining the interest rate under section 1715o of this title for the debentures representing the portion of the claim applicable to the loan, the date of the commitment to insure the loan and the insurance date of the loan shall be taken into consideration rather than the commitment or insurance date for the original mortgage.

(5) A loan involving a project covered by a mortgage insured under section 1715e of this title that is the obligation of the Cooperative Management Housing Insurance Fund shall be the obligation of such fund, and loans involving projects covered by a mortgage insured under section 1715z-1 of this title or under any section of this subchapter pursuant to subsection (e) of this section shall be the obligation of the Special Risk Insurance Fund.

(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before October 28, 1992, and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the

applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.

**(e) Insurance of mortgages executed in connection with repair, rehabilitation, construction, or purchase of property in older, declining urban areas**

Notwithstanding any of the provisions of this chapter except section 1715c of this title, and without regard to limitations upon eligibility contained in any section of this subchapter or subchapter IX-B, other than the limitation in section 1709(g) of this title, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this subchapter or subchapter IX-B a mortgage executed in connection with the repair, rehabilitation, construction, or purchase of property located in an older, declining urban area in which the conditions are such that one or more of the eligibility requirements applicable to the section or subchapter under which insurance is sought could not be met, if the Secretary finds that (1) the area is reasonably viable, giving consideration to the need for providing adequate housing or group practice facilities for families of low and moderate income in such area, and (2) the property is an acceptable risk in view of such consideration. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

**(f) Insurance of mortgages executed in connection with purchase or refinancing of existing multifamily housing project; refinancing of existing debt of existing hospital, or purchase or refinancing of rental rehabilitated property; terms and conditions, etc.**

(1) Notwithstanding any of the provisions of this chapter, the Secretary is authorized, in his discretion, to insure under any section of this subchapter a mortgage executed in connection with the purchase of<sup>2</sup> refinancing of an existing multifamily housing project or the purchase or refinancing of existing debt of an existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof).

(2) In the case of the purchase or refinancing under this subsection of a multifamily housing project located in an older, declining urban area, the Secretary shall make available an amount not to exceed \$30,000,000 of available purchase authority pursuant to section 1720<sup>1</sup> of this title to reduce interest rates on low- and moderate-income rental housing in projects having 100 units or less which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(A) the refinancing is used to lower the monthly debt service only to the extent necessary to assure the continued economic viability of the project, taking into account any rent reductions to be implemented by the mortgagor; and

<sup>2</sup> So in original. Probably should be "or".



(B) during the mortgage term no rental increases shall be made except those which are necessary to offset actual and reasonable operating expense increases or other necessary expense increases and maintain reasonable profit levels approved by the Secretary.

(3) For all insurance authorized by this subsection and provided pursuant to a commitment entered into after October 8, 1980, the Secretary may not accept an offer to prepay or request refinancing of a mortgage secured by rental housing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest thereof) to utilize the property as a rental property for a period of five years from the date on which the insurance was provided (twenty years in the case of any such mortgage purchased under section 1720<sup>1</sup> of this title) unless the Secretary finds that—

(A) the conversion of the property to a cooperative, or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood.

(4) In the case of refinancing of an existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof) the Secretary shall prescribe such terms and conditions as the Secretary deems necessary to assure that—

(A) the refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof);

(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof);

(C) such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof) is economically viable; and

(D) the applicable requirements for certificates, studies, and statements of section 1715w of this title (for the existing nursing home, existing assisted living facility, intermediate care facility, board and care home, or any combination thereof, proposed to be refinanced) or of section 1715z-7 of this title (for the existing hospital proposed to be refinanced) have been met.

(5) In the case of any purchase or refinancing under this subsection involving property to be

rehabilitated or developed under section 1437o<sup>1</sup> of title 42, the Secretary may—

(A) include rehabilitation or development costs of not to exceed \$20,000 per unit, except that the Secretary may increase such amount by not to exceed 25 per centum for specific properties where cost levels so require;

(B) permit subordinated liens securing up to the full amount of mortgage financing provided by State or local governments or agencies thereof; and

(C) pay such benefits in cash unless the mortgagee submits a written request for debenture payment.

**(g) Insurance of mortgages covering multifamily housing projects including units not self-contained**

Notwithstanding any other provisions of this chapter, the Secretary may, in his discretion, insure a mortgage covering a multifamily housing project including units which are not self-contained.

(June 27, 1934, ch. 847, title II, § 223, as added Aug. 2, 1954, ch. 649, title I, § 125, 68 Stat. 605; amended Aug. 4, 1955, ch. 543, ch. 11, § 201, 69 Stat. 484; Aug. 11, 1955, ch. 783, title I, § 102(k), 69 Stat. 636; Pub. L. 85-104, title I, § 114, July 12, 1957, 71 Stat. 298; Pub. L. 85-240, § 4, Aug. 30, 1957, 71 Stat. 528; Pub. L. 85-900, § 12, Sept. 2, 1958, 72 Stat. 1735; Pub. L. 87-70, title I, § 101(d), title VI, § 612(h), June 30, 1961, 75 Stat. 154, 182; Pub. L. 88-560, title I, § 116, Sept. 2, 1964, 78 Stat. 779; Pub. L. 89-117, title I, § 108(e), title II, § 213, Aug. 10, 1965, 79 Stat. 461, 471; Pub. L. 89-754, title X, § 1013(h), Nov. 3, 1966, 80 Stat. 1292; Pub. L. 90-19, § 1(a)(3), (h), May 25, 1967, 81 Stat. 17, 18; Pub. L. 90-448, title I, § 103(a), title III, § 312, Aug. 1, 1968, 82 Stat. 486, 510; Pub. L. 91-152, title IV, § 418(c), (d), Dec. 24, 1969, 83 Stat. 402; Pub. L. 93-383, title III, § 311(a), Aug. 22, 1974, 88 Stat. 683; Pub. L. 95-557, title III, § 326, Oct. 31, 1978, 92 Stat. 2104; Pub. L. 96-399, title III, § 327, Oct. 8, 1980, 94 Stat. 1650; Pub. L. 97-35, title III, § 339B(b), Aug. 13, 1981, 95 Stat. 417; Pub. L. 98-181, title I [title III, § 303(b)], Nov. 30, 1983, 97 Stat. 1207; Pub. L. 98-479, title II, § 204(a)(7), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 100-242, title IV, §§ 406(b)(15), (16), 408(a), 409(a), (b), 419(b), 427, 429(d), Feb. 5, 1988, 101 Stat. 1901, 1903, 1913, 1916, 1918; Pub. L. 102-550, title V, §§ 510, 511(f), Oct. 28, 1992, 106 Stat. 3784, 3786; Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316; Pub. L. 105-276, title VI, § 601(e), Oct. 21, 1998, 112 Stat. 2674; Pub. L. 107-116, title VI, § 615, Jan. 10, 2002, 115 Stat. 2225; Pub. L. 109-115, div. A, title III, § 323, Nov. 30, 2005, 119 Stat. 2466.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in text, was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§ 1701 et seq.). For complete classification of this Act to the Code, see Tables.

Public Law 849, Seventy-sixth Congress, as amended, referred to in subsec. (a)(1), is act Oct. 14, 1940, ch. 862, 54 Stat. 1125, known as the “Lanham Public War Housing Act”, which is classified generally to subchapters II to VII (§§ 1521 et seq., 1531 et seq., 1541 et seq., 1561 et seq., 1571 et seq., and 1581 et seq.) of chapter 9 of Title

42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 42 and Tables.

Public Laws 9, 73, and 353, Seventy-seventh Congress, referred to in subsec. (a)(1), refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of \$320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions were not classified to the code, although all three acts are cited in a “Prior Additional Appropriations” note under section 1523 of Title 42.

Public Law 671, Seventy-sixth Congress, referred to in subsec. (a)(2), is act June 28, 1940, ch. 440, 54 Stat. 676. Provisions of the Act relating to housing are contained in title II, which is classified generally to subchapter I (§1501 et seq.) of chapter 9 of Title 42. For complete classification of this Act to the Code, see Tables.

The Emergency Relief Appropriation Act of 1935, referred to in subsec. (a)(3), is Joint Res. Apr. 8, 1935, ch. 48, 49 Stat. 115. It was temporary legislation, and was formerly set out in a note in former chapter 16 of Title 15, Commerce and Trade. See notes under former sections 721 to 728 of that title.

Subsections 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957 [Pub. L. 85-240, Aug. 30, 1957, 71 Stat. 524], referred to in subsec. (a)(3), are set out in a note under section 835c of Title 16, Conservation.

The Boulder Canyon Project Act of December 21, 1928, as amended and supplemented, referred to in subsec. (a)(3), is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, which is classified generally to subchapter I (§617 et seq.) of chapter 12A of Title 43, Public Lands. For complete classification of this Act to the Code, see section 617f of Title 43 and Tables.

Subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958 [Pub. L. 85-900, Sept. 2, 1958, 72 Stat. 1726], referred to in subsec. (a)(3), are not classified to the Code. Subsections (a) to (d) of section 3 read as follows:

“(a) The Secretary is authorized to sell such dwelling houses, duplex houses or units thereof, and garages, with furniture, fixtures, and appurtenances, as are owned by the United States within the Boulder City municipal area and are not needed in connection with the administration, operation, and maintenance of Federal activities located within or near the Boulder City municipal area.

“(b) Except in the case of property determined to be substandard under subsection (c) of this section, the following system of priority shall be established with respect to property authorized to be sold under subsection (a) of this section:

“(1) Persons employed by the Federal Government within or near the Boulder City municipal area (and surviving spouses of such persons who have not remarried) who are tenants in Federal housing in Boulder City shall be offered the opportunity to purchase the property in which they are tenants at the appraised value as established under subsection (d) of this section. This right of priority shall expire unless notice of intent to purchase has been received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and shall be deemed abandoned unless before the expiration of sixty days after the Secretary’s tender of the instrument of transfer the prospective purchaser concludes the sale;

“(2) Persons employed by the Federal Government within or near the Boulder City municipal area may apply to purchase housing not purchased under subsection (b)(1) of this section. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing, but spouses of such applicants shall not be entitled to apply. Sales shall be made at

the appraised value as established under subsection (d) of this section and selections and purchases by successful applicants shall be concluded within limits of time to be established by the Secretary. A purchase under subsection (b)(1) or (b)(2) of this section shall render the purchaser and any spouse of such purchaser ineligible thereafter to purchase under subsection (b)(1) or (b)(2); and

“(3) Property subject to disposal under this section and not sold pursuant to subsections (b)(1) and (b)(2) of this section shall be opened to bids from the general public, and shall be sold to the highest responsible bidder.

“In the event that incorporation of the municipality shall be effected within four years after the date of this Act, persons purchasing housing under this subsection or their successors, assigns, or legal representatives, shall be entitled to a reduction in the purchase price (or rebate as appropriate) of 10 per centum: *Provided*, That no person who has purchased a house under the Act of May 25, 1948 (62 Stat. 268), shall be eligible for such reduction.

“(c) Where the Secretary determines that property authorized to be sold under subsection (a) of this section is substandard, he shall sell such property only for off-site use, such property to be opened to bids from the general public for sale to the highest responsible bidder.

“(d) The appraised value of all property to be sold under subsections (b)(1) and (b)(2) of this section, and of all lots leased or to be leased by the United States for the purpose of maintaining, locating, or erecting permanent structures thereon, shall be determined by an appraiser or appraisers to be designated by the Administrator of Housing and Home Finance Agency at the request of the Secretary. Said appraisals shall be made promptly after the date of this Act, or immediately prior to the granting of any lease of lands not previously appraised, as the case may be. The representatives of the Boulder City community, as determined by the Secretary, shall be granted an opportunity to offer advice in connection with [sic] such appraisals.”

The Atomic Energy Community Act of 1955, as amended, referred to in subsec. (a)(4), is act Aug. 4, 1955, ch. 543, 69 Stat. 472, as amended, which is classified principally to chapter 24 (§2301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 42 and Tables.

The Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsec. (a)(7), is title V of Pub. L. 105-65, Oct. 27, 1997, 111 Stat. 1384. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1701 of this title and Tables.

Section 1715z-10 of this title, referred to in subsec. (a)(7)(A), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(7), July 30, 2008, 122 Stat. 2835.

Section 1720 of this title, referred to in subsec. (f)(2), (3), was repealed by Pub. L. 98-181, title I [title IV, §483(a)], Nov. 30, 1983, 97 Stat. 1240.

Section 1437o of title 42, referred to in subsec. (f)(5), was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

#### AMENDMENTS

2005—Subsec. (f)(1). Pub. L. 109-115 inserted “purchase or” before “refinancing of existing debt”.

2002—Subsec. (a)(7). Pub. L. 107-116, §615(1), substituted “under this chapter, or an existing mortgage held by the Secretary that is subject to a mortgage restructuring and rental assistance sufficiency plan pursuant to the Multifamily Assisted Housing Reform and Affordability Act of 1997 (42 U.S.C. 1437f note), provided that—” for “under this chapter: *Provided*, That”.

Subsec. (a)(7)(A). Pub. L. 107-116, §615(1)-(5), designated as subpar. (A) existing provisions beginning “the principal amount of any such refinancing mortgage shall not exceed” and ending “a new insurance contract”, redesignated former cls. (A) to (D) as (i) to

(iv), respectively, of subpar. (A), and inserted “; and” at end after “a new insurance contract”.

Subsec. (a)(7)(B). Pub. L. 107-116, §615(6), (7), substituted “(B) a mortgage” for “: *Provided further*, That a mortgage” and struck out “or” after “and the mortgagee;”. Former cl. (B) redesignated cl. (ii) of subpar. (A).

Subsec. (a)(7)(C). Pub. L. 107-116, §615(8), added subpar. (C). Former cl. (C) redesignated cl. (iii) of subpar. (A).

Subsec. (a)(7)(D). Pub. L. 107-116, §615(5), redesignated cl. (D) as cl. (iv) of subpar. (A).

1998—Subsec. (c). Pub. L. 105-276 substituted “the Secretary” for “him” in two places and inserted “, including a sale through another entity acting under authority of the fourth sentence of section 1710(g) of this title,” before “of any property acquired”.

1994—Subsec. (a)(7)(D). Pub. L. 103-327 added cl. (D).

1992—Subsec. (d)(6). Pub. L. 102-550, §510, added par. (6).

Subsec. (f)(1), (4). Pub. L. 102-550, §511(f), inserted “existing assisted living facility,” after “existing nursing home,” wherever appearing.

1988—Subsec. (a). Pub. L. 100-242, §406(b)(15), inserted “other than the limitation in section 1709(g) of this title,” after first reference to “this chapter,”.

Subsec. (a)(7). Pub. L. 100-242, §429(d)(1), substituted in first proviso “such rate as may be agreed upon by the mortgagor and the mortgagee” for “a rate not in excess of the maximum rate prescribed under the applicable section or subchapter of this chapter”, substituted in second proviso “maturity and a principal obligation” for “maturity, a principal obligation, and an interest rate”, and inserted before semicolon at end “, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee”.

Pub. L. 100-242, §419(b), in first proviso, inserted cl. (B) and designated former cl. (B) as (C).

Pub. L. 100-242, §408(a), in first proviso, inserted cl. (B) designation and added cl. (A).

Subsec. (d). Pub. L. 100-242, §427, added pars. (1) to (3), inserted par. (4) designation and “Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B).”, inserted par. (5) designation, and struck out former first and second sentences of subsec. (d) which read as follows: “With respect to any mortgage, other than a mortgage covering a one- to four-family structure, heretofore or hereafter insured by the Secretary, and notwithstanding any other provision of this chapter, when the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by such mortgage during the first two years following the date of completion of the project, as determined by the Secretary, exceed the project income, the Secretary may, in his discretion and upon such terms and conditions as he may prescribe, insure under the same section as the original mortgage a loan by the mortgagee in an amount not exceeding the excess of the foregoing expenses over the project income. Such loan shall (1) bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured, (2) be secured in such manner as the Secretary shall require, and (3) be limited to a term not exceeding the unexpired term of the original mortgage.”

Pub. L. 100-242, §429(d)(2), which directed substitution of “bear interest at such rate as may be agreed upon by

the mortgagor and the mortgagee” for “bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured” in cl. (1) of sentence beginning “Such loan shall”, could not be executed because of previous amendment by Pub. L. 100-242, §427, see above, which directed in part the striking out of second sentence of subsec. (d)(1), which contained the language sought to be amended.

Subsec. (e). Pub. L. 100-242, §406(b)(16), inserted reference to limitation in section 1709(g) of this title.

Subsec. (f)(1). Pub. L. 100-242, §409(b)(1), inserted parenthetical reference to existing nursing homes, intermediate care facilities, board and care homes, or any combination thereof after “existing hospital”.

Subsec. (f)(4)(A) to (C). Pub. L. 100-242, §409(b)(2), inserted parenthetical reference to existing nursing homes, intermediate care facilities, board and care homes, or any combination thereof after “existing hospital” wherever appearing.

Subsec. (f)(4)(D). Pub. L. 100-242, §409(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “such existing hospital has received such certifications from a State agency designated in accordance with section 291d(a)(1) or section 300m of title 42 for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certification required for hospitals insured under section 1715z-7 of this title and that such State agency additionally certify that the services being provided by such existing hospital at the time of refinancing are appropriate as determined pursuant to section 300m-2(a)(6) title 42.”

1984—Subsec. (f)(2). Pub. L. 98-479 in provisions preceding subpar. (A) inserted “a” before “multifamily”.

1983—Subsec. (f)(5). Pub. L. 98-181 added par. (5).

1981—Subsec. (f). Pub. L. 97-35 inserted “and” after the semicolon at end of par. (2)(A), and redesignated par. (5) as (4).

1980—Subsec. (f)(1). Pub. L. 96-399, §327(1), redesignated first sentence of subsec. (f) as par. (1).

Subsec. (f)(2). Pub. L. 96-399, §327(2)-(6), redesignated second sentence of subsec. (f) as par. (2), inserted applicability to purchases, provisions authorizing the Secretary to make not to exceed \$30,000,000 available for purchase authority, and provisions authorizing rent increases to maintain reasonable profit levels, and substituted “(A)” and “(B)” for “(1)” and “(2)”, respectively.

Subsec. (f)(3). Pub. L. 96-399, §327(7), added par. (3).

Subsec. (f)(5). Pub. L. 96-399, §327(8), redesignated third sentence of subsec. (f) as par. (5).

1978—Subsec. (f). Pub. L. 95-557 inserted “or the refinancing of existing debt of an existing hospital” after “housing project”, substituted “multifamily housing project” for “housing project”, and inserted provisions relating to the prescription of terms and conditions in the case of refinancing of an existing hospital.

1974—Subsecs. (f), (g). Pub. L. 93-383 added subsecs. (f) and (g).

1969—Subsec. (d). Pub. L. 91-152, §418(c), inserted provision that any loan involving a project covered by a mortgage insured under section 1715e, 1715z-1, or any section of this subchapter pursuant to subsec. (e) of this section be the obligation of the specified Fund.

Subsec. (e). Pub. L. 91-152, §418(d), substituted “this chapter” for “this subchapter” and inserted references to subchapter IX-B.

1968—Subsec. (a). Pub. L. 90-448, §312(a)(1), substituted “chapter” for “subchapter”, “any section or subchapter of this chapter” for “section 1709, 1713, 1715e, 1715k, 1715l, 1715m, 1715v, 1715w, or 1715x of this title” and “under any section or subchapter of this chapter” for “under either of said sections”.

Subsec. (a)(7). Pub. L. 90-448, §312(a)(2), substituted “prescribed under the applicable section or subchapter of this chapter” for “applicable to loans insured under section 1709, 1713, 1715e, 1715k, 1715l, 1715m, 1715v, 1715w, or 1715x of this title” in two places.

Subsec. (c). Pub. L. 90-448, §312(a)(3)–(5), substituted “this chapter” for “this subchapter” in two places, and “any section or subchapter of this chapter” for “subchapters I, II, VI, VII, VIII or X of this chapter”, and struck out phrase which required payment of insurance to be in debentures.

Subsec. (d). Pub. L. 90-448, §312(b), substituted “insure under the same section as the original mortgage a loan by a mortgagee in an amount not exceeding the excess of the foregoing expenses over the project income” for “permit the excess of the foregoing expenses over the project income to be added to the amount of such mortgage, and extend the coverage of the mortgage insurance thereto, and such additional amount shall be deemed to be part of the original face amount of the mortgage”, and inserted sentences requiring the loan to bear interest at not more than the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured, to be secured, and to be limited to a term not more than the unexpired term of the original mortgage, authorizing collection of a premium charge for insurance of loans, directing the premium to be payable in cash or in debentures of the fund, and making the lender entitled to insurance benefits in the event of a failure of the borrower to make any payment due under the loan or under the original mortgage and the default continues for a period of thirty days.

Subsec. (e). Pub. L. 90-448, §103(a), added subsec. (e). 1967—Pub. L. 90-19, §1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (a) preceding par. (1), (a)(7), and (b) to (d).

Subsec. (a)(2). Pub. L. 90-19, §1(h), substituted “Secretary of Housing and Urban Development” and “Secretary” for “Public Housing Administration” and “said Administration”, respectively.

1966—Subsec. (a)(8). Pub. L. 89-754 substituted “Government” and “section 3374 of title 42” for “Commissioner” and “section 1735h of this title”, respectively.

1965—Subsec. (a)(7). Pub. L. 89-117, §213, substituted “this Act” for “section 608 of title VI prior to the effective date of the Housing Act of 1954 or under section 220, 221, 903, or section 908”, which for purposes of codification has been changed to “this chapter”.

Subsec. (a)(8). Pub. L. 89-117, §108(e)(2), added par. (8). 1964—Subsec. (c). Pub. L. 88-560 substituted “limitations or requirements contained in this subchapter upon the eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement (except that in any case the payment of insurance shall be in debentures)” for “limitation upon eligibility contained in this subchapter”.

1961—Subsec. (a). Pub. L. 87-70, §612(h)(1), (2), included sections 1715k, 1715l, 1715v, 1715w and 1715x in the opening provisions, and, in par. (7), substituted “section 1715k, 1715l, 1750b, or 1750g of this title” for “section 1750b or 1750g of this title,” “1715e, 1715k, 1715l, 1715m, 1715v, 1715w, or 1715x of this title” for “1715e or 1715m of this title” in two places, and struck out “insured under section 1743 of section 1750g of this title” after “refinancing of a loan”.

Subsecs. (b), (c). Pub. L. 87-70, §101(d), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 87-70, §612(h)(3), added subsec. (d). 1958—Subsec. (a)(3). Pub. L. 85-900 authorized insurance of mortgages executed in connection with the sale of property constructed under the Boulder Canyon Project Act and located in Boulder City.

1957—Subsec. (a). Pub. L. 85-104, §114(1), substituted “1715e, or 1715m of this title” for “or 1715e of this title”.

Subsec. (a)(3). Pub. L. 85-240 authorized insurance of mortgages executed in connection with the sale of Government housing at Coulee Dam.

Subsec. (a)(4). Pub. L. 85-104, §114(2), inserted “this chapter or” after “prescribed by”.

Subsec. (a)(7). Pub. L. 85-104, §114(3), substituted “1715e, or 1715m of this title” for “or 1715e of this title”

in first proviso, and substituted provisions of second proviso for former provisions which required mortgages described in pars. (1), (2), (3), (4), (5), or (6) to have maturity satisfactory to Commissioner but forbade maturity of such mortgage to exceed maximum terms of loans insured under sections 1709, 1713, or 1715e of this title, forbade principal obligation to exceed 90 percent of value of property, and forbade interest rate to exceed rate of loans made under either of said sections, with the exception that where such mortgage covered property held by certain nonprofit cooperatives, principal obligation should not exceed 95 percent of appraised value.

1955—Subsec. (a). Act Aug. 11, 1955, substituted “section 1709, 1713, or 1715e of this title” for “section 1709 or 1713 of this title” wherever appearing.

Act Aug. 4, 1955, added par. (4), and redesignated pars. (4) to (6) as (5) to (7), respectively.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-116, title VI, §603, Jan. 10, 2002, 115 Stat. 2222, provided that: “Except as provided in sections 616(a)(2), 633(b), and 634(b) [enacting provisions set out as notes under section 1701q of this title and sections 1437f and 11301 of Title 42, The Public Health and Welfare], this title [amending this section and sections 1437f and 5305 of Title 42, enacting provisions set out as notes under section 1701q of this title and sections 1437, 1437f, and 11301 of Title 42, and amending provisions set out as notes under section 1701q of this title and sections 1437f and 11301 of Title 42] and the amendments made by this title shall take effect or are deemed to have taken effect, as appropriate, on the earlier of—

- “(1) the date of the enactment of this title [Jan. 10, 2002]; or
- “(2) September 30, 2001.”

### EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENTS

Pub. L. 104-134, title I, §101(e) [title II, §209], Apr. 26, 1996, 110 Stat. 1321-257, 1321-285; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327, provided that: “Notwithstanding the 16th paragraph under the item relating to ‘administrative provisions’ in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1995 (Public Law 103-327; 108 Stat. 2316) [set out below], the amendments to section 223(a)(7) of the National Housing Act [12 U.S.C. 1715n(a)(7)] made by the 15th paragraph of such Act shall be effective during fiscal year 1996 and thereafter.”

Pub. L. 103-327, title II, Sept. 28, 1994, 108 Stat. 2316, provided in part that: “The amendments of the two immediately preceding paragraphs [amending this section and section 1437f of Title 42, The Public Health and Welfare] shall be effective only during fiscal year 1995.” [For provision that amendment by Pub. L. 103-327 to subsec. (a)(7) of this section be effective during fiscal year 1996 and thereafter, see Pub. L. 104-134, title I, §101(e) [title II, §209], set out above.]

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(15), (16) of Pub. L. 100-242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100-242, set out as a note under section 1709 of this title.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

## REGULATIONS

Pub. L. 100-242, title IV, § 409(c), Feb. 5, 1988, 101 Stat. 1904, provided that: “The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section [amending this section] by not later than the expiration of the 90-day period following the date of the enactment of this Act [Feb. 5, 1988].”

## HEALTHCARE OPERATING LOSS LOANS

Pub. L. 116-260, div. N, title V, § 542, Dec. 27, 2020, 134 Stat. 2090, provided that:

“(a) DEFINITIONS.—In this section:

“(1) OPERATING LOSS.—The term ‘operating loss’ has the meaning given the term in section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)).

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of Housing and Urban Development.

“(b) AUTHORIZATION TO PROVIDE MORTGAGE INSURANCE.—Notwithstanding any other provision of law, for fiscal years 2020 and 2021, in addition to the authority provided to insure operating loss loans under section 223(d) of the National Housing Act (12 U.S.C. 1715n(d)), the Secretary may insure or enter into commitments to ensure mortgages under such section 223(d) with respect to healthcare facilities—

“(1) insured under section 232 or section 242 of the National Housing Act (12 U.S.C. 1715w, 1715z-7);

“(2) that were financially sound immediately prior to the President’s March 13, 2020 Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak [Proc. No. 9994, 50 U.S.C. 1621 note];

“(3) that have exhausted all other forms of assistance; and

“(4) subject to—

“(A) the limitation for new commitments to guarantee loans insured under the General and Special Risk Insurance Funds under the heading ‘General and Special Risk Program Account’ for fiscal years 2020 and 2021; and

“(B) the underwriting parameters and other terms and conditions that the Secretary determines appropriate through guidance.

“(c) AMOUNT OF LOAN.—After all other realized or reasonably anticipated assistance (including reimbursements, loans, or other payments from other Federal sources) are taken into account, a loan insured under subsection (b) shall be in an amount not exceeding the lesser of—

“(1) the temporary losses or additional expenses incurred or expected to be incurred by the healthcare facility as a result of the impact of the circumstances giving rise to the President’s March 13, 2020 Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak; or

“(2) the amount expected to be needed to cover the sum of—

“(A) 1 year of principal and interest payments for the existing loans of the healthcare facility insured by the Secretary;

“(B) 1 year of principal and interest payments for the loan pursuant to this section;

“(C) 1 year of mortgage insurance premiums for the loans described in subparagraphs (A) and (B);

“(D) 1 year of monthly deposits to reserve accounts required by the Secretary for the loans described in subparagraphs (A) and (B);

“(E) 1 year of property taxes and insurance for the healthcare facility; and

“(F) transaction costs, including legal fees, for the loans described in subparagraphs (A) and (B).”

## STREAMLINED REFINANCING

Pub. L. 103-233, title I, § 103(d), Apr. 11, 1994, 108 Stat. 361, provided that: “As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the

National Housing Act [12 U.S.C. 1715n] to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z-11(b)].”

## DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101-625, set out as a note under section 1713 of this title.

## PURPOSE OF SECTION

Act Aug. 2, 1954, ch. 649, title I, § 125, 68 Stat. 605, as amended by Pub. L. 90-19, § 10(b), May 25, 1967, 81 Stat. 22, in enacting this section, provided in part that the purpose thereof was to transfer to title II of the National Housing Act [this subchapter] “the mortgage insurance program in connection with the sale of certain publicly owned property as contained in section 610 of title VI [section 1745 of this title]; the insurance of mortgages to refinance existing loans insured under section 608 of title VI and sections 903 and 908 of title IX [sections 1743, 1750b and 1750g of this title]; and to authorize the insurance under title II [this subchapter] of mortgages assigned to the Secretary of Housing and Urban Development under insurance contracts and mortgages held by the Secretary of Housing and Urban Development in connection with the sale of property acquired under insurance contracts”.

**§ 1715o. Interest rate on debentures; method of establishment**

Notwithstanding any other provisions of this chapter, debentures issued under any section of this chapter with respect to a loan or mortgage accepted for insurance on or after thirty days following August 2, 1954 (except debentures issued pursuant to paragraph (4) of section 1715(g) of this title) shall bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is the highest, except that debentures issued pursuant to section 1715k(f), 1715k(h)(7), 1715(g), 1715x, or 1715z-3 of this title may, at the discretion of the Secretary, bear interest at the rate in effect on the date they are issued. The Secretary shall from time to time, with the approval of the Secretary of the Treasury, establish such interest rate in an amount not in excess of the annual rate of interest determined by the Secretary of the Treasury, at the request of the Secretary, by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the calendar month next preceding the establishment of such rate of interest, on all outstanding marketable obligations of the United States having a maturity date of fifteen years or more from the first day of such next preceding month, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. Notwithstanding the preceding sentence and the following paragraph,<sup>1</sup> if an insur-

<sup>1</sup> So in original.

ance claim is paid in cash for any mortgage that is insured under section 1709 or 1715y of this title and is endorsed for mortgage insurance after January 23, 2004, the debenture interest rate for purposes of calculating such a claim shall be the monthly average yield, for the month in which the default on the mortgage occurred, on United States Treasury Securities adjusted to a constant maturity of 10 years.

(June 27, 1934, ch. 847, title II, § 224, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 606; amended Pub. L. 87-70, title VI, § 612(i), June 30, 1961, 75 Stat. 182; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, § 104(b), Aug. 1, 1968, 82 Stat. 488; Pub. L. 108-199, div. G, title II, § 215, Jan. 23, 2004, 118 Stat. 394.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

##### AMENDMENTS

2004—Pub. L. 108-199, which directed amendment of section by adding sentence relating to interest rate for claim paid in cash at end of first paragraph, was executed by adding sentence at end of section to reflect the probable intent of Congress.

1968—Pub. L. 90-448 included debentures issued pursuant to section 1715z-3 of this title.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

1961—Pub. L. 87-70 changed the date for determination of the rate of interest for debentures, other than those issued pursuant to section 1715k(f), 1715k(h)(7), 1715l(g), 1715l(g)(4), or 1715x, from the rate in effect on the date the debentures are issued to the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is highest.

#### § 1715p. Insurance of advances under open-end mortgages; payment of charges; eligibility and conditions

Notwithstanding any other provisions of this chapter, in connection with any mortgage insured pursuant to any section of this chapter which covers a property upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, the Secretary is authorized, upon such terms and conditions as he may prescribe, to insure under said section the amount of any advance for the improvement or repair of such property made to the mortgagor pursuant to an “open-end” provision in the mortgage, and to add the amount of such advance to the original principal obligation in determining the value of the mortgage for the purpose of computing the amounts of debentures and certificate of claim to which the mortgagee may be entitled: *Provided*, That the Secretary may require the payment of such charges, including charges in lieu of insurance premiums, as he may consider appropriate for the insurance of such “open-end” advances: *Provided, further*, That only advances

for such improvements or repairs as substantially protect or improve the basic livability or utility of the property involved shall be eligible for insurance under this section; *Provided further*, That no such advance shall be insured under this section if the amount thereof plus the amount of the unpaid balance of the original principal obligation of the mortgage would exceed the amount of such original principal obligation unless the mortgagor certifies that the proceeds of such advance will be used to finance the construction of additional rooms or other enclosed space as a part of the dwelling: *And provided further*, That the insurance of “open-end” advances shall not be taken into account in determining the aggregate amount of principal obligations of mortgages which may be insured under this chapter.

(June 27, 1934, ch. 847, title II, § 225, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 607; amended Pub. L. 90-19, § 1(a) (3), May 25, 1967, 81 Stat. 17.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

##### AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

#### § 1715q. Delivery of statement of appraisal or estimates to home buyers

The Secretary is authorized and directed to require that in connection with any property upon which there is located a dwelling designed principally for a single-family residence or a two-family residence and which is approved for mortgage insurance under section 1709 or 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of section 1715e of this title, or sections 1715k, 1715l, 1715m,<sup>1</sup> 1715x, 1715y, 1715z(i), 1715z-2,<sup>1</sup> or 1750b of this title, the seller or builder or such other person as may be designated by the Secretary shall agree to deliver, prior to the sale of the property, to the person purchasing such dwelling for his own occupancy, a written statement setting forth the amount of the appraised value of the property as determined by the Secretary. This section shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to August 2, 1954. Notwithstanding the first sentence of this section, the Secretary is authorized to require, in connection with any mortgage where the mortgage amount is computed on the basis of the Secretary’s estimate of the replacement cost of the property, or on the basis of any other estimates of the Secretary, that a written statement setting forth such estimate or estimates, as the case may be, be furnished under this section in lieu of a written statement set-

<sup>1</sup> See References in Text note below.

ting forth the amount of the appraised value of the property.

(June 27, 1934, ch. 847, title II, §226, as added Aug. 2, 1954, ch. 649, title I, §126, 68 Stat. 607; amended Pub. L. 85-104, title I, §115, July 12, 1957, 71 Stat. 298; Pub. L. 87-70, title VI, §612(j), June 30, 1961, 75 Stat. 182; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §102(b), Aug. 1, 1968, 82 Stat. 486.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1715m of this title, referred to in text, was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

Section 1715z-2 of this title, referred to in text, was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(6), July 30, 2008, 122 Stat. 2835.

##### AMENDMENTS

1968—Pub. L. 90-448 inserted references to sections 1715z(i) and 1715z-2 of this title.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing, and “Secretary’s” for “Commissioner’s”.

1961—Pub. L. 87-70 inserted references to sections 1715x and 1715y of this title, and substituted “or on the basis of any other estimates of the Commissioner, that a written statement setting forth such estimate or estimates, as the case may be,” for “that a written statement setting forth such estimate”.

1957—Pub. L. 85-104 inserted sentence authorizing estimate of replacement cost in lieu of an estimate of value where mortgage amount is based upon replacement cost.

#### § 1715r. Requirement of builder’s cost certification; definitions

##### (a) Requirement

Except as provided in subsection (b) and notwithstanding any other provision of this chapter, no mortgage covering new or rehabilitated multifamily housing or a property or project described in subchapter IX-B shall be insured under this chapter unless the mortgagor has agreed (A) to certify, upon completion of the physical improvements on the mortgaged property or project and prior to final endorsement of the mortgage, either (i) that the approved percentage of actual cost (as those terms are herein defined) equaled or exceeded the proceeds of the mortgage loan or (ii) the amount by which the proceeds of the mortgage loan exceeded such approved percentage of actual cost, as the case may be, and (B) to pay forthwith to the mortgagee, for application to the reduction of the principal obligation of such mortgage, the amount, if any, certified to be in excess of such approved percentage of actual cost. Upon the Secretary’s approval of the mortgagor’s certification as required hereunder, such certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the mortgagor.

##### (b) Exemption for certain projects assisted with low-income housing tax credit

In the case of any mortgage insured under any provision of this subchapter that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity<sup>1</sup> provided

through any low-income housing tax credit pursuant to section 42 of title 26, if the Secretary determines at the time of issuance of the firm commitment for insurance that the ratio of the loan proceeds to the actual cost of the project is less than 80 percent, subsection (a) of this section shall not apply.

##### (c) Definitions

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

(1) The term “new or rehabilitated multifamily housing” means a project or property approved for mortgage insurance prior to the construction or the repair and rehabilitation involved and covered by a mortgage insured or to be insured (i) under section 1713 of this title, (ii) under section 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of section 1715e of this title or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) thereof, (iii) under section 1715k of this title if the mortgage meets the requirements of paragraph (3)(B) of subsection (d) thereof, (iv) under section 1715l of this title if the mortgage meets the requirements of paragraph (3) or paragraph (4) of subsection (d) thereof, (v) under section 1715v of this title, (vi) under section 1715x of this title if the mortgage meets the requirements of subsection (b), (vii) under section 1748h-2 of this title if the mortgage meets the requirements of subsection (f), (viii) under section 1715y(d) of this title, or (ix) under section 1715z-1 of this title;

(2) The term “approved percentage” means the percentage figure which, under applicable provisions of this chapter, the Secretary is authorized to apply to his estimate of value, cost, or replacement costs, as the case may be, of the property or project in determining the maximum insurable mortgage amount; except that if the mortgage is to assist the financing of repair or rehabilitation and no part of the proceeds will be used to finance the purchase of the land or structure involved, the approved percentage shall be 100 per centum; and

(3) The term “actual cost” has the following meaning: (i) in case the mortgage is to assist the financing of new construction, the term means the actual cost to the mortgagor of such construction, including amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organizational and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (I) a reasonable allowance for builder’s profit if the mortgagor is also the builder as defined by the Secretary, and (II) an amount equal to the Secretary’s estimate of the fair market value of any land (prior to the construction of the improvements built as a part of the project) in the property or project owned by the mortgagor in fee (or, in case the land in the property or project is held by the mortgagor under a leasehold or other interest less than a fee, such amount as the mortgagor paid for the acquisition of such leasehold or

<sup>1</sup> So in original. Probably should be followed by “is”.

other interest but, in no event, in excess of the fair market value of such leasehold or other interest exclusive of the proposed improvements), but excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements, or (ii) in case the mortgage is to assist the financing of repair or rehabilitation the term means the actual cost to the mortgagor of such repair or rehabilitation, including the amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (I) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (II) an additional amount equal to (A) in case the land and improvements are to be acquired by the mortgagor and the purchase price thereof is to be financed with part of the proceeds of the mortgage, the purchase price of such land and improvements prior to such repair or rehabilitation, or (B) in case the land and improvements are owned by the mortgagor subject to an outstanding indebtedness to be refinanced with part of the proceeds of the mortgage, the amount of such outstanding indebtedness secured by such land and improvements, but excluding (for the purposes of this clause (ii)) the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements: *Provided*, That such additional amount under (A) of this clause (ii) shall in no event exceed the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation, and such additional amount under (B) of this clause (ii) shall in no event exceed the approved percentage of the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation. In the case of a mortgage insured under section 1715k, 1715l(d)(3), 1715l(d)(4), 1715v, 1715x, or 1715z-1 of this title where the mortgagor is also the builder as defined by the Secretary, there shall be included in the actual cost, in lieu of the allowance for builder's profit under clause (i) or (ii) of the preceding sentence, an allowance for builder's and sponsor's profit and risk of 10 per centum (unless the Secretary, after finding that such allowance is unreasonable, shall by regulation prescribe a lesser percentage) of all other items entering into the term "actual cost" except land or amounts paid for a leasehold and amounts included under either (A) or (B) of clause (ii) of the preceding sentence. In the case of a mortgage insured under section 1715k, 1715l(d)(3), 1715l(d)(4), 1715v, 1715x, or 1715z-1 of this title, where the mortgagor is not also the builder as defined by the Secretary, there shall be included in the actual cost an allowance for sponsor's profit and risk of the said 10 per centum or lesser percentage of all other items entering into the term "actual cost" except land or amounts paid for a leasehold, amounts included under either (A) or (B) of the said clause (ii), and amounts paid

by the mortgagor under a general construction contract.

(June 27, 1934, ch. 847, title II, §227, as added Aug. 2, 1954, ch. 649, title I, §126, 68 Stat. 607; amended Aug. 11, 1955, ch. 783, title I, §102(i), 69 Stat. 636; Aug. 7, 1956, ch. 1029, title I, §§105(d), 109, 70 Stat. 1094, 1095; Pub. L. 86-372, title I, §112, Sept. 23, 1959, 73 Stat. 661; Pub. L. 87-70, title VI, §612(k), June 30, 1961, 75 Stat. 183; Pub. L. 88-560, title I, §119(c), Sept. 2, 1964, 78 Stat. 782; Pub. L. 89-754, title V, §502(b), title X, §1020(b), Nov. 3, 1966, 80 Stat. 1277, 1295; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title II, §201(b)(2), (3), Aug. 1, 1968, 82 Stat. 502; Pub. L. 110-289, div. B, title VIII, §2834(b), July 30, 2008, 122 Stat. 2869.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (c)(2), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2008—Pub. L. 110-289 designated introductory provisions as subsec. (a) and inserted heading, in subsec. (a), as redesignated, substituted "Except as provided in subsection (b) and notwithstanding" for "Notwithstanding", redesignated cls. (a) and (b) as cls. (A) and (B), respectively, and struck out "As used in this section—" at end, added subsec. (b), inserted heading and introductory provisions of subsec. (c), and designated former subsecs. (a) to (c) as pars. (1) to (3), respectively, of subsec. (c) and subcls. (1) and (2) of cls. (i) and (ii) of former subsec. (c) as subcls. (I) and (II), respectively, of cls. (i) and (ii), respectively, of par. (3) of subsec. (c).

1968—Subsec. (a). Pub. L. 90-448, §201(b)(2), included mortgages insured or to be insured under section 1715z-1 of this title.

Subsec. (c). Pub. L. 90-448, §201(b)(3), substituted "section 1715x, or 1715z-1 of this title" for "section 1715x(b)(2) of this title", in two places.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" in subsecs. (b) and (c), and "Secretary's" for "Commissioner's" in text preceding subsec. (a) and in subsec. (c).

1966—Pub. L. 89-754, §502(b), made the certification requirement applicable to mortgage covering property or project described in subchapter IX-B.

Subsec. (a). Pub. L. 89-754, §1020(b), substituted "subsection (b)" for "subsection (b)(2)" in cl. (vi).

1964—Subsec. (a). Pub. L. 88-560 included mortgages insured or to be insured under section 1715y(d) of this title.

1961—Subsec. (a). Pub. L. 87-70, §612(k)(1), included property covered by a mortgage insured or to be insured under section 1715x of this title if the mortgage meets the requirements of subsection (b)(2).

Subsec. (b). Pub. L. 87-70, §612(k)(2), substituted "value, cost, or replacement cost" for "value or replacement cost".

Subsec. (c). Pub. L. 87-70, §612(k)(3), substituted "section 1715l(d)(3), 1715l(d)(4), 1715v, or 1715x(b)(2) of this title" for "section 1715l of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title" in second and third sentences.

1959—Subsec. (a). Pub. L. 86-372, §112(a), included mortgages insured or to be insured under subsec. (d)(4) of section 1715l of this title, under section 1715v of this title, and under section 1748h-2 of this title, and struck out provisions which related to mortgages insured or to be insured under sections 1748b, 1750b and 1750g of this title.



Subsec. (c). Pub. L. 86-372, §112(b), substituted “under section 1715k of this title, section 1715l of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title” for “under section 1715k of this title” in two places.

1956—Act Aug. 7, 1956, §109, inserted sentence preceding subsec. (a), that upon Commissioner’s approval, certification shall be final and incontestable, except for fraud or misrepresentation by mortgagor.

Subsec. (a). Act Aug. 7, 1956, §105(d), inserted “or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) of section 1715e of this title,” before “(iii)”.

Subsec. (b). Act Aug. 7, 1956, §109, inserted provision that if the insured mortgage is to assist financing of repairs and no part of proceeds will be used to purchase the land or structure involved, the approved percentage shall be 100 percent.

Subsec. (c). Act Aug. 7, 1956, §109, inserted “such allocations of general overhead items as are acceptable to the Commissioner,” after “legal expenses” wherever appearing; struck out “(without reduction by reason of the application of the approved percentage requirements of this section)” before “secured by such land and improvements,” in cl. (ii)(B), amended proviso to provide that additional amount under (B) of cl. (ii) should not exceed the approved percentage of the Commissioner’s estimate of the fair market value of the land and improvements; and inserted provisions at end relating to 10 percent allowance for builder’s profit in mortgages issued under section 1715k.

1955—Act Aug. 11, 1955, substituted “under section 1715l of this title if the mortgage meets the requirements of paragraph (3) of subsection (d) of such section” for “under section 1715l of this title”.

## **§ 1715s. Treatment of mortgages covering tax credit projects**

### **(a) Definition**

For purposes of this section, the term “insured mortgage covering a tax credit project” means a mortgage insured under any provision of this subchapter that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity<sup>1</sup> provided through any low-income housing tax credit pursuant to section 42 of title 26.

### **(b) Acceptance of letters of credit**

In the case of an insured mortgage covering a tax credit project, the Secretary may not require the escrowing of equity provided by the sale of any low-income housing tax credits for the project pursuant to section 42 of title 26, or any other form of security, such as a letter of credit.

### **(c) Asset management requirements**

In the case of an insured mortgage covering a tax credit project for which project the applicable tax credit allocating agency is causing to be performed periodic inspections in compliance with the requirements of section 42 of title 26, such project shall be exempt from requirements imposed by the Secretary regarding periodic inspections of the property by the mortgagee. To the extent that other compliance monitoring is being performed with respect to such a project by such an allocating agency pursuant to such section 42, the Secretary shall, to the extent that the Secretary determines such monitoring is sufficient to ensure compliance with any re-

quirements established by the Secretary, accept such agency’s evidence of compliance for purposes of determining compliance with the Secretary’s requirements.

## **(d) Streamlined processing pilot program**

### **(1) In general**

The Secretary shall establish a pilot program to demonstrate the effectiveness of streamlining the review process, which shall include all applications for mortgage insurance under any provision of this subchapter for mortgages executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity<sup>1</sup> provided through any low-income housing tax credit pursuant to section 42 of title 26. The Secretary shall issue instructions for implementing the pilot program under this subsection not later than the expiration of the 180-day period beginning upon July 30, 2008.

### **(2) Requirements**

Such pilot program shall provide for—

(A) the Secretary to appoint designated underwriters, who shall be responsible for reviewing such mortgage insurance applications and making determinations regarding the eligibility of such applications for such mortgage insurance in lieu of the processing functions regarding such applications that are otherwise performed by other employees of the Department of Housing and Urban Development;

(B) submission of applications for such mortgage insurance by mortgagees who have previously been expressly approved by the Secretary; and

(C) determinations regarding the eligibility of such applications for such mortgage insurance to be made by the chief underwriter pursuant to requirements prescribed by the Secretary, which shall include requiring submission of reports regarding applications of proposed mortgagees by third-party entities expressly approved by the chief underwriter.

(June 27, 1934, ch. 847, title II, §228, as added Pub. L. 110-289, div. B, title VIII, §2834(c), July 30, 2008, 122 Stat. 2870.)

## **Editorial Notes**

### **PRIOR PROVISIONS**

A prior section 1715s, which was based in part on act Aug. 2, 1954, ch. 649, title VIII, §814, 68 Stat. 647, provided for the keeping of records with respect to multifamily housing and examination and audit thereof. Section 814 of act Aug. 2, 1954, was transferred and is classified in full to section 1434 of Title 42, The Public Health and Welfare.

## **Statutory Notes and Related Subsidiaries**

### **APPROVALS BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

Pub. L. 110-289, div. B, title VIII, §2832, July 30, 2008, 122 Stat. 2867, provided that:

“(a) ADMINISTRATIVE AND PROCEDURAL CHANGES.—

“(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the

<sup>1</sup> So in original. Probably should be followed by “is”.

‘Secretary’) shall, not later than the expiration of the 6-month period beginning upon after [sic] the date of the enactment of this Act [July 30, 2008], implement administrative and procedural changes to expedite approval of multifamily housing projects under the jurisdiction of the Department of Housing and Urban Development that meet the requirements of the Secretary for such approvals.

“(2) PROJECTS.—The multifamily housing projects referred to in paragraph (1) shall include—

“(A) projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] or tax-exempt housing bonds; and

“(B) existing public housing projects and assisted housing projects, for which approval of the Secretary is necessary for transactions, in conjunction with any such low-income housing tax credits or tax-exempt housing bonds, involving the preservation or rehabilitation of the project.

“(3) CHANGES.—The administrative and procedural changes referred to in paragraph (1) shall include all actions necessary to carry out paragraph (1), which may include—

“(A) improving the efficiency of approval procedures;

“(B) simplifying approval requirements,

“(C) establishing time deadlines or target deadlines for required approvals;

“(D) modifying division of approval authority between field and national offices;

“(E) improving outreach to project sponsors regarding information that is required to be submitted for such approvals;

“(F) requesting additional funding for increasing staff, if necessary; and

“(G) any other actions which would expedite approvals.

Any such changes shall be made in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving public and assisted housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

“(b) CONSULTATION.—The Secretary shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms, and approval requirements for multifamily housing projects projects [sic] for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] or tax-exempt housing bonds.

“(c) RECOMMENDATIONS.—In implementing the changes required under this section, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, public housing agencies, tenant advocates, and other stakeholders in such projects.

“(d) REPORT.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act [July 30, 2008], the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that—

“(1) identifies the actions taken by the Secretary to comply with this section;

“(2) includes information regarding any resulting improvements in the expedited approval for multifamily housing projects;

“(3) identifies recommendations made pursuant to subsection (c);

“(4) identifies actions taken by the Secretary to implement the provisions in the amendments made by sections 2834 and 2835 of this Act [enacting this

section and sections 1437z-8 and 11403f-1 of Title 42, The Public Health and Welfare, and amending sections 1701q and 1715r of this title and sections 1437f, 3545, 11403g, 11403h, 11404, 11405, 11405b, 11406, 11407, and 11407b of Title 42]; and

“(5) makes recommendations for any legislative changes that are needed to facilitate prompt approval of assistance for such projects.”

## § 1715t. Voluntary termination of insurance

Notwithstanding any other provision of this chapter and with respect to any loan or mortgage heretofore or hereafter insured under this chapter, except under section 1703 of this title and except as specified under section 1715z-15 of this title and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,<sup>1</sup> the Secretary is authorized to terminate any insurance contract upon request by the borrower or mortgagor and the financial institution or mortgagee and upon payment of such termination charge as the Secretary determines to be equitable, taking into consideration the necessity of protecting the various insurance Funds. Upon such termination, borrowers and mortgagors and financial institutions and mortgagees shall be entitled to the rights, if any, to which they would be entitled under this chapter if the insurance contract were terminated by payment in full of the insured loan or mortgage.

(June 27, 1934, ch. 847, title II, § 229, as added Pub. L. 86-372, title I, § 113, Sept. 23, 1959, 73 Stat. 662; amended Pub. L. 87-70, title VI, § 612(*l*), June 30, 1961, 75 Stat. 183; Pub. L. 89-117, title XI, § 1108(k), Aug. 10, 1965, 79 Stat. 505; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101-235, title II, § 202(d)(2), Dec. 15, 1989, 103 Stat. 2037.)

## Editorial Notes

### REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§ 1701 et seq.). For complete classification of this Act to the Code, see Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in text, is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitle B of title II, which was formerly set out as a note under section 1715f of this title and which amended section 1715z-6 of this title, was amended generally by Pub. L. 101-625 and is classified generally to subchapter I (§ 4101 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

### AMENDMENTS

1989—Pub. L. 101-235 inserted “and except as specified under section 1715z-15 of this title and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,” after “section 1703 of this title”.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

1965—Pub. L. 89-117 struck out “and Accounts” after “various Insurance Funds”.

1961—Pub. L. 87-70 amended section generally, authorizing voluntary termination of insurance contracts with respect to loans insured under this chapter.

<sup>1</sup> So in original.

**§ 1715u. Authority to assist mortgagors in default****(a) Loss mitigation**

Upon default or imminent default, as defined by the Secretary<sup>1</sup> of any mortgage insured under this subchapter, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including but not limited to actions such as special forbearance, loan modification, preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives, and deeds in lieu of foreclosure, as required, but not including assignment of mortgages to the Secretary under section 1710(a)(1)(A) of this title) or subsection (c),<sup>2</sup> as provided in regulations by the Secretary.

**(b) Payment of partial claim****(1) Establishment of program**

The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

**(2) Payments and exceptions**

Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

(A) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 30 percent of the unpaid principal balance of the mortgage and any costs that are approved by the Secretary;

(B) the amount of the partial claim payment shall first be applied to any arrearage on the mortgage, and may also be applied to achieve principal reduction;

(C) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary;

(D) the Secretary may permit compensation to the mortgagee for lost income on monthly payments, due to a reduction in the interest rate charged on the mortgage;

(E) expenses related to the partial claim or modification may not be charged to the borrower;

(F) loans may be modified to extend the term of the mortgage to a maximum of 40 years from the date of the modification; and

(G) the Secretary may permit incentive payments to the mortgagee, on the borrower's behalf, based on successful performance of a modified mortgage, which shall be used to reduce the amount of principal indebtedness.

**(3) Payments in connection with certain activities**

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection

with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.

**(c) Assignment and loan modification****(1) Assignment****(A) Program authority**

The Secretary may establish a program for assignment to the Secretary, upon request of the mortgagee, of a mortgage on a 1- to 4-family residence insured under this chapter.

**(B) Program requirements**

The Secretary may accept assignment of a mortgage under this paragraph only if—

(i) the mortgage was in default or facing imminent default, as defined by the Secretary;

(ii) the mortgagee has modified the mortgage to cure the default and provide for mortgage payments within the reasonable ability of the mortgagor to pay, at interest rates not exceeding current market interest rates; and

(iii) the Secretary arranges for servicing of the assigned mortgage by a mortgagee (which may include the assigning mortgagee) through procedures that the Secretary has determined to be in the best interests of the appropriate insurance fund.

**(C) Payment of insurance benefits**

Upon accepting assignment of a mortgage under this paragraph, the Secretary may pay insurance benefits to the mortgagee from the appropriate insurance fund, in an amount that the Secretary determines to be appropriate, not to exceed the amount necessary to compensate the mortgagee for the assignment and any losses and expenses resulting from the mortgage modification.

**(2) Assignment and loan modification****(A) Authority**

The Secretary may encourage loan modifications for eligible delinquent mortgages or mortgages facing imminent default, as defined by the Secretary, through the payment of insurance benefits and assignment of the mortgage to the Secretary and the subsequent modification of the terms of the mortgage according to a loan modification approved by the mortgagee.

**(B) Payment of benefits and assignment**

In carrying out this paragraph, the Secretary may pay insurance benefits for a mortgage, in the amount determined in accordance with section 1710(a)(5) of this title, without reduction for any amounts modified, but only upon the assignment, transfer, and delivery to the Secretary of all rights, interest, claims, evidence, and records with respect to the mortgage specified in clauses (i) through (iv) of section 1710(a)(1)(A) of this title.

**(C) Disposition**

After modification of a mortgage pursuant to this paragraph, the Secretary may provide insurance under this subchapter for the

<sup>1</sup> So in original. Probably should be followed by a comma.

<sup>2</sup> So in original. Probably should be "section 1710(a)(1)(A) of this title or subsection (c))."

mortgage. The Secretary may subsequently—

(i) re-assign the mortgage to the mortgagee under terms and conditions as are agreed to by the mortgagee and the Secretary;

(ii) act as a Government National Mortgage Association issuer, or contract with an entity for such purpose, in order to pool the mortgage into a Government National Mortgage Association security; or

(iii) re-sell the mortgage in accordance with any program that has been established for purchase by the Federal Government of mortgages insured under this subchapter, and the Secretary may coordinate standards for interest rate reductions available for loan modification with interest rates established for such purchase.

#### (D) Loan servicing

In carrying out this paragraph, the Secretary may require the existing servicer of a mortgage assigned to the Secretary to continue servicing the mortgage as an agent of the Secretary during the period that the Secretary acquires and holds the mortgage for the purpose of modifying the terms of the mortgage, provided that the Secretary compensates the existing servicer appropriately, as such compensation is determined by the Secretary consistent, to the maximum extent possible, with section 1709(b) of this title. If the mortgage is resold pursuant to subparagraph (C)(iii), the Secretary may provide for the existing servicer to continue to service the mortgage or may engage another entity to service the mortgage.

#### (d) Prohibition of judicial review

No decision by the Secretary to exercise or forego exercising any authority under this section shall be subject to judicial review.

**(e) Repealed. Pub. L. 104-134, title I, § 101(e) [title II, § 221(b)(2)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327**

#### (f) Applicability of other laws

No provision of this chapter, or any other law, shall be construed to require the Secretary to provide an alternative to foreclosure for mortgagees with mortgages on 1- to 4-family residences insured by the Secretary under this chapter, or to accept assignments of such mortgages.

(June 27, 1934, ch. 847, title II, § 230, as added Pub. L. 86-372, title I, § 114(a), Sept. 23, 1959, 73 Stat. 662; amended Pub. L. 88-560, title I, § 104(b), Sept. 2, 1964, 78 Stat. 770; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 96-399, title III, § 341, Oct. 8, 1980, 94 Stat. 1659; Pub. L. 98-181, title I [title IV, § 418], Nov. 30, 1983, 97 Stat. 1212; Pub. L. 100-242, title IV, § 428, Feb. 5, 1988, 101 Stat. 1918; Pub. L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-99, title IV, § 407(b), Jan. 26, 1996, 110 Stat. 45; Pub. L. 104-134, title I, § 101(e) [title II, § 221(b)(2)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-276, title VI, § 601(f), Oct. 21, 1998, 112 Stat.

2674; Pub. L. 111-22, div. A, title II, § 203(d)(1)-(3), May 20, 2009, 123 Stat. 1645, 1646.)

### Editorial Notes

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (c)(1)(A) and (f), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2009—Subsec. (a). Pub. L. 111-22, § 203(d)(1)(C)-(E), inserted “preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives,” after “loan modification,” “as required,” after “deeds in lieu of foreclosure,” and “or subsection (c),” before “as provided”.

Pub. L. 111-22, § 203(d)(1)(B), which directed substitution of “loan” for “loss”, was executed by making the substitution before “modification” to reflect the probable intent of Congress.

Pub. L. 111-22, § 203(d)(1)(A), inserted “or imminent default, as defined by the Secretary” after “default”.

Subsec. (b). Pub. L. 111-22, § 203(d)(2), amended subsec. (b) generally. Prior to amendment, text read as follows: “The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default. Any such payment under such program to the mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

“(1) the amount of the payment shall be in an amount determined by the Secretary, not to exceed an amount equivalent to 12 of the monthly mortgage payments and any costs related to the default that are approved by the Secretary; and

“(2) the mortgagor shall agree to repay the amount of the insurance claim to the Secretary upon terms and conditions acceptable to the Secretary.”

The Secretary may pay the mortgagee, from the appropriate insurance fund, in connection with any activities that the mortgagee is required to undertake concerning repayment by the mortgagor of the amount owed to the Secretary.”

Subsec. (c). Pub. L. 111-22, § 203(d)(3)(A)-(C)(i), designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, of par. (1), and redesignated subpars. (A) to (C) of former par. (2) as cls. (i) to (iii), respectively, of par. (1)(B).

Subsec. (c)(1)(B). Pub. L. 111-22, § 203(d)(3)(C)(ii), substituted “under this paragraph” for “under a program under this subsection” in introductory provisions.

Subsec. (c)(1)(B)(i). Pub. L. 111-22, § 203(d)(3)(C)(iii), inserted “or facing imminent default, as defined by the Secretary” after “default”.

Subsec. (c)(1)(C). Pub. L. 111-22, § 203(d)(3)(D), which directed substitution of “under this paragraph” for “under a program under this subsection”, was executed by making the substitution for “under a program established under this subsection” to reflect the probable intent of Congress.

Subsec. (c)(2). Pub. L. 111-22, § 203(d)(3)(E), added par. (2). Former par. (2) redesignated subpar. (B) of par. (1).

1998—Pub. L. 105-276 added subsec. (a) and redesignated former subsecs. (a) to (e) as (b) to (f), respectively.

1996—Pub. L. 104-99 amended section generally, substituting subsecs. (a) to (e) relating to authority to assist mortgagors in default for former subsecs. (a) to (d) relating to temporary mortgage assistance payments and acquisition of mortgages to avoid foreclosures.

Subsec. (d). Pub. L. 104-134 struck out heading and text of subsec. (d). Text read as follows: “Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of the Departments of

Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1996, for assignment pursuant to subsection (b) of this section as in effect before such date of enactment shall continue to be governed by the provisions of this section, as in effect immediately before such date of enactment."

1991—Subsec. (a)(5). Pub. L. 102-83 substituted "section 3703(c) of title 38" for "section 1803(c) of title 38".

1988—Subsec. (a)(5). Pub. L. 100-242 substituted "The interest rate on payments made under this subsection shall be the rate established under section 1803(c) of title 38. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection" for "The Secretary may establish interest charges on payments made under this subsection; except that such charges shall not exceed a rate which is more than the maximum interest rate applicable with respect to level payment mortgages insured pursuant to section 1709(b) of this title at the time assistance under this section is approved by the Secretary."

1983—Subsec. (d). Pub. L. 98-181 struck out " , to the extent practicable," after "Secretary shall".

1980—Subsec. (a). Pub. L. 96-399 added subsec. (a). Existing undesignated provisions were designated as subsec. (b)(1).

Subsec. (b). Pub. L. 96-399 designated existing undesignated provision as par. (1), made changes in phraseology which included applicability of remedy provided by subsection (a) of this section and determinations made pursuant to such subsection, and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 96-399 added subsecs. (c) and (d).

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1964—Pub. L. 88-560 authorized the Commissioner to acquire the loan and security notwithstanding the fact that he has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance and substituted provisions for acquisition of the loan and security upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the loan plus any unpaid mortgage interest plus reimbursement for such costs and attorney's fees as the Commissioner finds were properly incurred in connection with the defaulted mortgage and its assignment to the Commissioner for former provision for such acquisition upon issuance to the mortgagee of debentures having a total face value equal to the unpaid principal balance of the loan plus any accrued interest.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-99 applicable with respect to mortgages insured under this chapter that are executed before, on, or after Oct. 1, 1997, see section 407(c) of Pub. L. 104-99, as amended, set out as a note under section 1710 of this title.

##### SAVINGS PROVISION

Pub. L. 104-134, title I, §101(e) [title II, §221(b)(1)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291, provided that: "Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of this Act [Apr. 26, 1996], for assignment to the Secretary pursuant to section 230(b) of the National Housing Act [12 U.S.C. 1715u(b)] shall continue to be governed by the provisions of such section, as in effect immediately before enactment of the Balanced Budget Downpayment Act, I [Pub. L. 104-99, which was approved Jan. 26, 1996]."

##### IMPLEMENTATION OF 2009 AMENDMENT

Pub. L. 111-22, div. A, title II, §203(d)(4), May 20, 2009, 123 Stat. 1647, provided that: "The Secretary of Housing and Urban Development may implement the amendments made by this subsection [amending this section] through notice or mortgagee letter."

#### § 1715v. Insurance of mortgages for housing for elderly persons

##### (a) Purpose; definitions

The purpose of this section is to assist in relieving the shortage of housing for elderly persons and to increase the supply of rental housing for elderly persons.

For the purposes of this section—

(1) the term "housing" means eight or more new or rehabilitated living units, not less than 50 per centum of which are specially designed for the use and occupancy of elderly persons;

(2) the term "elderly person" means any person, married or single, who is sixty-two years of age or over; and

(3) the terms "mortgage", "mortgagee", "mortgagor", and "maturity date" shall have the meanings respectively set forth in section 1713 of this title.

##### (b) Authorization

The Secretary is authorized to insure any mortgage (including advances on mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgages prior to the date of their execution or disbursement thereon.

##### (c) Eligibility for insurance; maximum amount of mortgage; terms and conditions

To be eligible for insurance under this section, a mortgage to provide housing for elderly persons shall—

(1) Repealed. Pub. L. 93-383, title III, §304(f), Aug. 22, 1974, 88 Stat. 678.

(2)(A) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$35,978 per family unit without a bedroom, \$40,220 per family unit with one bedroom, \$48,029 per family unit with two bedrooms, \$57,798 per family unit with three bedrooms, and \$67,950 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$40,876 per family unit without a bedroom, \$46,859 per family unit with one bedroom, \$56,979 per family unit with two bedrooms, \$73,710 per family unit with three bedrooms, and \$80,913 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area

where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>1</sup> of this title (as such section existed immediately before November 30, 1983) is involved; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>1</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure;

(3) if executed by a mortgagor which is a public instrumentality or a private nonprofit corporation or association or other acceptable private nonprofit organization regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as, in the opinion of the Secretary, will effectuate the purpose of this section, involve a principal obligation not in excess of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary): *Provided*, That in the case of properties other than new construction, the principal obligation shall not exceed the appraised value rather than the Secretary's estimate of the replacement cost;

(4) if executed by a mortgagor which is approved by the Secretary but is not a public instrumentality or a private nonprofit organization, involve a principal obligation not in excess (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) of 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement costs may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construc-

tion, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided*, That in the case of properties other than new construction the principal obligation shall not exceed 90 per centum of the Secretary's estimate of the value of the property or project: *And provided further*, That the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operating, and for such purpose the Secretary may make contracts with and acquire for not to exceed \$100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations; such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) provide for a complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary shall prescribe;

(6) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; and

(7) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation, with 50 per centum or more of the units therein specially designed for the use and occupancy of elderly persons in accordance with standards established by the Secretary, and which may include such commercial and special facilities as the Secretary deems adequate to serve the occupants.

**(d) Release of part of mortgaged property or project from lien; preferences and priorities in rental of dwellings**

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe, and shall prescribe such procedures as in his judgment are necessary to secure to elderly persons a preference or priority of opportunity to rent the dwellings included in such property or project.

**(e) Applicability of other laws**

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

**(f) Handicapped family units and facilities; rental preference or priority**

Notwithstanding any of the provisions of this section, the housing provided under this section may include family units which are specially designed for the use and occupancy of any person or family qualifying as a handicapped family as

<sup>1</sup> See References in Text note below.

defined in section 1701q<sup>1</sup> of this title, and such special facilities as the Secretary deems adequate to serve handicapped families (as so defined). The Secretary may also prescribe procedures to secure to such families preference or priority of opportunity to rent the living units specially designed for their use and occupancy.

(June 27, 1934, ch. 847, title II, § 231, as added Pub. L. 86-372, title II, § 201(a), Sept. 23, 1959, 73 Stat. 665; amended Pub. L. 87-70, title VI, § 612(m), June 30, 1961, 75 Stat. 183; Pub. L. 88-560, title I, § 107(e), title II, § 203(c), Sept. 2, 1964, 78 Stat. 776, 784; Pub. L. 89-117, title II, § 207(e), title XI, § 1108(l), Aug. 10, 1965, 79 Stat. 467, 505; Pub. L. 90-19, § 1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-301, § 3(d), May 7, 1968, 82 Stat. 114; Pub. L. 91-152, title I, § 113(g), Dec. 24, 1969, 83 Stat. 384; Pub. L. 93-383, title III, §§ 303(f), 304(f), Aug. 22, 1974, 88 Stat. 677, 678; Pub. L. 94-173, § 3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, § 8(a), (b)(6), Aug. 3, 1976, 90 Stat. 1071, 1072; Pub. L. 96-153, title III, § 314, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96-399, title III, § 310(e), Oct. 8, 1980, 94 Stat. 1642; Pub. L. 97-35, title III, § 339B(a), Aug. 13, 1981, 95 Stat. 417; Pub. L. 97-377, title I, § 101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §§ 404(b)(9), 446(e)], Nov. 30, 1983, 97 Stat. 1209, 1228; Pub. L. 100-242, title IV, § 426(f), (h), Feb. 5, 1988, 101 Stat. 1916; Pub. L. 102-550, title V, § 509(f), Oct. 28, 1992, 106 Stat. 3783; Pub. L. 107-73, title II, § 213(f), Nov. 26, 2001, 115 Stat. 677; Pub. L. 107-326, § 5(b)(6), Dec. 4, 2002, 116 Stat. 2795; Pub. L. 108-186, title III, § 302(b), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110-161, div. K, title II, § 221(1), Dec. 26, 2007, 121 Stat. 2436.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1720 of this title, referred to in subsec. (c)(2)(B), was repealed by Pub. L. 98-181, title I [title IV, § 483(a)], Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (c)(2)(C), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

The General Insurance Fund, referred to in subsec. (c)(4), was established by section 1735c of this title.

Section 1701q of this title, referred to in subsec. (f), was amended generally by Pub. L. 101-625, title VIII, § 801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, no longer defines the term "handicapped family".

##### AMENDMENTS

2007—Subsec. (c)(2)(B). Pub. L. 110-161 substituted "170 percent" for "140 percent" after "not to exceed" in two places and "215 percent in high cost areas" for "170 percent in high cost areas".

2003—Subsec. (c)(2)(B). Pub. L. 108-186 substituted "140 percent in" for "110 percent in" and inserted ", or 170 percent in high cost areas," after "and by not to exceed 140 percent".

2002—Subsec. (c)(2). Pub. L. 107-326 inserted "(A)" after "(2)" and substituted "; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for "; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph" and "; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section

1712a of this title)" for ": *Provided*, That the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of this section".

2001—Subsec. (c)(2). Pub. L. 107-73 substituted "\$35,978", "\$40,220", "\$48,029", "\$57,798", and "\$67,950" for "\$28,782", "\$32,176", "\$38,423", "\$46,238", and "\$54,360", respectively, and "\$40,876", "\$46,859", "\$56,979", "\$73,710", and "\$80,913" for "\$32,701", "\$37,487", "\$45,583", "\$58,968", and "\$64,730", respectively.

1992—Subsec. (c)(2). Pub. L. 102-550 substituted "\$28,782", "\$32,176", "\$38,423", "\$46,238", and "\$54,360" for "\$23,985", "\$26,813", "\$32,019", "\$38,532", and "\$45,300", respectively, and "\$32,701", "\$37,487", "\$45,583", "\$58,968", and "\$64,730" for "\$27,251", "\$31,239", "\$37,986", "\$49,140", and "\$53,942", respectively.

1988—Subsec. (c)(2). Pub. L. 100-242 substituted "\$23,985", "\$26,813", "\$32,019", "\$38,532", and "\$45,300" for "\$18,450", "\$20,625", "\$24,630", "\$29,640", and "\$34,846", respectively, and "\$27,251", "\$31,239", "\$37,986", "\$49,140", and "\$53,942" for "\$20,962", "\$24,030", "\$29,220", "\$37,800", and "\$41,494", respectively, and substituted "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area".

1983—Subsec. (c)(5). Pub. L. 98-181, § 446(e), inserted "(unless otherwise approved by the Secretary)" after "periodic payments".

Subsec. (c)(6). Pub. L. 98-181, § 404(b)(9), substituted provision that the interest rate be at such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

1982—Subsec. (c)(2). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

1981—Subsec. (c)(2). Pub. L. 97-35 inserted "therein" after "installation" and struck out "therein" after "measure".

1980—Subsec. (c)(2). Pub. L. 96-399 inserted proviso relating to increase of dollar amount limitations due to installation of a solar energy system.

1979—Subsec. (c)(2). Pub. L. 96-153 substituted "75 per centum" for "50 per centum" and inserted exception that the dollar amount limitations may be exceeded by not be exceed 90 per centum where the Secretary determines it to be necessary.

1976—Subsec. (c)(2). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$18,450" for "\$12,300", "\$20,625" for "\$17,188", "\$24,630" for "\$20,525", "\$29,640"

for “\$24,700”, “\$34,846” for “\$29,038”, “\$20,962” for “\$13,975”, “\$24,030” for “\$20,025”, “\$29,220” for “\$24,350”, “\$37,800” for “\$31,500”, and “\$41,494” for “\$34,578”.

1975—Subsec. (c)(2). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93-383, § 304(f), struck out par. (1) which set forth limits on principal obligations of mortgages.

Subsec. (c)(2). Pub. L. 93-383, § 303(f), substituted “\$12,300” for “\$8,800”, “\$13,975” for “\$10,450”, “\$17,188” for “\$12,375”, “\$20,025” for “\$14,850”, “\$20,525” for “\$14,850”, “\$24,350” for “\$17,600”, “\$24,700” for “\$18,700”, “\$29,038” for “\$21,175”, “\$31,500” for “\$22,000”, and “\$34,578” for “\$25,025”.

1969—Subsec. (c)(2). Pub. L. 91-152 substituted “\$8,800” for “\$8,000”, “\$10,450” for “\$9,500”, “\$12,375” for “\$11,250”, “\$14,850” for “\$13,500” wherever appearing, “\$17,600” for “\$16,000”, “\$18,700” for “\$17,000”, “\$21,175” for “\$19,250”, “\$22,000” for “\$20,000”, and “\$25,025” for “\$22,750”.

1968—Subsec. (c)(6). Pub. L. 90-301 increased limitation on interest rates from 5½ to 6 per centum per annum.

1967—Pub. L. 90-19, § 1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subssecs. (b), (c)(2) to (7), (d), and (f).

Subsec. (c)(3), (4). Pub. L. 90-19, § 1(a)(4), substituted “Secretary’s” for “Commissioner’s”.

1965—Subsec. (c)(2). Pub. L. 89-117, § 207(e), substituted “\$17,000 per family unit with three bedrooms, and \$19,250 per family unit with four or more bedrooms” for “and \$17,000 per family unit with three or more bedrooms” and “\$20,000 per family unit with three bedrooms, and \$22,750 per family unit with four or more bedrooms” for “and \$20,000 per family unit with three or more bedrooms”.

Subsec. (c)(4). Pub. L. 89-117, § 1108(l)(1), substituted “General Insurance Fund” for “section 207 Housing Insurance Fund”.

Subsec. (e). Pub. L. 89-117, § 1108(l)(2), struck out references to subssecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (c)(2). Pub. L. 88-560, § 107(e), changed limits on mortgages for property or project attributable to dwelling use from “\$2,250 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)” to “\$8,000 per family unit without a bedroom, \$11,250 per family unit with one bedroom, \$13,500 per family unit with two bedrooms, and \$17,000 per family unit with three or more bedrooms”, changed such mortgage limits on project consisting of elevator-type structures from a sum “of \$2,250 per room to not to exceed \$2,750 per room, and the dollar amount limitation of \$9,000 per family unit to not to exceed \$9,400 per family unit” to dollar amount limitations “per family unit to not to exceed \$9,500 per family unit without a bedroom, \$13,500 per family unit with one bedroom, \$16,000 per family unit with two bedrooms, and \$20,000 per family unit with three or more bedrooms”, and substituted provisions authorizing an increase “by not to exceed 45 per centum” of any of such limits because of cost levels for former provision authorizing such increase “by not to exceed \$1,250 per room, without regard to the number of rooms being less than four, or four or more”.

Subsec. (f). Pub. L. 88-560, § 203(c), added subsec. (f).

1961—Subsec. (c)(2). Pub. L. 87-70 increased the maximum amount of mortgages from not more than \$9,000 per dwelling unit for such part of such property or project as may be attributable to dwelling use to not more than \$2,250 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), and permitted an increase of from \$2,250 per room to not more than \$2,750 per room to compensate for the higher costs incident to the construction of elevator-type structures.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

### REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, § 3(d), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, § 404(a)], Nov. 30, 1983, 97 Stat. 1208.

### LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

For limitation on the number of dwelling units with mortgages not providing for complete amortization pursuant to authority granted by amendment to subsec. (c)(5) by section 446 of Pub. L. 98-181, see section 446(f) of Pub. L. 98-181, set out as a note under section 1713 of this title.

### AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (c)(2) of this section by section 107(e) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

## § 1715w. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes

### (a) Purpose

The purpose of this section is to assist in the provision of facilities for any of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services, including additional facilities for the non-resident care of elderly individuals and others who are able to live independently but who require care during the day.

(2) The development of intermediate care facilities and board and care homes for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

(3) The development of assisted living facilities for the care of frail elderly persons.

### (b) Definitions

For the purposes of this section—

(1) the term “nursing home” means a public facility, proprietary facility or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipi-



pality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term “intermediate care facility” means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services;

(3) the term a<sup>1</sup> “nursing home” or “intermediate care facility” may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;

(4) the term “mortgage” means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage. The term “first mortgage” means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term “mortgagor” shall have the meaning set forth in section 1713(a) of this title;

(5) the term “board and care home” means any residential facility providing room, board, and continuous protective oversight that is regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)], so long as the home is located in a State that, at the time of an application is made for insurance under this section, has demonstrated to the Secretary that it is in compliance with the provisions of such section 1616(e);

(6) the term “assisted living facility” means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

(A) is licensed and regulated by the State (or if there is no State law providing for

such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

(7) the term “frail elderly person” has the meaning given the term in section 8011(k) of title 42.

#### (c) Authorization

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

#### (d) Terms and conditions; limitation on maximum amount of mortgage; amortization; interest; certification from State agency

In order to carry out the purposes of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home,<sup>2</sup> assisted living facility, or intermediate care facility, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated, or any combination of nursing home, assisted living facility, and intermediate care facility or a board and care home, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed \$100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

<sup>1</sup> So in original. The word “a” probably should not appear.

<sup>2</sup> So in original.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 1715(d)(3) of this title), including—

(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or

(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>3</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and<sup>4</sup>

(4)(A) With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521<sup>3</sup> of the Public Health Service Act [42 U.S.C. 291d (a)(1), 300m] for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (i) there is a need for such home or facility or combined home and facility, and (ii) there are in force in such State or in the municipality or other political subdivision of the State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section. If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or

combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521<sup>3</sup> of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.

(B) With respect to board and care homes, the Secretary shall not insure any mortgage under this section unless he has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)].

(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the

<sup>3</sup> See References in Text note below.

<sup>4</sup> So in original. The “; and” probably should be a period.

Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.

**(e) Release of part of mortgaged property or project from lien**

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

**(f) Applicability of other laws**

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

**(g) Regulations covering intermediate care facilities; consultations**

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section relating to intermediate care facilities, after consulting with the Secretary of Health and Human Services with respect to any health or medical aspects of the program which may be involved in such regulations.

**(h) Consultations concerning need for and availability of intermediate care facilities**

The Secretary shall also consult with the Secretary of Health and Human Services as to the need for and the availability of intermediate care facilities in any area for which an intermediate care facility is proposed under this section.

**(i) Fire safety equipment for nursing homes, assisted living facilities, intermediate care facilities, or board and care homes**

(1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure loans made by financial institutions or other approved mortgagees to nursing homes, assisted living facilities, and intermediate care facilities or to board and care homes to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services) or other such codes or requirements approved by the Secretary of Health and Human Services as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] or as mandated by a State under the provisions of section 1616(e) of such Act [42 U.S.C. 1382e(e)].

(2) To be eligible for insurance under this subsection a loan shall—

(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(C) have a maturity satisfactory to the Secretary;

(D) be made by a financial institution or other mortgagee approved by the Secretary as

eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title;

(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

(F) in the case of board and care homes, be made with respect to such a home located in a State with respect to which the Secretary has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)].

(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this subsection, except that all references to "home improvement loans" shall be construed to refer to loans under this subsection.

(4) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to "this section" or "this title" shall be construed to refer to this subsection.

**(j) Schedules and deadlines for processing and approval of applications**

The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.

(June 27, 1934, ch. 847, title II, §232, as added Pub. L. 86-372, title I, §115, Sept. 23, 1959, 73 Stat. 663; amended Pub. L. 87-70, title VI, §610, June 30, 1961, 75 Stat. 180; Pub. L. 88-560, title I, §117, Sept. 2, 1964, 78 Stat. 779; Pub. L. 89-117, title XI, §1108(m), Aug. 10, 1965, 79 Stat. 505; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title III, §314, Aug. 1, 1968, 82 Stat. 511; Pub. L. 91-152, title I, §111, Dec. 24, 1969, 83 Stat. 382; Pub. L. 93-204, Dec. 28, 1973, 87 Stat. 883; Pub. L. 93-383, title III, §304(g), Aug. 22, 1974, 88 Stat. 678; Pub. L. 95-128, title III, §308(a), Oct. 12, 1977, 91 Stat. 1135; Pub. L. 95-557, title III, §312, Oct. 31, 1978, 92 Stat. 2099; Pub. L. 96-399, title III, §310(f), Oct. 8, 1980, 94 Stat. 1643; Pub. L. 98-181, title I [title IV, §§404(b)(10), 437], Nov. 30, 1983, 97 Stat. 1209, 1222, 1223; Pub. L. 98-479, title I, §104(a)(1), Oct. 17, 1984, 98 Stat. 2224; Pub. L. 100-242, title IV, §§410(a), (b), 429(e), Feb. 5, 1988, 101 Stat. 1904, 1918; Pub. L. 102-550, title V, §511(a)-(e), Oct. 28, 1992, 106 Stat. 3784-3786; Pub. L. 105-65, title II, §216, Oct. 27, 1997, 111 Stat. 1367; Pub. L. 105-276, title II, §214(a), Oct. 21, 1998, 112 Stat. 2486.)

**Editorial Notes**

**REFERENCES IN TEXT**

The General Insurance Fund, referred to in subsec. (d)(1), was established by section 1735c of this title.

Section 8211 of title 42, referred to in subsec. (d)(2)(B), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

Section 1521 of the Public Health Service Act, referred to in subsec. (d)(4)(A), is section 1521 of act July 1, 1944, which was classified to section 300m of Title 42, The Public Health and Welfare, prior to repeal, effective Jan. 1, 1987, by Pub. L. 99-660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

The Social Security Act, referred to in subsec. (i)(1), is act Aug. 13, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

#### AMENDMENTS

1998—Subsec. (b)(4)(B). Pub. L. 105-276 made technical correction to directory language of Pub. L. 105-65. See 1997 Amendment note below.

1997—Subsec. (b)(4)(B). Pub. L. 105-65, as amended by Pub. L. 105-276, substituted “ten years to run beyond the maturity date of the mortgage” for “fifty years to run from the date the mortgage was executed”.

1992—Subsec. (a). Pub. L. 102-550, §511(a)(1), substituted “any” for “either” in introductory provisions. Subsec. (a)(3). Pub. L. 102-550, §511(a)(2), added par. (3).

Subsec. (b)(6), (7). Pub. L. 102-550, §511(b), added pars. (6) and (7).

Subsec. (d). Pub. L. 102-550, §511(c)(1), in introductory provisions, inserted “, assisted living facility,” after “rehabilitated nursing home,” substituted “any combination of nursing home, assisted living facility, and intermediate care facility” for “combined nursing home and intermediate care facility”, and inserted “, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated,” after first reference to “intermediate care facility”.

Subsec. (d)(2). Pub. L. 102-550, §511(c)(2), inserted “or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 1715(d)(3) of this title),” before “including” in introductory provisions.

Subsec. (d)(3). Pub. L. 102-550, §511(c)(3), inserted concluding provisions.

Subsec. (d)(4)(C). Pub. L. 102-550, §511(c)(4), added subpar. (C).

Subsec. (i)(1). Pub. L. 102-550, §511(d), inserted “, assisted living facilities,” after “nursing homes”.

Subsec. (j). Pub. L. 102-550, §511(e), added subsec. (j). 1988—Subsec. (b)(1). Pub. L. 100-242, §410(a), inserted “public facility,” before “proprietary”.

Subsec. (b)(3) to (5). Pub. L. 100-242, §429(e)(1), indented as par. (3) former run-in cl. (3) defining “nursing home” and “intermediate care facility”, inserted “the term”, and struck out “and” after semicolon at end, redesignated as par. (4) former par. (3) defining “mortgage”, and redesignated as par. (5) former par. (4).

Subsec. (d)(4)(A). Pub. L. 100-242, §410(b), inserted “If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined

home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 291d(a)(1) or section 300m of title 42. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.”

Subsec. (i)(2)(B). Pub. L. 100-242, §429(e)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “bear interest at not to exceed a rate determined by the Secretary to be necessary to meet the loan market”.

1984—Pub. L. 98-479 inserted reference to board and care homes in section catchline.

1983—Subsec. (a)(2). Pub. L. 98-181, §437(a), inserted “and board and care homes” after “intermediate care facilities”.

Subsec. (b)(4). Pub. L. 98-181, §437(b), added par. (4).

Subsec. (d). Pub. L. 98-181, §437(c)(1), in provisions preceding par. (1) inserted “or a board and care home” after “and intermediate care facility.”.

Subsec. (d)(3)(B). Pub. L. 98-181, §404(b)(10), substituted provision that the interest rate be at such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

Subsec. (d)(4). Pub. L. 98-181, §437(c)(2), designated existing provision as subpar. (A), substituted “With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the” for “The” and “(i)” and “(ii)” for “(A)” and “(B)”, respectively, and added subpar. (B).

Subsecs. (g), (h). Pub. L. 98-181, §437(d), (e), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (i)(1). Pub. L. 98-181, §437(f)(1), inserted “or to board and care homes” after “intermediate care facilities”, “(or any subsequent edition specified by the Secretary of Health and Human Services)” after “Association”, and “or as mandated by a State under provisions of section 1616(e) of such Act” after “Social Security Act”, and substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (i)(2)(F). Pub. L. 98-181, §437(f)(2), added subpar. (F).

1980—Subsec. (d)(2). Pub. L. 96-399 revised existing provisions into introductory paragraph and subpar. (A) and added subpar. (B).

1978—Subsec. (a). Pub. L. 95-557, §312(a), inserted “, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day” after pars. (1) and (2).

Subsec. (b)(2). Pub. L. 95-557, §312(b), inserted “(3) a ‘nursing home’ or ‘intermediate care facility’ may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day”.

1977—Subsec. (d)(4). Pub. L. 95-128 inserted reference to section 300m of title 42.

1974—Subsec. (d)(2). Pub. L. 93-383 struck out “not to exceed \$12,500,000, and” after “an amount”.

1973—Subsec. (i). Pub. L. 93-204 added subsec. (i).

1969—Subsec. (a). Pub. L. 91-152, § 111(1), added to stated purpose of this section of developing nursing homes, the development of intermediate care facilities or the development of such facilities in combination with nursing home facilities.

Subsec. (b). Pub. L. 91-152, § 111(2), (3), struck out “and” after “is located;” in par. (1), redesignated par. (2) as (3), and added par. (2).

Subsec. (d). Pub. L. 91-152, § 111(4), inserted provision authorizing the Secretary to insure any mortgage which covers an intermediate care facility or combined nursing home and intermediate care facility.

Subsec. (d)(2). Pub. L. 91-152, § 111(5), substituted “operation of the home or facility or combined home or facility” for “operation of the nursing home”.

Subsec. (d)(4). Pub. L. 91-152, § 111(6), substituted “section 291d(a)(1) of title 42” for “section 291b(a)(1) of title 42”, and made provisions applicable to the insurance of mortgages covering intermediate care facilities or combined nursing home and intermediate care facilities.

Subsecs. (g), (h). Pub. L. 91-152, § 111(7), added subsecs. (g) and (h).

1968—Subsec. (b)(2). Pub. L. 90-448, § 314(1), redefined term “mortgage” to mean a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease for not less than ninety-nine years which is renewable, or under a lease having a period of not less than fifty years to run from the date the mortgage was executed, and inserted definition of “first mortgage”.

Subsec. (d). Pub. L. 90-448, § 314(2), (3), authorized the Secretary to insure a mortgage which includes equipment to be used in the operation of a nursing home, and permitted the value of the equipment to be included in the calculation of the 90 per centum of the estimated value.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

1965—Subsec. (d)(1). Pub. L. 89-117, § 1108(m)(1), substituted “General Insurance Fund” for “section 207 Housing Insurance Fund”.

Subsec. (f). Pub. L. 89-117, § 1108(m)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (b)(1). Pub. L. 88-560 inserted “or facility of a private nonprofit corporation or association” after “proprietary facility”.

1961—Subsec. (d)(2). Pub. L. 87-70 substituted “90 per centum” for “75 per centum”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title II, § 214(b), Oct. 21, 1998, 112 Stat. 2486, provided that: “The amendment made by subsection (a) [amending this section] shall be construed to have taken effect on October 27, 1997.”

##### REGULATIONS

Pub. L. 100-242, title IV, § 410(c), Feb. 5, 1988, 101 Stat. 1904, provided that: “The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section [amending this section] by not later than the expiration of the 90-day period following the date of the enactment of this Act [Feb. 5, 1988].”

##### TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (j) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 105 of House Document No. 103-7.

##### DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages

insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101-625, set out as a note under section 1713 of this title.

#### § 1715x. Experimental housing insurance

##### (a) Purpose; authorization

(1) In order to assist in lowering housing costs and improving housing standards, quality, livability, or durability or neighborhood design through the utilization of advanced housing technology, or experimental property standards, the Secretary is authorized to insure and to make commitments to insure, under this section, mortgages (including home improvement loans, and including advances on mortgages during construction) secured by properties including dwellings involving the utilization and testing of advanced technology in housing design, materials, or construction, or experimental property standards for neighborhood design if the Secretary determines that (A) the property is an acceptable risk, giving consideration to the need for testing advanced housing technology or experimental property standards, (B) the utilization and testing of the advanced technology or experimental property standards involved will provide data or experience which the Secretary deems to be significant in reducing housing costs or improving housing standards, quality, livability, or durability, or improving neighborhood design, and (C) the mortgages are eligible for insurance under the provisions of this section and under any further terms and conditions which may be prescribed by the Secretary to establish the acceptability of the mortgages for insurance.

(2) The Secretary is further authorized to insure and to make commitments to insure, under this section, mortgages (including advances on mortgages during construction) secured by properties in projects to be carried out in accordance with plans approved by the Secretary under section 1701z of this title.

##### (b) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section, a mortgage shall meet the requirements of one of the other sections or subchapters of this chapter; except that, in lieu of determining the appraised value or the replacement cost of the property in cases involving new construction or the estimated cost of repair and rehabilitation or improvement in cases involving existing properties, the Secretary shall estimate the cost of replacing the property using comparable conventional design, materials, and construction, and any limitation upon the maximum mortgage amount available to a nonoccupant owner shall not, in the discretion of the Secretary, be applicable to mortgages insured under this section.

##### (c) Contracts, agreements, and financial undertakings with mortgagor

The Secretary may enter into such contracts, agreements, and financial undertakings with the mortgagor and others as he deems necessary or desirable to carry out the purposes of this section, and may expend available funds for such

purposes, including the correction (when he determines it necessary to protect the occupants), at any time subsequent to insurance of a mortgage, of defects or failures in the dwellings which the Secretary finds are caused by or related to the advanced housing technology utilized in their design or construction or experimental property standards. Any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this subchapter (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements of such other section (except as specified in subsection (b)), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

**(d) Investigations and analysis of data; publication and distribution of reports**

The Secretary may make such investigations and analyses of data, and publish and distribute such reports, as he determines to be necessary or desirable to assure the most beneficial use of the data and information to be acquired as a result of this section.

**(e) Entitlement to insurance benefits**

Any mortgagee or lender under a mortgage insured under subsection (b) shall be entitled to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section or subchapter of this chapter for which it otherwise would have been eligible except for the experimental feature of the property involved.

**(f) Defaults; payment in cash or debentures; acquisition of mortgage**

Notwithstanding the provisions of subsection (e) of this section, in the case of default on any mortgage insured under this section, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such subsections in cash or in debentures (as provided in the mortgage insurance contract), or may acquire the mortgage loan and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the mortgage. The appropriate provisions of sections 1710 and 1713 of this title relating to the issuance of debentures shall apply with respect to debentures issued under this subsection, and the appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this subsection, in accordance with and subject to regulations (modifying such

provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages insured under this section (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(June 27, 1934, ch. 847, title II, §233, as added Pub. L. 87-70, title I, §103, June 30, 1961, 75 Stat. 158; amended Pub. L. 88-560, title I, §§105(c)(1), 118, Sept. 2, 1964, 78 Stat. 772, 779; Pub. L. 89-117, title XI, §1108(n), Aug. 10, 1965, 79 Stat. 505; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §108(f), title III, §309, Aug. 1, 1968, 82 Stat. 496, 509.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (b) and (e), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

The General Insurance Fund, referred to in subsec. (f), was established by section 1735c of this title.

**AMENDMENTS**

1968—Subsec. (a). Pub. L. 90-448, §108(f)(1), designated existing provision as par. (1), redesignated cls. (1), (2), and (3) as cls. (A), (B), and (C), respectively, and added par. (2).

Subsec. (b). Pub. L. 90-448, §309(1), substituted "one of the other sections or subchapters of this chapter" for "one of the other sections of this subchapter".

Subsec. (c). Pub. L. 90-448, §108(f)(2), inserted sentence providing that any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this subchapter (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements of such other section (except as specified in subsec. (b)), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

Subsec. (e). Pub. L. 90-448, §309(2), substituted "the section or subchapter of this chapter" for "the section of this subchapter".

1967—Subsecs. (a) to (d), (f). Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

1965—Subsec. (f). Pub. L. 89-117, §1108(n)(1), (2), substituted "General Insurance Fund" for "Experimental Housing Insurance Fund" and struck out provision that all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the Experimental Housing Insurance Fund.

Subsec. (g). Pub. L. 89-117, §1108(n)(3), repealed subsec. (g) which created the Experimental Housing Insurance Fund, provided for transfer of funds thereto, and authorized the charging of expenses thereto.

1964—Subsec. (a). Pub. L. 88-560, §118(a), substituted "home improvement loans, and including advances on mortgages" for " , in the case of mortgages insured

under subsection (b)(2) of this section, advances on such mortgages”.

Subsec. (b). Pub. L. 88-560, §118(b), substituted provisions which make insurance available for mortgages meeting the requirements of any other sections of subchapter II of this chapter for provisions which made insurance available for mortgages meeting the requirements of section 1709(b) or 1713(b), (c) of this title and made the Commissioner's estimate of replacement cost of the property applicable to mortgages meeting the requirements of any section of subchapter II of this chapter in lieu of determining the appraised value or the replacement cost of the property in new construction or estimated cost of repair and rehabilitation or improvement for existing properties.

Subsec. (e). Pub. L. 88-560, §118(c), substituted provision for entitlement to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section of this subchapter for which it otherwise would have been eligible except for the experimental feature of the property involved for former provision for entitlement to insurance benefits provided in section 1710(a) of this title.

Subsec. (f). Pub. L. 88-560, §§105(c)(1), 118(c), (d), added to subsec. (g), redesignated (f), provision that “If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner”, deleted former provisions of subsec. (f) which related to entitlement to insurance benefits provided in section 1713(g) of this title, now covered by subsec. (e) of this section, and redesignated former subsec. (g) as (f), substituting in first sentence “subsection (e)” for “subsections (e) and (f)”, respectively.

Subsecs. (g), (h). Pub. L. 88-560, §118(d), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

#### **§ 1715y. Mortgage insurance for condominiums**

##### **(a) Purpose**

The purpose of this section is to provide an additional means of increasing the supply of privately owned dwelling units where, under the laws of the State in which the property is located, real property title and ownership are established with respect to a one-family unit which is part of a multifamily project.

##### **(b) Definitions**

The terms “mortgage”, “mortgagee”, “mortgagor”, “maturity date”, and “State” shall have the meanings respectively set forth in section 1707 of this title, except that the term “mortgage” for the purposes of subsection (c) may include a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term leasehold interest in, a one-family unit in a multifamily project, including a project in which the dwelling units are attached, semi-attached, or detached, and an undivided interest in the common areas and facilities which serve the project where the mortgage is determined by the Secretary to be eligible for insurance under this section. The term “common areas and facilities” as used in this section shall be deemed to include the land and such commercial, community, and other facilities as are approved by the Secretary.

##### **(c) Authorization; eligibility for insurance; conditions; limits**

The Secretary is authorized, in his discretion and under such terms and conditions as he may

prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project, if (1) the mortgage meets the requirements of this subsection and of section 1709(b) of this title, except as that section is modified by this subsection, (2) at least 80 percent of the units in the project covered by mortgages insured under this subchapter are occupied by the mortgagors or comortgagors, and (3) the project has a blanket mortgage insured by the Secretary under subsection (d). Any project proposed to be constructed or rehabilitated after June 30, 1961, with the assistance of mortgage insurance under this chapter, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed the maximum principal obligation of a mortgage which may be insured in the area pursuant to section 1709(b)(2) of this title or pursuant to section 1709(h) of this title under the conditions described in section 1709(h) of this title, and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgage. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the multifamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project, and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this chapter (other than section 1715e(a)(1) and (2) of this title) to be released from the liens of those mortgages.

##### **(d) Blanket mortgages of multifamily projects; plan of family unit ownership; regulations; stock purchase and redemption**

In addition to individual mortgages insured under subsection (c), the Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe, to insure blanket mortgages (including advances on such mortgages during construction) which cover multifamily projects to be constructed or rehabilitated in cases where the mortgage is held by

a mortgagor, approved by the Secretary, which—

(1) has certified to the Secretary, as a condition of obtaining the insurance of a blanket mortgage under this subsection, that upon completion of the multifamily project covered by such mortgage it intends to commit the ownership of the multifamily project to a plan of family unit ownership under which each family unit would be eligible for individual mortgage insurance under subsection (c) and will faithfully and diligently make and carry out all reasonable efforts to establish such plan of family unit ownership and to sell such family units to purchasers approved by the Secretary; and

(2) may, in the Secretary's discretion, be regulated or restricted as to rents, charges, capital structure, rate of return, and methods of operation until the termination of all obligations of the Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder or reinsurer of the mortgage. The Secretary may make such contracts with and acquire for not to exceed \$100 such stock or interest in such mortgagor as he may deem necessary to render effective any such regulation or restriction of such mortgagor. The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par at any time upon the request of the Secretary after the termination of all obligations of the Secretary under the insurance.

**(e) Eligibility for insurance of blanket mortgages of multifamily projects**

To be eligible for insurance, a blanket mortgage on any multifamily project of a mortgagor of the character described in subsection (d) shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, § 304(h), Aug. 22, 1974, 88 Stat. 678;

(2) not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the project when the proposed physical improvements are completed;

(3)(A) not to exceed, for such part of the project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$42,048 per family unit without a bedroom, \$48,481 per family unit with one bedroom, \$58,469 per family unit with two bedrooms, \$74,840 per family unit with three bedrooms, and \$83,375 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$44,250 per family unit without a bedroom, \$50,724 per family unit with one bedroom, \$61,680 per family unit with two bedrooms, \$79,793 per family unit with three bedrooms, and \$87,588 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B) the Secretary may, by regulation, increase

any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720<sup>1</sup> of this title (as such section existed immediately before November 30, 1983) is involved; and

(4) not to exceed an amount equal to the sum of the unit mortgage amounts determined under the provisions of subsection (c) assuming the mortgagor to be the owner and occupant of each family unit.

**(f) Amortization of blanket mortgages of multifamily projects; interest; releases; extent of project**

Any blanket mortgage insured under subsection (d) shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe but not to exceed 40 years from the beginning of amortization of the mortgage, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the blanket mortgage upon such terms and conditions as he may prescribe and the blanket mortgage may provide for such release. The project covered by the blanket mortgage may include four or more family units and such commercial and community facilities as the Secretary deems adequate to serve the occupants.

**(g) Entitlement to insurance benefits as provided in section 1710(a) of this title**

Any mortgagee under a mortgage insured under subsection (c) of this section is entitled to receive the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h),<sup>1</sup> (j), and (k)<sup>1</sup> of section 1710 of this title shall be applicable to the mortgages insured under subsection (c) of this section.

**(h) Applicability of other provisions**

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall be applicable to mortgages insured under subsection (d) of this section.

**(i) Applicability of other provisions**

The provisions of sections 1715p and 1715u of this title shall be applicable to the mortgages insured under subsection (c) of this section.

**(j) Increase in maximum insurance amounts for costs incurred from solar energy systems and energy conservation measures**

The Secretary may further increase the dollar amount limitations which would otherwise

<sup>1</sup> See References in Text note below.



apply under subsection (e) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of a project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>1</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

#### (k) Rental housing conversion

With respect to a unit in any project which was converted from rental housing, no insurance may be provided under this section unless (1) the conversion occurred more than one year prior to the application for insurance, (2) the mortgagor or comortgagor was a tenant of that rental housing, (3) the conversion of the property is sponsored by a bona fide tenants organization representing a majority of the households in the project, or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38.

(June 27, 1934, ch. 847, title II, §234, as added Pub. L. 87-70, title I, §104, June 30, 1961, 75 Stat. 160; amended Pub. L. 88-560, title I, §119(a), Sept. 2, 1964, 78 Stat. 780; Pub. L. 89-117, title II, §207(f), title XI, §1108(o), Aug. 10, 1965, 79 Stat. 468, 506; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-301, §3(e), May 7, 1968, 82 Stat. 114; Pub. L. 90-448, title III, §303, Aug. 1, 1968, 82 Stat. 507; Pub. L. 91-152, title I, §§102(d), 113(h), Dec. 24, 1969, 83 Stat. 380, 384; Pub. L. 93-383, title III, §§302(e), 303(g), 304(h), 310(d), Aug. 22, 1974, 88 Stat. 676-678, 683; Pub. L. 94-173, §3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, §8(a), (b)(7), Aug. 3, 1976, 90 Stat. 1071, 1072; Pub. L. 95-128, title III, §303(e), 304(d), Oct. 12, 1977, 91 Stat. 1132, 1133; Pub. L. 95-557, title III, §313, Oct. 31, 1978, 92 Stat. 2099; Pub. L. 96-153, title III, §§312(c), 314, Dec. 21, 1979, 93 Stat. 1116, 1117; Pub. L. 96-399, title III, §310(g), 318, 333(e), 336(d), Oct. 8, 1980, 94 Stat. 1643, 1646, 1653, 1654; Pub. L. 97-35, title III, §§339(a), 339B(a), (d), Aug. 13, 1981, 95 Stat. 416, 417; Pub. L. 97-253, title II, §201(e), Sept. 8, 1982, 96 Stat. 789; Pub. L. 97-377, title I, §101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §§404(b)(11), 420, 423(b)(4), 431(b)], Nov. 30, 1983, 97 Stat. 1209, 1213, 1217, 1220; Pub. L. 98-479, title I, §104(a)(2), Oct. 17, 1984, 98 Stat. 2224; Pub. L. 100-242, title IV, §§406(b)(17), 422(a), 426(g), (h), Feb. 5, 1988, 101 Stat. 1901, 1914, 1916; Pub. L. 102-550, title V, §509(g), Oct. 28, 1992, 106 Stat. 3783; Pub. L. 103-211, title I, Feb. 12, 1994, 108 Stat. 12; Pub. L. 103-233, title III, §306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 105-18, title II, §10005, June 12, 1997, 111 Stat. 201; Pub. L. 107-73, title II, §213(g), Nov. 26, 2001, 115 Stat. 677; Pub. L. 107-326, §5(b)(7), Dec. 4, 2002, 116 Stat. 2796; Pub. L. 108-186, title III, §302(b), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110-161, div. K, title II, §221(1),

Dec. 26, 2007, 121 Stat. 2436; Pub. L. 110-289, div. B, title I, §2117(a), July 30, 2008, 122 Stat. 2832.)

#### Editorial Notes

##### REFERENCES IN TEXT

This chapter, referred to in subsec. (c), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

The General Insurance Fund, referred to in subsec. (d)(2), was established by section 1735c of this title.

Section 1720 of this title, referred to in subsec. (e)(3)(B), was repealed by Pub. L. 98-181, title I [title IV, §483(a)], Nov. 30, 1983, 97 Stat. 1240.

Subsection (h) of section 1710 of this title, referred to in subsec. (g), was redesignated subsec. (i) by Pub. L. 105-276, title VI, §602(1), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (g), was repealed by Pub. L. 105-276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

Section 8211 of title 42, referred to in subsec. (j), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

##### AMENDMENTS

2008—Subsec. (c). Pub. L. 110-289, §2117(a)(1), in first sentence, struck out “and” before “(2)” and inserted “, and (3) the project has a blanket mortgage insured by the Secretary under subsection (d)” before period at end.

Subsec. (g). Pub. L. 110-289, §2117(a)(2), struck out “, except that (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, (2) all references therein to section 1709 of this title shall be construed to refer to subsection (c) of this section, and (3) the excess remaining, referred to in section 1710(f)(1) of this title, shall be retained by the Secretary and credited to the General Insurance Fund” before period at end.

2007—Subsec. (e)(3)(B). Pub. L. 110-161 substituted “170 percent” for “140 percent” after “not to exceed” in two places and “215 percent in high cost areas” for “170 percent in high cost areas”.

2003—Subsec. (e)(3)(B). Pub. L. 108-186 substituted “140 percent in” for “110 percent in” and inserted “, or 170 percent in high cost areas,” after “and by not to exceed 140 percent”.

2002—Subsec. (e)(3). Pub. L. 107-326 inserted “(A)” after “(3)” and substituted “\$42,048” for “\$38,025”, “\$48,481” for “\$42,120”, “\$58,469” for “\$50,310”, “\$74,840” for “\$62,010”, “\$83,375” for “\$70,200”, “\$44,250” for “\$43,875”, “\$50,724” for “\$49,140”, “\$61,680” for “\$60,255”, “\$79,793” for “\$75,465”, “\$87,588” for “\$85,328”, and “; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)” for “; except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 1715(d)(3)(ii) of this title; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph”.

2001—Subsec. (e)(3). Pub. L. 107-73 substituted “\$38,025”, “\$42,120”, “\$50,310”, “\$62,010”, and “\$70,200” for “\$30,420”, “\$33,696”, “\$40,248”, “\$49,608”, and “\$56,160”, respectively, and “\$43,875”, “\$49,140”, “\$60,255”, “\$75,465”, and “\$85,328” for “\$35,100”, “\$39,312”, “\$48,204”, “\$60,372”, and “\$68,262”, respectively.

1997—Subsec. (c). Pub. L. 105-18 inserted “or pursuant to section 1709(h) of this title under the conditions described in section 1709(h) of this title” after “section 1709(b)(2) of this title”.

1994—Subsec. (c). Pub. L. 103-211, effective for 18-month period following Feb. 12, 1994, for eligible per-

sons, inserted "or pursuant to section 1709(h) of this title under the conditions described in section 1709(h) of this title" after "section 1709(b)(2) of this title". See Applicability of 1994 Amendment note below.

Subsec. (e)(3). Pub. L. 103-233 substituted "\$56,160" for "\$59,160".

1992—Subsec. (e)(3). Pub. L. 102-550 substituted "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160" for "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800", respectively, and "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,885" for "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885", respectively.

1988—Subsec. (c). Pub. L. 100-242, § 406(b)(17), struck out fourth sentence which read as follows: "In determining the amount of a mortgage in the case of a non-occupant mortgagor the reference to paragraph (2) of section 1709(b) of this title in section 1709(b)(8) of this title shall be construed to refer to the preceding sentence in this subsection."

Subsec. (e)(3). Pub. L. 100-242, § 426(g), substituted "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" for "\$19,500", "\$21,600", "\$25,800", "\$31,800", and "\$36,000", respectively, and "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" for "\$22,500", "\$25,200", "\$30,900", "\$38,700", and "\$43,758", respectively.

Pub. L. 100-242, § 422(a), inserted "except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 1715(d)(3)(ii) of this title;" after "design:".

Pub. L. 100-242, § 426(h), substituted "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area".

1984—Subsec. (k)(4). Pub. L. 98-479 added cl. (4).

1983—Subsec. (c). Pub. L. 98-181, § 423(b)(4), purported to amend cl. (A) of third sentence of subsec. (c) by striking out "Provided, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured", but this provision had been previously struck out by section 420(b) of Pub. L. 98-181. See second par. below and Effective Date of 1983 Amendment note below.

Pub. L. 98-181, § 420(a), in cl. (2) substituted provision that at least 80 percent of the units in the project covered by mortgages insured under this subchapter be occupied by mortgagors or comortgagors for provision that the project be covered by a mortgage insured under any section of this chapter, except section 1715e(a)(1) and (2) of this title, notwithstanding any requirements in such section that the project be constructed or rehabilitated for providing rental housing and providing that a one-family unit in a multifamily project involving eleven or less units, or twelve or more in the case of a multifamily project the construction of which was completed more than a year prior to application for mortgage insurance, be eligible for insurance without having been covered by a project mortgage, and struck out cl. (3), which provided that the mort-

gagor is acquiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection.

Pub. L. 98-181, § 420(b), substituted in third sentence "(A) involve a principal obligation in an amount not to exceed the maximum principal obligation of a mortgage which may be insured in the area pursuant to section 1709(b)(2) of this title" for "(A) involve a principal obligation in an amount not to exceed \$67,500, except that the Secretary may increase such maximum dollar amount on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limit, as so increased, exceed the lesser of 111 per centum of such amount or 95 per centum of the median one-family house price in the area, as determined by the Secretary: *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured; and not to exceed the sum of (i) 97 per centum (100 per centum if the mortgagor is a veteran as defined under section 1709(b)(2) of this title) of \$25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance and (ii) 95 per centum of such value in excess of \$25,000".

Subsec. (d)(2). Pub. L. 98-181, § 431(b), substituted "may, in the Secretary's discretion, be regulated or restricted" for "shall be regulated or restricted by the Secretary", and substituted "any such regulation or restriction" for "the regulation and restriction".

Subsec. (f). Pub. L. 98-181, § 404(b)(11), substituted provision that the interest rate for the mortgage be such a rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest, exclusive of premium charges for insurance, not exceed 5¼ per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum per annum as the Secretary finds necessary to meet the mortgage market.

Subsec. (k). Pub. L. 98-181, § 420(c), added subsec. (k).

1982—Subsec. (c)(A). Pub. L. 97-253 inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (e)(3). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

1981—Subsec. (b). Pub. L. 97-35, § 339(a), inserted reference to projects in which the dwelling units are attached, semi-attached, or detached.

Subsec. (c)(2). Pub. L. 97-35, § 339B(d)(1), reenacted provisions relating to covered projects in material preceding proviso in cl. (2). Section 339B(d)(2) of Pub. L. 97-35 repealed section 318 of the Housing and Community Development Act of 1980, which previously enacted these provisions. See Repeals note set out below.

Subsec. (j). Pub. L. 97-35, § 339B(a), inserted "therein" after "installation" and struck out "therein" after "measure".

1980—Subsec. (c). Pub. L. 96-399, §§ 318, 333(e), 336(d), inserted provisions relating to projects approved under chapter 37 of title 38, and provisions relating to increases in the maximum dollar amounts on an area-by-area basis, and struck out applicability to determinations of three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, if so determined as the lesser amount in the computations.

Subsec. (j). Pub. L. 96-399, § 310(g), added subsec. (j).

1979—Subsec. (c). Pub. L. 96-153, § 312(c), substituted "\$67,500" for "\$60,000".

Subsec. (e)(3). Pub. L. 96-153, §314, substituted “75 per centum” for “50 per centum” and inserted exception that the dollar amount limitations may be exceeded not to exceed 90 per centum where the Secretary determines it to be necessary.

1978—Subsec. (c). Pub. L. 95-557 inserted “or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance” after “less units” in cl. (2) and “(100 per centum if the mortgagor is a veteran as defined under section 1709(b)(2) of this title)” after “97 per centum” in cl. (A)(i).

1977—Subsec. (c). Pub. L. 95-128 substituted in cl. (A) “\$60,000” for “\$45,000” and “and (ii) 95 per centum of such value in excess of \$25,000,” for “(ii) 90 per centum of such value in excess of \$25,000 but not in excess of \$35,000, (iii) 80 per centum of such value in excess of \$35,000”.

1976—Subsec. (e)(3). Pub. L. 94-375 substituted “50 per centum in any geographical area” for “75 per centum in any geographical area”, “\$19,500” for “\$13,000”, “\$21,600” for “\$18,000”, “\$25,800” for “\$21,500”, “\$31,800” for “\$26,500”, “\$36,000” for “\$30,000”, “\$22,500” for “\$15,000”, “\$25,200” for “\$21,000”, “\$30,900” for “\$25,750”, “\$38,700” for “\$32,250”, and “\$43,758” for “\$36,465”.

1975—Subsec. (e)(3). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c). Pub. L. 93-383, §§302(e), 310(d), substituted “\$45,000” for “\$33,000” in cl. (A), “\$25,000” for “\$15,000” in cl. (A)(i), “\$25,000” for “\$15,000” and “\$35,000” for “\$25,000” in cl. (A)(ii), and “\$35,000” for “\$25,000” and “80” for “75” in cl. (A)(iii).

Subsec. (e)(1). Pub. L. 93-383, §304(h), struck out par. (1) which set forth limitations on principal obligations of mortgages.

Subsec. (e)(3). Pub. L. 93-383, §303(g), substituted “\$13,000” for “\$9,900”, “\$15,000” for “\$11,550”, “\$18,000” for “\$13,750”, “\$21,000” for “\$16,500”, “\$21,500” for “\$16,500”, “\$25,750” for “\$19,800”, “\$26,500” for “\$20,350”, “\$30,000” for “\$23,100”, “\$32,250” for “\$25,750”, and “\$36,465” for “\$28,050”.

1969—Subsec. (c). Pub. L. 91-152, §§102(d), 113(h)(1), substituted “\$25,000” for “\$20,000” wherever appearing, and “\$33,000” for “\$30,000”.

Subsec. (e)(3). Pub. L. 91-152, §113(h)(2), (3), substituted “\$9,900” for “\$9,000”, “\$11,550” for “\$10,500”, “\$13,750” for “\$12,500”, “\$16,500” for “\$15,000” wherever appearing, “\$19,800” for “\$18,000”, “\$20,350” for “\$18,500”, “\$23,100” for “\$21,000”, “\$24,750” for “\$22,500”, and “\$28,050” for “\$25,500”.

1968—Subsec. (c). Pub. L. 90-448, §303(a), (b), made one-family units in multifamily projects involving eleven or less units eligible for insurance without having been covered by a project mortgage, and increased the maximum mortgage limits from 75 to 80 per centum of the appraised value of the property in excess of \$20,000.

Subsec. (f). Pub. L. 90-448, §303(c), permitted blanket mortgages to cover four or more family units instead of five or more family units.

Pub. L. 90-301 limited the interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

1967—Pub. L. 90-19, §1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (b) to (d), (d)(1), (2), (e)(2), (3), (f), and (g).

Subsec. (c). Pub. L. 90-19, §1(a)(4), substituted “Secretary’s” for “Commissioner’s”.

1965—Subsec. (d)(2). Pub. L. 89-117, §1108(o)(1), substituted “General Insurance Fund” for “Apartment Unit Insurance Fund”.

Subsec. (e)(3). Pub. L. 89-117, §207(f), substituted “\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms” for “and \$18,500 per family unit with three or more bedrooms” and “\$22,500 per family unit with three bedrooms, and \$25,500 per family unit with four or more bedrooms” for “and \$22,500 per family unit with three or more bedrooms”.

Subsec. (g). Pub. L. 89-117, §1108(o)(1), (2), substituted “General Insurance Fund” for “Apartment Unit Insurance Fund”.

Subsec. (h). Pub. L. 89-117, §1108(o)(2), struck out reference to subsec. (m) and (p) of section 1713 of this title and provision that references therein to the Housing Insurance Fund or Housing Fund shall be construed to refer to the Apartment Unit Insurance Fund.

Subsecs. (i), (j). Pub. L. 89-117, §1108(o)(3), redesignated subsec. (j) as (i) and repealed former subsec. (i), which created the Apartment Unit Insurance Fund, authorized transfer of funds thereto, and provided for the charging of expenses thereto.

1964—Pub. L. 88-560, §119(a)(1), substituted “Mortgage insurance for condominiums” for “Mortgage insurance for individually owned units in multifamily structures” in section catchline.

Subsec. (a). Pub. L. 88-560, §119(a)(2), substituted “project” for “structure”.

Subsec. (b). Pub. L. 88-560, §119(a)(2), (3), substituted “project” for “structure” in two places and “the term ‘mortgage’ for the purposes of subsection (c)” for “the term ‘mortgage’ for the purposes of this section”, respectively.

Subsec. (c). Pub. L. 88-560, §119(a)(2), (4) to (6), amended provisions as follows.

Section 119(a)(2) substituted “project” for “structure”, wherever appearing, and “projects” for “structures” in last sentence;

Section 119(a)(4) substituted “this subsection” for “this section”, wherever appearing, and “under any section” for “under another section” in first sentence;

Section 119(a)(5) substituted “section 1715e(a)(1) and (2)” for “section 1715e”, in two places; and

Section 119(a)(6) substituted in third sentence: in cl. (A), “amount not to exceed \$30,000” for “amount not to exceed the limits per room and per family dwelling unit provided by section 1713(c)(3) of this title”; in cl. (A)(i), “\$15,000” for “\$13,500”; in cl. (A)(ii), “\$15,000” and “\$20,000” for “\$13,500” and “\$18,000”, respectively; in cl. (A)(iii), “75 per centum” and “\$20,000” for “70 per centum” and “\$18,000”, respectively; and in cl. (B), “thirty-five” for “thirty” years.

Subsecs. (d) to (f). Pub. L. 88-560, §119(a)(7), added subsecs. (d) to (f). Former subsecs. (d) to (f) renumbered subsecs. (g), (i), (j).

Subsec. (g). Pub. L. 88-560, §119(a)(7), (8), redesignated former subsec. (d) as (g) and substituted “subsection (c) of this section” for “this section” in three places, respectively.

Subsec. (h). Pub. L. 88-560, §119(a)(9), added subsec. (h).

Subsec. (i). Pub. L. 88-560, §119(a)(7), redesignated former subsec. (e) as (i).

Subsec. (j). Pub. L. 88-560, §119(a)(7), (10), redesignated former subsec. (f) as (j), struck out reference to section 1715t of this title, and substituted “subsection (c) of this section” for “this section”.

## Statutory Notes and Related Subsidiaries

### APPLICABILITY OF 1994 AMENDMENT

Eligibility for loans made under authority granted by amendment by Pub. L. 103-211 limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California, with such amendment effective only for 18-month period following Feb. 12, 1994, see provision of title I of Pub. L. 103-211, set out as a note under section 1709 of this title.

### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(17) of Pub. L. 100-242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100-242, set out as a note under section 1709 of this title.

## EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by section 431(b) of Pub. L. 98-181 not to apply with respect to mortgages insured by the Secretary of Housing and Urban Development before Nov. 30, 1983, see section 431(c) of Pub. L. 98-181, set out as a note under section 1713 of this title.

For effective date of amendment by section 423(b)(4) of Pub. L. 98-181, see section 423(c) of Pub. L. 98-181, set out as a note under section 1709 of this title.

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

## REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, §3(e), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

Section 318 of Pub. L. 96-399, cited as a credit to this section, was repealed by Pub. L. 97-35, title III, §339B(d)(2), Aug. 13, 1981, 95 Stat. 417. See 1981 Amendments note for subsec. (c)(2) set out above.

## IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97-253 to be implemented only if Secretary determines that program of advance payment of insurance premiums, considering effect of said amendment, is actuarially sound, see section 201(g) of Pub. L. 97-253, set out as a note under section 1709 of this title.

**§ 1715z. Homeownership or membership in cooperative association for lower income families****(a) Authorization for periodic assistance payments to mortgagees; assistance to manufactured home buyers**

(1) For the purpose of assisting lower income families in acquiring homeownership or in acquiring membership in a cooperative association operating a housing project, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners and cooperative members. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section or which mortgages are assisted under a State or local program providing assistance through loans, loan insurance or tax abatement. In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative project). Such assistance may include the acquisition of a condominium or a membership in a cooperative association.

(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a manufactured home consisting of two or more modules and a lot on which such manufactured home is or will be situated, except that periodic assistance payments

pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower-income of a manufactured home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the manufactured home and the lot on which such manufactured home is or will be situated, but only if insurance under section 1703 of this title covering such loan, advance of credit, or obligation has been granted to such institution.

(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 1703 of this title due under the loan or advance of credit remaining unpaid after applying 20 per centum of the manufactured homeowner's income; or

(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 1703 of this title which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed, under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section.

**(b) Qualifications and eligibility requirements for assistance payments**

To qualify for assistance payments, the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

(1) the homeowner shall be a mortgagor under a mortgage which meets the requirements of and is insured under subsection (i) or (j)(4) of this section: *Provided*, That a mortgage meeting the requirements of subsection (i)(3)(A) of this section but insured under section 1715z-2 of this title may qualify for assistance payments if such mortgage was executed by a mortgagor who is determined not to be an acceptable credit risk for mortgage insurance purposes (but otherwise eligible) under subsection (j)(4) of this section or under section 1715l(d)(2) or 1715y(c) of this title and accepted

as a reasonably satisfactory credit risk under section 1715z-2<sup>1</sup> of this title; or

(2) the cooperative association of which the family is a member shall operate (A) a housing project the construction or substantial rehabilitation of which has been financed with a mortgage insured under section 1715e or section 1715(d)(3) of this title and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the family: *Provided*, That if any cooperative member who has received assistance payments transfers his membership and occupancy rights to another person who satisfies the eligibility requirements prescribed by the Secretary and undertakes the obligation to pay occupancy charges, the new cooperative member may qualify for assistance payments upon the filing of an application with respect to the dwelling unit involved to be occupied by him: *Provided further*, That assistance payments may be made with respect to a dwelling unit in an existing cooperative project which meets such standards as the Secretary may prescribe, if the family qualifies as a displaced family as defined in section 1715(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing: *Provided further*, That the amount of the mortgage attributable to the dwelling unit shall involve a principal obligation not in excess of \$40,000 (\$47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that costs levels so require), except that with respect to any family with five or more persons the foregoing limits shall be \$47,500 and \$55,000, respectively; or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

**(c) Limitation on payments on behalf of mortgagor; occupancy of property; maximum amount of payment; recapture of amounts; determination, applicability, etc.**

(1) Subject to the second sentence of this paragraph, the assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage: *Provided*, That assistance payments may be made on behalf of a homeowner who assumes a mortgage insured under subsection (i) or (j)(4) with respect to which assistance payments have been made on behalf of the previous owner, if the homeowner is approved by the Secretary as eligible for receiving such assistance: *Provided further*, That the Secretary is authorized to continue making such assistance payments where the mortgage has been assigned to the Secretary. Assistance payments pursuant to any new contract, other than a contract in connection with a refinancing under subsection (r), entered into after September 30,

1983, that utilizes authority approved in appropriation Acts for any fiscal year beginning after such date may not be made for more than a 10-year period. The payment shall be in an amount not exceeding the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum (4 per centum per annum in the case of a mortgage described in subsection (o)).

(2)(A) Upon disposition by the homeowner of any property assisted pursuant to this section or where the homeowner rents such a property (or the owner's unit in the case of a two- to four-family property) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this section, other than any amount provided under subsection (e), or (ii) an amount equal to at least 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage amount as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 1715z-10<sup>1</sup> of this title. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(B) Subparagraph (A) does not apply to any property with respect to which there is assumption in accordance with paragraph (1) of this subsection or to any property which is subject to a mortgage, loan, or other advance of credit insured pursuant to subsection (q).

(3)(A) There hereby is established in the Treasury of the United States a fund, which, to the extent approved in appropriation Acts, may be used by the Secretary for purposes of carrying out subparagraph (B). There shall be deposited into such fund (i) any amount recaptured under paragraph (2); (ii) any authority to make assistance payments under subsection (a) that is committed for use in a contract but is unused because the mortgage, loan, or advance of credit involved is refinanced (except to the extent provided in subsection (r) for mortgages insured under such subsection) or because such assistance payments are terminated or suspended for other reasons before the original termination date of such contract; and (iii) any amount received under subparagraph (C).

(B) In the case of any homeowner whose assistance payments are terminated by reason of the 10-year limitation referred to in paragraph (1),

<sup>1</sup> See References in Text note below.

and who is determined by the Secretary to be unable to assume the full payments due under the mortgage, loan, or advance of credit involved, the Secretary shall, to the extent of the availability of amounts in the fund established in subparagraph (A), contract to make, and make, continued assistance payments on behalf of such homeowner. Such continued assistance payments shall be made in an amount determined in accordance with the applicable provisions of paragraph (1) or subsection (a)(2)(B) and for such period as the Secretary determines to be appropriate.

(C) Any amounts in such fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of subparagraph (B) shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States. Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.

**(d) Limitation on payments on behalf of family holding membership in cooperative association; occupancy; maximum amount of payment**

Assistance payments to a mortgagee by the Secretary on behalf of a family holding membership in a cooperative association operating a housing project shall be made only during such time as the family is an occupant of such project and shall be in amounts computed on the basis of the formula set forth in subsection (c) applying the cooperative member's proportionate share of the obligations under the project mortgage to the items specified in the formula.

**(e) Reimbursement for expenses in handling the mortgage**

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (a)(2)(B), (c), (d), (j)(7), or (r), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

**(f) Adoption of procedures for recertifications of mortgagor's or cooperative member's income**

Procedures shall be adopted by the Secretary for recertifications of the mortgagor's (or cooperative member's) income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c).

**(g) Regulations to assure that sales price or other consideration paid is not increased above appraised value**

The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance pay-

ments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

**(h) Authorization of appropriations; aggregate amount of assistance payment contracts; maximum income limits of families; limitation on payments with respect to existing dwellings or dwelling units in existing projects and for approved substantial rehabilitation of dwellings or dwelling units in projects**

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by \$125,000,000 on July 1, 1969, by \$150,000,000 on July 1, 1970, by \$200,000,000 on July 1, 1971, by such sums as may be approved in appropriation Acts after June 30, 1974, and prior to July 1, 1976, and by such sums as may be approved in an appropriation Act on or after October 1, 1983 (from the additional authority to enter into contracts made available on such date under the first sentence of section 1437c(c)(1) of title 42). The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on or after October 1, 1983 (other than obligations in connection with mortgages insured under subsection (r)), may not exceed such sums of new budget authority as may be appropriated after November 30, 1983. The Secretary shall begin issuing new commitments and reservations to provide mortgage insurance and assistance payments under this section before the expiration of the 30-day period following the approval in any appropriation Act of budget authority for this section after November 30, 1983. Upon the expiration of one year following August 22, 1974, the Secretary shall not enter into new contracts for assistance payments under this section utilizing authority approved in appropriation Acts prior to July 1, 1974. The Secretary shall not enter into new contracts for assistance payments under this section (except under subsection (r)) after May 20, 1983, utilizing amounts approved in appropriation Acts before November 30, 1983, except (i) pursuant to a firm commitment issued on or before May 20, 1983, (ii) pursuant to other commitments issued by the Secretary prior to June 30, 1981, reserving funds for housing to be assisted under this section where such housing is included in a project pursuant to section 119 of the Housing and Community Development Act of 1974 [42 U.S.C. 5318], or (iii) pursuant to other commitments issued on or before September 30, 1981, where housing under this section is to be developed on land which was municipally owned on September 30, 1981, and where a local government contributes at least \$1,000 per unit of funds obtained under title I of the Housing and Com-

munity Development Act of 1974 [42 U.S.C. 5301 et seq.] and at least \$2,000 per unit of additional funds to assist housing under this section. In no event may the Secretary enter into any new contract for assistance payments under this section (other than a contract in connection with a mortgage insured under subsection (r)) after September 30, 1989.

(2) Assistance payments under this section may be made only with respect to a family whose income at the time of initial occupancy does not exceed 95 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 95 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(3) Notwithstanding the provisions of subsections (b)(2) and (i)(3)(A) with respect to the prior construction or rehabilitation of a dwelling, or of the project in which there is a dwelling unit, for which assistance payments may be made, and notwithstanding the provisions of subsection (j)(1) authorizing the purchase of housing which is neither deteriorating nor substandard, not more than—

(A) 25 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made prior to July 1, 1969, and

(B) 30 per centum of the total additional amount of contracts for assistance payments authorized by appropriation Acts to be made on or after July 1, 1969,

may be made with respect to existing dwellings, or dwelling units in existing projects. The preceding sentence shall not apply to contracts in connection with mortgages insured under subsection (r).

(4) At least 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1971, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation.

**(i) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance**

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances with respect to property construction or rehabilitation pursuant to a self-help program) executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 1715f(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection.

(3) A mortgage to be insured under this subsection shall—

(A) involve a single-family or a two-family dwelling which has been approved by the Secretary prior to the beginning of construction or substantial rehabilitation, or a three-family dwelling which is approved by the Secretary prior to the beginning of substantial rehabilitation, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multi-family project, the construction or substantial rehabilitation of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit has had no previous occupant other than the mortgagor: *Provided*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project which meets such standards as the Secretary may prescribe: *Provided further*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project if assistance payments have been made on behalf of the previous owner of the dwelling or family unit with respect to a mortgage insured under subsection (j)(4): *Provided further*, That the mortgage may involve a dwelling unit in an existing project covered by a mortgage insured under section 1715z-1 of this title or in an existing project receiving the benefits of financial assistance under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s];

(B) where it is to cover a one-family unit in a condominium project, have a principal obligation not exceeding \$40,000 (\$47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be \$47,500 and \$55,000, respectively;

(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$40,000 (\$47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be \$47,500 and \$55,000, respectively;

(D) involve, in the case of a two-family or three-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$60,000 (\$66,250 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require);

(E) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition (excluding the mortgage in-

surance premium paid at the time the mortgage is insured); and

(F) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets.

(4) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(5) As a condition of insuring a mortgage on a two- to three-family dwelling, the Secretary shall require the mortgagor (A) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State or local housing assistance program and (B) to agree that during the term of the mortgage each of the rental units shall be occupied by, or available for occupancy by, persons and families whose incomes do not exceed 100 per centum of the area median income.

**(j) Insurance of mortgages executed by nonprofit organizations or public bodies or agencies; issuance of commitment; eligibility requirements for insurance; insurance of mortgages executed to finance sale of individual dwellings to lower income individuals or families; definitions; assistance payments to mortgagors on behalf of nonprofit organizations or public bodies and agencies**

(1) In addition to mortgages insured under the provisions of subsection (i), the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale), and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established; except that in a case not involving the rehabilitation of deteriorating or sub-

standard housing the property purchased may consist of one or more such dwellings or units;

(B) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of any rehabilitation;

(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b).

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to lower income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than \$200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be re-



leased from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms “single-family dwelling”, “single-family dwellings”, “individual dwelling”, and “individual dwellings” shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) For purposes of this subsection, the terms “single-family dwelling” and “single-family dwellings” (except for purposes of paragraph (5)) shall include a two- to three-family dwelling which has been approved by the Secretary.

(7) In addition to the assistance payments authorized under subsection (b), the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(8) A mortgage covering property which is not deteriorating or substandard may be insured under this subsection only if it is situated in an area in which mortgages may be insured under section 1715(h) of this title.

(9) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

**(k) Allocation and transfer of reasonable portion of total authority to contract to make assistance payments to Secretary of Agriculture for use in rural areas and small towns**

The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make assistance payments as approved in appropriation Acts under subsection (h)(1).

**(l) Deductions for minors in determining income limits; exclusion of earnings of minors**

In determining the income of any person for the purposes of this section, there shall be deducted an amount equal to \$300 for each minor

person who is a member of the immediate family of such person and living with such family, and the earnings of any such minor person shall not be included in the income of such person or his family.

**(m) Termination date for insurance of mortgages**

No mortgage (except a mortgage insured under subsection (r)) shall be insured under this section after September 30, 1989, except pursuant to a commitment to insure before that date.

**(n) Percentage limitation of mortgage insurance on subdivision units; exceptions**

No mortgage may be insured under this section on a unit in a subdivision, after October 12, 1977, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary or to a mortgage insured under subsection (r).

**(o) Mortgage insurance over maximum limits involving dwellings of community sponsored programs of concentrated redevelopment or revitalization**

The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 20 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to a dwelling in an urban neighborhood where the Secretary determines that a community sponsored program of concentrated redevelopment or revitalization is being undertaken and the Secretary determines that such action is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing.

**(p) Mortgage insurance over maximum limits involving dwellings to be occupied by physically handicapped persons; applicability, etc.**

The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (o) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.

**(q) Periodic assistance payments for emergency stimulation of housing market; contracts, terms and conditions, eligibility, etc., for payments**

(1) Notwithstanding any other provision of this section, except subsection (n), if the Secretary determines that there is a substantial

need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments, to the extent of not to exceed 75 per centum of the authority available pursuant to subsection (h)(1), on behalf of homeowners, including owners of manufactured homes, to mortgagees or other lenders holding mortgages, loans, or advances of credit which meet the requirements of this subsection. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages, loans, or advances of credit assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection. The authority to enter into contracts to provide assistance payments and to insure mortgages under this subsection shall terminate on September 30, 1989, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present, except pursuant to a commitment entered into prior to such date.

(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new manufactured home consisting of two or more modules and a lot on which the manufactured home is situated, where insurance under section 1703 of this title covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such manufactured home and lot has been granted to the lender making such loan, advance of credit, or purchase of an obligation; and

(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage, loan, or advance of credit. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

(4) The amount of the assistance payments in the case of a mortgage shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 per centum of the mortgagor's income, except that the Secretary may reduce

such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 1709(b) of this title, other than mortgages subject to section 1709-1(2)<sup>1</sup> of this title, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9½ per centum per annum.

(5) Assistance payments on behalf of the owner of a manufactured home shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 1703 of this title due under the loan or advance of credit remaining unpaid after applying a minimum of 25 per centum of the manufactured homeowner's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 1703 of this title which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear an interest rate determined by the Secretary which shall not be less than 12 per centum per annum.

(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under paragraph (4) or (5), as the Secretary deems appropriate to reimburse the mortgagee or other lender for its reasonable and necessary expenses in handling the mortgage, loan, or advance of credit.

(7) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary.

(8) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

(9) The Secretary may, in addition to mortgages insured under subsection (i) or (j), insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of such mort-

gages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(10) To be eligible for insurance under this subsection, a mortgage shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and which has never been sold other than to the mortgagor;

(D) involve a principal residence the sales price of which does not exceed 82 per centum of the applicable maximum principal obligation of a mortgage which may be insured in the area pursuant to section 1709(b)(2) of this title, determined without regard to the last sentence of such section;

(E) have maturity and amortization provisions satisfactory to the Secretary;

(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 1709(b) of this title;

(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

(H) contain such other terms and conditions as the Secretary may prescribe.

(11) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources.

(12) A mortgage to be assisted under this subsection shall, where the Secretary deems it appropriate, provide for graduated payments pursuant to section 1715z-10<sup>1</sup> of this title.

(13) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production, and other factors he deems appropriate. Assistance provided under this subsection shall not be subject to section 1439 of title 42.

(14) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner rents the property (or the owner's unit in the case of a two- to four-family residence) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount

provided under paragraph (6), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term "net appreciation of the property" means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 1715z-10<sup>1</sup> of this title. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(15) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).

#### **(r) Refinancing**

(1) The Secretary is authorized, upon application of a mortgagee, to insure under this subsection a mortgage the proceeds of which are used to refinance a mortgage insured under this section.

(2) To be eligible for insurance under this subsection, a mortgage must be executed by a mortgagor meeting the requirements of paragraph (3) and shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease—

(i) for not less than 99 years which is renewable; or

(ii) having a period of not less than 10 years to run beyond the maturity date of the mortgage;

(B) have been made to, and held by, a mortgagee approved by the Secretary;

(C) be in an amount not exceeding the outstanding principal balance, including any unpaid interest, due on the mortgage being refinanced;

(D) have a maturity not exceeding the unexpired term of the mortgage being refinanced;

(E) bear an interest rate not exceeding such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; to the extent that the amounts described in paragraphs (4)(A) and (B) are not otherwise paid by the Secretary, the foregoing interest rate may be increased, in the discretion of the Secretary, to compensate the mortgagee for its payment to, or on behalf of, the mortgagor of such amounts; and

(F) meet the criteria for refinancing as determined by the Secretary.

(3) Notwithstanding the provisions of subsection (h)(2), assistance payments in connec-

tion with mortgages insured under paragraph (2) shall be made only with respect to a family who is eligible for, and receiving assistance payments with respect to, the insured mortgage being refinanced.

(4) The Secretary is authorized and, to the extent provided in appropriation Acts, may pay to the mortgagor (directly, through the mortgagee, or otherwise)—

(A) an amount, as approved by the Secretary, as an incentive to the mortgagor to refinance a mortgage insured under this section; and

(B) an amount as approved by the Secretary for costs incurred in connection with the refinancing, including but not limited to discounts, loan origination fees, and closing costs.

(5) Amounts of budget authority required for assistance payments contracts with respect to mortgages insured under this subsection shall be derived from amounts recaptured from assistance payments contracts relating to mortgages that are being refinanced. For purposes of subsection (c)(3)(A), the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection shall not be construed as “unused”.

(6) The Secretary is authorized to take any actions to identify and communicate with any mortgagor of a mortgage insured under this section to implement the refinancing of such mortgages with insurance under this subsection. The Secretary may take such actions directly, or under contract. Notwithstanding the restriction of section 552a(b) of title 5, upon the request of an approved mortgagee, the Secretary may disclose to such mortgagee the name and address of any mortgagor of a mortgage insured under this section that meets the criteria for refinancing, pursuant to paragraph (2)(F), and the unpaid principal balance and interest rate on such mortgage.

(7) The Secretary shall implement the provisions of this subsection by a notice published in the Federal Register.

(June 27, 1934, ch. 847, title II, §235, as added Pub. L. 90-448, title I, §101(a), Aug. 1, 1968, 82 Stat. 477; amended Pub. L. 91-152, title I, §§101(d), 106, 107(a), 109, 113(i), title IV, §§412(b), 418(a), Dec. 24, 1969, 83 Stat. 379, 381, 385, 398, 402; Pub. L. 91-609, title I, §§101(d), 102(a), 105-107, Dec. 31, 1970, 84 Stat. 1770, 1771; Pub. L. 92-503, §1(d), Oct. 18, 1972, 86 Stat. 906; Pub. L. 93-85, §1(d), Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, §1(d), Oct. 2, 1973, 87 Stat. 421; Pub. L. 93-383, title II, §211, Aug. 22, 1974, 88 Stat. 671; Pub. L. 94-375, §3(a)-(c), (e), (f), Aug. 3, 1976, 90 Stat. 1068, 1069; Pub. L. 95-128, title II, §205, title III, §§301(d), 303(f), Oct. 12, 1977, 91 Stat. 1130, 1131, 1132; Pub. L. 95-406, §1(d), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title III, §301(d), Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96-71, §1(d), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(d), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title II, §213, title III, §301(d), Dec. 21, 1979, 93 Stat. 1111; Pub. L. 96-372, §1(d), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title II, §§206(a), (b)(1), 207, title III, §§301(d), 308(c)(1), (2), Oct. 8, 1980, 94 Stat. 1630, 1631, 1638,

1640; Pub. L. 97-35, title III, §§328, 331(d), Aug. 13, 1981, 95 Stat. 407, 412; Pub. L. 97-110, title III, §304, Dec. 26, 1981, 95 Stat. 1515; Pub. L. 97-185, May 24, 1982, 96 Stat. 100; Pub. L. 97-253, title II, §201(f), Sept. 8, 1982, 96 Stat. 790; Pub. L. 97-289, §1(d), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(d), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(d), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title II, §226, title IV, §§401(d), 404(b)(12), 423(b)(5)], Nov. 30, 1983, 97 Stat. 1194, 1207, 1209, 1217; Pub. L. 98-479, title I, §§102(a)(1), 104(a)(3), title II, §204(a)(8), Oct. 17, 1984, 98 Stat. 2221, 2224, 2232; Pub. L. 99-120, §1(d), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99-156, §1(d), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99-219, §1(d), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99-267, §1(d), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99-272, title III, §3007(d), Apr. 7, 1986, 100 Stat. 104; Pub. L. 99-289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100-242, §§170(a), 401(c), 406(b)(18), (19), Feb. 5, 1988, 101 Stat. 1867, 1898, 1901; Pub. L. 101-144, title II, Nov. 9, 1989, 103 Stat. 852; Pub. L. 101-235, title I, §125(a)-(c), Dec. 15, 1989, 103 Stat. 2022-2024.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1715z-2 of this title, referred to in subsec. (b)(1), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(6), July 30, 2008, 122 Stat. 2835.

Section 1715z-10 of this title, referred to in subsecs. (c)(2)(A) and (q)(12), (14), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(7), July 30, 2008, 122 Stat. 2835.

The Housing and Community Development Act of 1974, referred to in subsec. (h)(1), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (i)(3)(A), is section 101 of Pub. L. 89-117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of this title and amended sections 1451 and 1465 of Title 42.

Section 1709-1 of this title, referred to in subsec. (q)(4)(B), was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

##### AMENDMENTS

1989—Subsec. (c)(1). Pub. L. 101-235, §125(c)(1), inserted “, other than a contract in connection with a refinancing under subsection (r),” after “any new contract” in second sentence.

Subsec. (c)(3)(A). Pub. L. 101-235, §125(c)(2), which directed the insertion of “(except to the extent provided in subsection (r) for mortgages insured under such subsection)” after “refinanced,” in second sentence, was executed by making the insertion after “refinanced” as the probable intent of Congress.

Subsec. (c)(3)(C). Pub. L. 101-235, §125(b), inserted at end “Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to

mortgages insured under this subsection, shall be rescinded.”

Subsec. (e). Pub. L. 101-235, §125(c)(3), inserted reference to subsec. (r).

Subsec. (h)(1). Pub. L. 101-235, §125(c)(4), inserted “(other than obligations in connection with mortgages insured under subsection (r))” in third sentence, “(except under subsection (r))” in sixth sentence, and “(other than a contract in connection with a mortgage insured under subsection (r))” in seventh sentence.

Subsec. (h)(3). Pub. L. 101-235, §125(c)(5), inserted sentence at end providing that the preceding sentence shall not apply to contracts in connection with mortgages insured under subsec. (r).

Subsec. (m). Pub. L. 101-235, §125(c)(6), inserted “(except a mortgage insured under subsection (r))” after “No mortgage”.

Subsec. (n). Pub. L. 101-235, §125(c)(7), inserted “or to a mortgage insured under subsection (r)” before period at end.

Subsec. (r). Pub. L. 101-235, §125(a), amended subsec. (r) generally. Prior to amendment, subsec. (r) read as follows:

“(1) REVIEW OF ASSISTANCE PAYMENTS CONTRACTS.—

“(A) The Secretary shall periodically review each contract under which the Secretary is making assistance payments under this section to determine if a refinancing of the mortgage, loan, or advance of credit involved will result in a sufficient reduction in assistance payments to warrant such refinancing.

“(B) In the case of assistance payments contracts in effect on November 9, 1989, the Secretary shall complete such review within 60 days in order to permit the refinancing to be completed during fiscal year 1990.

“(2) REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall offer financial assistance appropriate to encourage the refinancing. The assistance may include the following:

“(A) For lenders and mortgagees providing refinancing, the payment of reasonable mortgage or loan origination fees, discount points, and other expenses required to refinance; and

“(B) For the homeowner or cooperative member involved, the payment of an amount that does not exceed 1 percent of the principal amount refinanced.

“(3) METHOD OF PAYMENT OF REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall provide incentives in a manner that does not increase total expenditures in fiscal year 1990. The Secretary shall structure refinancings as follows:

“(A) Lenders and mortgagees providing refinancings under this subsection may charge an interest rate for refinancing that is not greater than 0.5 percent higher than the prevailing market rate for refinancing.

“(B) Payments to the homeowner or cooperative member to encourage refinancing shall be paid through a reduction in the monthly payment of the homeowner or cooperative member under the mortgage, loan, or advance of credit.

“(4) REVISION OF CONTRACTS AND RESCISSION OF EXCESS AMOUNTS.—

“(A) The Secretary shall make such revisions in any assistance payments contract (including the amount of assistance payments made under the contract) as are necessary to reflect a refinancing obtained pursuant to this subsection. A revised assistance payments contract under this paragraph shall not be considered to be a new contract under this section.

“(B) Any contract authority that becomes available as a result of the revision of an assistance payments contract under this paragraph shall be rescinded.”

Pub. L. 101-144 added subsec. (r).

1988—Subsec. (h)(1). Pub. L. 100-242, §401(c), substituted “September 30, 1989” for “March 15, 1988”.

Subsec. (i)(3)(A). Pub. L. 100-242, §406(b)(18), struck out “one of the units of which is to be occupied by the owner and” after “three-family dwelling”.

Subsec. (i)(3)(C). Pub. L. 100-242, §170(a), substituted “(including)” for “including”.

Subsec. (j)(6). Pub. L. 100-242, §406(b)(19), struck out “if one of the units is to be occupied by the owner” after “Secretary”.

Subsecs. (m), (q)(1). Pub. L. 100-242, §401(c), substituted “September 30, 1989” for “March 15, 1988”.

1987—Subsecs. (h)(1), (m), (q)(1). Pub. L. 100-200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100-179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100-170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100-154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100-122 substituted “October 31, 1987” for “September 30, 1987”.

1986—Subsecs. (h)(1), (m), (q)(1). Pub. L. 99-430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99-345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99-289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99-272 made amendment identical to Pub. L. 99-219. See 1985 Amendment note below.

Pub. L. 99-267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsecs. (h)(1), (m), (q)(1). Pub. L. 99-219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120 substituted “November 14, 1985” for “September 30, 1985”.

1984—Subsec. (h)(1). Pub. L. 98-479, §102(a)(1), inserted “utilizing amounts approved in appropriation Acts before November 30, 1983,” before “except (i)” and substituted “September 30, 1985” for “November 30, 1983” in last sentence.

Subsec. (i)(3)(C). Pub. L. 98-479, §204(a)(8), substituted “Secretary” for “Seretary” before “authorizes an increase”.

Subsec. (j)(2)(C). Pub. L. 98-479, §104(a)(3), substituted “bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets” for “bear interest (exclusive of premium charges for insurance and service charge, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market”.

1983—Subsec. (c)(1). Pub. L. 98-181, §226(a), substituted “Subject to the second sentence of this paragraph, the” for “The”, and inserted provision limiting to a 10-year period assistance payments pursuant to any new contract entered into after Sept. 30, 1983, utilizing authority approved in appropriation Acts for any fiscal year beginning after such date.

Subsec. (c)(3). Pub. L. 98-181, §226(b), added par. (3).

Subsec. (h)(1). Pub. L. 98-181, §226(c), struck out “and” after “on July 1, 1971”, and inserted “, and by such sums as may be approved in an appropriation Act on or after October 1, 1983 (from the additional authority to enter into contracts made available on such date under the first sentence of section 1437c(c)(1) of title 42). The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on or after October 1, 1983, may not exceed such sums of new budget authority as may be appropriated after November 30, 1983. The Secretary shall begin issuing new commitments and reservations to provide mortgage insurance and assistance payments under this section before the expiration of the 30-day period following the approval in any appropriation Act of budget authority for this section after November 30, 1983.”

Pub. L. 98-109, §1(d)(1), substituted “November 30, 1983” for “September 30, 1983”.

Subsec. (i)(3)(A). Pub. L. 98-181, § 226(d)(1), substituted "three-family" for "two-family", and "involve a single-family or a two-family" for "involve a single-family".

Subsec. (i)(3)(B), (C). Pub. L. 98-181, § 423(b)(5)(A), (B), struck out "": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured" after "\$55,000, respectively".

Subsec. (i)(3)(D). Pub. L. 98-181, § 423(b)(5)(C), struck out "": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured" after "cost levels so require".

Pub. L. 98-181, § 226(d)(2), inserted "or three-family" and substituted "\$60,000" for "\$55,000" and "\$66,250" for "\$61,250".

Subsec. (i)(3)(F). Pub. L. 98-181, § 404(b)(12), added subpar. (F).

Subsec. (i)(4), (5). Pub. L. 98-181, § 226(d)(3), added pars. (4) and (5).

Subsec. (j)(6). Pub. L. 98-181, § 226(e)(1), substituted "two- to three-family" for "two-family".

Subsec. (j)(9). Pub. L. 98-181, § 226(e)(2), added par. (9).

Subsec. (m). Pub. L. 98-181, § 401(d)(1), substituted "September 30, 1985" for "November 30, 1983".

Pub. L. 98-109, § 1(d)(2), substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98-35, § 1(d)(1), substituted "September 30, 1983" for "May 20, 1983".

Subsec. (q)(1). Pub. L. 98-181, § 401(d)(2), substituted "September 30, 1985" for "November 30, 1983".

Pub. L. 98-109, § 1(d)(3), substituted "November 30, 1983" for "September 30, 1983".

Pub. L. 98-35, § 1(d)(2), substituted "September 30, 1983" for "May 20, 1983".

1982—Subsec. (h)(1). Pub. L. 97-289, § 1(d)(1), substituted "May 20, 1983" for "September 30, 1982" in two places.

Subsec. (i)(3)(B). Pub. L. 97-253, § 201(f)(1), inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (i)(3)(C). Pub. L. 97-253, § 201(f)(2), inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (i)(3)(D). Pub. L. 97-253, § 201(f)(3), inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (i)(3)(E). Pub. L. 97-253, § 201(f)(4), inserted "(excluding the mortgage insurance premium paid at the time the mortgage is insured)" after "cost of acquisition".

Subsec. (m). Pub. L. 97-289, § 1(d)(2), substituted "May 20, 1983" for "September 30, 1982".

Subsec. (q)(1). Pub. L. 97-289, § 1(d)(3), substituted "May 20, 1983" for "September 30, 1982".

1981—Subsec. (c)(2)(A). Pub. L. 97-35, § 328(a), struck out provisions relating to homeowner ceasing to make payments for a period of 90 continuous days or more under the mortgage, etc.

Subsec. (h)(1). Pub. L. 97-110 expanded enumeration of exceptions to provision that the Secretary not enter into new contracts for assistance payments under this section after March 31, 1982, by designating the two existing exceptions as cls. (i) and (ii) and by adding cl. (iii).

Pub. L. 97-35, § 328(b), inserted provisions prohibiting new contracts for assistance under this section after Mar. 1, 1982, except pursuant to specified exceptions.

Subsec. (m). Pub. L. 97-35, § 331(d)(1), substituted "1982" for "1981".

Subsec. (q)(1). Pub. L. 97-35, § 331(d)(2), substituted "September 30, 1982" for "June 1, 1981".

Subsec. (q)(14). Pub. L. 97-35, § 328(c), struck out provisions relating to homeowner ceasing to make pay-

ments for a period of 90 continuous days or more under the mortgage, etc.

1980—Subsec. (a)(2)(A). Pub. L. 96-399, § 308(c)(1), substituted "manufactured home" for "mobile home" wherever appearing.

Subsec. (a)(2)(B). Pub. L. 96-399, § 308(c)(2), substituted "manufactured homeowner" and "manufactured homeowner's" for "mobile homeowner" and "mobile homeowner's", respectively.

Subsec. (b)(2). Pub. L. 96-399, § 206(a)(1), substituted in last proviso "\$40,000" for "\$32,000", "\$47,500" for "\$38,000" in two places, and "\$55,000" for "\$44,000".

Subsec. (c). Pub. L. 96-399, § 206(b)(1), designated existing provisions as par. (1), redesignated existing pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (i)(3)(B) to (D). Pub. L. 96-399, § 206(a)(2), (3), substituted "\$40,000" for "\$32,000", "\$47,500" for "\$38,000", "\$55,000" for "\$44,000", and "\$61,250" for "\$49,000".

Subsec. (m). Pub. L. 96-399, § 301(d), substituted "September 30, 1981" for "October 15, 1980".

Pub. L. 96-372 substituted "October 15, 1980" for "September 30, 1980".

Subsec. (p). Pub. L. 96-399, § 206(a)(4), added subsec. (p).

Subsec. (q). Pub. L. 96-399, § 207, added subsec. (q).

1979—Subsec. (a)(1). Pub. L. 96-153, § 213(a), inserted provision that the Secretary give preference to low-income families who are likely to be displaced without assistance and that the assistance may include the acquisition of a condominium or membership in a cooperative association.

Subsec. (c)(2). Pub. L. 96-153, § 213(c)(2), inserted parenthetical reference to 4 per centum per annum rate in the case of a mortgage described in subsec. (o) of this section.

Subsec. (i)(3)(A). Pub. L. 96-153, § 213(b), substituted "standards as the Secretary may prescribe:" for "standards as the Secretary may prescribe, if the mortgagor qualifies as a displaced family as defined in section 1715(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing:".

Subsec. (m). Pub. L. 96-153, § 301(d), substituted "September 30, 1980" for "November 30, 1979".

Pub. L. 96-105 substituted "November 30, 1979" for "October 31, 1979".

Pub. L. 96-71 substituted "October 31, 1979" for "September 30, 1979".

Subsec. (o). Pub. L. 96-153, § 213(c)(1), added subsec. (o).

1978—Subsec. (m). Pub. L. 95-557 substituted "September 30, 1979" for "October 31, 1978".

Pub. L. 95-406 substituted "October 31, 1978" for "September 30, 1978".

1977—Subsec. (b)(2). Pub. L. 95-128, §§ 205, 303(f)(1), inserted reference to section 1715(d)(3) of this title and substituted in last proviso "\$32,000" for "\$25,000", "\$38,000" for "\$29,000" in two places, and "\$44,000" for "\$33,000".

Subsec. (i)(3)(B) to (E). Pub. L. 95-128, § 303(f)(2)–(4), substituted in subpar. (B) "\$32,000" for "\$25,000", "\$38,000" for "\$29,000" in two places, and "\$44,000" for "\$33,000", added subpars. (C) and (D), and redesignated former subpar. (C) as (E).

Subsec. (m). Pub. L. 95-128, § 301(d), substituted "September 30, 1978" for "September 30, 1977".

Subsec. (n). Pub. L. 95-128, § 303(f)(5), added subsec. (n).

1976—Subsec. (a). Pub. L. 94-375, § 3(f)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 94-375, § 3(b), substituted "\$25,000" for "\$21,600", "\$29,000" for "\$25,200" in two places, and "\$33,000" for "\$28,800".

Subsec. (e). Pub. L. 94-375, § 3(f)(2), inserted "(a)(2)(B)," after "computed under subsection".

Subsec. (h)(2). Pub. L. 94-375, § 3(e), substituted "95 per centum" for "80 per centum" wherever appearing.

Subsec. (i)(3)(B). Pub. L. 94-375, § 3(c), substituted "\$25,000" for "\$21,600", "\$29,000" for "\$25,200" in two places, and "\$33,000" for "\$28,800".

Subsec. (m). Pub. L. 94-375 §3(a), substituted “September 30, 1977” for “June 30, 1976”.

1974—Subsec. (a). Pub. L. 93-383, §211(b), inserted provisions relating to mortgages assisted under a State or local program providing assistance through loans, etc.

Subsec. (b)(2). Pub. L. 93-383, §211(c)(1), substituted “\$21,600” for “\$18,000”, “\$25,200” for “\$21,000” in two places, and “\$28,800” for “\$24,000”.

Subsec. (h)(1). Pub. L. 93-383, §211(a)(1), (2), inserted provisions relating to increases by such sums as may be approved in appropriations Acts after June 30, 1974, and prior to July 1, 1976, and provisions prohibiting new contracts for assistance payments upon the expiration of one year following Aug. 22, 1974.

Subsec. (h)(2). Pub. L. 93-383, §211(a)(3), substituted provisions setting forth requirements for assistance payments for families for provisions setting forth maximum income limits of families receiving assistance payments under contracts and provisions relating to annual report to Congressional Committees with respect to income levels of families.

Subsec. (h)(3)(B). Pub. L. 93-383, §211(a)(4), substituted “on or after July 1, 1969” for “prior to July 1, 1972”.

Subsec. (i)(1). Pub. L. 93-383, §211(a)(5), inserted provisions authorizing insurance of advances for property construction or rehabilitation pursuant to self-help programs.

Subsec. (i)(3)(B). Pub. L. 93-383, §211(c)(2), substituted “\$21,600” for “\$18,000”, “\$25,200” for “\$21,000” in two places, and “\$28,800” for “\$24,000”.

Subsec. (i)(3)(C). Pub. L. 93-383, §211(a)(6), struck out provisions relating to execution by a mortgagor in the case of a family whose income is not in excess of 135 per centum of the maximum income limits established in the area pursuant to specified limitations or any other family.

Subsec. (m). Pub. L. 93-383, §211(a)(7), substituted “June 30, 1976” for “October 1, 1974”.

1973—Subsec. (m). Pub. L. 93-117 substituted “October 1, 1974” for “October 1, 1973”.

Pub. L. 93-85 substituted “October 1, 1973” for “June 30, 1973”.

1972—Subsec. (m). Pub. L. 92-503 substituted “June 30, 1973” for “October 1, 1972”.

1970—Subsec. (b)(2). Pub. L. 91-609, §107, designated existing provisions as cl. (A) and added cl. (B).

Subsec. (h)(1). Pub. L. 91-609, §102(a), in second sentence, inserted “outstanding” before “contracts” where first appearing and substituted “\$150,000,000 on July 1, 1970” and “\$200,000,000 on July 1, 1971” for “\$125,000,000 on July 1, 1970” and “\$170,000,000 on July 1, 1971”.

Subsec. (h)(3)(B). Pub. L. 91-609, §105(1), substituted “July 1, 1972” for “July 1, 1971”.

Subsec. (h)(4). Pub. L. 91-609, §105(2), added par. (4).

Subsec. (i)(3)(A). Pub. L. 91-609, §106, substituted “and which is approved by the Secretary” for “if the dwelling is purchased with the assistance of a nonprofit organization and is approved by the Secretary”.

Subsec. (m). Pub. L. 91-609, §101(d), substituted “October 1, 1972” for “October 1, 1971”.

1969—Subsec. (b)(2). Pub. L. 91-152, §§106(b), 113(i), substituted provisions qualifying for assistance payments the transferee of any cooperative member who has received assistance payments, provided that such transferee undertakes the obligation to pay occupancy charges, for provisions qualifying for assistance payments the transferee of the initial cooperative member receiving assistance payments, and substituted “\$18,000” for “\$15,000”, “\$21,000” for “\$17,500” wherever appearing, and “\$24,000” for “\$20,000”.

Subsec. (c). Pub. L. 91-152, §§106(a), 418(a), inserted reference to subsection (i) of this section, and inserted the further proviso authorizing the Secretary to continue making assistance payments.

Subsec. (h)(1). Pub. L. 91-152, §107(a), substituted “\$125,000,000 on July 1, 1969, by “\$125,000,000 on July 1, 1970, and by \$170,000,000 on July 1, 1971” for “\$100,000,000 on July 1, 1969, and by \$125,000,000 on July 1, 1970”.

Subsec. (h)(2). Pub. L. 91-152, §412(b), required the Secretary to report semiannually instead of annually

to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (h)(3)(A). Pub. L. 91-152, §109(1), inserted “and” after “July 1, 1969”.

Subsec. (h)(3)(B). Pub. L. 91-152, §109(2), substituted “30 per centum” for “15 per centum” and “July 1, 1971,” for “July 1, 1970, and”.

Subsec. (h)(3)(C). Pub. L. 91-152, §109(2), struck out subsec. (h)(3)(C) which limited the amount available for home-ownership assistance payments to 10 per centum of the total additional amount of contracts for assistance payments authorized by appropriation Acts made prior to July 1, 1971.

Subsec. (i)(3)(B). Pub. L. 91-152, §113(i), substituted “\$18,000” for “\$15,000”, “\$21,000” for “\$17,500” wherever appearing, and “\$24,000” for “\$20,000”.

Subsec. (m). Pub. L. 91-152, §101(d), added subsec. (m).

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(18), (19) of Pub. L. 100-242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100-242, set out as a note under section 1709 of this title.

#### EFFECTIVE DATE OF 1983 AMENDMENT

For effective date of amendment by section 423(b)(5) of Pub. L. 98-181, see section 423(c) of Pub. L. 98-181, set out as a note under section 1709 of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-399, title II, §206(b)(2), Oct. 8, 1980, 94 Stat. 1631, provided: “The amendment made by paragraph (1) [amending this section] does not apply to any assistance contract under section 235 of the National Housing Act [this section] entered into pursuant to a commitment issued within 6 months following the date of enactment of this Act [Oct. 8, 1980].”

#### TERMINATION OF PROGRAM; SAVINGS PROVISION

Pub. L. 101-235, title I, §125(d), Dec. 15, 1989, 103 Stat. 2024, provided that: “Notwithstanding the termination of the program under section 235 [this section] pursuant to section 401(d) of the Housing and Community Development Act of 1987 [Pub. L. 100-242, set out below], the Secretary of Housing and Urban Development shall have authority to insure mortgages under section 235(r), to make assistance payments with respect to such insured mortgages, and to make any other payment or take any other action related to the refinancing of mortgages insured under section 235.”

Pub. L. 100-242, title IV, §401(d), Feb. 5, 1988, 101 Stat. 1899, provided that:

“(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act [this section] shall terminate.

“(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

“(A) any mortgage insurance commitment issued;

or

“(B) any assistance pursuant to a reservation of funds made; under section 235 of the National Housing Act prior to October 1, 1989.”

#### IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97-253 to be implemented only if the Secretary determines that the program of ad-

vance payment of insurance premiums, considering the effect of said amendment, is actuarially sound, see section 201(g) of Pub. L. 97-253, set out as a note under section 1709 of this title.

**STUDY AND REPORT RESPECTING APPLICATION OF SUBSECTION (n) TO SUBSECTIONS (a) AND (q) PROGRAMS**

Pub. L. 96-399, title II, § 206(c), Oct. 8, 1980, 94 Stat. 1631, directed Secretary of Housing and Urban Development to conduct a study of effects which application of subsec. (n) of this section has had or is likely to have on program established by subsec. (a). If program established by subsec. (q) was implemented, Secretary was to include in study an analysis of effects on subsec. (q) program of application of subsec. (n) to such program. Secretary to transmit to Congress, not later than Jan. 1, 1982, a report containing findings and conclusions of study.

**FINANCING PURCHASE OF DWELLING FROM NONPROFIT ORGANIZATION AFTER AUGUST 1, 1968**

Pub. L. 90-448, title I, § 101(c)(4), Aug. 1, 1968, 82 Stat. 484, provided that: "The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act [12 U.S.C. 1715(h)(5)] after the date of enactment of this section [Aug. 1, 1968], may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act [12 U.S.C. 1715z(j)(4)], but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act."

**CEILING ON TOTAL HOMEOWNERSHIP ASSISTANCE PAYMENTS IN ANY FISCAL YEAR**

Pub. L. 90-608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act [this section] shall not exceed \$25,000,000.

Pub. L. 91-47, title II, § 201, July 22, 1969, 83 Stat. 53, increased by \$45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act, as amended (82 Stat. 477) [this section].

**§ 1715z-1. Rental and cooperative housing for lower income families**

**(a) Authorization for periodic interest reduction payments on behalf of owner of rental housing project**

For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic interest reduction payments on behalf of the owner of a rental housing project designed for occupancy by lower income families, which shall be accomplished through payments to mortgagees<sup>1</sup> holding mortgages meeting the special requirements specified in this section.

**(b) Restrictions on payments; payments with respect to projects financed under State or local programs; mortgage insurance premium**

Interest reduction payments with respect to a project shall only be made during such time as the project is operated as a rental housing project and is subject to a mortgage which meets the requirements of, and is insured under, subsection (j) of this section: *Provided*, That the Secretary is authorized to continue making such interest reduction payments where the mortgage has been assigned to the Secretary:

*Provided further*, That interest reduction payments may be made with respect to a mortgage or part thereof on a rental or cooperative housing project owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, public<sup>2</sup> entity, or a cooperative housing corporation, which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which may involve either new or existing construction and which is approved for receiving the benefits of this section. The term "mortgage insurance premium", when used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency.

**(c) Amount of payments**

The interest reduction payments to a mortgagee by the Secretary on behalf of a project owner shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the project owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

**(d) Mortgage handling expenses**

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c), as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

**(e) Operation of project in accordance with requirements respecting tenant eligibility and rents prescribed by Secretary**

(1) As a condition for receiving the benefits of interest reduction payments, the project owner shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of one year (or at shorter intervals where the Secretary deems it desirable).

(2) A project for which interest reduction payments are made under this section and for which the mortgage on the project has been refinanced shall continue to receive the interest reduction payments under this section under the terms of the contract for such payments, but only if the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the term for which such interest reduction payments are made plus an additional 5 years.

<sup>1</sup> So in original. Probably should be "mortgagees".

<sup>2</sup> So in original. Probably should be preceded by "a".



**(f) Establishment of basic and fair market rental charges; rental for dwelling units; separate utility metering; additional assistance payments for low-income tenants; limitations; amounts; approval of payments**

(1)(A)(i) For each dwelling unit there shall be established, with the approval of the Secretary, a basic rental charge and fair market rental charge.

(ii) The basic rental charge shall be—

(I) the amount needed to operate the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 percent per annum; or

(II) an amount greater than that determined under clause (ii)(I), but not greater than the market rent for a comparable unassisted unit, reduced by the value of the interest reduction payments subsidy.

(iii) The fair market rental charge shall be—

(I) the amount needed to operate the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project; or

(II) an amount greater than that determined under clause (iii)(I), but not greater than the market rent for a comparable unassisted unit.

(iv) The Secretary may approve a basic rental charge and fair market rental charge for a unit that exceeds the minimum amounts permitted by this subparagraph for such charges only if—

(I) the approved basic rental charge and fair market rental charges each exceed the applicable minimum charge by the same amount; and

(II) the project owner agrees to restrictions on project use or mortgage prepayment that are acceptable to the Secretary.

(v) The Secretary may approve a basic rental charge and fair market rental charge under this paragraph for a unit with assistance under section 1437f of title 42 that differs from the basic rental charge and fair market rental charge for a unit in the same project that is similar in size and amenities but without such assistance, as needed to ensure equitable treatment of tenants in units without such assistance.

(B)(i) The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge determined pursuant to subparagraph (A), as represents 30 percent of the tenant's adjusted income, except as otherwise provided in this subparagraph.

(ii) In the case of a project which contains more than 5000 units, is subject to an interest reduction payments contract, and is financed under a State or local project, the Secretary may reduce the rental charge ceiling, but in no case shall the rental charge be below the basic rental charge set forth in subparagraph (A)(ii)(I).

(iii) For plans of action approved for capital grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.] or the Emergency Low Income Housing Preservation Act of 1987, the rental charge for each dwelling unit shall be at the

minimum basic rental charge set forth in subparagraph (A)(ii)(I) or such greater amount, not exceeding the lower of: (I) the fair market rental charge set forth in subparagraph (A)(iii)(I); or (II) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant's adjusted income.

(C) With respect to those projects which the Secretary determines have separate utility metering paid by the tenants for some or all dwelling units, the Secretary may—

(i) permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the project without the payment of the cost of utility services used by such dwelling units; and

(ii) permit the charging of a rental for such dwelling units at such an amount less than 30 percent of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall rental be lower than 25 percent of a tenant's adjusted income.

(2) With respect to 20 per centum of the dwelling units in any project made subject to a contract under this section after August 22, 1974, the Secretary shall make, and contract to make, additional assistance payments to the project owner on behalf of tenants whose incomes are too low for them to afford the basic rentals (including the amount allowed for utilities in the case of a project with separate utility metering) with 30 per centum of their adjusted income. The additional assistance payments authorized by this paragraph with respect to any dwelling unit shall be the amount required to reduce the rental payment (including the amount allowed for utilities in the case of a project with separate utility metering) by the tenant to the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the tenant's monthly adjusted income;

(B) 10 per centum of the tenant's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

Notwithstanding the foregoing provisions of this paragraph, the Secretary may—

(A) reduce such 20 per centum requirement in the case of any project if he determines that such action is necessary to assure the economic viability of the project; or

(B) increase such 20 per centum requirement in the case of any project if he determines that such action is necessary and feasible in order to assure, insofar as is practicable, that there is in the project a reasonable range in the income levels of tenants, or that such action is to be taken to meet the housing needs of elderly or handicapped families.

(3) The Secretary shall utilize amounts credited to the fund described in subsection (g) for

the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1994.

(4) To ensure that eligible tenants occupying that number of units with respect to which assistance was being provided under this subsection immediately prior to November 30, 1983, receive the benefit of assistance contracted for under paragraph (2), the Secretary shall offer annually to amend contracts entered into under this subsection with owners of projects assisted but not subject to mortgages insured under this section to provide sufficient payments to cover 100 percent of the necessary rent increases and changes in the incomes of eligible tenants, subject to the availability of authority for such purpose under section 1437c(c) of title 42. The Secretary shall take such actions as may be necessary to ensure that payments, including payments that reflect necessary rent increases and changes in the incomes of tenants, are made on a timely basis for all units covered by contracts entered into under paragraph (2).

(5)(A) In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

(i) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 1437f(c) of title 42;

(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

(B) Assistance under section 1437f of title 42 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

(6) Repealed. Pub. L. 104-99, title IV, § 405(d)(2), Jan. 26, 1996, 110 Stat. 45.

(7) The Secretary shall determine whether and under what conditions the provisions of this subsection shall apply to mortgages sold by the Secretary on a negotiated basis.

**(g) Collection of excess rental charges; credit to reserve for additional assistance payments; retention by project owner**

(1) The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems ap-

propriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f).

(2) Notwithstanding any other requirements of this subsection, a project owner may retain some or all of such excess charges for project use if authorized by the Secretary. Such excess charges shall be used for the project and upon terms and conditions established by the Secretary, unless the Secretary permits the owner to retain funds for non-project use after a determination that the project is well-maintained housing in good condition and that the owner has not engaged in material adverse financial or managerial actions or omissions as described in section 516 of the Multifamily Assisted Housing Reform and Affordability Act of 1997. In connection with the retention of funds for non-project use, the Secretary may require the project owner to enter into a binding commitment (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration of not less than the term of the existing affordability restrictions plus an additional 5 years.

(3) The Secretary shall not withhold approval of the retention by the owner of such excess charges because of the existence of unpaid excess charges if such unpaid amount is being remitted to the Secretary over a period of time in accordance with a workout agreement with the Secretary, unless the Secretary determines that the owner is in violation of the workout agreement.

**(h) Rules and regulations**

In addition to establishing the requirements specified in subsection (e), the Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section.

**(i) Authorization of appropriations; aggregate amount of contracts; contracts for assistance payments; income limitations; availability of amounts for projects approved prior to rehabilitation and projects for occupancy by elderly or handicapped families; definitions**

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by \$125,000,000 on July 1, 1969, by \$150,000,000 on July 1, 1970, by \$200,000,000 on July 1, 1971 and by \$75,000,000 on July 1, 1974. The Secretary shall utilize, to the extent necessary after September 30, 1984, any

authority under this section that is recaptured either as the result of the conversion of housing projects covered by assistance under subsection (f)(2) to contracts for assistance under section 1437f of title 42 or otherwise for the purpose of making assistance payments, including amendments as provided in subsection (f)(4), with respect to housing projects assisted, but not subject to mortgages insured, under this section that remain covered by assistance under subsection (f)(2).

(2) Contracts for assistance payments under this section may be entered into only with respect to tenants whose incomes do not exceed 80 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to rehabilitation.

(4) At least 20 per centum of the total amount of contracts for assistance payments authorized in appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by elderly or handicapped families. As used in this paragraph, the term "elderly families" means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

**(j) Insurance of mortgages; definitions; eligibility for insurance; mortgage requirements; property or project requirements; sale of individual dwelling units; release of mortgagor from liability or release of property from lien of mortgage**

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of this subsection. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as he may prescribe.

(2) As used in this subsection—

(A) the terms "family" and "families" shall have the same meaning as in section 1715l of this title;

(B) the term "elderly or handicapped families" shall have the same meaning as in section 1701q<sup>3</sup> of this title; and

(C) the terms "mortgage", "mortgagee", and "mortgagor" shall have the same meaning as in section 1707 of this title.

(3) To be eligible for insurance under this subsection, a mortgage shall meet the requirements specified in subsections (d)(1) and (d)(3) of section 1715l of this title, except as such requirements are modified by this subsection. In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(4) A mortgage to be insured under this subsection shall—

(A) be executed by a mortgagor eligible under subsection (d)(3) or (e) of section 1715l of this title;

(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(5) The property or project shall—

(A) comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of the property for mortgage insurance and may include such non-dwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood: *Provided*, That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community: *Provided further*, That, in the case of a project designed primarily for occupancy by elderly or handicapped families, the project may include related facilities for use by elderly or handicapped families, including cafeterias or dining halls, community rooms, workshops, infirmaries, or other inpatient or outpatient health facilities, and other essential service facilities;

(B) include five or more dwelling units, but such units, in the case of a project designed primarily for occupancy by displaced, elderly,

<sup>3</sup> See References in Text note below.

or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities; and

(C) be designed primarily for use as a rental project to be occupied by lower income families or by elderly or handicapped families: *Provided*, That lower income persons who are less than sixty-two years of age shall be eligible for occupancy in such a project.

In any case in which it is determined in accordance with regulations of the Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the first proviso in subparagraph (A) except the requirement that the project be predominantly residential).

(6) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to lower income or elderly or handicapped purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage, upon such terms and conditions as he may prescribe, and the mortgage may provide for such release.

**(k) Definitions**

As used in this section the term “tenant” includes a member of a cooperative; the term “rental housing project” includes a cooperative housing project; and the terms “rental” and “rental charge” mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

**(l) Allocation and transfer of reasonable portion of total authority to contract to make payments to Secretary of Agriculture for use in rural areas and small towns**

The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make periodic interest reduction payments as approved in appropriation Acts under subsection (i).

**(m) “Income” defined**

For the purpose of this section the term “income” means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that any amounts not actually received by the family may not be considered as income under this subsection. In determining amounts to be excluded from income, the Secretary may, in the Secretary’s discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

**(n) Termination date for insurance of mortgages; exception**

No mortgage shall be insured under this section after November 30, 1983, except pursuant to a commitment to insure before that date. A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.

**(o) State funding of interest reduction payments**

The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments, subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract.

**(p) Contracts with State or local agencies for monitoring and supervision of management by private sponsors of assisted projects**

The Secretary is authorized to enter into contracts with State or local agencies approved by him to provide for the monitoring and supervision by such agencies of the management by private sponsors of projects assisted under this section. Such contracts shall require that such agencies promptly report to the Secretary any deficiencies in the management of such projects in order to enable the Secretary to take corrective action at the earliest practicable time.

**(q) Assistance to residents of covered projects; contracting authority; applicability**

The Secretary may provide assistance under section 1437f of title 42 with respect to residents of units in a project assisted under this section. In entering into contracts under section 1437c(c) of title 42 with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than \$20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 1437f of title 42, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments.

**(r) Payments for benefit of certain projects having mortgages made by State or local housing finance or government agencies**

The Secretary shall, not later than 45 days after receipt of an application by the mortgagee,

provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after February 5, 1988, along with a certification of the mortgagee that amounts hereunder are to be utilized only for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain after disposition of all such applications is favorably concluded shall be rescinded. The calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.

**(s) Grants and loans for rehabilitation of multi-family projects**

**(1) In general**

The Secretary may make grants and loans for the capital costs of rehabilitation to owners of projects that meet the eligibility and other criteria set forth in, and in accordance with, this subsection.

**(2) Project eligibility**

A project may be eligible for capital assistance under this subsection under a grant or loan only—

(A) if—

(i) the project is or was insured under any provision of subchapter II of this chapter;

(ii) the project was assisted under section 1437f of title 42 on October 27, 1997; and

(iii) the project mortgage was not held by a State agency as of October 27, 1997;

(B) if the project owner agrees to maintain the housing quality standards as required by the Secretary;

(C) the project owner enters into such binding commitments as the Secretary may require (which shall be applicable to any subsequent owner) to ensure that the owner will continue to operate the project in accordance with all low-income affordability restrictions for the project in connection with the Federal assistance for the project for a period having a duration that is not less than the period referred to in paragraph (5)(C);

(D)(i) if the Secretary determines that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to such project; or

(ii) if the Secretary elects to make such determination, that the owner or purchaser of the project has not engaged in material adverse financial or managerial actions or omissions with regard to other projects of such owner or purchaser that are federally assisted or financed with a loan from, or mortgage insured or guaranteed by, an agency of the Federal Government;

(iii) material adverse financial or managerial actions or omissions, as the terms are used in this subparagraph, include—

(I) materially violating any Federal, State, or local law or regulation with regard to this project or any other federally assisted project, after receipt of notice and an opportunity to cure;

(II) materially breaching a contract for assistance under section 1437f of title 42, after receipt of notice and an opportunity to cure;

(III) materially violating any applicable regulatory or other agreement with the Secretary or a participating administrative entity, after receipt of notice and an opportunity to cure;

(IV) repeatedly failing to make mortgage payments at times when project income was sufficient to maintain and operate the property;

(V) materially failing to maintain the property according to housing quality standards after receipt of notice and a reasonable opportunity to cure; or

(VI) committing any act or omission that would warrant suspension or debarment by the Secretary; and

(iv) the term “owner” as used in this subparagraph, in addition to it having the same meaning as in section 1437f(f) of title 42, also means an affiliate of the owner; the term “purchaser” as used in this subsection means any private person or entity, including a cooperative, an agency of the Federal Government, or a public housing agency, that, upon purchase of the project, would have the legal right to lease or sublease dwelling units in the project, and also means an affiliate of the purchaser; the terms “af-

affiliate of the owner” and “affiliate of the purchaser” means any person or entity (including, but not limited to, a general partner or managing member, or an officer of either) that controls an owner or purchaser, is controlled by an owner or purchaser, or is under common control with the owner or purchaser; the term “control” means the direct or indirect power (under contract, equity ownership, the right to vote or determine a vote, or otherwise) to direct the financial, legal, beneficial or other interests of the owner or purchaser; and

(E) if the project owner demonstrates to the satisfaction of the Secretary—

(i) using information in a comprehensive needs assessment, that capital assistance under this subsection from a grant or loan (as appropriate) is needed for rehabilitation of the project; and

(ii) that project income is not sufficient to support such rehabilitation.

### **(3) Eligible uses**

Amounts from a grant or loan under this subsection may be used only for projects eligible under paragraph (2) for the purposes of—

(A) payment into project replacement reserves;

(B) debt service payments on non-Federal rehabilitation loans; and

(C) payment of nonrecurring maintenance and capital improvements, under such terms and conditions as are determined by the Secretary.

### **(4) Grant and loan agreements**

#### **(A) In general**

The Secretary shall provide in any grant or loan agreement under this subsection that the grant or loan shall be terminated if the project fails to meet housing quality standards, as applicable on October 27, 1997, or any successor standards for the physical conditions of projects, as are determined by the Secretary.

#### **(B) Affordability and use clauses**

The Secretary shall include in a grant or loan agreement under this subsection a requirement for the project owners to maintain such affordability and use restrictions as the Secretary determines to be appropriate and consistent with paragraph (2)(C).

#### **(C) Other terms**

The Secretary may include in a grant or loan agreement under this subsection such other terms and conditions as the Secretary determines to be necessary.

### **(5) Loan terms**

A loan under this subsection—

(A) shall provide amounts for the eligible uses under paragraph (3) in a single loan disbursement of loan principal;

(B) shall be repaid, as to principal and interest, on behalf of the borrower using amounts recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A);

(C) shall have a term to maturity of a duration not shorter than the remaining period

for which the interest reduction payments for the insured mortgage or mortgages that fund repayment of the loan would have continued after extinguishment or writedown of the mortgage (in accordance with the terms of such mortgage in effect immediately before such extinguishment or writedown);

(D) shall bear interest at a rate, as determined by the Secretary of the Treasury, that is based upon the current market yields on outstanding marketable obligations of the United States having comparable maturities; and

(E) shall involve a principal obligation of an amount not exceeding the amount that can be repaid using amounts described in subparagraph (B) over the term determined in accordance with subparagraph (C), with interest at the rate determined under subparagraph (D).

### **(6) Delegation**

#### **(A) In general**

In addition to the authorities set forth in subsection (p), the Secretary may delegate to State and local governments the responsibility for the administration of grants under this subsection. Any such government may carry out such delegated responsibilities directly or under contracts.

#### **(B) Administration costs**

In addition to other eligible purposes, amounts of grants under this subsection may be made available for costs of administration under subparagraph (A).

### **(7) Funding**

#### **(A) In general**

For purposes of carrying out this subsection, the Secretary may make available amounts that are unobligated amounts for contracts for interest reduction payments—

(i) that were previously obligated for contracts for interest reduction payments under this section until the insured mortgage under this section was extinguished;

(ii) that become available as a result of the outstanding principal balance of a mortgage having been written down;

(iii) that are uncommitted balances within the limitation on maximum payments that may have been, before October 27, 1997, permitted in any fiscal year; or

(iv) that become available from any other source.

#### **(B) Liquidation authority**

The Secretary may liquidate obligations entered into under this subsection under section 1305(10) of title 31.

#### **(C) Capital grants**

In making capital grants under the terms of this subsection, using the amounts that the Secretary has recaptured from contracts for interest reduction payments, the Secretary shall ensure that the rates and amounts of outlays do not at any time exceed the rates and amounts of outlays that would have been experienced if the insured mortgage had not been extinguished or the

principal amount had not been written down, and the interest reduction payments that the Secretary has recaptured had continued in accordance with the terms in effect immediately prior to such extinguishment or write-down.

#### (D) Loans

In making loans under this subsection using the amounts that the Secretary has recaptured from contracts for interest reduction payments pursuant to clause (i) or (ii) of paragraph (7)(A)—

(i) the Secretary may use such recaptured amounts for costs (as such term is defined in section 661a of title 2) of such loans; and

(ii) the Secretary may make loans in any fiscal year only to the extent or in such amounts that amounts are used under clause (i) to cover costs of such loans.

(June 27, 1934, ch. 847, title II, §236, as added Pub. L. 90-448, title II, §201(a), Aug. 1, 1968, 82 Stat. 498; amended Pub. L. 91-152, title I, §§101(e), 107(b), 108, title IV, §§412(c), 418(b), Dec. 24, 1969, 83 Stat. 379, 381, 398, 402; Pub. L. 91-609, title I, §§101(e), 102(b), 108, 114(b), 114[115](b), 117(c), 118(a), 121, Dec. 31, 1970, 84 Stat. 1770, 1772-1776; Pub. L. 92-503, §1(e), Oct. 18, 1972, 86 Stat. 906; Pub. L. 93-85, §1(e), Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, §1(e), Oct. 2, 1973, 87 Stat. 421; Pub. L. 93-383, title II, §212, Aug. 22, 1974, 88 Stat. 672; Pub. L. 94-173, §4(b), Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, §4, Aug. 3, 1976, 90 Stat. 1070; Pub. L. 95-128, title II, §206(a)-(c), title III, §301(e), Oct. 12, 1977, 91 Stat. 1130, 1131; Pub. L. 95-406, §1(e), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title II, §201(k), formerly (i), title III, §301(e), Oct. 31, 1978, 92 Stat. 2087, 2096, as renumbered Pub. L. 97-35, title III, §321(f)(2)(A), Aug. 13, 1981, 95 Stat. 400; Pub. L. 96-71, §1(e), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(e), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title II, §§203(b), 205(b), title III, §301(e), Dec. 21, 1979, 93 Stat. 1107, 1108, 1111; Pub. L. 96-372, §§1(e), 2, Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title II, §204(b), 211, title III, §301(e), Oct. 8, 1980, 94 Stat. 1629, 1636, 1638; Pub. L. 97-35, title III, §§321(f)(3), 322(f), 331(e), Aug. 13, 1981, 95 Stat. 400, 403, 413; Pub. L. 97-289, §1(e), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(e), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(e), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title II, §§217(c), 218], Nov. 30, 1983, 97 Stat. 1186, 1187; Pub. L. 98-479, title I, §§102(a)(2), 104(a)(4), title II, §204(a)(9), Oct. 17, 1984, 98 Stat. 2221, 2225, 2232; Pub. L. 100-242, title I, §§167(a)(1), (b), 170(b), 186(a), title IV, §§429(f), 430(a), Feb. 5, 1988, 101 Stat. 1864, 1867, 1877, 1919; Pub. L. 101-235, title II, §203(a)(1), title III, §301, Dec. 15, 1989, 103 Stat. 2037, 2043; Pub. L. 101-625, title V, §578(a), title VI, §§611(a), (b)(1), 612(a), Nov. 28, 1990, 104 Stat. 4244, 4278, 4279; Pub. L. 102-550, title III, §331, title IV, §408(b), Oct. 28, 1992, 106 Stat. 3773, 3778; Pub. L. 104-99, title IV, §405(d), Jan. 26, 1996, 110 Stat. 44; Pub. L. 104-134, title I, §101(e) [title II, §228], Apr. 26, 1996, 110 Stat. 1321-257, 1321-292; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-204, title II, §221, Sept. 26, 1996, 110 Stat. 2906; Pub. L. 105-65, title V, §531, Oct. 27, 1997, 111 Stat. 1409; Pub. L. 105-276, title II, §227, Oct. 21,

1998, 112 Stat. 2490; Pub. L. 106-74, title V, §§532(a)-(d), 533, Oct. 20, 1999, 113 Stat. 1116, 1117, 1119; Pub. L. 106-377, §1(a)(1) [title II, §216], Oct. 27, 2000, 114 Stat. 1441, 1441A-28; Pub. L. 106-569, title VIII, §861(a), Dec. 27, 2000, 114 Stat. 3025.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (f)(1)(B)(iii), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which is classified principally to chapter 42 (§4101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (f)(1)(B)(iii), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitles A and B of title II, which were formerly set out as a note under section 1715f of this title and which amended section 1715z-6 of this title, were amended generally by Pub. L. 101-625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitles C and D of title II amended section 1715z-15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare. Another subtitle C of title II of Pub. L. 100-242, as added by Pub. L. 102-550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (f)(3), (5)(A), is section 201 of Pub. L. 95-557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z-1a of this title and amended this section.

Section 516 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsec. (g)(2), is section 516 of Pub. L. 105-65, which is set out as a note under section 1437f of Title 42, The Public Health and Welfare.

Section 1701q of this title, referred to in subsec. (j)(2)(B), was amended generally by Pub. L. 101-625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, no longer defines the term “elderly or handicapped families”.

Section 236 contracts, referred to in subsec. (r)(2), refer to contracts under this section.

##### CODIFICATION

Subsec. (o), added as subsec. (n) by Pub. L. 91-609, §121(a), designated subsec. (o) in the Code as a prior subsec. (n) was added by Pub. L. 91-152, and amended by Pub. L. 91-609, §101(e).

##### AMENDMENTS

2000—Subsec. (g)(2). Pub. L. 106-569, §861(a)(1), substituted “Notwithstanding” for “Subject to paragraph (3) and notwithstanding”.

Subsec. (g)(3). Pub. L. 106-569, §861(a)(2), redesignated par. (4) as (3) and struck out former par. (3) which related to authority under par. (2) to retain and use excess charges.

Subsec. (g)(3)(A). Pub. L. 106-377 substituted “fiscal years 2000 and 2001” for “fiscal year 2000”.

Subsec. (g)(4). Pub. L. 106-569, §861(a)(2), redesignated par. (4) as (3).

1999—Subsec. (e). Pub. L. 106-74, §532(a), designated existing provisions as par. (1) and added par. (2).

Subsec. (f)(1). Pub. L. 106-74, §532(d), added par. (1) and struck out former par. (1) which required that basic and fair market rental charges be established with the approval of the Secretary and that the rental charge for each dwelling unit be within the basic and fair mar-

ket charges, subject to certain exceptions and refinements.

Subsec. (g). Pub. L. 106-74, § 532(b), (c), designated existing provisions as par. (1), struck out at end “Notwithstanding any other requirements of this subsection, an owner of a project with a mortgage insured under this section, or a project previously assisted under subsection (b) of this section but without a mortgage insured under this section if the project mortgage was insured under section 1713 of this title before July 30, 1998 pursuant to section 1715n(f) of this title and assisted under subsection (b) of this section, may retain some or all of such excess charges for project use if authorized by the Secretary and upon such terms and conditions as established by the Secretary.”, and added pars. (2) to (4).

Subsec. (s). Pub. L. 106-74, § 533(a)(1), substituted “Grants and loans for rehabilitation of multifamily projects” for “Grant authority” in heading.

Subsec. (s)(1). Pub. L. 106-74, § 533(a)(2), inserted “and loans” after “grants”.

Subsec. (s)(2). Pub. L. 106-74, § 533(a)(3)(A), substituted “capital assistance under this subsection under a grant or loan only” for “capital grant assistance under this subsection” in introductory provisions.

Subsec. (s)(2)(C). Pub. L. 106-74, § 533(b)(1)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (s)(2)(D). Pub. L. 106-74, § 533(b)(1)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (s)(2)(D)(i). Pub. L. 106-74, § 533(a)(3)(B), substituted “capital assistance under this subsection from a grant or loan (as appropriate)” for “capital grant assistance”.

Subsec. (s)(2)(E). Pub. L. 106-74, § 533(b)(1)(A), redesignated subpar. (D) as (E).

Subsec. (s)(3). Pub. L. 106-74, § 533(a)(4), in par. heading, substituted “Eligible uses” for “Eligible purposes” and in introductory provisions, substituted “Amounts from a grant or loan under this subsection may be used only for projects eligible under paragraph (2) for the purposes of—” for “The Secretary may make grants to the owners of eligible projects for the purposes of—”.

Subsec. (s)(4). Pub. L. 106-74, § 533(a)(5)(A), substituted “Grant and loan agreements” for “Grant agreement” in heading.

Subsec. (s)(4)(A). Pub. L. 106-74, § 533(a)(5)(B), inserted “or loan” after “grant” in two places.

Subsec. (s)(4)(B). Pub. L. 106-74, § 533(a)(5)(B), (b)(2), inserted “or loan” after “grant” and “and consistent with paragraph (2)(C)” before period at end.

Subsec. (s)(4)(C). Pub. L. 106-74, § 533(a)(5)(B), inserted “or loan” after “grant”.

Subsec. (s)(5). Pub. L. 106-74, § 533(a)(9), added par. (5). Former par. (5) redesignated (6).

Pub. L. 106-74, § 533(a)(6), which directed the insertion of “or loan” after “grant” each place it appeared, could not be executed because the word “grant” did not appear.

Subsec. (s)(6). Pub. L. 106-74, § 533(a)(8), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (s)(6)(D). Pub. L. 106-74, § 533(a)(7), added subpar. (D).

Subsec. (s)(7). Pub. L. 106-74, § 533(a)(8), redesignated par. (6) as (7).

1998—Subsec. (g). Pub. L. 105-276 amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay the Secretary or such other entity as determined by the Secretary and upon such terms and conditions as the Secretary deems appropriate, all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Unless otherwise directed by the Secretary, such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section. However, a project owner with a mortgage insured under this section may retain some or all of such excess charges for project use

if authorized by the Secretary and upon such terms and conditions as established by the Secretary.”

1997—Subsec. (s). Pub. L. 105-65 added subsec. (s).

1996—Subsec. (f)(1). Pub. L. 104-204, § 221(a)(2), which directed the amendment of second sentence by striking “or (ii) the fair market rental established under section 1437f(c) of title 42 for the market area in which the housing is located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,” after “pursuant to this paragraph,” was executed by striking language which did not include word “or” before “(ii)” to reflect the probable intent of Congress and the amendment by Pub. L. 104-134, § 101(e) [title II, § 228(a)]. See below.

Pub. L. 104-204, § 221(a)(1), (3), struck out “the lower of (i)” after “amount, not exceeding”, and inserted after second sentence “However, in the case of a project which contains more than 5,000 units, is subject to an interest reduction payments contract, and is financed under a State or local program, the Secretary may reduce the rental charge ceiling, but in no case shall the rent be below basic rent. For plans of action approved for Capital Grants under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (LIHPRA) or the Emergency Low Income Housing Preservation Act of 1987 (ELIHPA), the rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the actual rent paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located, as represents 30 percent of the tenant’s adjusted income, but in no case shall the rent be below basic rent.”

Pub. L. 104-134, § 101(e) [title II, § 228(a)], in second sentence, struck out “or” before “(ii)” and substituted “located, or (iii) the actual rent (as determined by the Secretary) paid for a comparable unit in comparable unassisted housing in the market area in which the housing assisted under this section is located,” for “located.”

Pub. L. 104-99, § 405(d)(1), substituted “The rental charge for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the lower of (i) the fair market rental charge determined pursuant to this paragraph, or (ii) the fair market rental established under section 1437f(c) of title 42 for the market area in which the housing is located, as represents 30 per centum of the tenant’s adjusted income.” for “The rental for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge, as represents 30 per centum of the tenant’s adjusted income.”

Subsec. (f)(6). Pub. L. 104-99, § 405(d)(2), struck out par. (6) which read as follows:

“(6)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family’s adjusted monthly income; or (B) the relevant fair market rental established under section 1437f(b) of title 42 for the jurisdiction in which the housing is located.

“(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1) of this section.”

Subsec. (f)(7). Pub. L. 104-204, § 221(b), added par. (7).

Subsec. (g). Pub. L. 104-204, § 221(c), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected on a unit-by-unit basis in excess of the basic rental charges. Such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section.”



Pub. L. 104-134, § 101(e) [title II, § 228(b)], inserted “on a unit-by-unit basis” after “collected”.

1992—Subsec. (f)(3). Pub. L. 102-550, § 408(b), substituted “September 30, 1994” for “September 30, 1992”.

Subsec. (j)(4)(A). Pub. L. 102-550, § 331, struck out “private” before “mortgagor”.

1990—Subsec. (f)(3). Pub. L. 101-625, § 578(a), substituted “September 30, 1992” for “September 30, 1991”.

Subsec. (f)(5). Pub. L. 101-625, § 611(b)(1), added par. (5).

Subsec. (f)(6). Pub. L. 101-625, § 612(a), added par. (6).

Subsec. (m). Pub. L. 101-625, § 611(a), inserted before period at end of first sentence “, except that any amounts not actually received by the family may not be considered as income under this subsection”.

1989—Subsec. (b). Pub. L. 101-235, § 203(a)(1), inserted “public entity,” after “dividend entity,”.

Subsec. (f)(3). Pub. L. 101-235, § 301, substituted “September 30, 1991” for “September 30, 1989”.

1988—Subsec. (f)(3). Pub. L. 100-242, § 186(a), substituted “September 30, 1989” for “September 30, 1985”.

Subsec. (f)(4). Pub. L. 100-242, § 167(a)(1), substituted “100 percent” for “90 per centum”.

Subsec. (i)(1). Pub. L. 100-242, §§ 170(b), 429(f), amended par. (1) identically, substituting “subsection (f)(4)” for “subsection (h)”.

Subsec. (n). Pub. L. 100-242, § 167(b), inserted at end “A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.”

Subsec. (r). Pub. L. 100-242, § 430(a), added subsec. (r).

1984—Subsec. (f)(4). Pub. L. 98-479, § 102(a)(2), struck out “up to” before “90 per centum”.

Subsec. (j)(4)(B). Pub. L. 98-479, § 104(a)(4), substituted “bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets” for “bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market”.

Subsec. (j)(5). Pub. L. 98-479, § 204(a)(9), substituted “of residents” for “or residents” in provision following subpar. (C).

1983—Subsec. (f)(3). Pub. L. 98-181, § 217(c), substituted “September 30, 1985” for “September 30, 1982”.

Subsec. (f)(4). Pub. L. 98-181, § 218(a), added par. (4).

Subsec. (i)(1). Pub. L. 98-181, § 218(b), inserted provision relating to utilization by the Secretary of any authority under this section that it recaptured.

Subsec. (n). Pub. L. 98-109 substituted “November 30, 1983” for “September 30, 1983”.

Pub. L. 98-35 substituted “September 30, 1983” for “May 20, 1983”.

1982—Subsec. (n). Pub. L. 97-289 substituted “May 20, 1983” for “September 30, 1982”.

1981—Subsec. (e). Pub. L. 97-35, § 322(f)(1), substituted “one year” for “two years”.

Subsec. (f)(1). Pub. L. 97-35, § 322(f)(2), (3), substituted provisions respecting applicability of specific percentage of tenant’s adjusted income, for provisions respecting applicability of specific percentage of tenant’s income.

Subsec. (f)(2). Pub. L. 97-35, § 322(f)(4)–(6), substituted provisions respecting applicability of specific percentage of tenant’s adjusted income, for provisions respecting applicability of specific percentage of tenant’s income, and struck out provisions relating to reduction of rental payment.

Subsec. (f)(3). Pub. L. 97-35, §§ 321(f)(3), 322(f)(7), struck out subpar. (A) which related to establishment of an initial operating expense level, redesignated subpar. (B) as entire provision and substituted “1982” for “1981”.

Subsec. (m). Pub. L. 97-35, § 322(f)(8), substituted provisions defining “income” as income from all sources of each member of the household, subject to certain exclusions, for provisions defining term “income” as income determined under section 1437f of title 42.

Subsec. (n). Pub. L. 97-35, § 331(e), substituted “1982” for “1981”.

1980—Subsec. (f)(3)(B). Pub. L. 96-399, § 204(b), substituted “September 30, 1981” for “October 15, 1980” in third sentence, and struck out “on or after October 1, 1978, or credited to such fund prior to October 1, 1978, but remaining unobligation on October 31, 1978,” in first sentence.

Pub. L. 96-372, § 2, substituted “October 15, 1980” for “September 30, 1980”.

Subsec. (n). Pub. L. 96-399, § 301(e), substituted “September 30, 1981” for “October 15, 1980”.

Pub. L. 96-372, § 1(e), substituted “October 15, 1980” for “September 30, 1980”.

Subsec. (q). Pub. L. 96-399, § 211, added subsec. (q).

1979—Subsec. (f)(3)(B). Pub. L. 96-153, § 205(b), substituted “after October 1, 1978, or credited to such fund prior to October 1, 1978, but remaining unobligated on October 31, 1978,” for “after October 1, 1978,” and in provision relating to the restriction on approval of funds, substituted “September 30, 1980” for “September 30, 1979”.

Subsec. (m). Pub. L. 96-153, § 203(b), substituted definition of “income” by reference to section 1437f of title 42 for provisions requiring deduction of \$300 for each minor member of the family in determining the income and further providing that the earnings of a minor not be included in the income of person or family.

Subsec. (n). Pub. L. 96-153, § 301(e), substituted “September 30, 1980” for “November 30, 1979”.

Pub. L. 96-105 substituted “November 30, 1979” for “October 31, 1979”.

Pub. L. 96-71 substituted “October 31, 1979” for “September 30, 1979”.

1978—Subsec. (f)(3). Pub. L. 95-557, § 201(k)(1), formerly § 201(i)(1), designated existing provisions as par. (A), substituted “For each fiscal year prior to the fiscal year 1979, the” for “The”, and added par. (B).

Subsec. (g). Pub. L. 95-557, § 201(k)(2), formerly § 201(i)(2), struck out provisions authorizing, that if during any period the balance in reserve fund was adequate to meet additional assistance payments, such excess charges be credited to the appropriation authorized by subsec. (i), and be available until the end of the next fiscal year for purpose of making assistance payments with respect to rental housing projects, and that for purpose of this subsection and par. (3) of subsec. (f), initial operating expense level for any project assisted under a contract entered into prior to Oct. 12, 1977, be established by the Secretary not later than 180 days after Oct. 12, 1977.

Subsec. (n). Pub. L. 95-557, § 301(e), substituted “September 30, 1979” for “October 31, 1978”.

Pub. L. 95-406 substituted “October 31, 1978” for “September 30, 1978”.

1977—Subsec. (f)(3). Pub. L. 95-128, § 206(a), (b), substituted “The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) of this section and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level.” for “At any time subsequent to the establishment of an initial operating expense level, the Secretary is authorized to make, and contract to make, additional assistance payments to the project owner in an amount up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level, but not to exceed the amount required to maintain the basic rentals of any units at levels not in excess of 30 per centum or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in clause (ii) of the last sentence of para-

graph (1), of the income of tenants occupying such units.”, inserted sentence “Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project.”, and substituted “Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments.” for “Any contract to make additional assistance payments may be amended periodically to provide for appropriate adjustments in the amount of the assistance payments.”; and substituted in last sentence “unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not” for “only if the Secretary finds that the increase in the cost of utilities or local property taxes, is reasonable and is”.

Subsec. (g). Pub. L. 95-128, §206(c), substituted date of enactment of Pub. L. 95-128, which is October 12, 1977, for date of enactment of Pub. L. 93-383, which was August 22, 1974.

Subsec. (n). Pub. L. 95-128, §301(e), substituted “September 30, 1978” for “September 30, 1977”.

1976—Subsec. (f)(2). Pub. L. 94-375, §4(b), inserted “(including the amount allowed for utilities in the case of a project with separate utility metering)” after “basic rentals” and “reduce the rental payment”, and struck out “or such lower per centum as may be established pursuant to the provisions of clause (ii) of the last sentence of paragraph (1)” after “25 per centum of their income” and “25 per centum of the tenant’s income”.

Subsec. (n). Pub. L. 94-375, §4(a), substituted “September 30, 1977” for “June 30, 1976”.

1975—Subsec. (j)(5)(C). Pub. L. 94-173 struck out provision limiting to 10 per centum the number of dwelling units available to lower income persons under the age of 62.

1974—Subsec. (f). Pub. L. 93-383, §212(1), (2), redesignated existing subsec. (f) as (f)(1) and cls. (1) and (2) as (A) and (B), respectively, and inserted provisions relating to separate utility metering and pars. (2) and (3).

Subsec. (g). Pub. L. 93-383, §212(3), substituted provisions authorizing the creation of a reserve fund of excess rental charges and providing for use of such fund for making additional assistance payments, for provisions authorizing the Secretary to deposit excess charges in a revolving fund used for making interest reduction payments to any housing project receiving assistance, and authorizing investment of monies in United States obligations.

Subsec. (i)(1). Pub. L. 93-383, §212(4), inserted authorization for increase by \$75,000,000 on July 1, 1974.

Subsec. (i)(2). Pub. L. 93-383, §212(5), substituted provisions relating to contracts for assistance payments and income limitations with respect to families involved in such contracts, for provisions relating to contracts for interest reduction payments, income limitations with respect to families involved in such contracts, and semiannual reports to Congressional Committees on income levels of families living in assisted projects.

Subsec. (i)(3). Pub. L. 93-383, §212(5), substituted provisions relating to availability of not less than 10 per centum of the total amount of contracts for assistance payments, for provisions relating to contracts for not more than 10 per centum of the total amount of interest reduction payments.

Subsec. (i)(4). Pub. L. 93-383, §212(5), added par. (4).

Subsec. (n). Pub. L. 93-383, §212(6), substituted “June 30, 1976” for “October 1, 1974”.

Subsec. (p). Pub. L. 93-383, §212(7), added subsec. (p). 1973—Subsec. (n). Pub. L. 93-117 substituted “October 1, 1974” for “October 1, 1973”.

Pub. L. 93-85 substituted “October 1, 1973” for “June 30, 1973”.

1972—Subsec. (n). Pub. L. 92-503 substituted “June 30, 1973” for “October 1, 1972”.

1970—Subsec. (b). Pub. L. 91-609, §§108, 118(a), inserted definition of “mortgage insurance premium” and substituted “which may involve either new or existing construction and which” for “which prior to completion of construction or rehabilitation” before “is approved”, respectively.

Subsec. (g). Pub. L. 91-609, §117(c), provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Subsec. (i)(1). Pub. L. 91-609, §§102(b), 121(b), in second sentence inserted “outstanding” before “contracts” where first appearing and substituted “\$150,000,000 on July 1, 1970” and “\$200,000,000 on July 1, 1971” for “\$125,000,000 on July 1, 1970” and “\$170,000,000 on July 1, 1971”, respectively, and in first sentence inserted “by the Secretary” after “entered into”.

Subsec. (i)(3). Pub. L. 91-609, §114[115](b)(2), added par. (3).

Subsec. (j)(5). Pub. L. 91-609, §§114(b), 114[115](b)(1), provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project, but dispensed with need for kitchen facilities in dwelling units in projects for displaced, elderly, or handicapped families.

Subsec. (n). Pub. L. 91-609, §101(e), substituted “October 1, 1972” for “October 1, 1971”.

Subsec. (o). Pub. L. 91-609, §121(a), added subsec. (o). See Codification note above.

1969—Subsec. (b). Pub. L. 91-152, §§108, 418(b), inserted proviso authorizing the Secretary to continue making interest reduction payments where the mortgage has been assigned to him, and inserted “mortgage or part thereof on a” after “with respect to a”.

Subsec. (i)(1). Pub. L. 91-152, §107(b), substituted “\$125,000,000 on July 1, 1969, by \$125,000,000 on July 1, 1970, and by \$170,000,000 on July 1, 1971” for “\$100,000,000 on July 1, 1969, and by \$125,000,000 on July 1, 1970”.

Subsec. (i)(2). Pub. L. 91-152, §412(c), required the Secretary to report semiannually instead of annually to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (n). Pub. L. 91-152, §101(e), added subsec. (n).

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-569 effective Dec. 27, 2000, unless effectiveness or applicability upon another date certain is specifically provided for, with provisions relating to effect of regulatory authority, see section 803 of Pub. L. 106-569, set out as a note under section 1701q of this title.

### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-74, title V, §532(f), Oct. 20, 1999, 113 Stat. 1119, provided that: “This section [amending this section and enacting provisions set out as a note below] shall take effect, and the amendments made by this section are made and shall apply, on the date of the enactment of this Act [Oct. 20, 1999].”

### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 106-74, title V, §532(e), Oct. 20, 1999, 113 Stat. 1118, provided that: “Section 236(g) of the National Housing Act (12 U.S.C. 1715z-1(g)), as amended by section 227 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Public Law 105-276; 112 Stat. 2490) shall be effective on the date of the enactment of such Public Law 105-276 [Oct. 21, 1998], and any excess rental charges referred to in such section that have been collected since such date of the enactment with respect to projects with mortgages insured under section 207 of the National Housing Act (12 U.S.C. 1713) may be retained by the project owner unless the Secretary of Housing and Urban Development specifi-

cally provides otherwise. The Secretary may return any excess charges remitted to the Secretary since such date of the enactment.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by section 203(b) of Pub. L. 96-153 effective Dec. 21, 1979, and maximum amount of tenant contribution applicable, see section 203(c) of Pub. L. 96-153, formerly set out as a note under section 1701s of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-557, title II, §201(k), formerly (i), Oct. 31, 1978, 92 Stat. 2087, as redesignated by Pub. L. 97-35, title III, §321(f)(2)(A), Aug. 13, 1981, 95 Stat. 400, provided that the amendment made by that section is effective Oct. 1, 1978.

#### EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Pub. L. 95-128, title II, §206(d), Oct. 12, 1977, 91 Stat. 1130, provided that: “The amendments made by this section [amending this section] shall become effective on October 1, 1977, and shall apply to assistance payments pursuant to section 236(f)(3) of the National Housing Act [12 U.S.C. 1715z-1(f)(3)] with respect only to periods commencing on or after such date.”

#### UNCOMMITTED BALANCES OF EXCESS RENTAL CHARGES

Pub. L. 110-161, div. K, title II, Dec. 26, 2007, 121 Stat. 2425, which provided in part for transfer from the Rental Housing Assistance Fund of all uncommitted balances of excess rental charges as of Sept. 30, 2007, and any collections made during fiscal year 2008 and all subsequent fiscal years, to the Flexible Subsidy Fund, was repealed by Pub. L. 113-76, div. L, title II, §232, Jan. 17, 2014, 128 Stat. 634.

Similar provisions were contained in the following prior appropriations acts:

Pub. L. 109-115, div. A, title III, Nov. 30, 2005, 119 Stat. 2453, repealed by Pub. L. 112-55, div. C, title II, §235, Nov. 18, 2011, 125 Stat. 702.

Pub. L. 108-447, div. I, title II, Dec. 8, 2004, 118 Stat. 3308, repealed by Pub. L. 112-55, div. C, title II, §235, Nov. 18, 2011, 125 Stat. 702.

Pub. L. 108-199, div. G, title II, Jan. 23, 2004, 118 Stat. 385.

Pub. L. 108-7, div. K, title II, Feb. 20, 2003, 117 Stat. 494.

Pub. L. 107-73, title II, Nov. 26, 2001, 115 Stat. 669.

Pub. L. 106-377, §1(a)(1) [title II], Oct. 27, 2000, 114 Stat. 1441, 1441A-19.

Pub. L. 106-74, title II, Oct. 20, 1999, 113 Stat. 1064.

Pub. L. 105-276, title II, Oct. 21, 1998, 112 Stat. 2480.

Pub. L. 105-65, title II, Oct. 27, 1997, 111 Stat. 1361.

Pub. L. 104-134, title I, §101(e) [title II], Apr. 26, 1996, 110 Stat. 1321-257, 1321-270.

#### SUBMISSION OF ELECTRONIC INVOICES

Pub. L. 109-115, div. A, title III, §325, Nov. 30, 2005, 119 Stat. 2466, provided that: “Notwithstanding any other provision of law, for fiscal year 2006 and thereafter, all mortgagees receiving interest reduction payments under section 236 of the National Housing Act (12 U.S.C. 1715z-1) shall submit only electronic invoices to the Department of Housing and Development in order to receive such payments. The mortgagees shall comply with this requirement no later than 90 days from the date of enactment of this provision [Nov. 30, 2005].”

#### TREATMENT OF EXCESS CHARGES PREVIOUSLY COLLECTED

Pub. L. 106-569, title VIII, §861(b), Dec. 27, 2000, 114 Stat. 3025, provided that: “Any excess charges that a

project owner may retain pursuant to the amendments made by subsections (b) and (c) of section 532 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1116) [amending this section] that have been collected by such owner since the date of the enactment of such appropriations Act [Oct. 20, 1999] and that such owner has not remitted to the Secretary of Housing and Urban Development may be retained by such owner unless such Secretary otherwise provides. To the extent that a project owner has remitted such excess charges to the Secretary since such date of the enactment, the Secretary may return to the relevant project owner any such excess charges remitted. Notwithstanding any other provision of law, amounts in the Rental Housing Assistance Fund, or heretofore or subsequently transferred from the Rental Housing Assistance Fund to the Flexible Subsidy Fund, shall be available to make such return of excess charges previously remitted to the Secretary, including the return of excess charges referred to in section 532(e) of such appropriations Act [see Effective Date of 1998 Amendment note above].”

#### RENTAL HOUSING ASSISTANCE; EXTENSION OF TIME WITHIN WHICH TO SUBMIT APPLICATION

Pub. L. 101-45, title II, June 30, 1989, 103 Stat. 127, provided: “That notwithstanding the second sentence of such section 236(r) [12 U.S.C. 1715z-1(r)], an application shall be eligible for assistance under such section if the mortgagee submits an application within five hundred and forty-eight days after the effective date of this Act [June 30, 1989].”

#### DIRECT FINANCING STUDY BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND SECRETARY OF THE TREASURY; REPORT TO CONGRESS; TRANSMITTAL NOT LATER THAN ONE YEAR AFTER AUGUST 22, 1974

Pub. L. 93-383, title VIII, §822, Aug. 22, 1974, 88 Stat. 740, directed Secretary of Housing and Urban Development and Secretary of the Treasury to study feasibility of financing programs authorized under section 236 of the National Housing Act [this section] and section 802 of this Act [42 U.S.C. 1440] through various financing methods, including direct loans from Federal Financing Bank, with a view to determining whether there was any method that would result in net savings to Federal Government (after taking into account direct and indirect effects of such method) and to transmit to Congress a report on study not later than one year after Aug. 22, 1974.

#### TRANSFER OF INSURANCE OF MORTGAGES NOT FINALLY ENDORSED FOR INSURANCE UNDER SECTION 1715l(d)(3) OF THIS TITLE

Pub. L. 90-448, title II, §201(c), Aug. 1, 1968, 82 Stat. 502, provided that: “The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to transfer to section 236(j) of the National Housing Act [12 U.S.C. 1715z-1(j)] the insurance of a mortgage which has not been [sic] finally endorsed for insurance under section 221(d)(3) of such Act [12 U.S.C. 1715l(d)(3)] and which has been approved for the below-market interest rate prescribed in the proviso of section 221(d)(5) of such Act [12 U.S.C. 1715l(d)(5)].”

#### INSURANCE OF MORTGAGES GIVEN TO REFINANCE MORTGAGE LOANS MADE UNDER SECTION 1701q OF THIS TITLE

Pub. L. 90-448, title II, §201(d), Aug. 1, 1968, 82 Stat. 502, provided that: “The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to insure under section 236(j) of the National Housing Act [12 U.S.C. 1715z-1(j)] a mortgage meeting the requirements of such section which is given to refinance a mortgage loan made under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q]: *Provided*, That the application for such insur-

ance is filed with the Secretary on or before the date of project completion, or within such reasonable time thereafter as the Secretary may permit.”

CEILING ON TOTAL INTEREST REDUCTION PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90-608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act [this section] shall not exceed \$25,000,000.

Pub. L. 91-47, title II, § 201, July 22, 1969, 83 Stat. 53, increased by \$45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (82 Stat. 498) [this section].

**§ 1715z-1a. Assistance for troubled multifamily housing projects**

**(a) Purpose**

The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act [12 U.S.C. 1701 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing Act of 1959, or the Housing and Urban Development Act of 1965, without regard to whether such projects are insured under the National Housing Act.

**(b) Availability of financial assistance**

The Secretary of Housing and Urban Development (hereinafter referred to in this section as the “Secretary”) may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section, without regard to whether such projects are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

**(c) Eligibility for financial assistance**

A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) is assisted under section 236 [12 U.S.C. 1715z-1] or the proviso of section 221(d)(5) of the National Housing Act [12 U.S.C. 1715f(d)(5)], or under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or received a loan under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] more than 15 years before the date on which assistance is made available under this section;

(B) is assisted under section 23 of the United States Housing Act of 1937 [42 U.S.C. 1421b], as in effect immediately before January 1, 1975, section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] following conversion to such assistance from assistance under section 236 of the National Housing Act [12 U.S.C. 1715z-1] or section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

(C) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

**(d) Criteria for granting financial assistance**

No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial or physical soundness of the project and maintain the low- and moderate-income character of the project, and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act [12 U.S.C. 1701 et seq.], has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine;

(4) the project is or can reasonably be made structurally sound, as determined on the basis of information obtained as a result of an on-site inspection of the project;

(5) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary;

(6) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which includes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine; except that the Secretary may excuse an owner from compliance with

the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved;

(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

(8) the project has a feasible plan to involve the residents in project decisions;

(9) the affirmative fair housing marketing plan meets applicable requirements; and

(10) the owner certifies that it will comply with various equal opportunity statutes.

**(e) Consultation with local officials**

Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that—

(1) the community in which the project is located is or will provide essential services to the project in keeping with the community's general level of such services;

(2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(3) assistance to the project under this section would not be inconsistent with local plans and priorities.

**(f) Amount of financial assistance**

(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project (except a project assisted only for capital improvements) in any amount which the Secretary determines is consistent with the project's management-improvement-and-operating plan described in subsection (d)(6) and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items;

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year; and

(D) an amount determined by the Secretary to be necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.

(2) The estimated revenues for any project under paragraph (1)(C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act [12 U.S.C. 1715z-1(f)(1)];

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 221(d)(5) or section 236 of the National Housing Act [12 U.S.C. 1715(d)(5) or 1715z-1] during such year; and

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent (or such lesser percentage as is provided for under any other Federal housing assistance program in which such tenant is participating) of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii) which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act [12 U.S.C. 1715z-1(f)(1)] for such tenant; and

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not more than 6 per centum of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first three years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the manage-

ment-improvement-and-operating plan for the project for such year, including, but not limited to, taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act [12 U.S.C. 1715z-1(f)(1)], provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments made for the project under this section.

(4) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year for a project (other than a project receiving assistance only for capital improvements) may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

**(g) Rules and regulations**

The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including regulations requiring the establishment of a project reserve or such other safeguards as the Secretary determines to be necessary for the financial soundness of any project for which assistance payments are provided, to the extent applicable.

**(h) Limitation on use of financial assistance**

The Secretary may not use any of the assistance available under this section during any fiscal year beginning on or after October 1, 1981, to supplement any contract to make rental assistance payments which was made pursuant to section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s].

**(i) Repealed. Pub. L. 103-233, title I, § 103(b)(1), Apr. 11, 1994, 108 Stat. 359**

**(j) Flexible Subsidy Fund**

(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements) and shall not

(except as provided in Public Law 100-4-4<sup>1</sup> (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose.

(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act [12 U.S.C. 1715z-1(g)]; (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)),<sup>2</sup> and (E) any amount received by the Secretary pursuant to section 537 of the National Housing Act [12 U.S.C. 1735f-15] and section 202a of the Housing Act of 1959 [12 U.S.C. 1701q-1].

(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(4) The Secretary shall, to the extent of approvable applications and subject to paragraph (1), use not less than \$30,000,000 or 40 percent (whichever is less) of the amounts available from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section. Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.

(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed \$52,200,000 for fiscal year 1993 and \$54,392,400 for fiscal year 1994.

**(k) Assistance for capital improvements; loans as medium of assistance; owner contributions; priority of projects**

(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate.

(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard es-

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. The comma probably should be a semicolon.

established by the Secretary for management of such reserve funds.

**(l) Amount of assistance for capital improvements; term of loan; rate of interest; allowance for administrative costs and probable program losses; nondischargeable liability; other forms for loans**

(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) and the sum of—

(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 794 of title 29.

(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

(i) such rate shall not be more than 3 percentage points below a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding date on which the loan is made, adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11.

(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate. The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and

moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term “remaining useful life” means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

**(m) Rental payment increases; minimization of increases**

(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)] were applicable to such residents, or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987, the Secretary may take any or all of the following actions:

(A) Provide assistance with respect to such project under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], to the extent amounts are available for such assistance and without regard to section 16 of such Act [42 U.S.C. 1437n].

(B) Notwithstanding subsection (l)(2)(B), reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2), if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.

(E) Permit repayment of the debt service to be deferred as long as the low and moderate income character of the project is maintained in accordance with subsection (d).

**(n) Allocation of assistance**

**(1) Set-aside**

In providing, and contracting to provide, assistance for capital improvements under this section, in each fiscal year the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency

Low Income Housing Preservation Act of 1987, as such section existed before November 28, 1990. The Secretary may make such assistance available on a noncompetitive basis.

**(2) General rules for allocation**

Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

(A) may award assistance on a noncompetitive basis; and

(B) shall award assistance to eligible projects on the basis of—

(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

**(3) Exceptions**

The Secretary may make exceptions to selection criteria set forth in paragraph (2)(B) to permit the provision of assistance to eligible projects based upon—

(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

**(4) Considerations**

In providing assistance under this section, the Secretary shall take into consideration—

(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative requirements.

**(o) Coordination of assistance**

The Secretary shall coordinate the allocation of assistance under this section with assistance made available under section 8(v) of the United States Housing Act of 1937 [42 U.S.C. 1437f(v)] and section 1701z-11 of this title to enhance the cost effectiveness of the Federal response to troubled multifamily housing.

**(p) Enhanced voucher eligibility**

Notwithstanding any other provision of law, any project that receives or has received assistance under this section and which is the subject of a transaction under which the project is preserved as affordable housing, as determined by

the Secretary, shall be considered eligible low-income housing under section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4119) for purposes of eligibility of residents of such project for enhanced voucher assistance provided under section 8(t) of the United States Housing Act of 1937 (42 U.S.C. 1437f(t)) (pursuant to section 223(f) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4113(f))).

(Pub. L. 95-557, title II, §201, Oct. 31, 1978, 92 Stat. 2084; Pub. L. 96-153, title II, §§205(a), 211(c), Dec. 21, 1979, 93 Stat. 1108, 1110; Pub. L. 96-399, title II, §204(a), Oct. 8, 1980, 94 Stat. 1629; Pub. L. 97-35, title III, §§321(f)(1), (2), 329C, Aug. 13, 1981, 95 Stat. 399, 400, 409; Pub. L. 98-181, title I [title II, §217(a), (b)], Nov. 30, 1983, 97 Stat. 1186; Pub. L. 98-479, title II, §204(n)(1), (2), Oct. 17, 1984, 98 Stat. 2234; Pub. L. 100-242, title I, §§185, 186(b), Feb. 5, 1988, 101 Stat. 1873, 1877; Pub. L. 100-628, title X, §1011(a), Nov. 7, 1988, 102 Stat. 3268; Pub. L. 101-235, title I, §109(c), title II, §203(a)(2), Dec. 15, 1989, 103 Stat. 2011, 2037; Pub. L. 101-625, title V, §578(b), (c), Nov. 28, 1990, 104 Stat. 4244, 4245; Pub. L. 102-550, title IV, §§405, 406, 408(a), Oct. 28, 1992, 106 Stat. 3776, 3778; Pub. L. 103-233, title I, §103(b), Apr. 11, 1994, 108 Stat. 359; Pub. L. 105-276, title V, §550(g), Oct. 21, 1998, 112 Stat. 2610; Pub. L. 106-74, title V, §536, Oct. 20, 1999, 113 Stat. 1121.)

**Editorial Notes**

**REFERENCES IN TEXT**

The National Housing Act, as amended, referred to in subsecs. (a), (b), (c)(1)(A), and (d)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (a), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The Housing Act of 1959, referred to in subsec. (a), is Pub. L. 86-372, Sept. 23, 1959, 73 Stat. 654. For complete classification of this Act to the Code, see Short Title of 1959 Amendment note set out under section 1701 of this title and Tables.

The Housing and Urban Development Act of 1965, as amended, referred to in subsecs. (a), (c)(1)(A), (B), and (h), is Pub. L. 89-117, Aug. 10, 1965, 79 Stat. 451. Section 101 of the Act enacted section 1701s of this title and amended sections 1451 and 1465 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1965 Amendment note set out under section 1701 of this title and Tables.

Section 23 of the United States Housing Act of 1937, referred to in subsec. (c)(1)(B), was classified to section 1421b of Title 42 and was omitted in the general revision of the United States Housing Act of 1937 by Pub. L. 93-383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

Public Law 100-4-4 (102 Stat. 1018), referred to in subsec. (j)(1), probably means Pub. L. 100-404, Aug. 19, 1988, 102 Stat. 1014, known as the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989. Provisions appearing on 102 Stat. 1018 of Pub. L. 100-404 relating to transfer of funds from the “Flexible subsidy fund” for carrying out community development grants programs are not classified to the Code.



The Emergency Low Income Housing Preservation Act of 1987, referred to in subsecs. (m) and (n)(1), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and is classified principally to chapter 42 (§ 4101 et seq.) of this title. Section 224(b) and subtitle B of title II, which were formerly set out as a note under section 1715f of this title and which amended section 1715z-6 of this title, were amended generally by Pub. L. 101-625 on Nov. 28, 1990, and are classified generally to subchapter I (§ 4101 et seq.) of chapter 42 of this title. For provisions similar to those contained in former section 224(b), see section 4109(b) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsec. (n)(2)(B)(i), (3)(A), is Pub. L. 102-550, Oct. 28, 1992, 106 Stat. 3672. Title IV of the Act amended this section, section 1715z-1 of this title, and section 12710 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note below. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of Title 42 and Tables.

#### CODIFICATION

Another subsec. (k) of section 201 of Pub. L. 95-557 amended section 1715z-1 of this title.

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

#### AMENDMENTS

1999—Subsec. (p). Pub. L. 106-74 added subsec. (p).

1998—Subsec. (m)(2)(A). Pub. L. 105-276 substituted “section 8” for “section 8(b)(1)”.

1994—Subsec. (i). Pub. L. 103-233, § 103(b)(1), struck out subsec. (i) which read as follows: “Notwithstanding any other provision of law, in exercising any authority relating to the approval or disapproval of rentals charged tenants residing in projects which are eligible for assistance under this section, the Secretary—

“(1) shall consider whether the mortgagor could control increases in utility costs by securing more favorable utility rates, by undertaking energy conservation measures which are financially feasible and cost effective, or by taking other financially feasible and cost-effective actions to increase energy efficiency or to reduce energy consumption; and

“(2) may, in his discretion, adjust the amount of a proposed rental increase where he finds the mortgagor could exercise such control.”

Subsec. (k)(2). Pub. L. 103-233, § 103(b)(2), substituted a period for “, except that—

“(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

“(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such projects for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan;

“(C) The Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or an association; and

“(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.”

Subsec. (n). Pub. L. 103-233, § 103(b)(3), amended subsec. (n) generally. Prior to amendment, subsec. (n) read as follows:

“(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

“(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

“(B) The extent to which the project is financially troubled.

“(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992.

“(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

“(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

“(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

“(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.”

Subsecs. (o), (p). Pub. L. 103-233, § 103(b)(4) redesignated subsec. (p) as (o) and struck out former subsec. (o) which read as follows: “Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.”

1992—Subsec. (d)(5). Pub. L. 102-550, § 405(a)(1), struck out “and” at end.

Subsec. (d)(6). Pub. L. 102-550, § 406, which directed insertion, before period at end, of “; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved”, was executed by making the insertion before the concluding semicolon to reflect the probable intent of Congress and the intervening amendment by Pub. L. 102-550, § 405(a)(2). See below.

Pub. L. 102-550, § 405(a)(2), substituted semicolon for period at end.

Subsec. (d)(7) to (10). Pub. L. 102-550, § 405(a)(3), added pars. (7) to (10).

Subsec. (j)(5). Pub. L. 102-550, § 408(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: “There are authorized to be appropriated for assistance under the flexible subsidy fund not to exceed \$50,000,000 for fiscal year 1991 and \$52,200,000 for fiscal year 1992.”

Subsec. (k)(2)(D). Pub. L. 102-550, § 405(e), added subpar. (D).

Subsec. (k)(4). Pub. L. 102-550, § 405(b)(1), struck out par. (4) which read as follows: “In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall—

“(A) give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987; and

“(B) with respect to any amounts not required for projects under subparagraph (A), give priority among other projects based on the extent to which—

“(i) the capital improvements for which such assistance is requested are immediately required;

“(ii) the projects serve as the residences of lower income families, and the extent which other suitable housing is unavailable for such families in the areas in which such projects are located;

“(iii) the capital improvements for which such assistance is requested involve the life, safety, or health of the residents of the project or involve major capital improvements in the projects; and

“(iv) the projects demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (d)(1) of this section.”

Subsec. (l)(2)(D). Pub. L. 102-550, § 405(c), inserted at end “The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term ‘remaining useful life’ means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.”

Subsec. (n). Pub. L. 102-550, § 405(b)(2), added subsec. (n).

Subsec. (o). Pub. L. 102-550, § 405(d), added subsec. (o).  
Subsec. (p). Pub. L. 102-550, § 405(f), added subsec. (p).  
1990—Subsec. (j)(1). Pub. L. 101-625, § 578(c), inserted before period at end “and shall not (except as provided in Public Law 100-4-4 (102 Stat. 1018), as in effect on October 1, 1988) be made available for any other purpose”.

Subsec. (j)(5). Pub. L. 101-625, § 578(b), added par. (5).  
1989—Subsec. (j)(2). Pub. L. 101-235, § 109(c), added cl. (E).

Subsec. (m)(2). Pub. L. 101-235, § 203(a)(2)(B)(i), (ii), struck out “not subject to paragraph (1)” after “for a project” and inserted “, or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987” after second reference to “residents”.

Subsec. (m)(2)(B). Pub. L. 101-235, § 203(a)(2)(A), substituted “Notwithstanding subsection (l)(2)(B), reduce” for “Reduce”.

Subsec. (m)(2)(E). Pub. L. 101-235, § 203(a)(2)(B)(iii), added subpar. (E).

1988—Pub. L. 100-242, § 185(h), struck out “Operating” before “assistance” in section catchline.

Subsec. (a). Pub. L. 100-242, § 185(a), inserted “to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing,” after “management,”.

Pub. L. 100-242, § 186(b)(1), inserted reference to Housing Act of 1959.

Subsec. (c)(1)(A). Pub. L. 100-242, § 186(b)(2), inserted before semicolon at end “, or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section”.

Subsec. (c)(1)(B). Pub. L. 100-242, § 185(b), inserted “section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975,” after “is assisted under”.

Subsec. (d)(1). Pub. L. 100-242, § 185(c)(1), inserted “or physical” after “maintain the financial”.

Subsec. (d)(6). Pub. L. 100-242, § 185(c)(2), inserted at end “; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section”.

Subsec. (f)(1). Pub. L. 100-242, § 185(d)(1), inserted parenthetical exception relating to projects assisted only for capital improvements.

Subsec. (f)(4). Pub. L. 100-242, § 185(d)(2), substituted “payments for any year for a project (other than a project receiving assistance only for capital improvements) may not exceed” for “payments for any year may not exceed”.

Subsec. (g). Pub. L. 100-242, § 185(e), inserted “, to the extent applicable” after “provided”.

Subsec. (j). Pub. L. 100-242, § 185(f), in amending subsec. (j) generally, substituted provisions relating to the

establishment, contents, and use of a revolving fund to be known as the Flexible Subsidy Fund, for provisions authorizing appropriations under this section for fiscal years 1979 through 1982.

Subsec. (j)(4). Pub. L. 100-628 substituted “shall, to the extent of approvable applications and subject to paragraph (1), use not less than \$30,000,000 or 40 percent (whichever is less) of the amounts available” for “may use not more than \$50,000,000”; and inserted at end “Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.”

Subsecs. (k) to (m). Pub. L. 100-242, § 185(g), added subsecs. (k) to (m).

1984—Subsec. (c). Pub. L. 98-479, § 204(n)(1), substituted “A” for “a” in provisions before subpar. (A).

Subsec. (j). Pub. L. 98-479, § 204(n)(2), substituted “section 236(f)(3)” for “section 236(f)(3)(B)”.

1983—Subsec. (a). Pub. L. 98-181, § 217(a)(1), (b)(1), inserted “without regard to whether such projects are insured under the National Housing Act”, and substituted “, the United States Housing Act of 1937, or” for “or under”.

Subsec. (b). Pub. L. 98-181, § 217(a)(2), inserted “, without regard to whether such projects are insured under the National Housing Act”.

Subsec. (c)(1)(A). Pub. L. 98-181, § 217(a)(3), struck out “; except that, in the case of any such project which is not insured under the National Housing Act such assistance may not be provided before October 1, 1979” after “Act of 1965”.

Subsec. (c)(1)(B), (C). Pub. L. 98-181, § 217(b)(2), added subpar. (B) and redesignated former subpar. (B) as (C).  
1981—Subsec. (f)(1)(D). Pub. L. 97-35, § 329C(1), added subpar. (D).

Subsec. (h). Pub. L. 97-35, § 321(f)(2), added subsec. (h).  
Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 97-35, § 329C(2), added subsec. (i).

Subsec. (j). Pub. L. 97-35, § 321(f)(1), (2)(A), redesignated former subsec. (h) as (j) and authorized appropriation for fiscal year 1982.

1980—Subsec. (h). Pub. L. 96-399 authorized appropriations for fiscal year 1981.

1979—Subsec. (d)(1). Pub. L. 96-153, § 211(c), inserted requirement that the owner agree to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage.

Subsec. (h). Pub. L. 96-153, § 205(a), authorized appropriations for fiscal year 1980.

## Statutory Notes and Related Subsidiaries

### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by title V of Pub. L. 105-276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105-276, set out as a note under section 1437 of Title 42, The Public Health and Welfare.

### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-233, title I, § 103(c), Apr. 11, 1994, 108 Stat. 360, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) [amending this section and provisions set out below] shall apply with respect to amounts made available for fiscal year 1994 and fiscal years thereafter.

“(2) EXCEPTION.—Section 201(n)(1) of the Housing and Community Development Amendments of 1978 [subsec. (n)(1) of this section] (as added by the amendment made by subsection (b)(3) of this section) shall take effect on the date of enactment of this Act [Apr. 11, 1994].

“(3) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish any require-

ments necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into consideration any public comments received."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### ALTERNATIVE USES FOR PREVENTION OF DEFAULT

Pub. L. 103-233, title I, §103(h), Apr. 11, 1994, 108 Stat. 362, provided that:

"(1) IN GENERAL.—Subject to notice to and comment by existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.], the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

"(A) such other uses are acceptable to the Secretary;

"(B) such other uses would be otherwise insurable under title II of the National Housing Act;

"(C) the outstanding principal balance on the mortgage covering such project is not increased;

"(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

"(E) such other use serves a public purpose.

"(2) DISPLACEMENT PROTECTION.—The Secretary may take actions under paragraph (1) only if—

"(A) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] is made available to each eligible family residing in the project that is displaced as a result of such actions; and

"(B) the Secretary determines that sufficient habitable, affordable (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z-11(b)]) rental housing is available in the market area in which the project is located to ensure use of such assistance.

"(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received."

#### MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

Pub. L. 102-550, title IV, §§401-404, Oct. 28, 1992, 106 Stat. 3773-3775, as amended by Pub. L. 103-233, title I, §103(a)(1)-(5), Apr. 11, 1994, 108 Stat. 358, 359, provided that:

#### "SEC. 401. DEFINITIONS.

"For purposes of this title [amending this section, section 1715z-1 of this title and section 12710 of Title 42, The Public Health and Welfare]:

"(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term 'covered multifamily housing property' means any housing—

"(A) that is—

"(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959 [12 U.S.C. 1701q(d)(1)];

"(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made

by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625]);

"(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act [12 U.S.C. 1715z-1]; or

"(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act [12 U.S.C. 1715f(d)(3)]; and

"(B) that is not eligible for assistance under—

"(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.];

"(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 [see References in Text note above] (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990]); or

"(iii) the HOME Investment Partnerships Act [42 U.S.C. 12721 et seq.].

"(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term 'covered multifamily housing property for the elderly' means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

"(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

#### "SEC. 402. REQUIRED SUBMISSION.

"(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title. The assessment shall be prepared by an entity that does not have an identity of interest with the owner.

"(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

"(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

"(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.

#### "SEC. 403. CONTENTS.

"(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

"(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

"(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

"(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

"(4) A description of any assistance needed for the property under programs administered by the Secretary.

"(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to

the information required under subsection (a), the following information with respect to the property:

“(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

“(2) A description of any modernization needs and activities for the property.

“(3) A description of any personnel needs for the property.

“SEC. 404. SUBMISSION AND REVIEW.

“(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

“(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

“(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974 [42 U.S.C. 1440]), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

“(d) REVIEW.—

“(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment and shall notify the owner of the property for which the assessment was submitted of the findings of such review.

“(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

“(A) notify the owner of the portion or portions of the assessment requiring completion or other revision; and

“(B) require the owner to submit an amended assessment to the Secretary not later than 30 days after such notification.

“(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed \$5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

“(f) PUBLICATION OF METHOD FOR RECEIVING CAPITAL NEEDS ASSESSMENT.—The Secretary shall cause to be published in the Federal Register the method by which the Secretary determines which capital needs assessments will be received each year in accordance with section 402(b) and subsection (d) of this section.

“(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

“(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

“(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as con-

gregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

“(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

“(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705].

“(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in section 402(b) and any findings and recommendations of the Secretary pursuant to the review.”

[For termination, effective May 15, 2000, of reporting provisions in section 404(g)(2) of Pub. L. 102-550, set out above, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 104 of House Document No. 103-7.]

FUNDING OF MULTIFAMILY HOUSING PROJECTS; OPERATING, CAPITAL IMPROVEMENT AND LOAN MANAGEMENT ASSISTANCE; AMOUNTS

Pub. L. 102-550, title IV, § 409, as added by Pub. L. 103-233, title I, § 103(a)(6), Apr. 11, 1994, 108 Stat. 359, provided that:

“(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

“(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978 [Pub. L. 95-557, enacting this section, amending section 1715z-1 of this title, and enacting provisions set out as a note under section 1715z-1 of this title], except for assistance set aside under section 201(n)(1) [subsec. (n)(1) of this section].

“(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

“(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments of 1978.

“(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.”

CAPITAL ASSESSMENT STUDY

Pub. L. 101-235, title II, § 204(c), Dec. 15, 1989, 103 Stat. 2040, as amended by Pub. L. 101-625, title V, § 583, Nov. 28, 1990, 104 Stat. 4249, directed Secretary of Housing and Urban Development to conduct a study to determine physical renovation needs of Nation's federally-assisted multifamily housing inventory that is distressed, to estimate cost of correcting deficiencies and

subsequently maintaining that inventory in adequate physical condition, and to establish criteria to determine what housing qualifies as distressed, with such criteria to include factors such as serious deficiencies in original design, deferred maintenance, physical deterioration or obsolescence of major systems and other serious deficiencies in physical plant of a project, such study to examine and assess adequacy of existing tools that are available to the Secretary for modernization efforts including mortgage insurance for rehabilitation loans, operating assistance and capital improvement loans under the Flexible Subsidy Program, with a detailed examination and assessment of Flexible Subsidy Program required, and rental assistance, and not later than Mar. 1, 1992, to submit to Congress a detailed report setting forth findings as a result of the study.

NATIONAL COMMISSION ON SEVERELY DISTRESSED  
PUBLIC HOUSING

Pub. L. 101-235, title V, Dec. 15, 1989, 103 Stat. 2048, as amended by Pub. L. 102-550, title I, §127(a), Oct. 28, 1992, 106 Stat. 3710, established a National Commission on Severely Distressed Public Housing to identify those public housing projects in the Nation that are in a severe state of distress, to assess most promising strategies to improve condition of severely distressed public housing projects that have been implemented by public housing authorities, other Government agencies at Federal, State and local level, public housing tenants, and private sector, and to develop national action plan to eliminate by year 2000 unfit living conditions in public housing projects determined by Commission to be most severely distressed, provided for membership, functions, and powers of the Commission, directed that, not later than 12 months after Commission is established, Commission submit a final report to Secretary and to Congress containing information, evaluations, and recommendations, authorized appropriations for Commission of not to exceed \$2,000,000 for fiscal year 1990 and \$1,000,000 for fiscal year 1991, and terminated Commission at the end of Sept. 30, 1992.

MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE;  
REGULATIONS FOR IMPLEMENTATION OF PROGRAM

Pub. L. 100-628, title X, §1011(b), Nov. 7, 1988, 102 Stat. 3268, provided that: "To implement the amendments made by section 185 of the Housing and Community Development Act of 1987 [Pub. L. 100-242, amending this section], the Secretary of Housing and Urban Development shall issue regulations that become effective not later than February 5, 1989."

**§ 1715z-1b. Tenant participation in multifamily housing projects**

**(a) Purpose; definitions**

The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term "multifamily housing project" means a project which is eligible for assistance as described in section 1715z-1a(c) of this title or section 1701q of this title, or a project which receives project-based assistance under section 1437f of title 42 or enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.], the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997.

**(b) Rights of tenants**

The Secretary shall assure that—

(1) where the Secretary's written approval is required with respect to an owner's request for rent increase, conversion of residential rental units to any other use (including commercial use or use as a unit in any condominium or cooperative project), partial release of security, or major physical alterations or where the Secretary proposes to sell a mortgage secured by a multifamily housing project, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions (and in the case of a project owned by the Secretary, any proposed disposition of the project) and that such comments are taken into consideration by the Secretary;

(2) project owners not interfere with the efforts of tenants to obtain rent subsidies or other public assistance;

(3) leases approved by the Secretary provide that tenants may not be evicted without good cause or without adequate notice of the reasons therefor and do not contain unreasonable terms and conditions; and

(4) project owners do not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.

**(c) Regulations**

The Secretary shall promulgate regulations to carry out the provisions of this section not later than 90 days after October 31, 1978.

(Pub. L. 95-557, title II, §202, Oct. 31, 1978, 92 Stat. 2088; Pub. L. 97-35, title III, §329F, Aug. 13, 1981, 95 Stat. 410; Pub. L. 100-242, title I, §183(a), (b), Feb. 5, 1988, 101 Stat. 1872; Pub. L. 105-276, title V, §599(a), Oct. 21, 1998, 112 Stat. 2660.)

**Editorial Notes**

REFERENCES IN TEXT

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (a), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which is classified principally to chapter 42 (§4101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (a), is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitles A and B of title II, which were formerly set out as a note under section 1715f of this title and which amended section 1715z-6 of this title, were amended generally by Pub. L. 101-625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitles C and D of title II amended section 1715z-15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare. Another subtitle C of title II of Pub. L. 100-242, as added by Pub. L. 102-550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsec. (a), is title V of Pub. L. 105-65, Oct. 27, 1997, 111 Stat. 1384. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1701 of this title and Tables.

## CODIFICATION

This section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

## AMENDMENTS

1998—Subsec. (a). Pub. L. 105-276 inserted before period at end “, or a project which receives project-based assistance under section 1437f of title 42 or enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997”.

1988—Subsec. (a). Pub. L. 100-242, § 183(a), inserted reference to section 1701q of this title.

Subsec. (b)(1). Pub. L. 100-242, § 183(b), substituted “or where the Secretary proposes to sell a mortgage secured by a multifamily housing project” for “and the Secretary deems it appropriate”.

1981—Subsec. (b)(1). Pub. L. 97-35 substituted provisions relating to request by the owner for rent increases, etc., for provisions relating to action by the owner.

## Statutory Notes and Related Subsidiaries

## EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, § 599(b), Oct. 21, 1998, 112 Stat. 2660, provided that: “The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

## EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

**§ 1715z-1c. Regulation of rents in insured projects**

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act [12 U.S.C. 1701 et seq.] if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 1437f of title 42 (other than under the existing housing certificate program of section 1437f(b)(1) of title 42); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 1437a(a)(2)<sup>1</sup> of title 42).

(Pub. L. 100-242, title IV, § 425, Feb. 5, 1988, 101 Stat. 1915.)

<sup>1</sup> Probably should be a reference to section 1437a(b)(2).

## Editorial Notes

## REFERENCES IN TEXT

The National Housing Act, as amended, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

## CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

**§ 1715z-2. Repealed. Pub. L. 110-289, div. B, title I, § 2120(a)(6), July 30, 2008, 122 Stat. 2835**

Section, act June 27, 1934, ch. 847, title II, § 237, as added Pub. L. 90-448, title I, § 102(a), Aug. 1, 1968, 82 Stat. 485; amended Pub. L. 91-152, title I, §§ 110, 113(j), Dec. 24, 1969, 83 Stat. 382, 385; Pub. L. 105-276, title V, § 599F(a), Oct. 21, 1998, 112 Stat. 2665, related to special mortgage insurance assistance.

**§ 1715z-3. Special Risk Insurance Fund****(a) Entitlement to benefits; computation and payment of benefits to mortgagee**

(1) Any mortgagee under a mortgage insured under section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title shall be entitled to receive the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title. The provisions of subsections (b), (c), (d), (g), (j), and (k)<sup>1</sup> of section 1710 of this title shall be applicable to mortgages insured under section 1715z(i), (j)(4), 1715z-2,<sup>1</sup> or 1715z-8 of this title, except that all references therein to the “Mutual Mortgage Insurance Fund” shall be construed to refer to the “Special Risk Insurance Fund”, and all references therein to section 1709 of this title shall be construed to refer to section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title, as may be appropriate.

(2) Any mortgagee under a mortgage insured under section 1715z(j)(1) or 1715z-1 of this title shall be entitled to receive the benefits of insurance as provided in section 1713(g) of this title with respect to mortgages insured under section 1713 of this title. The provisions of subsections (d), (e), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall be applicable to mortgages insured under section 1715z(j)(1) or 1715z-1 of this title, except that all references therein to the “General Insurance Fund” shall be construed to refer to the “Special Risk Insurance Fund” and the premium charge provided in section 1713(d) of this title shall be payable only in cash or debentures of the Special Risk Insurance Fund.

(3) In lieu of the amount of insurance benefits computed pursuant to paragraph (1) or (2) of this subsection the Secretary, in his discretion and in accordance with such regulations as he may prescribe, may (with respect to any mortgage loan acquired by him) compute and pay insurance benefits to the mortgagee in a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage.

<sup>1</sup> See References in Text note below.

**(b) Creation of fund; authorization for advance-  
ments; repayment; crediting of charges and  
fees; payments from fund; authorization of  
appropriations for losses; deposits to fund;  
open-market purchases of debentures which  
are obligations of fund**

There is hereby created a Special Risk Insurance Fund (hereinafter referred to as the “fund”) which shall be used by the Secretary as a revolving fund for carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2,<sup>1</sup> and 1715z-8 of this title, and the Secretary is hereby authorized to advance to the fund, at such times and in such amounts as he may determine to be necessary, a total sum of \$20,000,000 from the General Insurance Fund established pursuant to the provisions of section 1735c of this title. Such advance shall be repayable at such times and at such rates of interest as the Secretary deems appropriate. Premium charges, adjusted premium charges, inspection and other fees, service charges, and any other income received by the Secretary under sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title, together with all earnings on the assets of the fund, shall be credited to the fund. All payments made pursuant to claims of mortgagees with respect to mortgages insured under sections 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title or pursuant to section 1715n(e) of this title, cash adjustments, the principal of and interest paid on debentures which are the obligation of the fund, expenses incurred in connection with or as a consequence of the acquisition and disposal of property acquired under such sections, and all administrative expenses in connection with the mortgage insurance operations under such sections shall be paid out of the fund. Moneys in the fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary, with the approval of the Secretary of the Treasury, may purchase in the open market debentures which are the obligation of the fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtained from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

**(c) Mortgage insurance for military impacted  
areas; criteria; obligation of Special Risk In-  
surance Fund; establishment of premiums  
and other charges**

(1) Notwithstanding the provisions of this chapter or any other Act, and without regard to limitations upon eligibility contained in any section of this subchapter, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this subchapter a mortgage executed in connection with the construction, repair, rehabilitation, or purchase of

property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary’s judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.

(3) The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

(June 27, 1934, ch. 847, title II, §238, as added Pub. L. 90-448, title I, §104(a), Aug. 1, 1968, 82 Stat. 486; amended Pub. L. 91-152, title IV, §415, Dec. 24, 1969, 83 Stat. 401; Pub. L. 91-351, title V, §503, July 24, 1970, 84 Stat. 461; Pub. L. 91-609, title I, §117(d), Dec. 31, 1970, 84 Stat. 1775; Pub. L. 93-383, title III, §318, Aug. 22, 1974, 88 Stat. 685; Pub. L. 95-128, title III, §309, Oct. 12, 1977, 91 Stat. 1135; Pub. L. 103-233, title I, §§103(g)(1), 105(a), Apr. 11, 1994, 108 Stat. 362, 363.)

#### Editorial Notes

##### REFERENCES IN TEXT

Subsection (k) of section 1710 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105-276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

Section 1715z-2 of this title, referred to in subsecs. (a)(1) and (b), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(6), July 30, 2008, 122 Stat. 2835.

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

##### AMENDMENTS

1994—Subsec. (b). Pub. L. 103-233, §105(a), struck out after fourth sentence “There is authorized to be appropriated such sums as may be needed from time to time to cover losses sustained by the fund in carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title.”

Subsec. (c)(3). Pub. L. 103-233, §103(g)(1), added par. (3).

1977—Subsec. (c). Pub. L. 95-128 substituted provisions of pars. (1) and (2) respecting mortgage insurance for

military impacted areas, criteria therefore, and establishment of premiums and other charges for prior subsec. (c), which had authorized use of the Special Risk Insurance Fund to carry out mortgage insurance obligations of sections 1709 and 1713 of this title to provide housing for military personnel, Federal civilian employees, and Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces in federally impacted areas where in the judgment of the Secretary (1) the residual housing requirements for persons not associated with such installations were insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installations, and (2) the benefits to be derived from such use outweighed the risk of possible cost to the Government.

1974—Subsec. (c). Pub. L. 93-383 added subsec. (c).

1970—Subsec. (a)(1). Pub. L. 91-351, §503(1), inserted references to section 1715z-8 of this title wherever appearing.

Subsec. (b). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Pub. L. 91-351, §503(2), inserted references to section 1715z-8 of this title wherever appearing.

1969—Subsec. (b). Pub. L. 91-152 increased from \$5,000,000 to a total sum of \$20,000,000, at such times and in such amounts as he may determine to be necessary, the amount authorized to be advanced by the Secretary to the Fund.

**§ 1715z-4. Modifications in terms of mortgages covering multifamily projects; requests for extensions to cure defaults or for modification of mortgage terms; regulations**

The Secretary shall not consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, as defined in the regulations of the Secretary, or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by the mortgagor from the property covered by the mortgage which is not required to meet actual and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, or for a modification of the term of such mortgage, without regard to the foregoing requirement, in any case or class of cases in which an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

(June 27, 1934, ch. 847, title II, §239, as added Pub. L. 90-448, title III, §302, Aug. 1, 1968, 82 Stat. 506; amended Pub. L. 100-242, title IV, §416(c), Feb. 5, 1988, 101 Stat. 1908.)

**Editorial Notes**

**AMENDMENTS**

1988—Pub. L. 100-242 struck out “insured” before “mortgages” in section catchline, and struck out subsec. (a) designation and subsec. (b) which related to violations and penalties imposed for violations of the provisions of former subsec. (a).

**§ 1715z-4a. Double damages remedy for unauthorized use of multifamily housing project assets and income**

**(a) Action to recover assets or income**

(1) The Secretary of Housing and Urban Development (referred to in this section as the “Secretary”) may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project, nursing home, intermediate care facility, board and care home, assisted living facility, or hospital whose mortgage is or, at the time of the violations, was insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.]; (B) a regulatory agreement that applies to a multifamily project whose mortgage is or, at the time of the violations, was insured or held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held or, at the time of the violations, was<sup>1</sup> insured or held by the Secretary under section 1715z-22 of this title, but not reinsured under section 1715z-22 of this title; or (D) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the property and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.], under section 1701q of this title (including section 1701q of this title as it existed before November 28, 1990) and under section 1715z-22 of this title, the term “any person” shall mean any person or entity that owns or operates a property, as identified in the regulatory agreement, including but not limited to—

(A) any stockholder holding 25 percent or more interest of a corporation that owns that property;

(B) any beneficial owner of the property under any business or trust;

(C) any officer, director, or partner of an entity owning or controlling the property;

(D) any nursing home lessee or operator;

(E) any hospital lessee or operator;

<sup>1</sup> So in original.



(F) any other person or entity that controls the property regardless of that person or entity's official relationship to the property; and

(G) any heir, assignee, successor in interest, or agent of any person or entity described in the preceding subparagraphs.

**(b) Initiation of proceedings and temporary relief**

The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, and any applicable regulation and to prevent loss of value of the realty and personalty involved.

**(c) Amount recoverable**

In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the property that the court determines to have been used in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the property or to the applicable insurance fund under the National Housing Act [12 U.S.C. 1701 et seq.] or, in the case of any project for which the mortgage is held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary, as appropriate.

**(d) Time limitation**

Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of a property's assets and income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation.

**(e) Continued availability of other remedies**

The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

(Pub. L. 100-242, title IV, § 421, Feb. 5, 1988, 101 Stat. 1913; Pub. L. 105-65, title V, § 563, Oct. 27, 1997, 111 Stat. 1419; Pub. L. 108-447, div. I, title II, § 220, Dec. 8, 2004, 118 Stat. 3319; Pub. L. 109-115, div. A, title III, § 324, Nov. 30, 2005, 119 Stat. 2466.)

**Editorial Notes**

**REFERENCES IN TEXT**

The National Housing Act, referred to in subsecs. (a) and (c), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). Title II of the National Housing Act is classified generally to this subchapter (§1707 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

**CODIFICATION**

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

**AMENDMENTS**

2005—Subsec. (a)(1)(A). Pub. L. 109-115, § 324(1), inserted “or, at the time of the violations, was” after “is”.

Subsec. (a)(1)(C). Pub. L. 109-115, § 324(2), inserted “or, at the time of the violations, was insured or held” after “held”.

2004—Subsec. (a)(1). Pub. L. 108-447, § 220(3), substituted “property” for “project” in second sentence.

Subsec. (a)(1)(A). Pub. L. 108-447, § 220(1), inserted “, nursing home, intermediate care facility, board and care home, assisted living facility, or hospital” after “project”.

Subsec. (a)(1)(B). Pub. L. 108-447, § 220(2), inserted “or, at the time of the violations, was” after “whose mortgage is”.

Subsec. (a)(2). Pub. L. 108-447, § 220(4), substituted “that owns or operates a property, as identified in the regulatory agreement, including but not limited to—” and subpars. (A) to (G) for “which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.”

Subsec. (c). Pub. L. 108-447, § 220(5), substituted “property that the court determines” for “project that the court determines” and “property or to the applicable insurance fund” for “project or to the applicable insurance fund”.

Subsec. (d). Pub. L. 108-447, § 220(6), substituted “a property’s” for “project”.

1997—Subsec. (a)(1). Pub. L. 105-65, § 563(1), substituted “(B) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)” for “or (B)” in first sentence and inserted “, or such other form of regulatory control as may be imposed by the Secretary,” after “regulatory agreement” in second sentence.

Subsec. (a)(2). Pub. L. 105-65, § 563(2), inserted “under section 1701q of this title (including section 1701q of this title as it existed before November 28, 1990) and under section 542 of the Housing and Community Development Act of 1992,” after “title II of National Housing Act,”.

Subsec. (b). Pub. L. 105-65, § 563(3), inserted “, or such other form of regulatory control as may be imposed by the Secretary,” after “regulatory agreement”.

Subsec. (c). Pub. L. 105-65, § 563(4), in first sentence, inserted “, or such other form of regulatory control as may be imposed by the Secretary,” after “regulatory agreement” and inserted before period at end of second

sentence “or, in the case of any project for which the mortgage is held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary, as appropriate”.

Subsec. (d). Pub. L. 105-65, §563(5), inserted “, or such other form of regulatory control as may be imposed by the Secretary,” after “regulatory agreement”.

#### **§ 1715z-5. Purchase of fee simple title from lessors**

##### **(a) Authorization to insure loans for purpose of financing purchases**

The Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure loans made by financial institutions for the purpose of financing purchases by homeowners of the fee simple title to property on which their homes are located.

##### **(b) Definitions**

As used in this section—

(1) the term “financial institution” means a lender approved by the Secretary as eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title; and

(2) the term “homeowner” means a lessee under a long-term ground lease.

##### **(c) Eligibility for insurance**

To be eligible for insurance under this section, a loan shall—

(1) relate to property on which there is located a dwelling designed principally for a one-, two-, three-, or four-family residence;

(2) not exceed the cost of purchasing the fee simple title, or \$10,000 (\$30,000, if the property is located in Hawaii) per family unit, whichever is the lesser;

(3) be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Secretary) creates a total outstanding indebtedness which does not exceed the applicable mortgage limit prescribed in section 1709(b) of this title;

(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(5) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan; and

(6) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

##### **(d) Applicability of other provisions of law**

The provisions of paragraphs (3), (5), (6), (7), (8), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this section and, as applied to loans insured under this section, references in those paragraphs to “home improvement loans” and “this subsection” shall be construed to refer to loans under this section.

(June 27, 1934, ch. 847, title II, §240, as added Pub. L. 90-448, title III, §304(a), Aug. 1, 1968, 82

Stat. 507; amended Pub. L. 95-557, title III, §314, Oct. 31, 1978, 92 Stat. 2099; Pub. L. 96-399, title III, §333(f), Oct. 8, 1980, 94 Stat. 1653; Pub. L. 98-181, title I [title IV, §404(b)(13)], Nov. 30, 1983, 97 Stat. 1210; Pub. L. 98-479, title II, §204(a)(10), Oct. 17, 1984, 98 Stat. 2232.)

#### **Editorial Notes**

##### **AMENDMENTS**

1984—Subsec. (a). Pub. L. 98-479 substituted “purchases” for “purchasers”.

1983—Subsec. (c)(4). Pub. L. 98-181 substituted provision that the interest rate be such rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions, and such other charges as approved by the Secretary.

1980—Subsec. (c)(5). Pub. L. 96-399 struck out “or three-quarters of the remaining economic life of the home, whichever is the lesser” after “loan”.

1978—Subsec. (c)(2). Pub. L. 95-557 inserted “(\$30,000, if the property is located in Hawaii)” after “\$10,000”.

#### **§ 1715z-6. Supplemental loans for multifamily projects**

##### **(a) Authorization to insure; “supplemental loan” defined**

With respect to a multifamily project, hospital, or group practice facility covered by a mortgage insured under any section or subchapter of this chapter or covered by a mortgage held by the Secretary, the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure, and to insure, supplemental loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. As used in this section, “supplemental loan” means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to such project, hospital, or facility: *Provided*, That a loan involving a nursing home, hospital, or a group practice facility may also be made for the purpose of financing equipment to be used in the operation of such nursing home, hospital, or facility.

##### **(b) Eligibility for insurance**

To be eligible for insurance under this section, a supplemental loan shall—

(1) be limited to 90 per centum of the amount which the Secretary estimates will be the value of such improvements, additions, and equipment, except that such amount when added to the outstanding balance of the mortgage covering the project or facility, shall not exceed the maximum mortgage amount insurable under the section or subchapter pursuant to which the mortgage covering such project or facility is insured or an amount acceptable to the Secretary;

(2) have a maturity satisfactory to the Secretary;

(3) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(4) be secured in such manner as the Secretary may require;

(5) be governed by the labor standards provisions of section 1715c of this title that are applicable to the section or subchapter pursuant to which the mortgage covering the project or facility is insured or pursuant to which the original mortgage covering the project or facility was insured; and

(6) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

**(c) Applicability of other provisions of law**

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall be applicable to loans insured under this section, except that (1) all references to the term “mortgage” shall be construed to refer to the term “loan” as used in this section, (2) loans involving projects covered by a mortgage insured under section 1715e of this title that is the obligation of the Cooperative Management Housing Insurance Fund shall be insured under and shall be the obligation of such fund, and (3) loans involving projects covered by a mortgage insured under section 1715z-1 of this title shall be insured under and shall be the obligation of the Special Risk Insurance Fund.

**(d) Authorization to insure loans for improvements or additions; terms and conditions; limitation on amount**

Notwithstanding the foregoing, the Secretary may insure a loan for improvements or additions to a multifamily housing project, or a group practice or medical practice facility or hospital or other health facility approved by the Secretary, which is not covered by a mortgage insured under this chapter, if he finds that such a loan would assist in preserving, expanding, or improving housing opportunities, or in providing protection against fire or other hazards. Such loans shall have a maturity satisfactory to the Secretary and shall meet such other conditions as the Secretary may prescribe. In no event shall such a loan be insured if it is for an amount in excess of the maximum amount which could be approved if the outstanding indebtedness, if any, covering the property were a mortgage insured under this chapter. At any sale under foreclosure of a mortgage on a project or facility which is not insured under this chapter but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 1713(k) of this title, any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this chapter, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.

**(e) Loan insurance for energy conserving improvements and solar energy systems**

(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 1703(a) of this title), for purchasing and installing a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title), and for purchasing or installing (or both) individual utility meters in a multifamily housing project if such meters are purchased or installed in connection with other energy conserving improvements or with a solar energy system or the project meets minimum standards of energy conservation established by the Secretary, without regard to whether the project is covered by a mortgage under this chapter.

(2) Notwithstanding the provisions of subsection (b), a loan insured under this subsection shall—

(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or a solar energy system therein;

(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 1715z-1 of this title or financed with a below market interest rate mortgage insured under section 1715l(d)(3) of this title, 100 percent of any such loss may be insured;

(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Secretary of Energy, to be necessary to meet market demands;

(D) have a maturity satisfactory to the Secretary;

(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

(F) be secured in such manner as the Secretary may require;

(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(3) The provisions of subsection (c) shall apply to loans insured under this subsection.

(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the multifamily project to such an extent and in such manner as to provide reasonable rentals to

tenants and a reasonable return on the investment.

**(f) Repealed. Pub. L. 104-204, title II, Sept. 26, 1996, 110 Stat. 2885**

**(g) Extension of rental assistance for term of loan**

(1) When underwriting a rehabilitation loan under this section in connection with eligible multifamily housing, the Secretary may assume that any rental assistance provided for purposes of servicing the additional debt will be extended for the term of the rehabilitation loan. The Secretary shall exercise prudent underwriting practices in insuring rehabilitation loans under this section. For purposes of this subsection, the term “eligible multifamily housing” means any housing financed by a loan or mortgage that is—

(A) insured or held by the Secretary under section 1715(d)(3) of this title and assisted under section 1701s of this title or section 1437f of title 42;

(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 1715(d)(5) of this title; or

(C) insured, assisted or held by the Secretary under section 1715z-1 of this title.

(2) A mortgagee approved by the Secretary may not withhold consent to a rehabilitation loan insured in connection with eligible multifamily housing on which that mortgagee holds a mortgage.

(June 27, 1934, ch. 847, title II, §241, as added Pub. L. 90-448, title III, §307, Aug. 1, 1968, 82 Stat. 508; amended Pub. L. 91-609, title I, §111, Dec. 31, 1970, 84 Stat. 1772; Pub. L. 93-383, title III, §313, Aug. 22, 1974, 88 Stat. 684; Pub. L. 94-375, §5, Aug. 3, 1976, 90 Stat. 1070; Pub. L. 95-557, title III, §311(b), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 95-619, title II, §247, Nov. 9, 1978, 92 Stat. 3234; Pub. L. 96-153, title III, §319, Dec. 21, 1979, 93 Stat. 1119; Pub. L. 96-399, title III, §314, Oct. 8, 1980, 94 Stat. 1645; Pub. L. 98-181, title I [title IV, §404(b)(14)], Nov. 30, 1983, 97 Stat. 1210; Pub. L. 98-479, title II, §204(a)(11), (12), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 100-242, title II, §231, title IV, §429(c), Feb. 5, 1988, 101 Stat. 1884, 1918; Pub. L. 101-235, title II, §§203(c), (d), 204(b), Dec. 15, 1989, 103 Stat. 2038, 2039; Pub. L. 101-625, title VI, §602(a), Nov. 28, 1990, 104 Stat. 4275; Pub. L. 102-550, title III, §§316(a), (b), 317(c), Oct. 28, 1992, 106 Stat. 3771, 3772; Pub. L. 104-204, title II, Sept. 26, 1996, 110 Stat. 2885.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a), (d), and (e)(1), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

**AMENDMENTS**

1996—Subsec. (f). Pub. L. 104-204 struck out subsec. (f), which related to insurance for second mortgage financing.

1992—Subsec. (f)(2)(B)(i). Pub. L. 102-550, §316(a)(1), inserted “the amount of rehabilitation costs required by the plan of action and related charges and” after “equal to”.

Subsec. (f)(2)(B)(ii). Pub. L. 102-550, §317(c)(1), struck out “and” at end.

Subsec. (f)(3)(B). Pub. L. 102-550, §316(a)(2), inserted “and the amount of rehabilitation costs required by the plan of action and related charges and” after “1990”.

Subsec. (f)(5)(A). Pub. L. 102-550, §316(a)(3)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: “have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and”.

Subsec. (f)(5)(B), (C). Pub. L. 102-550, §316(a)(3), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(6). Pub. L. 102-550, §317(c)(2), which directed the substitution of “acquisition loan” for “acquisition loan” in par. (7), was executed by making the substitution in par. (6) to reflect the probable intent of Congress and the intervening redesignation of par. (7) as (6) by Pub. L. 102-550, §316(a)(5). See below.

Pub. L. 102-550, §316(a)(4), (5), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: “The Secretary may provide for combination of loans insured under subsection (d) of this section with equity and acquisition loans insured under this subsection.”

Subsec. (f)(7) to (9). Pub. L. 102-550, §316(a)(5), redesignated pars. (7) to (9) as (6) to (8), respectively.

Subsec. (f)(10). Pub. L. 102-550, §316(b), added par. (10).

1990—Subsec. (f). Pub. L. 101-625 amended subsec. (f) generally, substituting present provisions for provisions relating to insurance of “equity loans” under the Emergency Low Income Housing Preservation Act of 1987, providing for eligibility for such insurance, providing that a qualified nonprofit organization or limited equity tenant cooperative corporation may constitute an owner of housing for purposes of receiving an insured loan, providing for applicability of certain provisions of section 1713 of this title, and providing that an approved mortgagee may not withhold consent to an equity loan on property on which mortgagee holds a mortgage.

1989—Subsec. (f)(2). Pub. L. 101-235, §203(c)(1), inserted at end “When underwriting an equity loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 225(b) of the Emergency Low Income Housing Preservation Act of 1987 will be extended for the full term of the contract entered into under section 225(c) of that Act. The Secretary may accelerate repayment of a loan under this section in the event rental assistance is not extended under section 225(c) of that Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.”

Subsec. (f)(3). Pub. L. 101-235, §203(c)(2), inserted “public entity,” after “A”.

Subsec. (f)(6). Pub. L. 101-235, §203(d), added par. (6).

Subsec. (g). Pub. L. 101-235, §204(b), added subsec. (g).

1988—Subsec. (b)(3). Pub. L. 100-242, §429(c), substituted “borrower and the financial institution” for “mortgagor and the mortgagee”.

Subsec. (f). Pub. L. 100-242, §231, added subsec. (f).

1984—Subsec. (a). Pub. L. 98-479, §204(a)(11), substituted “to make” for “to made”.

Subsec. (b)(1). Pub. L. 98-479, §204(a)(12), substituted “or facility” for “of facility” before “is insured”.

1983—Subsec. (b)(3). Pub. L. 98-181 substituted provision that the interest rate be such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance and service charges, not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions.

1980—Subsec. (e)(1). Pub. L. 96-399 inserted provisions respecting requirements for purchase or installation in connection with other energy conserving improvements, etc.

1979—Subsec. (b)(2). Pub. L. 96-153 struck out “but not to exceed the remaining term of the mortgage” after “the Secretary”.

1978—Subsec. (d). Pub. L. 95-557 inserted provision relating to the amounts the Secretary is authorized to bid at any sale under foreclosure of a mortgage on a project or facility which is not insured under this chapter but which is senior to a loan assigned to the Secretary pursuant to subsection (c), and such other steps the Secretary is authorized to take to preserve or protect his interest in the project or facility.

Subsec. (e). Pub. L. 95-619 added subsec. (e).

1976—Subsec. (a). Pub. L. 94-375 inserted “, hospital,” after “multifamily project”, “additions to such project”, “involving a nursing home”, and “of such nursing home”.

1974—Subsec. (d). Pub. L. 93-383 added subsec. (d).

1970—Subsec. (a). Pub. L. 91-609, §111(1), (2), inserted in first sentence “or covered by a mortgage held by the Secretary” after “this chapter” and substituted in proviso “a nursing home or a group practice facility” for “a nursing home covered by a mortgage insured under section 1715w of this title or a loan involving a group practice facility covered by a mortgage insured under subchapter IX-B of this chapter”, respectively.

Subsec. (b)(1). Pub. L. 91-609, §111(3), inserted “or an amount acceptable to the Secretary” before semicolon at end.

Subsec. (b)(5). Pub. L. 91-609, §111(4), inserted “or pursuant to which the original mortgage covering the project or facility was insured” before semicolon at end.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 231 of Pub. L. 100-242 applicable to any project that is eligible low income housing on or after Nov. 1, 1987, see section 235 of Pub. L. 100-242.

##### REGULATIONS

Pub. L. 102-550, title III, §316(c), Oct. 28, 1992, 106 Stat. 3771, directed Secretary, not later than the expiration of 45-day period beginning on Oct. 28, 1992, to issue regulations implementing subsec. (f)(1) of this section and provided that such regulations are not subject to requirements of 5 U.S.C. 553.

#### INSURANCE FOR SECOND MORTGAGE FINANCING NOT TO BE OFFERED AS INCENTIVE UNDER LIHPHA AND ELIHPA

Insurance for second mortgage financing provided under former subsec. (f) of this section not to be offered as incentive under the Low-Income Housing Preservation and Resident Homeownership Act of 1990 (12 U.S.C. 4101 et seq.) and the Emergency Low Income Housing Preservation Act of 1987 (Pub. L. 100-242, title II, Feb. 5, 1988, 101 Stat. 1877, as amended), see title II in part of Pub. L. 104-204, set out as a Low-Income Housing Preservation note under section 4101 of this title.

##### DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101-625, set out as a note under section 1713 of this title.

### § 1715z-7. Mortgage insurance for hospitals

#### (a) Purpose

The purpose of this section is to assist the provision of urgently needed hospitals for the care and treatment of persons who are acutely ill or

who otherwise require medical care and related services of the kind customarily furnished only (or most effectively) by hospitals. Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.

#### (b) Definitions

For the purposes of this section—

(1) the term “hospital” means a facility—

(A) which provides community service for inpatient medical care of the sick or injured (including obstetrical care);

(B) not more than 50 per centum of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis, unless the facility is a critical access hospital (as that term is defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1))); and

(C) which is a public facility, proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located); and

(2) the terms “mortgage” and “mortgagor” shall have the meanings respectfully set forth in section 1713(a) of this title.

#### (c) Authorization to insure; prohibition of premiums on guarantees of principal and interest under title VII of the Public Health Service Act

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon. No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health and Human Services under title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

#### (d) Insurance of mortgages covering new or rehabilitated hospitals, including equipment; terms and conditions

In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated hospital, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate

of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed \$100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—

(A) equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed; and

(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)<sup>1</sup> in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(4)(A) The Secretary shall require satisfactory evidence that the hospital will be located in a State or political subdivision of a State with reasonable minimum standards of licensure and methods of operation for hospitals and satisfactory assurance that such standards will be applied and enforced with respect to the hospital.

(B) The Secretary shall establish the means for determining need and feasibility for the hospital, if the State does not have an official procedure for determining need for hospitals. If the State has an official procedure for determining need for hospitals, the Secretary shall require that such procedure be followed before the application for insurance is submitted, and the application shall document that need has also been established under that procedure.

(5) The Secretary shall not insure any mortgage or approve any modification of an existing mortgage insured pursuant to this section or section 1715n(f) of this title if such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 1721 of this title, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt, except that the Secretary shall not refuse to insure such a mortgage or approve such a modification solely on the basis that such in-

surance or modification is to be made in connection with a guarantee, as authorized pursuant to section 1721 of this title, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt if—

(A) a written application for such insurance or modification submitted at the express direction of the hospital has been submitted to the appropriate office of the Department of Health and Human Services prior to March 29, 1979; or

(B) in the case of a nonprofit mortgagor which is seeking refinancing or modification of an existing mortgage insured pursuant to this section or section 1715n(f) of this title, the mortgagor (i) had engaged an investment banker for the purpose of obtaining such refinancing or modification, or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of obtaining such refinancing or modification, and had made written notification of its interest in such refinancing or modification to the Department of Health and Human Services or the Department of Housing and Urban Development prior to June 7, 1979; and (ii) receives from the programs established under titles XVIII [42 U.S.C. 1395 et seq.] and XIX [42 U.S.C. 1396 et seq.] of the Social Security Act a percentage of its total revenue which is greater than 125 per centum of the national average for hospitals which derive revenue from such titles.

This paragraph shall not limit the authority of the Secretary to approve a mortgage increase on any mortgage eligible for insurance under this paragraph at any time prior to final endorsement of the loan for insurance; except that such mortgage increase may not be approved for the cost of constructing any improvements not included in the original plans and specifications approved by the Department of Health and Human Services unless approved by the Secretary of Housing and Urban Development and by the Secretary of Health and Human Services.

(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.

**(e) Release of part of property or project from lien**

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

<sup>1</sup> See References in Text note below.

**(f) Encouragement of programs undertaking responsibility to provide comprehensive health care; immediate processing of applications for public hospitals**

The activities and functions provided for in this section shall be carried out by the agencies involved so as to encourage programs that undertake responsibility to provide comprehensive health care, including outpatient and preventive care, as well as hospitalization, to a defined population, and, in the case of public hospitals, to encourage programs that are undertaken to provide essential health care services to all residents of a community regardless of ability to pay. The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.

**(g) Insurance of mortgages providing permanent financing or refinancing of existing mortgage indebtedness; aggregate principal balance of mortgages**

(1) Notwithstanding any of the other provisions of this subchapter, the Secretary may insure under this section a mortgage which provides permanent financing or refinancing of existing mortgage indebtedness in the case of a hospital whose permanent financing is presently lacking, if the construction of such hospital was completed between January 1, 1966, and August 1, 1968.

(2) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed \$20,000,000.

**(h) Applicability of other laws**

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall be deemed to refer to this section.

**(i) Termination of exemption for critical access hospitals**

**(1) In general**

The exemption for critical access hospitals under subsection (b)(1)(B) shall have no effect after July 31, 2016.

**(2) Report to Congress**

Not later than 3 years after July 31, 2003, the Secretary shall submit a report to Congress detailing the effects of the exemption of critical access hospitals from the provisions of subsection (b)(1)(B) on—

(A) the provision of mortgage insurance to hospitals under this section; and

(B) the General Insurance Fund established under section 1735c of this title.

(June 27, 1934, ch. 847, title II, §242, as added Pub. L. 90-448, title XV, §1501, Aug. 1, 1968, 82 Stat. 599; amended Pub. L. 91-609, title I, §§109, 110(a), Dec. 31, 1970, 84 Stat. 1772; Pub. L. 93-383, title III, §304(i), Aug. 22, 1974, 88 Stat. 678; Pub. L. 95-128, title III, §308, Oct. 12, 1977, 91 Stat. 1135; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979,

93 Stat. 695; Pub. L. 96-153, title III, §315, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96-399, title III, §310(h), Oct. 8, 1980, 94 Stat. 1643; Pub. L. 97-35, title III, §339H, Aug. 13, 1981, 95 Stat. 418; Pub. L. 98-181, title I [title IV, §§404(b)(15), 436], Nov. 30, 1983, 97 Stat. 1210, 1222; Pub. L. 98-479, title II, §§201(a)(1), 204(a)(13), Oct. 17, 1984, 98 Stat. 2227, 2232; Pub. L. 100-242, title IV, §§411(a), 412(a)-(d), Feb. 5, 1988, 101 Stat. 1905, 1906; Pub. L. 108-91, §§2(a), 3(a), Oct. 3, 2003, 117 Stat. 1158; Pub. L. 109-240, §2, July 10, 2006, 120 Stat. 515; Pub. L. 113-76, div. L, title II, §233, Jan. 17, 2014, 128 Stat. 634.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682. Title VII of the Act was added by act July 30, 1956, ch. 779, §2, 70 Stat. 717, and is classified generally to subchapter V (§292 et seq.) of chapter 6A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 201 of Title 42 and Tables.

Section 8211 of title 42, referred to in subsec. (d)(2)(B), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

The Social Security Act, referred to in subsec. (d)(5)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

**AMENDMENTS**

2014—Subsec. (i)(1). Pub. L. 113-76 substituted “July 31, 2016” for “July 31, 2011”.

2006—Subsec. (i)(1). Pub. L. 109-240 substituted “July 31, 2011” for “July 31, 2006”.

2003—Subsec. (b)(1)(B). Pub. L. 108-91, §3(a)(1), inserted “, unless the facility is a critical access hospital (as that term is defined in section 1861(mm)(1) of the Social Security Act (42 U.S.C. 1395x(mm)(1)))” after “tuberculosis”.

Subsec. (d)(4). Pub. L. 108-91, §2(a), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which is located the hospital covered by the mortgage, a certification that (A) there is a need for such hospital, and (B) there are in force in such State or the political subdivision of the State in which the proposed hospital would be located reasonable minimum standards of licensure and methods of operation for hospitals. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any hospital located in the State for which mortgage insurance is provided under this section. If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the hospital as set forth in clause (A) of the first sentence, the Secretary shall not insure any mortgage under this section unless (A) the State in which the hospital is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (i) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (ii) assesses, on a marketwide basis, the impact of the proposed hospital on, and its rela-

tionship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (iii) is addressed to and is acceptable to the Secretary in form and substance; and (iv) in the event the State does not prepare the study, is prepared by a financial consultant selected by the State and approved by the Secretary; and (B) the State complies with the other provisions of this paragraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence."

Subsec. (i). Pub. L. 108-91, §3(a)(2), added subsec. (i). 1988—Subsec. (a). Pub. L. 100-242, §412(a), inserted at end "Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals."

Subsec. (d)(2). Pub. L. 100-242, §412(b), substituted "The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including" for "The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project including".

Subsec. (d)(4). Pub. L. 100-242, §411(a), inserted provisions at end relating to authority of Secretary to insure a mortgage under this section covering new or rehabilitated hospitals, including equipment, in cases where no State agency exists, or where such agency does exist but is not empowered to provide a certification for the need of such hospital as required under this section.

Subsec. (d)(6). Pub. L. 100-242, §412(c), added par. (6).

Subsec. (f). Pub. L. 100-242, §412(d), inserted at end "The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations."

1984—Subsec. (c). Pub. L. 98-479, §201(a)(1), substituted "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (d)(3)(A). Pub. L. 98-479, §204(a)(13), substituted a semicolon for the comma at end.

1983—Subsec. (b)(1)(C). Pub. L. 98-181, §436(1), inserted "public facility," after "which is a".

Subsec. (d)(3)(B). Pub. L. 98-181, §404(b)(15), substituted provision that the interest rate be such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance and service charges, not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market.

Subsec. (f). Pub. L. 98-181, §436(2), inserted ", and in the case of public hospitals, to encourage programs that are undertaken to provide essential health care services to all residents of a community regardless of ability to pay" after "defined population".

1981—Subsec. (d)(5). Pub. L. 97-35 inserted provisions respecting limitation on authority of the Secretary to approve mortgage increases on eligible mortgages.

1980—Subsec. (d)(2). Pub. L. 96-399 revised existing provisions into introductory paragraph and subpar. (A) and added subpar. (B).

1979—Subsec. (d)(5). Pub. L. 96-153 added par. (5).

1977—Subsec. (c). Pub. L. 95-128, §308(b), prohibited charging any mortgage insurance premium with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act.

Subsec. (d)(4). Pub. L. 95-128, §308(a), inserted reference to section 1521.

1974—Subsec. (d)(2). Pub. L. 93-383 struck out "not to exceed \$50,000,000, and" after "an amount".

1970—Subsec. (b)(1)(C). Pub. L. 91-609, §110(a), substituted as definition of "hospital" a facility "which is a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located)" for "prior definition as a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual".

Subsec. (d)(2). Pub. L. 91-609, §109, increased limitation on amount of mortgage from \$25,000,000 to \$50,000,000.

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

"Department of Health and Human Services" substituted for "Department of Health, Education, and Welfare" in subsec. (d)(5)(A), (B) pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-91, §2(b), Oct. 3, 2003, 117 Stat. 1158, provided that:

"(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall take effect and apply as of the date of the enactment of this Act [Oct. 3, 2003].

"(2) EFFECT OF REGULATORY AUTHORITY.—Any authority of the Secretary of Housing and Urban Development to issue regulations to carry out the amendment made by subsection (a) may not be construed to affect the effectiveness or applicability of such amendment under paragraph (1) of this subsection."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

#### REGULATIONS

Pub. L. 100-242, title IV, §411(b), Feb. 5, 1988, 101 Stat. 1905, directed Secretary of Housing and Urban Development to issue regulations to carry out amendment of this section by not later than expiration of 90-day period following Feb. 5, 1988.

Secretary of Housing and Urban Development directed to issue regulations implementing amendments to this section by section 436 of Pub. L. 98-181, not later than Oct. 31, 1984, see section 104(f) of Pub. L. 98-479, set out as a note under section 1715b of this title.

### § 1715z-8. Mortgage assistance payments for middle-income families

#### (a) Determination by Secretary of necessity; interest subsidy payments; effective date

Whenever he determines such action to be necessary in furtherance of the purposes set forth in section 501 of the Emergency Home Finance Act of 1970, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of families of middle income. The assistance shall be accomplished through interest subsidy payments to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (hereinafter referred to as "the investor") with respect to mortgages meeting the special requirements



specified in this section and made after July 24, 1970.

**(b) Qualifications of mortgagor for assistance payments**

To qualify for assistance payments a middle-income family shall be a mortgagor under a mortgage which is (1) insured under subsection (j) of this section, (2) guaranteed under chapter 37 of title 38, or (3) a conventional mortgage meeting the requirements of subsection (j)(3) of this section. In addition to the foregoing requirement, the Secretary may require that the mortgagor have an income, at the time of acquisition of the property, of not more than the median income for the area in which the property is located, as determined by the Secretary, with appropriate adjustments for smaller and larger families.

**(c) Termination of interest subsidy payments**

The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage, (2) the mortgages are no longer held by the investor, or (3) the rate of interest paid by the mortgagor reaches the rate of interest specified on the mortgage.

**(d) Monthly mortgage payments as determining eligibility for interest subsidy payments; mortgage assistance payments for middle-income cooperative members; interest subsidy payments; applicability of provisions to cooperative mortgagors**

(1) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage), which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. As used in this subsection, the term "monthly homeownership expense" includes the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

(2) In addition to the mortgages eligible for assistance under paragraph (1) of this subsection, the Secretary is authorized to make periodic assistance payments on behalf of cooperative members of middle income. Such assistance payments shall be accomplished through interest subsidy payments to the investor with respect to mortgages insured (subsequent to July 24, 1970) under section 1715e of this title which are executed by cooperatives, the membership in which is limited to middle-income families. For purposes of this paragraph—

(A) the term "mortgagor", when used in subsection (b) in the case of a mortgage covering a cooperative housing project, means a member of the cooperative;

(B) the term "acquisition of the property", when used in subsection (b), means the family's application for a dwelling unit; and

(C) in the case of a cooperative mortgagor, subsection (c) shall not apply and the interest

subsidy payments shall cease when the mortgage is no longer held by the investor or the cooperative fails to limit membership to families whose incomes at the time of their application for a dwelling unit meets such requirements as are laid down by the Secretary pursuant to subsection (b).

**(e) Amount of interest subsidy payments**

The interest subsidy payments shall be in an amount equal to the difference, as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by it and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (1) the average costs (expressed as an annual percentage rate) to it of all borrowed funds outstanding in the immediately preceding calendar quarter, and (2) such per centum per annum as will provide for administrative and other expenses of the investor and a reasonable economic return, as determined by the Secretary to be necessary and appropriate taking into account the purpose of this section to provide additional mortgage credit at reasonable rates of interest to middle-income families.

**(f) Adoption of procedures for recertifications of mortgagor's income**

Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d).

**(g) Regulations to assure that sales price or other consideration paid is not increased above appraised value**

The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

**(h) Authorization of appropriations; aggregate amount of assistance payment contracts; termination date**

(1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional \$105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

**(i) Determination of family income; exclusion of income of minors**

In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

**(j) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance**

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 1715(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection: *Provided, however*, That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

(3) A mortgage to be insured under this section shall—

(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of \$20,000 (which amount may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires); and

(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (A) 3 per centum of the first \$15,000 of the appraised value of the property, (B) 10 per centum of such value in excess of \$15,000 but not in excess of \$25,000, and (C) 20 per centum of such value in excess of \$25,000.

(June 27, 1934, ch. 847, title II, § 243, as added Pub. L. 91-351, title V, § 502, July 24, 1970, 84 Stat. 458; amended Pub. L. 98-479, title II, § 204(a)(14), (15), Oct. 17, 1984, 98 Stat. 2232.)

**Editorial Notes**

**REFERENCES IN TEXT**

Section 501 of the Emergency Home Finance Act of 1970, referred to in subsec. (a), is section 501 of Pub. L. 91-351, which is set out as a note below.

**AMENDMENTS**

1984—Subsec. (d)(2). Pub. L. 98-479, § 204(a)(14), redesignated subpars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively.

Subsec. (j)(3)(ii). Pub. L. 98-479, § 204(a)(15), substituted “; and” for period at end.

**Statutory Notes and Related Subsidiaries**

**CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE**

Pub. L. 91-351, title V, § 501, July 24, 1970, 84 Stat. 458, provided that: “The Congress finds that—

“(1) periodic episodes of monetary stringency and high interest rates make it extremely difficult for families of middle income to obtain mortgage credit at rates which they can afford to pay;

“(2) periods of monetary stringency and high interest rates are directly related to the Government's monetary and fiscal policies;

“(3) a disproportionate share of the burden of sustaining these anti-inflationary policies of the Government falls on families of middle income who are buyers or prospective buyers of homes; and

“(4) the Government has a responsibility to lessen the disproportionate burden which such families bear as a result of such policies.

It is the purpose of this title [enacting this section, and amending sections 1715z-3 and 1719 of this title] to provide, during periods of high mortgage interest rates, a source of mortgage credit for such families which is within their financial means.”

**§ 1715z-9. Co-insurance of eligible mortgage, advance, or loan**

**(a) Authority of Secretary; request of mortgagee; premium charges; provisions of contract of co-insurance; non-applicability of state insurance laws**

In addition to providing insurance as otherwise authorized under this chapter, and notwithstanding any other provision of this chapter inconsistent with this section, the Secretary, upon request of any mortgagee and for such mortgage insurance premium as he may prescribe (which premium, or other charges to be paid by the mortgagor, shall not exceed the premium, or other charges, that would otherwise be applicable), may insure and make a commitment to insure under any provision of this subchapter any mortgage, advance, or loan otherwise eligible under such provision, pursuant to a co-insurance contract providing that the mortgagee will—

(1) assume a percentage of any loss on the insured mortgage, advance, or loan in direct proportion to the amount of the co-insurance, which co-insurance shall not be less than 10 per centum, subject to any reasonable limit or limits on the liability of the mortgagee that may be specified in the event of unusual or catastrophic losses that may be incurred by any one mortgagee; and

(2) carry out (under a delegation or otherwise and with or without compensation but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition, or other functions as the Secretary, pursuant to regulations, shall approve as consistent with the purposes of this chapter.

Any contract of co-insurance under this section shall contain such provisions relating to the sharing of premiums on a sound actuarial basis,

establishment of mortgage reserves, manner of calculating insurance benefits, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees (which may elect not to be subject to the loss sharing provisions), and other similar matters as the Secretary may prescribe pursuant to regulations. A mortgagee which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.

**(b) Inspection of construction of dwellings or projects as prerequisite; minimum standards or criteria applicable**

No insurance shall be granted pursuant to this section with respect to dwellings or projects approved for insurance prior to the beginning of construction unless the inspection of such construction is conducted in accordance with at least the minimum standards and criteria used with respect to dwellings or projects approved for mortgage insurance pursuant to other provisions of this subchapter.

**(c) Repealed. Pub. L. 100-242, title IV, § 414(a), Feb. 5, 1988, 101 Stat. 1907**

**(d) Repealed. Pub. L. 100-242, title IV, § 401(a)(3), Feb. 5, 1988, 101 Stat. 1898**

**(e) Availability unaffected insurance otherwise authorized; criteria for exercise of authority by Secretary**

The Secretary shall not withdraw, deny, or delay insurance otherwise authorized under any other provision of this chapter by reason of the availability of insurance pursuant to this section. The Secretary shall exercise his authority under this section only to the extent that he finds that the continued exercise of such authority will not adversely affect the flow of mortgage credit to older and declining neighborhoods and to the purchasers of older and lower cost housing.

**(f) Multifamily housing project; contract provisions; aggregate principal amount of all mortgages insured; loans on defaulted mortgages; insurance for state assisted projects and projects under construction; definitions; amount of reserves**

(1) Where the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

(2) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

(3) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 1715z-1(b) of this title, and (B) a mortgage or advance on a mortgage made to a public housing agency on a project under construction which is not approved for insurance prior to construction.

(4) As used in this subsection, the term “public housing agency” has the meaning given such term in section 1437a(b)(6) of title 42.

(5) Notwithstanding any other provision of this chapter, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made to a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency’s procedures and underwriting standards.

**(g) Redesignated (f)**

**(h) Acceptable co-insurance provisions for rental rehabilitation; termination date**

Notwithstanding any other provision of this section, in the case of a mortgage insured under section 1715n(f) of this title secured by property which is to be rehabilitated or developed under section 1437o<sup>1</sup> of title 42, such co-insurance may include provisions that—

(1) insurance benefits shall equal the sum of (A) 90 per centum of the mortgage on the date of institution of foreclosure proceedings (or on the date of acquisition of the property otherwise after default), and (B) 90 per centum of interest arrears on the date benefits are paid;

(2) the mortgagee shall remit to the Secretary, for credit to the General Insurance Fund, 90 per centum of any proceeds of the property, including sale proceeds, net of the mortgagee’s actual and reasonable costs related to the property and the enforcement of security;

(3) payment of such benefits shall be made in cash unless the mortgagee submits a written request for debenture payment; and

(4) the underwriter of co-insurance may reinsure 10 per centum of the mortgage amount with a private mortgage insurance company or with a State mortgage insurance agency.

**(i)<sup>2</sup> Authority of mortgagee to assign its interest in any note or mortgage subject to a contract of co-insurance; terms and conditions respecting retention of co-insurance risk of such note or mortgage**

Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Two subsecs. (i) have been enacted.

mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.

**(i)<sup>2</sup> Annual review of, and assessment of compliance with, requirements; report; adjustment of requirements**

The Secretary shall, by January 15 and July 15 of each year (1) review the adequacy of capital and other requirements for mortgagees under this section, (2) assess the compliance by mortgagees with such requirements, and (3) make such adjustment to such requirements as the Secretary, after providing opportunity for hearing, determines to be appropriate to improve the long-term financial soundness of the Federal Housing Administration funds. Such requirements shall include the minimum capital or net worth of mortgagees; the ratio that mortgagees shall maintain between the mortgagee's capital and the volume of mortgages co-insured by such mortgagee; and such other requirements as the Secretary determines to be appropriate to ensure the long-term financial soundness of the Federal Housing Administration funds. The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the review and assessment under the previous sentence, and an explanation of the Secretary's reasons for making any adjustment in requirements authorized under this section.

(June 27, 1934, ch. 847, title II, §244, as added Pub. L. 93-383, title III, §307, Aug. 22, 1974, 88 Stat. 679; amended Pub. L. 94-375, §6, Aug. 3, 1976, 90 Stat. 1070; Pub. L. 95-60, §1(d), June 30, 1977, 91 Stat. 257; Pub. L. 95-80, §1(d), July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, §301(f), Oct. 12, 1977, 91 Stat. 1131; Pub. L. 95-406, §1(f), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title III, §301(f), Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96-71, §1(f), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(f), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title III, §301(f), Dec. 21, 1979, 93 Stat. 1111; Pub. L. 96-372, §1(f), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title III, §301(f), Oct. 8, 1980, 94 Stat. 1638; Pub. L. 96-470, title I, §107(a), Oct. 19, 1980, 94 Stat. 2238; Pub. L. 97-35, title III, §331(f), Aug. 13, 1981, 95 Stat. 413; Pub. L. 97-289, §1(f), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(f), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(f), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title III, §303(a), title IV, §§401(e), 434], Nov. 30, 1983, 97 Stat. 1206, 1207, 1222; Pub. L. 98-479, title I, §104(a)(5), Oct. 17, 1984, 98 Stat. 2225; Pub. L. 99-120, §1(e), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99-156, §1(e), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99-219, §1(e), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99-267, §1(e), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99-272, title III, §3007(e), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99-289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub.

L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100-242, title IV, §§401(a)(3), 414, 429(g), Feb. 5, 1988, 101 Stat. 1898, 1907, 1919; Pub. L. 101-235, title I, §139(a), Dec. 15, 1989, 103 Stat. 2029.)

**Editorial Notes**

**REFERENCES IN TEXT**

This chapter, referred to in subsecs. (a), (e), and (f)(5), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

Section 1437o of title 42, referred to in subsec. (h), was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

**AMENDMENTS**

1989—Subsec. (i). Pub. L. 101-235 added subsec. (i) relating to annual review of, and assessment of compliance with, requirements.

1988—Subsec. (c). Pub. L. 100-242, §414(a), struck out subsec. (c) which read as follows: "No insurance shall be granted pursuant to this section unless the Secretary has, after due consultation with the mortgage lending industry, determined that the demonstration program of co-insurance authorized by this section will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under this chapter."

Subsec. (d). Pub. L. 100-242, §401(a)(3), struck out subsec. (d) which read as follows: "No mortgage, advance, or loan shall be insured pursuant to this section after March 15, 1988, except pursuant to a commitment to insure made before that date."

Subsec. (f). Pub. L. 100-242, §429(g)(1), which directed that subsec. (g) be amended by striking out par. (2) which read: "The second sentence of subsection (d) of this section shall not apply to mortgages made to public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortgages insured under this subchapter.", and by redesignating former pars. (3) to (6) as (2) to (5), was executed to subsec. (f) to reflect the probable intent of Congress, because of the prior redesignation of subsec. (g) as (f) by Pub. L. 96-470, §107(a).

Subsec. (h). Pub. L. 100-242, §§414(b)(1), 429(g)(2), made identical amendments, substituting "co-insurance" for "coinsurance" in introductory provision and par. (4).

Pub. L. 100-242, §401(a)(3), struck out at end "No commitment for insurance pursuant to this subsection may be issued after March 15, 1988."

Subsec. (i). Pub. L. 100-242, §414(b)(2), added subsec. (i).

1987—Subsecs. (d), (h). Pub. L. 100-200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100-179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100-170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100-154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100-122 substituted "October 31, 1987" for "September 30, 1987".

1986—Subsecs. (d), (h). Pub. L. 99-430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99-345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99-289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99-272 made amendment identical to Pub. L. 99-219. See 1985 Amendment note below.

Pub. L. 99-267 substituted "April 30, 1986" for "March 17, 1986".

1985—Subsec. (d). Pub. L. 99-219, §1(e)(1), substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99-156, §1(e)(1), substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120, §1(e)(1), substituted “November 14, 1985” for “September 30, 1985”.

Subsec. (h). Pub. L. 99-219, §1(e)(2), substituted “after March 17, 1986” for “on or after December 16, 1985”.

Pub. L. 99-156, §1(e)(2), substituted “December 16, 1985” for “November 15, 1985”.

Pub. L. 99-120, §1(e)(2), substituted “November 15, 1985” for “October 1, 1985”.

1984—Subsec. (d). Pub. L. 98-479 amended subsec. (d) generally, thereby striking out last sentence which provided: “The aggregate principal amount of mortgages and loans insured pursuant to this section in any fiscal year beginning on or after July 1, 1974, and ending prior to October 1, 1985, shall not exceed 20 per centum of the aggregate principal amount of all mortgages and loans insured under this subchapter during such fiscal year.”

1983—Subsec. (d). Pub. L. 98-181, §401(e)(3), which directed that last two sentences of subsec. (d) be struck out was executed by striking out last sentence which provided that the overall percentage limitation specified in the preceding sentence also apply separately within each of the categories of mortgages and loans covering one- to four-family dwellings and mortgages and loans covering projects with five or more dwelling units, as the probable intent of Congress, in view of the amendment to the next to last sentence by section 401(e)(2) of Pub. L. 98-181.

Pub. L. 98-181, §401(e)(1), (2), substituted “September 30, 1985” for “November 30, 1983” and “October 1, 1985” for “December 1, 1983”.

Pub. L. 98-109 substituted “November 30, 1983” for “September 30, 1983” and “December 1, 1983” for “October 1, 1983”.

Pub. L. 98-35 substituted “September 30, 1983” for “May 20, 1983” and “October 1, 1983” for “May 21, 1983”.

Subsec. (f)(1). Pub. L. 98-181, §434(1), struck out “the mortgagee is a public housing agency or an insured depository institution and” after “Where”. Notwithstanding the directory language that amendment be made to subsec. (g)(1), the amendment was executed to subsec. (f)(1) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (f) by Pub. L. 96-470.

Subsec. (f)(5). Pub. L. 98-181, §434(2), substituted reference to section 1437a(b)(6) of title 42 for reference to section 1437a(6) of title 42 and struck out provision which defined the term “insured depository institution” as any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State. Notwithstanding the directory language that amendment be made to subsec. (g)(5), the amendment was executed to subsec. (f)(5) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (f) by Pub. L. 96-470.

Subsec. (h). Pub. L. 98-181, §303(a), added subsec. (h). 1982—Subsec. (d). Pub. L. 97-289 substituted “May 20, 1983” and “May 21, 1983” for “September 30, 1982” and “October 1, 1982”, respectively.

1981—Subsec. (d). Pub. L. 97-35 substituted “1982” for “1981” in two places.

1980—Subsec. (d). Pub. L. 96-399 substituted “September 30, 1981” and “October 1, 1981” for “October 15, 1980” and “October 16, 1980”, respectively.

Pub. L. 96-372 substituted “October 15, 1980” and “October 16, 1980” for “September 30, 1980” and “October 1, 1980”, respectively.

Subsecs. (f), (g). Pub. L. 96-470 struck out subsec. (f) and redesignated subsec. (g) as (f).

1979—Subsec. (d). Pub. L. 96-153 substituted “September 30, 1980” for “November 30, 1979” and “October 1, 1980” for “December 1, 1979”.

Pub. L. 96-105 substituted “November 30, 1979” and “December 1, 1979” for “October 31, 1979” and “November 1, 1979”, respectively.

Pub. L. 96-71 substituted “October 31, 1979” and “November 1, 1979” for “September 30, 1979” and “October 1, 1979”, respectively.

1978—Subsec. (d). Pub. L. 95-557 substituted “September 30, 1979” for “October 31, 1978” and “October 1, 1979” for “November 1, 1978”.

Pub. L. 95-406 substituted “October 31, 1978” for “September 30, 1978” and “November 1, 1978” for “October 1, 1978”.

1977—Subsec. (d). Pub. L. 95-128 substituted “September 30, 1978” for “September 30, 1977” and “October 1, 1978” for “October 1, 1977”.

Pub. L. 95-80 substituted “September 30, 1977” for “July 31, 1977”.

Pub. L. 95-60 substituted “July 31, 1977” for “June 30, 1977”.

1976—Subsec. (a). Pub. L. 94-375, §6(b), inserted, in text following par. (2), a provision excluding a mortgagee which enters into a contract under this section from regulation by state insurance laws.

Subsec. (g). Pub. L. 94-375, §6(a), added subsec. (g).

## Statutory Notes and Related Subsidiaries

### CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

## § 1715z-10. Repealed. Pub. L. 110-289, div. B, title I, § 2120(a)(7), July 30, 2008, 122 Stat. 2835

Section, act June 27, 1934, ch. 847, title II, §245, as added Pub. L. 93-383, title III, §308, Aug. 22, 1974, 88 Stat. 680; amended Pub. L. 94-375, §7, Aug. 3, 1976, 90 Stat. 1071; Pub. L. 95-128, title III, §§301(g), 310, Oct. 12, 1977, 91 Stat. 1131, 1136; Pub. L. 95-406, §1(g), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title III, §301(g), Oct. 31, 1978, 92 Stat. 2096; Pub. L. 95-630, title XV, §1503, Nov. 10, 1978, 92 Stat. 3713; Pub. L. 96-71, §1(g), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(g), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title III, §§301(g), 311(b), Dec. 21, 1979, 93 Stat. 1112, 1115; Pub. L. 96-372, §1(g), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title III, §301(g), Oct. 8, 1980, 94 Stat. 1638; Pub. L. 97-35, title III, §331(g) Aug. 13, 1981, 95 Stat. 413; Pub. L. 97-289, §1(g), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(g), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(g), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title IV, §§401(f), 441, 442], Nov. 30, 1983, 97 Stat. 1208, 1223, 1224; Pub. L. 99-120, §1(f), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99-156, §1(f), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99-219, §1(f), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99-267, §1(f), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99-272, title III, §3007(f), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99-289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100-242, title IV, §§401(a)(4), 408(b), 415(b)(1), Feb. 5, 1988, 101 Stat. 1898, 1903, 1907; Pub. L. 107-326, §3, Dec. 4, 2002, 116 Stat. 2793, related to graduated payment and indexed mortgages.

**§ 1715z-11. Sale to cooperatives of multifamily housing projects acquired by Secretary; acceptance of purchase money mortgage for sale or insurance of mortgage; principal amount of mortgage; expenditures for repairs, etc., prior to sale**

In any case which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this chapter to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provisions for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.

(June 27, 1934, ch. 847, title II, § 246, as added Pub. L. 93-383, title III, § 315, Aug. 22, 1974, 88 Stat. 684; amended Pub. L. 95-557, title III, § 322, Oct. 31, 1978, 92 Stat. 2102.)

**Editorial Notes**

**AMENDMENTS**

1978—Pub. L. 95-557 inserted “or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary” after “dwellings to members” and “or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate” after “purchase money mortgage” and substituted “the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate” for “the sum of (1) the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis and after payment of all operating expenses, taxes and required reserves, and (2) the amount of prepaid expenses and costs involved in achieving cooperative ownership”.

**§ 1715z-11a. Disposition of HUD-owned properties**

**(a) Flexible authority for multifamily projects**

During fiscal year 1997 and fiscal years thereafter, the Secretary may manage and dispose of multifamily properties owned by the Secretary, including, for fiscal years 1997, 1998, 1999, 2000, and thereafter, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation, demolition, or construction on the properties (which shall be eligible whether vacant or occupied), and multifamily mortgages held by the Secretary on such terms and conditions as the Secretary may determine, notwithstanding any other provision of law. A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.

**(b) Transfer of unoccupied and substandard housing to local governments and community development corporations**

**(1) Transfer authority**

Notwithstanding the authority under subsection (a) and the last sentence of section 1710(g) of this title, the Secretary of Housing and Urban Development shall transfer ownership of any qualified HUD property, subject to the requirements of this section, to a unit of general local government having jurisdiction for the area in which the property is located or to a community development corporation which operates within such a unit of general local government in accordance with this subsection, but only to the extent that units of general local government and community development corporations consent to transfer and the Secretary determines that such transfer is practicable.

**(2) Qualified HUD properties**

For purposes of this subsection, the term “qualified HUD property” means any property for which, as of the date that notification of the property is first made under paragraph (3)(B), not less than 6 months have elapsed since the later of the date that the property was acquired by the Secretary or the date that the property was determined to be unoccupied or substandard, that is owned by the Secretary and is—

(A) an unoccupied multifamily housing project;

(B) a substandard multifamily housing project; or

(C) an unoccupied single family property that—

(i) has been determined by the Secretary not to be an eligible asset under section 1710(h) of this title; or

(ii) is an eligible asset under such section 1710(h) of this title, but—

(I) is not subject to a specific sale agreement under such section; and

(II) has been determined by the Secretary to be inappropriate for continued inclusion in the program under such sec-

tion 1710(h) of this title pursuant to paragraph (10) of such section.

**(3) Timing**

The Secretary shall establish procedures that provide for—

(A) time deadlines for transfers under this subsection;

(B) notification to units of general local government and community development corporations of qualified HUD properties in their jurisdictions;

(C) such units and corporations to express interest in the transfer under this subsection of such properties;

(D) a right of first refusal for transfer of qualified HUD properties to units of general local government and community development corporations, under which—

(i) the Secretary shall establish a period during which the Secretary may not transfer such properties except to such units and corporations;

(ii) the Secretary shall offer qualified HUD properties that are single family properties for purchase by units of general local government at a cost of \$1 for each property, but only to the extent that the costs to the Federal Government of disposal at such price do not exceed the costs to the Federal Government of disposing of property subject to the procedures for single family property established by the Secretary pursuant to the authority under the last sentence of section 1710(g) of this title;

(iii) the Secretary may accept an offer to purchase a property made by a community development corporation only if the offer provides for purchase on a cost recovery basis; and

(iv) the Secretary shall accept an offer to purchase such a property that is made during such period by such a unit or corporation and that complies with the requirements of this paragraph; and

(E) a written explanation, to any unit of general local government or community development corporation making an offer to purchase a qualified HUD property under this subsection that is not accepted, of the reason that such offer was not acceptable.

**(4) Other disposition**

With respect to any qualified HUD property, if the Secretary does not receive an acceptable offer to purchase the property pursuant to the procedure established under paragraph (3), the Secretary shall dispose of the property to the unit of general local government in which property is located or to community development corporations located in such unit of general local government on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate.

**(5) Satisfaction of indebtedness**

Before transferring ownership of any qualified HUD property pursuant to this subsection, the Secretary shall satisfy any indebtedness incurred in connection with the property to be transferred, by canceling the indebtedness.

**(6) Determination of status of properties**

To ensure compliance with the requirements of this subsection, the Secretary shall take the following actions:

**(A) Upon enactment**

Upon the enactment of this subsection [December 21, 2000], the Secretary shall promptly assess each residential property owned by the Secretary to determine whether such property is a qualified HUD property.

**(B) Upon acquisition**

Upon acquiring any residential property, the Secretary shall promptly determine whether the property is a qualified HUD property.

**(C) Updates**

The Secretary shall periodically reassess the residential properties owned by the Secretary to determine whether any such properties have become qualified HUD properties.

**(7) Tenant leases**

This subsection shall not affect the terms or the enforceability of any contract or lease entered into with respect to any residential property before the date that such property becomes a qualified HUD property.

**(8) Use of property**

Property transferred under this subsection shall be used only for appropriate neighborhood revitalization efforts, including homeownership, rental units, commercial space, and parks, consistent with local zoning regulations, local building codes, and subdivision regulations and restrictions of record.

**(9) Inapplicability to properties made available for homeless**

Notwithstanding any other provision of this subsection, this subsection shall not apply to any properties that the Secretary determines are to be made available for use by the homeless pursuant to subpart E of part 291 of title 24, Code of Federal Regulations, during the period that the properties are so available.

**(10) Protection of existing contracts**

This subsection may not be construed to alter, affect, or annul any legally binding obligations entered into with respect to a qualified HUD property before the property becomes a qualified HUD property.

**(11) Definitions**

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

**(A) Community development corporation**

The term “community development corporation” means a nonprofit organization whose primary purpose is to promote community development by providing housing opportunities for low-income families.

**(B) Cost recovery basis**

The term “cost recovery basis” means, with respect to any sale of a residential property by the Secretary, that the purchase

price paid by the purchaser is equal to or greater than the sum of: (i) the appraised value of the property, as determined in accordance with such requirements as the Secretary shall establish; and (ii) the costs incurred by the Secretary in connection with such property during the period beginning on the date on which the Secretary acquires title to the property and ending on the date on which the sale is consummated.

**(C) Multifamily housing project**

The term “multifamily housing project” has the meaning given the term in section 1701z-11 of this title.

**(D) Residential property**

The term “residential property” means a property that is a multifamily housing project or a single family property.

**(E) Secretary**

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

**(F) Severe physical problems**

The term “severe physical problems” means, with respect to a dwelling unit, that the unit—

(i) lacks hot or cold piped water, a flush toilet, or both a bathtub and a shower in the unit, for the exclusive use of that unit;

(ii) on not less than three separate occasions during the preceding winter months, was uncomfortably cold for a period of more than 6 consecutive hours due to a malfunction of the heating system for the unit;

(iii) has no functioning electrical service, exposed wiring, any room in which there is not a functioning electrical outlet, or has experienced three or more blown fuses or tripped circuit breakers during the preceding 90-day period;

(iv) is accessible through a public hallway in which there are no working light fixtures, loose or missing steps or railings, and no elevator; or

(v) has severe maintenance problems, including water leaks involving the roof, windows, doors, basement, or pipes or plumbing fixtures, holes or open cracks in walls or ceilings, severe paint peeling or broken plaster, and signs of rodent infestation.

**(G) Single family property**

The term “single family property” means a 1- to 4-family residence.

**(H) Substandard**

The term “substandard” means, with respect to a multifamily housing project, that 25 percent or more of the dwelling units in the project have severe physical problems.

**(I) Unit of general local government**

The term “unit of general local government” has the meaning given such term in section 5302(a) of title 42.

**(J) Unoccupied**

The term “unoccupied” means, with respect to a residential property, that the unit

of general local government having jurisdiction over the area in which the project is located has certified in writing that the property is not inhabited.

**(12) Regulations**

**(A) Interim**

Not later than 30 days after December 21, 2000, the Secretary shall issue such interim regulations as are necessary to carry out this subsection.

**(B) Final**

Not later than 60 days after December 21, 2000, the Secretary shall issue such final regulations as are necessary to carry out this subsection.

(Pub. L. 104-204, title II, §204, Sept. 26, 1996, 110 Stat. 2894; Pub. L. 105-65, title II, §213, Oct. 27, 1997, 111 Stat. 1366; Pub. L. 105-276, title II, §206, Oct. 21, 1998, 112 Stat. 2484; Pub. L. 106-74, title V, §537, Oct. 20, 1999, 113 Stat. 1122; Pub. L. 106-377, §1(a)(1) [title II, §204], Oct. 27, 2000, 114 Stat. 1441, 1441A-24; Pub. L. 106-554, §1(a)(7) [title I, §141], Dec. 21, 2000, 114 Stat. 2763, 2763A-614; Pub. L. 109-171, title II, §2003(a), Feb. 8, 2006, 120 Stat. 9.)

**Editorial Notes**

**CODIFICATION**

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, and not as part of the National Housing Act which comprises this chapter.

**AMENDMENTS**

2006—Subsec. (a). Pub. L. 109-171 inserted at end “A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.”

2000—Pub. L. 106-554 substituted “Disposition of HUD-owned properties” for “Flexible authority” in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 106-377 substituted “2000, and thereafter” for “and 2000”.

1999—Pub. L. 106-74 substituted “1999, and 2000” for “and 1999” and “, demolition, or construction on the properties (which shall be eligible whether vacant or occupied)” for “or demolition”.

1998—Pub. L. 105-276 substituted “fiscal years 1997, 1998, and 1999” for “fiscal years 1997 and 1998”.

1997—Pub. L. 105-65 inserted “, including, for fiscal years 1997 and 1998, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation or demolition,” after “owned by the Secretary”.

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by Pub. L. 109-171 not applicable to any transaction that formally commences within one year prior to Feb. 8, 2006, see section 2003(c) of Pub. L. 109-171, set out as a note under section 1701z-11 of this title.

**§ 1715z-12. Single-family mortgage insurance on Hawaiian home lands**

**(a) One- to four-family residence; eligibility**

The Secretary, subject to such conditions as the Secretary may prescribe, may insure under



any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Hawaiian home lands, if—

(1) the mortgage is executed by a native Hawaiian on property located within Hawaiian home lands covered under a homestead lease issued under section 207(a) of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5);

(2) the property will be used as the principal residence of the mortgagor; and

(3) the Department of Hawaiian Home Lands of the State of Hawaii (A) is a comortgagor; (B) guarantees to reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian home lands; or (C) offers other security acceptable to the Secretary.

**(b) Construction advances**

Notwithstanding any other provision of this chapter, the Secretary may, with respect to mortgages eligible for insurance under subsection (a), insure and make commitments to insure advances made during construction if the Secretary determines that the proposed construction is otherwise acceptable and that no feasible financing alternative is available.

**(c) Insurance of mortgage as obligation of General Insurance Fund**

Notwithstanding any other provision of this chapter, the insurance of a mortgage using the authority contained in this section shall be the obligation of the Mutual Mortgage Insurance Fund. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 1710 of this title with respect to mortgages insured pursuant to this section, except that all references in section 1710 of this title to section 1709 of this title shall be construed to refer to the section under which the mortgage is insured.

**(d) “Native Hawaiian” and “Hawaiian home lands” defined**

For purposes of this section:

**(1) Native Hawaiian**

The term “native Hawaiian” means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778, or, in the case of an individual who is awarded an interest in a lease of Hawaiian home lands through transfer or succession, such lower percentage as may be established for such transfer or succession under section 208 or 209 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 111), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into

the Union”, approved March 18, 1959 (73 Stat. 5).

**(2) Hawaiian home lands**

The term “Hawaiian home lands” means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5).

**(e) Certification of eligibility for existing lessees**

Possession of a lease of Hawaiian home lands issued under section 207(a) of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), shall be sufficient to certify eligibility to receive a mortgage under this section.

(June 27, 1934, ch. 847, title II, §247, as added Pub. L. 98-181, title I [title IV, §421], Nov. 30, 1983, 97 Stat. 1213; amended Pub. L. 100-202, §101(f) [title I, §101], Dec. 22, 1987, 101 Stat. 1329-187, 1329-191; Pub. L. 100-242, title IV, §§413(a), (b), 429(h), Feb. 5, 1988, 101 Stat. 1906, 1919; Pub. L. 100-628, title X, §1065, Nov. 7, 1988, 102 Stat. 3275; Pub. L. 107-73, title II, §215, Nov. 26, 2001, 115 Stat. 677; Pub. L. 110-289, div. B, title I, §2119(a), July 30, 2008, 122 Stat. 2835.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Hawaiian Homes Commission Act, 1920, referred to in subsec. (a)(1), is act July 9, 1921, ch. 42, 42 Stat. 108. The Hawaiian Homes Commission Act of 1920, referred to in subsecs. (d) and (e), probably means the Hawaiian Homes Commission Act, 1920. Sections 204, 207, 208, and 209 of that Act were classified to sections 698, 701, 702, and 703 of Title 48, Territories and Insular Possessions, and were omitted from the Code.

Section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved Mar. 18, 1959 (73 Stat. 5), referred to in subsecs. (a)(1) and (d), is section 4 of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 5, which is set out as a note preceding section 491 of Title 48.

**AMENDMENTS**

2008—Subsec. (c). Pub. L. 110-289 substituted “Mutual Mortgage Insurance Fund” for “General Insurance Fund established in section 1735c of this title” and struck out “(1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2)” after “except that”.

2001—Subsec. (d)(1), (2). Pub. L. 107-73, §215(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

“(1) The term ‘native Hawaiian’ means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778 (or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ‘An Act to provide for the admission of the State of Hawaii into the Union’, approved March 18, 1959 (73 Stat. 5)).

“(2) The term ‘Hawaiian home lands’ means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution

of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5)."

Subsec. (e). Pub. L. 107-73, § 215(2), added subsec. (e). 1988—Subsec. (a)(2). Pub. L. 100-242, § 429(h), substituted "mortgagor" for "Mortgagor".

Subsecs. (c), (d). Pub. L. 100-628 clarified amendment by Pub. L. 100-242, § 413(a), (b).

Pub. L. 100-242, § 413(a), (b), made amendment identical to Pub. L. 100-202. See 1987 Amendment note below.

1987—Subsec. (c). Pub. L. 100-202 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-202 extended subsec. (c)(1) term "native Hawaiian" to include in the case of succession in an interest in a lease of Hawaiian homelands any descendant of a percentage less than one-half of the blood of the races inhabiting the Hawaiian Islands before Jan. 1, 1778, as may be established under statute or constitution for succession; and redesignated subsec. (c), including such par. (1), as subsec. (d).

### **§ 1715z-13. Single family mortgage insurance on Indian reservations**

#### **(a) One- to four-family residence; eligibility**

The Secretary, subject to such special conditions as the Secretary may prescribe, may insure under any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Indian reservations if the mortgage (1) is executed by an Indian tribe and the property is located on trust or otherwise restricted land; or (2) is executed by a member of an Indian tribe who will use the property as a principal residence and the property is on trust or otherwise restricted land.

#### **(b) Construction advances; percentage limitation on amount of principal obligation; pledge of income from tribal resources or assets**

Notwithstanding any other provision of this chapter, with respect to mortgages covering a property upon which there is located a one- to four-family residence—

(1) the Secretary may insure and make commitments to insure under this subchapter pursuant to this section advances made during construction where the Secretary determines that the proposed construction is otherwise acceptable and meets an applicable tribal or national model building code, and that no feasible financing alternative is available;

(2) the applicable percentage limitation on the amount of the principal obligation of a mortgage based on the appraised value or replacement cost, as appropriate, of a one- to four-family owner-occupied residence contained in this subchapter shall apply in the case of all mortgages insured pursuant to this section without regard to whether the residences are owner-occupied where the residences are owned by the tribe; and

(3)(A) the Secretary may require an Indian tribe, only as a condition of insurance made under this subchapter pursuant to this section, to pledge income from tribal resources or

income from tribal assets not subject to a restriction by the Secretary of the Interior or pledge grants under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] or any other Federal grant program administered by the Secretary of Housing and Urban Development to be used to reimburse the Secretary for any mortgage insurance claims paid in connection with residences insured pursuant to this section; or

(B) in the case of an individual Indian mortgagor, the Secretary may require a pledge of his or her share of distributed income from tribal resources or income from tribal assets, excluding any Federal grants received by the tribe.

#### **(c) Lack of tribal or trust fund income**

The Secretary may not refuse to insure a mortgage under this section to an individual home purchaser because there is no distributed tribal or trust fund income attributable to that purchaser.

#### **(d) Availability of tribal eviction procedures**

Before making any commitment to insure a mortgage under this section with respect to property located on trust or otherwise restricted land, the Secretary shall require a showing by the tribe that it has adopted eviction procedures to be used in the event of a default.

#### **(e) Assumption of mortgage**

A mortgage insured under this section may be assumed, subject to credit approval by the lender and the consent of the tribe to an assumption of the existing lease or the grant of a new lease, without an adjustment of the interest rate. Any other sale of a property subject to a mortgage insured under this section may be made only if a new lease is granted, except that a sale following a foreclosure may be accompanied by an assumption of the lease with the consent of the tribe.

#### **(f) Insurance of mortgage as obligation of General Insurance Fund**

Notwithstanding any other provision of this chapter, the insurance of a mortgage using the authority contained in this section shall be the obligation of the Mutual Mortgage Insurance Fund. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 1710 of this title with respect to mortgages insured pursuant to this section, except that all references in section 1710 of this title to section 1709 of this title shall be construed to refer to the section under which the mortgage is insured.

#### **(g) Availability of status and payment history of loans; entitlement to benefit of insurance; reinstatement of loan upon cure of default; garnishment proceedings; foreclosure proceedings**

(1) The Secretary shall make information regarding the status and payment history of loans insured under this section available to local credit bureaus and prospective creditors. Prior to accepting assignment of a mortgage, the Secretary shall require mortgagees to submit documentation that mortgagors have been counseled in a face-to-face interview, informed of the provisions of this subsection or other available as-

sistance, and provided with the names and addresses of officials of the Department of Housing and Urban Development to whom further communications shall be addressed.

(2) Notwithstanding the requirement for conveyance of title under section 1710 of this title, a mortgagee under this section shall be entitled to receive the benefit of insurance under this section in the case of a mortgage which is more than 90 days in default upon conveyance of the lease agreement and the mortgage documents.

(3) In the event that any default is cured, the Secretary shall seek to reinstate the loan with the mortgagee or another mortgagee. For purposes of this paragraph, the Secretary may provide appropriate financial incentives to reinstate the loan commensurate with sound management of the General Insurance Fund.

(4) If the Secretary determines that a mortgagor is not making a good-faith effort to cure a default, and that trust fund or tribal income is available under subsection (b)(3)(B), the Secretary shall commence proceedings for the garnishment of the mortgagor's distributed share of tribal or trust fund income in order to collect loan payments that are past due. Proceedings under this paragraph may be instituted in a tribal court, court of competent jurisdiction designated by the tribe, or Federal district court.

(5) If the Secretary determines such action is necessary to protect the General Insurance Fund from undue loss, the Secretary may initiate foreclosure proceedings with respect to any mortgage acquired under this subsection. Such proceeding may take place in a tribal court, a court of competent jurisdiction, or Federal district court. Any such court shall have jurisdiction to convey to the Secretary the remaining life of a lease on the real property and to order eviction of the delinquent mortgagor.

**(h) Premium charge for insurance; report to Congress**

In the administration of this section, the Secretary shall establish a premium charge for insurance that will be sufficient to cover the full costs of the mortgage insurance program under this section, except that such charge may not exceed 3 percent per annum of the principal amount of the mortgage outstanding at any time. Not later than September 30, 1984, the Secretary shall determine and report to the Congress on the feasibility of eliminating any excess amount of the premium under this section over the premium under section 1709 of this title. In the event such premiums are not sufficient to cover the full costs of the mortgage insurance program under this section, the Secretary shall make recommendations to the Congress about changes to the program.

**(i) "Indian tribe" and "trust or otherwise restricted land" defined**

For purposes of this section:

(1) The term "Indian tribe" means any Indian or Alaska native tribe, band, nation, or other organized group or community of Indians or Alaska natives recognized as eligible for the services provided to Indians or Alaska natives by the Secretary of the Interior because of its status as such an entity, or that

was an eligible recipient under chapter 67 of title 31, prior to the repeal of such chapter.

(2) The term "trust or otherwise restricted land" means (A) that area of land, as defined by the Secretary of the Interior, over which an Indian tribe is recognized by the United States as having governmental jurisdiction; (B) land held in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation; or (C) land acquired by Alaska natives under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or any other land acquired by Alaska natives pursuant to statute by virtue of their unique status as Alaska natives.

(June 27, 1934, ch. 847, title II, §248, as added Pub. L. 98-181, title I [title IV, §422], Nov. 30, 1983, 97 Stat. 1214; amended Pub. L. 99-272, title XIV, §14001(b)(7), Apr. 7, 1986, 100 Stat. 329; Pub. L. 100-242, title IV, §§413(c), 429(i), Feb. 5, 1988, 101 Stat. 1906, 1919; Pub. L. 110-289, div. B, title I, §2119(b), July 30, 2008, 122 Stat. 2835.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(A), is Pub. L. 93-383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Chapter 67 of title 31, referred to in subsec. (i)(1), was repealed by Pub. L. 99-272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327. A new chapter 67 of Title 31, Money and Finance, was added by Pub. L. 103-322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1859.

The Alaska Native Claims Settlement Act, referred to in subsec. (i)(2), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

**AMENDMENTS**

2008—Subsec. (f). Pub. L. 110-289 substituted "Mutual Mortgage Insurance Fund" for "General Insurance Fund established in section 1735c of this title" and struck out "(1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2)" after "except that".

1988—Subsec. (a)(1). Pub. L. 100-242, §429(i)(1), substituted "land" for "lands".

Subsec. (a)(2). Pub. L. 100-242, §429(i)(2), substituted "on trust or otherwise restricted land" for "on trust lands or otherwise restricted land".

Subsec. (d). Pub. L. 100-242, §429(i)(3), substituted "trust or otherwise restricted land" for "tribal or trust land".

Subsec. (f). Pub. L. 100-242, §413(c)(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 100-242, §413(c)(1), (2), redesignated former subsec. (f) as (g) and substituted "General Insurance Fund" for "insurance fund" in pars. (3) and (5). Former subsec. (g) redesignated (h).

Subsecs. (h), (i). Pub. L. 100-242, §413(c)(2), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1986—Subsec. (h)(1). Pub. L. 99-272 substituted "was an eligible recipient under chapter 67 of title 31, prior to the repeal of such chapter" for "is an eligible recipient under chapter 67 of title 31".

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99-272.

**§ 1715z-13a. Loan guarantees for Indian housing****(a) Authority**

To provide access to sources of private financing to Indian families, Indian housing authorities, and Indian tribes, who otherwise could not acquire housing financing because of the unique legal status of Indian lands, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) made to an Indian family, Indian housing authority, or Indian tribe.

**(b) Eligible loans**

Loans guaranteed pursuant to this section shall meet the following requirements:

**(1) Eligible borrowers**

The loans shall be made only to borrowers who are Indian families, Indian housing authorities, or Indian tribes.

**(2) Eligible housing**

The loan shall be used to construct, acquire, refinance, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

**(3) Security**

The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

**(4) Lenders**

The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(B) Any lender whose housing loans under chapter 37 of title 38 are automatically guaranteed pursuant to section 1802(d)<sup>1</sup> of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 [42 U.S.C. 1441 et seq.].

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

**(5) Terms**

The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404<sup>2</sup> and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is \$50,000 or less); and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

**(c) Certificate of guarantee****(1) Approval process**

Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

**(2) Standard for approval**

The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

**(3) Effect**

A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

**(4) Fraud and misrepresentation**

This subsection may not be construed to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

**(5) Trailing documents****(A) In general**

The Secretary may issue a certificate of guarantee under this subsection for a loan involving a security interest in Indian trust

<sup>1</sup> So in original. Probably should be section “3702(d)”.

<sup>2</sup> So in original. Probably should be “subsection (d)”.

land before the Secretary receives the trailing documents required by the Secretary from the Bureau of Indian Affairs, including the final certified title status report showing the recordation by the Bureau of Indian Affairs of the mortgage relating to the loan, if the originating lender agrees to indemnify the Secretary for any losses that may result when—

- (i) a claim payment is presented to the Secretary due to the default of the borrower on the loan; and
- (ii) the required trailing documents are outstanding.

**(B) Termination of indemnification agreement**

An indemnification agreement between an originating lender and the Secretary described in subparagraph (A) shall only terminate upon receipt by the Secretary of the trailing documents described in that subparagraph in a form and manner that is acceptable to the Secretary.

**(C) Rule of construction**

Nothing in this paragraph shall be construed as authorizing the Bureau of Indian Affairs to delay the issuance of a final certified title status report and recorded mortgage relating to a loan closed on Indian trust land.

**(d) Guarantee fee**

The Secretary shall establish and collect, at the time of issuance of the guarantee, a fee for the guarantee of loans under this section, in an amount not exceeding 3 percent of the principal obligation of the loan. The Secretary may also establish and collect annual premium payments in an amount not exceeding 1 percent of the remaining guaranteed balance (excluding the portion of the remaining balance attributable to the fee collected at the time of issuance of the guarantee). The Secretary shall establish the amount of the fees and premiums by publishing a notice in the Federal Register. The Secretary shall deposit any fees and premiums collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i).

**(e) Liability under guarantee**

The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

**(f) Transfer and assumption**

Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

**(g) Disqualification of lenders and civil money penalties**

**(1) In general**

If the Secretary determines that any lender or holder of a guarantee certificate under sub-

section (c) has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

**(2) Civil money penalties for intentional violations**

If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act [12 U.S.C. 1735f-14] with respect to mortgagees and lenders under such Act.

**(3) Payment on loans made in good faith**

Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

**(h) Payment under guarantee**

**(1) Lender options**

**(A) In general**

In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

**(i) Foreclosure**

The holder of the certificate may initiate foreclosure proceedings (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e)) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

**(ii) No foreclosure**

Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e)). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

**(B) Requirements**

Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Exhausting all reasonable possibilities of collection by the holder of the guarantee shall include a good faith consideration of loan modification as well as meeting standards for servicing loans in default, as determined by the Secretary. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

**(2) Limitations on liquidation**

In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in restricted Indian land, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

**(i) Indian Housing Loan Guarantee Fund****(1) Establishment**

There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

**(2) Credits**

The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d); and

(D) any interest or earnings on amounts invested under paragraph (4).

**(3) Use**

Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 661a of title 2) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

**(4) Investment**

Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

**(5) Limitation on commitments to guarantee loans and mortgages****(A) Requirement of appropriations**

The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent or in such amounts as are or have been provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

**(B) Limitations on costs of guarantees**

The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 661a of title 2) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

**(C) Limitation on outstanding aggregate principal amount**

Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 2008 through 2012 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for such fiscal year.

**(6) Liabilities**

All liabilities and obligations of the assets credited to the Guarantee Fund under para-

graph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

**(7) Authorization of appropriations**

There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2008 through 2012.

**(j) Requirements for standard housing**

The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 degrees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established

by the Secretary under section 526(a) of the National Housing Act [12 U.S.C. 1735f-4(a)].

**(k) Environmental review**

For purposes of environmental,<sup>3</sup> review, decisionmaking, and action under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other law that furthers the purposes of that Act, a loan guarantee under this section shall—

(1) be treated as a grant under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.); and

(2) be subject to the regulations promulgated by the Secretary to carry out section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4115).

**(l) Definitions**

For purposes of this section:

(1) The term “family” means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term “Guarantee Fund” means the Indian Housing Loan Guarantee Fund established under subsection (i).

(3) The term “Indian” means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term “Indian area” means the area within which an Indian housing authority or Indian tribe is authorized to provide housing.

(5) The term “Indian housing authority” means any entity that—

(A) is authorized to engage in or assist in the development or operation of—

(i) low-income housing for Indians; or

(ii) housing subject to the provisions of this section; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

The term includes tribally designated housing entities under the Native American Housing Assistance and Self-Determination Act of 1996 [25 U.S.C. 4101 et seq.].

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

(7) The term “standard housing” means a dwelling unit or housing that complies with the requirements established under subsection (j).

(8) **TRIBE; INDIAN TRIBE.**—The term “tribe” or “Indian tribe” means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their

<sup>3</sup> So in original. The comma probably should not appear.

status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975 [25 U.S.C. 5301 et seq.].

(9) The term “trust land” means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

(Pub. L. 102-550, title I, §184, Oct. 28, 1992, 106 Stat. 3739; Pub. L. 104-330, title VII, §701(a)-(j), Oct. 26, 1996, 110 Stat. 4048-4050; Pub. L. 105-276, title V, §595(e)(11)-(13), Oct. 21, 1998, 112 Stat. 2658; Pub. L. 106-377, §1(a)(1) [title II, §227], Oct. 27, 2000, 114 Stat. 1441, 1441A-30; Pub. L. 106-568, title X, §1002, Dec. 27, 2000, 114 Stat. 2925; Pub. L. 106-569, title V, §502, Dec. 27, 2000, 114 Stat. 2961; Pub. L. 107-292, §2(d), Nov. 13, 2002, 116 Stat. 2053; Pub. L. 110-37, §2, June 18, 2007, 121 Stat. 229; Pub. L. 113-6, div. F, title VIII, §1806, Mar. 26, 2013, 127 Stat. 433; Pub. L. 113-235, div. K, title II, §241, Dec. 16, 2014, 128 Stat. 2759; Pub. L. 116-260, div. Q, title I, §105(b), Dec. 27, 2020, 134 Stat. 2171.)

### Editorial Notes

#### REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b)(4)(A), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The Housing Act of 1949, referred to in subsec. (b)(4)(C), is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to chapter 8A (§1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (k), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsecs. (k)(1) and (l)(5), is Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, which is classified principally to chapter 43 (§4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

The Alaska Native Claims Settlement Act, referred to in subsec. (l)(8), is Pub. L. 92-203, Dec. 18, 1971, 85 Stat. 688, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (l)(8), is Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2203, which is classified principally to chapter 46 (§5301 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

#### CODIFICATION

Section was enacted 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

2020—Subsec. (c)(5). Pub. L. 116-260 added par. (5).

2014—Subsec. (h)(1)(B). Pub. L. 113-235 inserted after first sentence “Exhausting all reasonable possibilities of collection by the holder of the guarantee shall include a good faith consideration of loan modification as well as meeting standards for servicing loans in default, as determined by the Secretary.”

2013—Subsec. (d). Pub. L. 113-6 amended subsec. (d) generally. Prior to amendment, text read as follows: “The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i) of this section.”

2007—Subsec. (i)(5)(C),(7). Pub. L. 110-37 substituted “fiscal years 2008 through 2012” for “fiscal years 1997 through 2007”.

2002—Subsec. (i)(5)(C), (7). Pub. L. 107-292 substituted “each of fiscal years 1997 through 2007” for “each fiscal year”.

2000—Subsec. (a). Pub. L. 106-377, §1(a)(1) [title II, §227(1)], struck out “or as a result of a lack of access to private financial markets” after “legal status of Indian lands”.

Subsec. (b)(2). Pub. L. 106-377, §1(a)(1) [title II, §227(2)], inserted “refinance,” after “acquire.”

Subsec. (i)(5)(C). Pub. L. 106-568, §1002(1), and Pub. L. 106-569, §502(1), amended par. (5) identically, adding subpar. (C) and striking out heading and text of former subpar. (C). Text read as follows: “Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount not exceeding \$400,000,000 for each such fiscal year.”

Subsec. (i)(7). Pub. L. 106-568, §1002(2), and Pub. L. 106-569, §502(2), amended par. (7) identically, substituting “each fiscal year” for “each of fiscal years 1997, 1998, 1999, 2000, and 2001”.

1998—Subsec. (b)(2). Pub. L. 105-276, §595(e)(11), struck out before period at end “that is under the jurisdiction of an Indian tribe for which an Indian housing plan has been submitted and approved pursuant to sections 102 and 103 of the Native American Housing Assistance and Self-Determination Act of 1996 that provides for the use of loan guarantees under this section to provide affordable homeownership housing in such areas.”

Subsec. (i)(5)(C). Pub. L. 105-276, §595(e)(12), substituted “not” for “note”.

Subsecs. (k), (l). Pub. L. 105-276, §595(e)(13), added subsec. (k) and redesignated former subsec. (k) as (l).

1996—Subsec. (a). Pub. L. 104-330, §701(a)(1), (b), substituted “Indian housing authorities, and Indian tribes,” for “and Indian housing authorities”, “lands or as a result of a lack of access to private financial markets” for “trust land”, and “Indian housing authority, or Indian tribe” for “or Indian housing authority”.

Subsec. (b)(1). Pub. L. 104-330, §701(a)(2), substituted “Indian housing authorities, or Indian tribes” for “or Indian housing authorities”.

Subsec. (b)(2). Pub. L. 104-330, §701(c), inserted before period at end “that is under the jurisdiction of an Indian tribe for which an Indian housing plan has been submitted and approved pursuant to sections 102 and 103 of the Native American Housing Assistance and Self-Determination Act of 1996 that provides for the use of loan guarantees under this section to provide affordable homeownership housing in such areas”.

Subsec. (b)(5)(C)(i). Pub. L. 104-330, §701(i), added cl. (i) and struck out former cl. (i) which read as follows: “an amount equal to the sum of (I) 97 percent of \$25,000 of the appraised value of the property, as of the date the loan is accepted for guarantee, and (II) 95 percent of such value in excess of \$25,000; and”.

Subsec. (h)(1)(A)(i). Pub. L. 104-330, §701(d)(1)(A), struck out “in a court of competent jurisdiction” after “foreclosure proceedings” in first sentence.



Subsec. (h)(1)(A)(ii). Pub. L. 104–330, §701(d)(1)(B), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: “Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e) of this section). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.”

Subsec. (h)(2), (3). Pub. L. 104–330, §701(d)(2), (3), (e), redesignated par. (3) as (2), in first sentence substituted “restricted Indian land, the mortgagee or” for “tribal allotted or trust land,” in second sentence substituted “mortgagee or the Secretary” for “Secretary” in two places, and struck out heading and text of former par. (2). Text read as follows: “Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e) of this section). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.”

Subsec. (i)(5)(A). Pub. L. 104–330, §701(j)(1), added subpar. (A) and struck out heading and text of former subpar. (A). Text read as follows: “The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.”

Subsec. (i)(5)(B). Pub. L. 104–330, §701(j)(2), inserted at end “Any amounts appropriated pursuant to this subparagraph shall remain available until expended.”

Subsec. (i)(5)(C). Pub. L. 104–330, §701(f), substituted “1997, 1998, 1999, 2000, and 2001 with an aggregate outstanding principal amount not exceeding \$400,000,000 for each such fiscal year” for “1993 and 1994 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for each such year”.

Subsec. (i)(7). Pub. L. 104–330, §701(g), substituted “such sums as may be necessary for each of fiscal years 1997, 1998, 1999, 2000, and 2001” for “such sums as may be necessary for fiscal year 1993 and \$50,000,000 for fiscal year 1994”.

Subsec. (k)(4). Pub. L. 104–330, §701(h)(1), inserted “or Indian tribe” after “authority”.

Subsec. (k)(5). Pub. L. 104–330, §701(h)(2), inserted concluding provisions, added subpar. (A), and struck out former subpar. (A) which read as follows: “is authorized to engage in or assist in the development or operation of low-income housing for Indians; and”.

Subsec. (k)(8). Pub. L. 104–330, §701(h)(3), added par. (8) and struck out former par. (8) which read as follows: “The term ‘tribe’ means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §595(f), Oct. 21, 1998, 112 Stat. 2659, provided that: “The amendments made by this section [enacting section 4168 of Title 25, Indians, amending this section, sections 4103, 4111 to 4113, 4131, 4135 to 4139 of Title 25, and sections 1437e and 12899h–1 of Title 42, The Public Health and Welfare, and repealing provisions set out as a note under section 1437 of Title 42] are made and shall apply beginning upon the date of the enactment of this Act [Oct. 21, 1998].”

#### FINDINGS RELATED TO IMPROVEMENTS TO LOAN GUARANTEES FOR INDIAN HOUSING

Pub. L. 116–260, div. Q, title I, §105(a), Dec. 27, 2020, 134 Stat. 2170, provided that: “Congress finds that—

“(1) the extended timelines for approving lenders’ applications to participate in the program established under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a) are unacceptably long;

“(2) those extended timelines inhibit the ability of lenders to provide needed mortgage loans on Native American reservations; and

“(3) it can take a significant amount of time for certain Bureau of Indian Affairs Land Title and Records Offices to issue final certified title status reports for mortgages issued on Indian trust land under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a), which delays the guarantee of the loan by the Department of Housing and Urban Development.”

#### REPORTS ON ACCELERATION OF PROCESSING

Pub. L. 116–260, div. Q, title I, §105(c), Dec. 27, 2020, 134 Stat. 2171, provided that: “The Secretary of Housing and Urban Development shall—

“(1) report to the Committee on Banking, Housing, and Urban Affairs and the Committee on Indian Affairs of the Senate and the Committee on Financial Services and the Committee on Natural Resources of the House of Representatives on a semi-annual basis on the progress that the Secretary is making to accelerate the processing of loan applications on fee simple and Indian trust land under section 184 of the Housing and Community Development Act of 1992 (12 U.S.C. 1715z–13a); and

“(2) if there is no improvement in accelerating those processing timelines, submit to the committees described in paragraph (1) a report explaining the lack of improvement.”

### § 1715z–13b. Loan guarantees for Native Hawaiian housing

#### (a) Definitions

In this section:

##### (1) Department of Hawaiian Home Lands

The term “Department of Hawaiian Home Lands” means the agency or department of the government of the State of Hawaii that is responsible for the administration of the Hawaiian Homes Commission Act, 1920 (42 Stat. 108 et seq.).

##### (2) Eligible entity

The term “eligible entity” means a Native Hawaiian family, the Department of Hawaiian Home Lands, the Office of Hawaiian Affairs, and private nonprofit or private for-profit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

##### (3) Family

The term “family” means one or more persons maintaining a household, as the Secretary shall by regulation provide.

##### (4) Guarantee Fund

The term “Guarantee Fund” means the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

##### (5) Hawaiian Home Lands

The term “Hawaiian Home Lands” means lands that—

(A) have the status of Hawaiian Home Lands under section 204 of the Hawaiian Homes Commission Act (42 Stat. 110); or

(B) are acquired pursuant to that Act.

**(6) Native Hawaiian**

The term “Native Hawaiian” means any individual who is—

- (A) a citizen of the United States; and
- (B) a descendant of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii, as evidenced by—
  - (i) genealogical records;
  - (ii) verification by kupuna (elders) or kama’aina (long-term community residents); or
  - (iii) birth records of the State of Hawaii.

**(7) Office of Hawaiian Affairs**

The term “Office of Hawaiian Affairs” means the entity of that name established under the constitution of the State of Hawaii.

**(b) Authority**

To provide access to sources of private financing to Native Hawaiian families who otherwise could not acquire housing financing because of the unique legal status of the Hawaiian Home Lands or as a result of a lack of access to private financial markets, the Secretary may guarantee an amount not to exceed 100 percent of the unpaid principal and interest that is due on an eligible loan under subsection (c).

**(c) Eligible loans**

Under this section, a loan is an eligible loan if that loan meets the following requirements:

**(1) Eligible borrowers**

The loan is made only to a borrower who is—

- (A) a Native Hawaiian family;
- (B) the Department of Hawaiian Home Lands;
- (C) the Office of Hawaiian Affairs; or
- (D) a private nonprofit organization experienced in the planning and development of affordable housing for Native Hawaiians.

**(2) Eligible housing**

**(A) In general**

The loan will be used to construct, acquire, or rehabilitate not more than 4-family dwellings that are standard housing and are located on Hawaiian Home Lands for which a housing plan described in subparagraph (B) applies.

**(B) Housing plan**

A housing plan described in this subparagraph is a housing plan that—

- (i) has been submitted and approved by the Secretary under section 4223 of title 25; and
- (ii) provides for the use of loan guarantees under this section to provide affordable homeownership housing on Hawaiian Home Lands.

**(3) Security**

The loan may be secured by any collateral authorized under applicable Federal or State law.

**(4) Lenders**

**(A) In general**

The loan shall be made only by a lender approved by, and meeting qualifications es-

tablished by, the Secretary, including any lender described in subparagraph (B), except that a loan otherwise insured or guaranteed by an agency of the Federal Government or made by the Department of Hawaiian Home Lands from amounts borrowed from the United States shall not be eligible for a guarantee under this section.

**(B) Approval**

The following lenders shall be considered to be lenders that have been approved by the Secretary:

- (i) Any mortgagee approved by the Secretary for participation in the single family mortgage insurance program under title II of the National Housing Act [12 U.S.C. 1707 et seq.].
- (ii) Any lender that makes housing loans under chapter 37 of title 38 that are automatically guaranteed under section 3702(d) of title 38.
- (iii) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 [42 U.S.C. 1441 et seq.].
- (iv) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

**(5) Terms**

The loan shall—

- (A) be made for a term not exceeding 30 years;
- (B) bear interest (exclusive of the guarantee fee under subsection (e) and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, but not to exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;
- (C) involve a principal obligation not exceeding—
  - (i) 97.75 percent of the appraised value of the property as of the date the loan is accepted for guarantee (or 98.75 percent if the value of the property is \$50,000 or less); or
  - (ii) the amount approved by the Secretary under this section; and
- (D) involve a payment on account of the property—
  - (i) in cash or its equivalent; or
  - (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

**(d) Certificate of guarantee**

**(1) Approval process**

**(A) In general**

Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination.

**(B) Approval**

If the Secretary approves the application submitted under subparagraph (A), the Sec-

retary shall issue a certificate under this subsection as evidence of the loan guarantee approved.

**(2) Standard for approval**

The Secretary may approve a loan for guarantee under this section and issue a certificate under this subsection only if the Secretary determines that there is a reasonable prospect of repayment of the loan.

**(3) Effect**

**(A) In general**

A certificate of guarantee issued under this subsection by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under this section and the amount of that guarantee.

**(B) Evidence**

The evidence referred to in subparagraph (A) shall be incontestable in the hands of the bearer.

**(C) Full faith and credit**

The full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for the obligations made by the Secretary under this section.

**(4) Fraud and misrepresentation**

This subsection may not be construed—

(A) to preclude the Secretary from establishing defenses against the original lender based on fraud or material misrepresentation; or

(B) to bar the Secretary from establishing by regulations that are on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

**(e) Guarantee fee**

**(1) In general**

The Secretary shall fix and collect a guarantee fee for the guarantee of a loan under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan.

**(2) Payment**

The fee under this subsection shall—

(A) be paid by the lender at time of issuance of the guarantee; and

(B) be adequate, in the determination of the Secretary, to cover expenses and probable losses.

**(3) Deposit**

The Secretary shall deposit any fees collected under this subsection in the Native Hawaiian Housing Loan Guarantee Fund established under subsection (j).

**(f) Liability under guarantee**

The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement involved.

**(g) Transfer and assumption**

Notwithstanding any other provision of law, any loan guaranteed under this section, includ-

ing the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

**(h) Disqualification of lenders and civil money penalties**

**(1) In general**

**(A) Grounds for action**

The Secretary may take action under subparagraph (B) if the Secretary determines that any lender or holder of a guarantee certificate under subsection (d)—

(i) has failed—

(I) to maintain adequate accounting records;

(II) to service adequately loans guaranteed under this section; or

(III) to exercise proper credit or underwriting judgment; or

(ii) has engaged in practices otherwise detrimental to the interest of a borrower or the United States.

**(B) Actions**

Upon a determination by the Secretary that a holder of a guarantee certificate under subsection (d) has failed to carry out an activity described in subparagraph (A)(i) or has engaged in practices described in subparagraph (A)(ii), the Secretary may—

(i) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(ii) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(iii) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

**(2) Civil money penalties for intentional violations**

**(A) In general**

The Secretary may impose a civil monetary penalty on a lender or holder of a guarantee certificate under subsection (d) if the Secretary determines that the holder or lender has intentionally failed—

(i) to maintain adequate accounting records;

(ii) to adequately service loans guaranteed under this section; or

(iii) to exercise proper credit or underwriting judgment.

**(B) Penalties**

A civil monetary penalty imposed under this paragraph shall be imposed in the manner and be in an amount provided under section 536 of the National Housing Act [12 U.S.C. 1735f-14] with respect to mortgagees and lenders under that Act.

**(3) Payment on loans made in good faith**

Notwithstanding paragraphs (1) and (2), if a loan was made in good faith, the Secretary may not refuse to pay a lender or holder of a

valid guarantee on that loan, without regard to whether the lender or holder is barred under this subsection.

**(i) Payment under guarantee**

**(1) Lender options**

**(A) In general**

**(i) Notification**

If a borrower on a loan guaranteed under this section defaults on the loan, the holder of the guarantee certificate shall provide written notice of the default to the Secretary.

**(ii) Payment**

Upon providing the notice required under clause (i), the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

**(I) Foreclosure**

**(aa) In general**

The holder of the certificate may initiate foreclosure proceedings (after providing written notice of that action to the Secretary).

**(bb) Payment**

Upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (f)) plus reasonable fees and expenses as approved by the Secretary.

**(cc) Subrogation**

The rights of the Secretary shall be subrogated to the rights of the holder of the guarantee. The holder shall assign the obligation and security to the Secretary.

**(II) No foreclosure**

**(aa) In general**

Without seeking foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a request to assign the obligation and security interest to the Secretary in return for payment of the claim under the guarantee. The Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interest of the United States.

**(bb) Payment**

Upon assignment, the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (f)).

**(cc) Subrogation**

The rights of the Secretary shall be subrogated to the rights of the holder

of the guarantee. The holder shall assign the obligation and security to the Secretary.

**(B) Requirements**

Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the borrower or the United States. The Secretary shall then take such action to collect as the Secretary determines to be appropriate.

**(2) Limitations on liquidation**

**(A) In general**

If a borrower defaults on a loan guaranteed under this section that involves a security interest in restricted Hawaiian Home Land property, the mortgagee or the Secretary shall only pursue liquidation after offering to transfer the account to another eligible Hawaiian family or the Department of Hawaiian Home Lands.

**(B) Limitation**

If, after action is taken under subparagraph (A), the mortgagee or the Secretary subsequently proceeds to liquidate the account, the mortgagee or the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property described in subparagraph (A) except to another eligible Hawaiian family or to the Department of Hawaiian Home Lands.

**(j) Hawaiian Housing Loan Guarantee Fund**

**(1) Establishment**

There is established in the Treasury of the United States the Hawaiian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

**(2) Credits**

The Guarantee Fund shall be credited with—

(A) any amount, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated pursuant to paragraph (7);

(C) any guarantee fees collected under subsection (e); and

(D) any interest or earnings on amounts invested under paragraph (4).

**(3) Use**

Amounts in the Guarantee Fund shall be available, to the extent provided in appropriations Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as that term is defined in section 661a of title 2) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other ex-

penses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

#### **(4) Investment**

Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required at the time of the determination to carry out this section may be invested in obligations of the United States.

#### **(5) Limitation on commitments to guarantee loans and mortgages**

##### **(A) Requirement of appropriations**

The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year to the extent, or in such amounts as are, or have been, provided in appropriations Acts, without regard to the fiscal year for which such amounts were appropriated.

##### **(B) Limitations on costs of guarantees**

The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriations Acts to cover the costs (as that term is defined in section 661a of title 2) of such loan guarantees for such fiscal year. Any amounts appropriated pursuant to this subparagraph shall remain available until expended.

##### **(C) Limitation on outstanding aggregate principal amount**

Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section for each of fiscal years 2001, 2002, 2003, 2004, and 2005 with an aggregate outstanding principal amount not exceeding \$100,000,000 for each such fiscal year.

#### **(6) Liabilities**

All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

#### **(7) Authorization of appropriations**

There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for each of fiscal years 2001, 2002, 2003, 2004, and 2005.

#### **(k) Requirements for standard housing**

##### **(1) In general**

The Secretary shall, by regulation, establish housing safety and quality standards to be applied for use under this section.

##### **(2) Standards**

The standards referred to in paragraph (1) shall—

(A) provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section; and

(B) require each dwelling unit in any housing acquired in the manner described in subparagraph (A) to—

(i) be decent, safe, sanitary, and modest in size and design;

(ii) conform with applicable general construction standards for the region in which the housing is located;

(iii) contain a plumbing system that—

(I) uses a properly installed system of piping;

(II) includes a kitchen sink and a partitioned bathroom with lavatory, toilet, and bath or shower; and

(III) uses water supply, plumbing, and sewage disposal systems that conform to any minimum standards established by the applicable county or State;

(iv) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any appropriate county, State, or national code;

(v) be not less than the size provided under the applicable locally adopted standards for size of dwelling units, except that the Secretary, upon request of the Department of Hawaiian Home Lands may waive the size requirements under this paragraph; and

(vi) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act [12 U.S.C. 1735f-4(a)], unless the Secretary determines that the requirements are not applicable.

#### **(l) Applicability of civil rights statutes**

To the extent that the requirements of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) or of the Fair Housing Act [42 U.S.C. 3601 et seq.] apply to a guarantee provided under this subsection, nothing in the requirements concerning discrimination on the basis of race shall be construed to prevent the provision of the guarantee to an eligible entity on the basis that the entity serves Native Hawaiian families or is a Native Hawaiian family.

(Pub. L. 102-550, title I, § 184A, as added Pub. L. 106-568, title II, § 204, Dec. 27, 2000, 114 Stat. 2895, and Pub. L. 106-569, title V, § 514, Dec. 27, 2000, 114 Stat. 2989.)

#### **Editorial Notes**

##### **REFERENCES IN TEXT**

The Hawaiian Homes Commission Act, 1920, referred to in subsec. (a)(1), (5), is act July 9, 1921, ch. 42, 42 Stat. 108, which was classified generally to sections 691 to 718 of Title 48, Territories and Insular Possessions, and was omitted from the Code. Section 204 of the Act was classified to section 698 of Title 48.

The National Housing Act, referred to in subsecs. (c)(4)(B)(i) and (h)(2)(B), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chap-

ter (§1701 et seq.). Title II of the Act is classified generally to this subchapter (§1707 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The Housing Act of 1949, referred to in subsec. (c)(4)(B)(iii), is act July 15, 1949, ch. 338, 63 Stat. 413, which is classified principally to chapter 8A (§1441 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (l), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Fair Housing Act, referred to in subsec. (l), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

#### CODIFICATION

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

Pub. L. 106-568, §204, and Pub. L. 106-569, §514, enacted substantially identical sections 184A to Pub. L. 102-550. This section is based on the text of section 184A of Pub. L. 102-550, as added by Pub. L. 106-569.

### § 1715z-14. Risk-sharing demonstration

#### (a) Demonstration mortgage risk-sharing program; areas; number of mortgages

The purpose of this section is to authorize a demonstration mortgage risk-sharing program designed to test the feasibility of entering into risk-sharing contracts with private mortgage insurers and with insured community development financial institutions in order to reduce Government risk and administrative costs, and to speed mortgage processing. The Secretary shall limit the demonstration under this section to not more than four administrative regions of the Department of Housing and Urban Development, and shall assure that the program is in the financial interest of the Government and will not result in loss of employment by any employees of the Department of Housing and Urban Development before the expiration of the 5-year period beginning on December 21, 2000. The aggregate number of mortgages for which risk of nonpayment is shared under this section in any administrative region of the Department of Housing and Urban Development in any fiscal year may not exceed 20 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter in such region during the preceding fiscal year.

#### (b) One- to four-family dwellings; requirements for private mortgage insurance companies

Notwithstanding any other provision of this chapter inconsistent with this section, the Secretary is authorized, in providing mortgage insurance with respect to one- to four-family dwellings under sections 1709(b), 1715y, and 1715z-10<sup>1</sup> of this title, to enter into risk-sharing

contracts with private mortgage insurance companies which have been determined to be qualified insurers under section 1717(b)(2)(C) of this title and with insured community development financial institutions. Such contracts shall require private mortgage insurance companies and insured community development financial institutions to—

(1) assume a secondary percentage of loss on any mortgage insured pursuant to section 1709(b), 1715y, or 1715z-10 of this title covering a one- to four-family dwelling, which percentage of loss shall be set forth in the risk-sharing contract, with the first percentage of loss to be borne by the Secretary;<sup>2</sup>

(2) perform or delegate underwriting, credit approval, appraisal, inspection, commitment, claims processing, property disposition, or other functions as the Secretary shall approve as consistent with the purposes of this section and shall set forth in the risk-sharing contract.

#### (c) Required contract provisions

Any contract for risk-sharing under this section shall contain such provisions relating to the sharing of premiums received by the Secretary with a private mortgage insurer or insured community development financial institution on a sound actuarial basis, establishment of loss reserves, manner of calculating claims on such risk-sharing contract, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees, and other similar matters as the Secretary may prescribe pursuant to regulations. Pursuant to a contract under this section, a private mortgage insurance company or insured community development financial institution shall endorse loans for risk-sharing and take such other actions on behalf of the Secretary and in the Secretary's name as the Secretary may authorize.

#### (d) Mortgages offered for inclusion by Secretary

The Secretary shall require any private mortgage insurance company or insured community development financial institution participating in the program under this section to provide risk-sharing for those mortgages offered by the Secretary for inclusion in the program.

#### (e) Insured community development financial institution

For purposes of this section, the term “insured community development financial institution” means a community development financial institution, as such term is defined in section 4702 of this title that is an insured depository institution (as such term is defined in section 1813 of this title) or an insured credit union (as such term is defined in section 1752 of this title).

(June 27, 1934, ch. 847, title II, §249, as added Pub. L. 98-181, title I [title IV, §428(a)], Nov. 30, 1983, 97 Stat. 1219; amended Pub. L. 99-120, §1(g), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99-156, §1(g), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99-219, §1(g), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99-267, §1(g), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99-272, title III,

<sup>1</sup> See References in Text note below.

<sup>2</sup> So in original. Probably should be followed by “and”.

§ 3007(g), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99-289, § 1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, § 1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, § 1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 106-554, § 1(a)(7) [title I, § 143], Dec. 21, 2000, 114 Stat. 2763, 2763A-618.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1715z-10 of this title, referred to in subsec. (b), was repealed by Pub. L. 110-289, div. B, title I, § 2120(a)(7), July 30, 2008, 122 Stat. 2835.

##### AMENDMENTS

2000—Pub. L. 106-554, § 1(a)(7) [title I, § 143(1)], substituted “Risk-sharing demonstration” for “Reinsurance contracts” in section catchline.

Subsec. (a). Pub. L. 106-554, § 1(a)(7) [title I, § 143(2), (3)], in heading and first sentence substituted “risk-sharing” for “reinsurance” wherever appearing, in first sentence inserted “and with insured community development financial institutions” after “private mortgage insurers”, in second sentence substituted “four administrative regions” for “two administrative regions” and “the expiration of the 5-year period beginning on December 21, 2000” for “March 15, 1988”, and in last sentence substituted “mortgages for which risk of nonpayment is shared” for “mortgages insured” and “20 percent” for “10 percent”.

Subsec. (b). Pub. L. 106-554, § 1(a)(7) [title I, § 143(2), (4)(A), (B)], in first sentence of introductory provisions, substituted “, in providing” for “to provide”, “, to enter into” for “through” and “risk-sharing” for “reinsurance” and inserted “and with insured community development financial institutions” before period at end and, in second sentence of introductory provisions, inserted “and insured community development financial institutions” after “private mortgage insurance companies”.

Subsec. (b)(1). Pub. L. 106-554, § 1(a)(7) [title I, § 143(4)(C)], added par. (1) and struck out former par. (1) which read as follows: “assume a percentage of loss on any mortgage insured pursuant to section 1709(b), 1715y, or 1715z-10 of this title covering a one- to four-family dwelling, which percentage of loss shall be set forth in the risk-sharing contract; and”.

Pub. L. 106-554, § 1(a)(7) [title I, § 143(2)], substituted “risk-sharing” for “reinsurance”.

Subsec. (b)(2). Pub. L. 106-554, § 1(a)(7) [title I, § 143(4)(D)], substituted “perform or delegate underwriting,” for “carry out (under appropriate delegation) such” and “functions as the Secretary” for “function as the Secretary pursuant to regulations,” and inserted before period at end “and shall set forth in the risk-sharing contract”.

Subsec. (c). Pub. L. 106-554, § 1(a)(7) [title I, § 143(2), (5)], in first sentence, substituted “contract for” for “contract of” and “risk-sharing” for “reinsurance”, inserted “received by the Secretary with a private mortgage insurer or insured community development financial institution” after “sharing of premiums”, substituted “loss reserves” for “insurance reserves”, “such risk-sharing contract” for “such insurance”, and “rights of assignees” for “right of assignees” and, in second sentence, inserted “or insured community development financial institution” after “private mortgage insurance company” and substituted “loans for risk-sharing” for “loans for insurance”.

Subsec. (d). Pub. L. 106-554, § 1(a)(7) [title I, § 143(2), (6)], inserted “or insured community development financial institution” after “private mortgage insurance company” and substituted “risk-sharing” for “reinsurance”.

Subsec. (e). Pub. L. 106-554, § 1(a)(7) [title I, § 143(7)], added subsec. (e).

1987—Subsec. (a). Pub. L. 100-200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100-179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100-170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100-154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100-122 substituted “October 31, 1987” for “September 30, 1987”.

1986—Subsec. (a). Pub. L. 99-430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99-345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99-289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99-272 made amendment identical to Pub. L. 99-219. See 1985 Amendment note below.

Pub. L. 99-267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsec. (a). Pub. L. 99-219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120 substituted “November 14, 1985” for “September 30, 1985”.

#### Statutory Notes and Related Subsidiaries

##### EVALUATION OF REINSURANCE PROGRAM; REPORT TO CONGRESS

Pub. L. 98-181, title I [title IV, § 428(b)], Nov. 30, 1983, 97 Stat. 1219, provided that: “The Secretary of Housing and Urban Development shall evaluate the reinsurance program under section 249 of the National Housing Act [this section] and, not later than March 1, 1985, submit to the Congress a report setting forth the results of such evaluation. Such report shall include an evaluation of the possible effect of a reinsurance program on the characteristics of the pool of mortgages remaining wholly under the applicable insurance funds and the actuarial soundness of such funds under such conditions.”

#### § 1715z-15. Limitation on prepayment of mortgages on multifamily rental housing

##### (a) Acceptance of offer to prepay; qualifications

During any period in which an owner of a multifamily rental housing project is required to obtain the approval of the Secretary for prepayment of the mortgage, the Secretary shall not accept an offer to prepay the mortgage on such project or permit a termination of an insurance contract pursuant to section 1715t of this title unless—

(1) the Secretary has determined that such project is no longer meeting a need for rental housing for lower income families in the area;

(2) the Secretary (A) has determined that the tenants have been notified of the owner's request for approval of a prepayment; (B) has provided the tenants with an opportunity to comment on the owner's request; and (C) has taken such comments into consideration; and

(3) the Secretary has ensured that there is a plan for providing relocation assistance for adequate, comparable housing for any lower income tenant who will be displaced as a result of the prepayment and withdrawal of the project from the program.

##### (b) Approval prior to foreclosure

A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eli-

gible low-income housing project (as such term is defined in section 4119 of this title) only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

**(c) “Lower income families” defined**

For purposes of this section, the term “lower income families” has the meaning given such term in section 1437a(b)(2) of title 42.

(June 27, 1934, ch. 847, title II, §250, as added Pub. L. 98-181, title I [title IV, §433], Nov. 30, 1983, 97 Stat. 1221; amended Pub. L. 100-242, title II, §261, Feb. 5, 1988, 101 Stat. 1890; Pub. L. 101-235, title II, §202(d)(1), Dec. 15, 1989, 103 Stat. 2037; Pub. L. 101-625, title VI, §602(b), (c), Nov. 28, 1990, 104 Stat. 4277.)

**Editorial Notes**

**AMENDMENTS**

1990—Subsec. (b). Pub. L. 101-625, §602(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In the case of a project assisted under section 1715z-1 of this title or the proviso to section 1715l(d)(5) of this title, section 101 of the Housing and Urban Development Act of 1965, or section 1701q of this title where the owner has the right to prepay the mortgage covering the assisted project without the Secretary’s approval, the Secretary shall give a priority for additional assistance under section 1437f of title 42 and section 201 of the Housing and Community Development Amendments of 1978 to tenants and applicants to become tenants of the project, if—

“(1) funds to provide such additional assistance are available; and

“(2) the Secretary determines that making such additional assistance available to the project is necessary to prevent the owner from prepaying the mortgage.”

Subsecs. (c), (d). Pub. L. 101-625, §602(c), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: “Any owner of a multifamily rental housing project referred to in subsection (b) of this section who receives additional assistance under section 1437f of title 42 under the priority established in subsection (b) of this section shall—

“(1) fully utilize the assistance which is available;

“(2) grant a priority to applicants to become tenants who have the lowest incomes; and

“(3) maintain the low-income character of the project for a period at least equal to the remaining term of the project mortgage to the extent that assistance is provided.”

1989—Subsec. (a). Pub. L. 101-235 inserted “or permit a termination of an insurance contract pursuant to section 1715t of this title” after second reference to “project”.

1988—Subsec. (a)(1). Pub. L. 100-242 struck out “or that the needs of lower income families in such project can more efficiently and effectively be met through other Federal housing assistance taking into account the remaining time the project could meet such needs” after “families in the area”.

**§ 1715z-16. Adjustable rate single family mortgages**

**(a) One- to four-family dwellings; maximum term of mortgage; adjustments in effective rate of interest**

The Secretary may insure under any provision of this subchapter a mortgage involving property upon which there is located a dwelling designed principally for occupancy by one to four families, where the mortgage provides for periodic

adjustments by the mortgagee in the effective rate of interest charged. Such interest rate adjustments may be accomplished through adjustments in the monthly payment amount, the outstanding principal balance, or the mortgage term, or a combination of these factors, except that in no case may any extension of a mortgage term result in a total term in excess of 40 years. Adjustments in the effective rate of interest shall correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to mortgagors from generally available published sources. Adjustments in the effective rate of interest shall (1) be made on an annual basis; (2) be limited, with respect to any single interest rate increase, to no more than 1 percent on the outstanding loan balance; and (3) be limited to a maximum increase of 5 percentage points above the initial contract interest rate over the term of the mortgage.

**(b) Written explanation of mortgage features**

The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable rate mortgage consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act [15 U.S.C. 1601 et seq.].

**(c) Number of mortgages and loans**

The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

**(d) Adjustable rate mortgage with initial fixed rate of interest**

(1) The Secretary may insure under this subsection a mortgage that meets the requirements of subsection (a), except that the effective rate of interest—

(A) shall be fixed for a period of not less than the first 3 years of the mortgage term;

(B) shall be adjusted by the mortgagee initially upon the expiration of such period and annually thereafter; and

(C) in the case of the initial interest rate adjustment, is subject to the 1 percent limitation only if the interest rate remained fixed for 3 or fewer years.

(2) The disclosure required under subsection (b) shall be required for a mortgage insured under this subsection.

(June 27, 1934, ch. 847, title II, §251, as added Pub. L. 98-181, title I [title IV, §443], Nov. 30, 1983, 97 Stat. 1225; amended Pub. L. 100-242, title IV, §415(a), Feb. 5, 1988, 101 Stat. 1907; Pub. L. 107-73, title II, §206, Nov. 26, 2001, 115 Stat. 674; Pub. L. 108-186, title III, §301(a), Dec. 16, 2003, 117 Stat. 2692.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Truth in Lending Act, referred to in subsec. (b), is title I of Pub. L. 90-321, May 29, 1968, 82 Stat. 146,



which is classified generally to subchapter I (§1601 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

#### AMENDMENTS

2003—Subsec. (d)(1)(C). Pub. L. 108-186 substituted “3” for “five”

2001—Subsec. (b). Pub. L. 107-73, §206(1), substituted “require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of an adjustable rate mortgage consistent with the disclosure requirements applicable to variable rate mortgages secured by a principal dwelling under the Truth in Lending Act” for “issue regulations requiring that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first 5 years of the mortgage term”.

Subsec. (d). Pub. L. 107-73, §206(2), added subsec. (d). 1988—Subsec. (c). Pub. L. 100-242 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “The aggregate number of mortgages and loans insured under this section, section 1715z-10(c) of this title, and section 1715z-17 of this title in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-186, title III, §301(b), Dec. 16, 2003, 117 Stat. 2692, provided that: “The amendment made by subsection (a) [amending this section] shall apply to mortgages executed on or after the date of the enactment of this title [Dec. 16, 2003].”

#### § 1715z-17. Shared appreciation mortgages for single family housing

##### (a) One- to four-family dwellings; requirements

Notwithstanding any provision of this subchapter that is inconsistent with this section, the Secretary may insure, under any provision of this subchapter providing for insurance of mortgages on properties upon which there is located a dwelling designed principally for occupancy by one to four families, a mortgage secured by a first lien on such a property or on the stock allocated to a dwelling unit in a residential cooperative housing corporation, which—

(1) provides for the mortgagee to share in a predetermined percentage of the property’s or stock’s net appreciated value;

(2) bears interest at a rate which meets criteria prescribed by the Secretary;

(3) provides for amortization over a period of not to exceed 30 years, but the actual term of the mortgage (excluding any refinancing) may be not less than 10 nor more than 30 years, and contains such provisions relating to refinancing of the principal balance of the mortgage and any contingent deferred interest as the Secretary may provide; and

(4) meets such other conditions as the Secretary may require by regulation.

##### (b) Payment of mortgagee’s share of net appreciated value; “net appreciated value” defined

The mortgagee’s share of a property’s or stock’s net appreciated value shall be payable

upon sale or transfer (as defined by the Secretary) of the property or stock or payment in full of the mortgage, whichever occurs first. For purposes of this section, the term “net appreciated value” means the amount by which the sales price of the property or stock (less the mortgagor’s selling costs) exceeds the value of the property or stock at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract). If there has been no sale or transfer at the time the mortgagee’s share of net appreciated value becomes payable, the sales price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

##### (c) Entitlement of mortgagee upon default

In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 1710(a) of this title, but such insurance benefits shall not include the mortgagee’s share of net appreciated value. The term “original principal obligation of the mortgage” as used in section 1710 of this title shall not include the mortgagee’s share of net appreciated value.

##### (d) Inapplicability of State constitution, statute, etc., limiting or prohibiting increases in outstanding loan balance

Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

##### (e) Encouraged use of insurance by low and moderate income families

In carrying out the provisions of this section, the Secretary shall encourage the use of insurance under this section by low and moderate income tenants who would otherwise be displaced by the conversion of their rental housing to condominium or cooperative ownership.

##### (f) Consumer protections and disclosure requirements

The Secretary shall prescribe adequate consumer protections and disclosure requirements with respect to mortgages insured under this section, and may prescribe such other terms and conditions as may be appropriate to carry out the provisions of this section.

##### (g) Number of mortgages and loans

The aggregate number of mortgages and loans insured under this section and section 1715z-10(c)<sup>1</sup> of this title in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

(June 27, 1934, ch. 847, title II, §252, as added Pub. L. 98-181, title I [title IV, §444], Nov. 30,

<sup>1</sup> See References in Text note below.

1983, 97 Stat. 1225; amended Pub. L. 100-242, title IV, § 415(b)(2), Feb. 5, 1988, 101 Stat. 1907.)

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1715z-10(c) of this title, referred to in subsec. (g), was repealed by Pub. L. 110-289, div. B, title I, § 2120(a)(7), July 30, 2008, 122 Stat. 2835.

##### AMENDMENTS

1988—Subsec. (g). Pub. L. 100-242 struck out reference to section 1715z-16 of this title.

#### § 1715z-18. Shared appreciation mortgages for multifamily housing

##### (a) Five or more family units; requirements

Notwithstanding any provision of this subchapter that is inconsistent with this section, the Secretary may insure, under any provision of this subchapter providing for insurance of mortgages on properties including 5 or more family units, a mortgage secured by a first lien on the property that (1) provides for the mortgagee to share in a predetermined percentage of the property's net appreciated value; and (2) meets such other conditions, including limitations on the rate of interest which may be charged, as the Secretary may require by regulation.

##### (b) Payment of mortgagee's share of net appreciated value; term of mortgage; repayment; "net appreciated value" defined

The mortgagee's share of a property's net appreciated value shall be payable upon maturity or upon payment in full of the loan or sale or transfer (as defined by the Secretary) of the property, whichever occurs first. The term of the mortgage shall not be less than 15 years, and shall be repayable in equal monthly installments of principal and fixed interest during the mortgage term in an amount which would be sufficient to retire a debt with the same principal and fixed interest rate over a period not exceeding 30 years. In the case of a mortgage which will not be completely amortized during the mortgage term, the principal obligation of the mortgage may not exceed 85 percent of the estimated value of the property or project. For purposes of this section, the term "net appreciated value" means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary. If there has been no sale or transfer at the time the mortgagee's share of net appreciated value becomes payable, the sales price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

##### (c) Entitlement of mortgagee upon default

In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 1713 of this title, but such insurance benefits shall not include the mortgagee's share of net appreciated value. The term "original principal face amount of the mortgage" as used in section 1713 of this title shall not include the mortgagee's share of net appreciated value.

##### (d) Maximum percentage of net appreciated value; disclosure requirements

The Secretary shall establish by regulation the maximum percentage of net appreciated value which may be payable to a mortgagee as the mortgagee's share. The Secretary shall also establish disclosure requirements applicable to mortgagees making mortgage loans pursuant to this section, to assure that mortgagors are informed of the characteristics of such mortgages.

##### (e) Inapplicability of State constitution, statute, etc., limiting or prohibiting increases in outstanding loan balance

Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

##### (f) Number of dwelling units

The number of dwelling units included in properties covered by mortgages insured pursuant to this section in any fiscal year may not exceed 5,000.

(June 27, 1934, ch. 847, title II, § 253, as added Pub. L. 98-181, title I [title IV, § 445], Nov. 30, 1983, 97 Stat. 1226; amended Pub. L. 100-242, title IV, § 429(j), Feb. 5, 1988, 101 Stat. 1919.)

#### Editorial Notes

##### AMENDMENTS

1988—Subsec. (b). Pub. L. 100-242, § 429(j)(1), substituted "For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary" for "For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the value (or replacement cost, as appropriate) of the property at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract)".

Subsec. (c). Pub. L. 100-242, § 429(j)(2), (3), substituted "in accordance with section 1713 of this title" for "in accordance with section 1710 of this title" and "The term 'original principal face amount of the mortgage' as used in section 1713 of this title shall not include the mortgagee's share of net appreciated value" for "The term 'original principal obligation of the mortgage' as used in section 1710(a) of this title shall not include the mortgagee's share of net appreciated value".

#### § 1715z-19. Equity skimming penalty

##### (a) In general

Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses

approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than \$500,000, imprisoned not more than 5 years, or both.

**(b) Mortgage notes described**

For purposes of subsection (a), a mortgage note is described in this subsection if it—

(1) is insured, acquired, or held by the Secretary pursuant to this chapter;

(2) is made pursuant to section 1701q of this title (including property still subject to section 1701q program requirements that existed before November 28, 1990); or

(3) is insured or held pursuant to section 1715z-22 of this title, but is not reinsured under section 1715z-22 of this title.

(June 27, 1934, ch. 847, title II, §254, as added Pub. L. 100-242, title IV, §416(b), Feb. 5, 1988, 101 Stat. 1908; amended Pub. L. 105-65, title V, §552, Oct. 27, 1997, 111 Stat. 1412.)

**Editorial Notes**

**AMENDMENTS**

1997—Pub. L. 105-65 amended section generally. Prior to amendment, section read as follows: “Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 1709, 1713, 1715e, 1715k, 1715l(d)(3), 1715l(d)(4), 1715n(f), 1715v, 1715w, 1715y, 1715z-1, 1715z-3(c), 1715z-6, 1715z-7, 1715z-9, 1743, or 1748h-2 of this title, or subchapter IX-B of this chapter, or is made pursuant to section 1701q of this title, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both.”

**§ 1715z-20. Insurance of home equity conversion mortgages for elderly homeowners**

**(a) Purpose**

The purpose of this section is to authorize the Secretary to carry out a program of mortgage insurance designed—

(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets; and

(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners.

**(b) Definitions**

For purposes of this section:

(1) The terms “elderly homeowner” and “homeowner” mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

(2) The terms “mortgagee”, “mortgagor”, “real estate,”<sup>1</sup> and “State” have the meanings given such terms in section 1707 of this title.

(3) The term “home equity conversion mortgage” means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 3802(2) of this title) is authorized to make (A) under any law of the United States (other than section 3803 of this title) or applicable agency regulations thereunder; (B) in accordance with section 3803 of this title, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

(4) **MORTGAGE.**—The term “mortgage” means a first mortgage or first lien on real estate, in fee simple, a first or subordinate mortgage or lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a first mortgage or first lien on a leasehold—

(A) under a lease for not less than 99 years that is renewable; or

(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.

(5) **FIRST MORTGAGE.**—The term “first mortgage” means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate or a first or subordinate lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, under the laws of the State in which the real estate or dwelling unit is located, together with the credit instruments, if any, secured thereby.

**(c) Insurance authority**

The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

(3) have a potential for acceptance in the mortgage market.

**(d) Eligibility requirements**

To be eligible for insurance under this section, a mortgage shall—

<sup>1</sup> So in original. The comma probably should follow the closed quotes.

(1) have been originated by a mortgagee approved by the Secretary;

(2) have been executed by a mortgagor who—

(A) qualifies as an elderly homeowner;

(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

(i) originating or servicing the mortgage;

(ii) funding the loan underlying the mortgage; or

(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;

(C) has received full disclosure, as prescribed by the Secretary, of all costs charged to the mortgagor, including costs of estate planning, financial advice, and other services that are related to the mortgage but are not required to obtain the mortgage, which disclosure shall clearly state which charges are required to obtain the mortgage and which are not required to obtain the mortgage; and

(D) meets any additional requirements prescribed by the Secretary;

(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;

(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or

(B) the insurance benefits paid pursuant to subsection (i)(1)(C);

(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe;

(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

(A) based upon a line of credit;

(B) on a monthly basis over a term specified by the mortgagor;

(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

(D) on a monthly basis over the tenure of the mortgagor;

(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

(F) on any other basis that the Secretary considers appropriate;

(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility; and

(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.

#### **(e) Disclosures by mortgagee**

The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

(2) at least 10 days prior to loan closing, a statement informing the homeowner that the liability of the homeowner under the mortgage is limited and explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require;

(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year; and

(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

(A) the cost for a short-term mortgage; and

(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.

#### **(f) Counseling services and information for mortgagors**

The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification stand-

ards and counseling protocols shall be established by the Secretary within 12 months of July 30, 2008. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—

- (1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;
- (2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;
- (3) the financial implications of entering into a home equity conversion mortgage;
- (4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and
- (5) any other information that the Secretary may require.

The Secretary shall consult with consumer groups, industry representatives, representatives of counseling organizations, and other interested parties to identify alternative approaches to providing consumer information required by this subsection that may be feasible and desirable for home equity conversion mortgages insured under this section and other types of reverse mortgages. The Secretary may, in lieu of providing the consumer education required by this subsection, adopt alternative approaches to consumer education that may be developed as a result of such consultations, but only if the alternative approaches provide all of the information specified in this subsection.

**(g) Limitation on insurance authority**

The aggregate number of mortgages insured under this section may not exceed 275,000. In no case may the benefits of insurance under this section exceed the maximum dollar amount limitation established under section 1454(a)(2) of this title for a 1-family residence.

**(h) Administrative authority**

The Secretary may—

- (1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section;
- (2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate; and
- (3) establish, by notice or mortgagee letter, any additional or alternative requirements that the Secretary, in the Secretary's discretion, determines are necessary to improve the fiscal safety and soundness of the program authorized by this section, which requirements shall take effect upon issuance.

**(i) Protection of homeowner and lender**

(1) Notwithstanding any other provision of law, and in order to further the purposes of the program authorized in this section, the Secretary shall take any action necessary—

(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

(2) Actions under paragraph (1) may include—

(A) disbursing funds to the mortgagor or mortgagee from the Mutual Mortgage Insurance Fund;

(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

(E) imposing premium charges.

**(j) Safeguard to prevent displacement of homeowner**

The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term "homeowner" includes the spouse of a homeowner. Section 1647(b) of title 15 and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.

**(k) Insurance authority for refinancings**

**(1) In general**

The Secretary may, upon application by a mortgagee, insure under this subsection any mortgage given to refinance an existing home equity conversion mortgage insured under this section.

**(2) Anti-churning disclosure**

The Secretary shall, by regulation, require that the mortgagee of a mortgage insured under this subsection, provide to the mortgagor, within an appropriate time period and in a manner established in such regulations, a good faith estimate of: (A) the total cost of the refinancing; and (B) the increase in the mortgagor's principal limit as measured by the estimated initial principal limit on the mortgage to be insured under this subsection less the current principal limit on the home equity conversion mortgage that is being refinanced and insured under this subsection.

**(3) Waiver of counseling requirement**

The mortgagor under a mortgage insured under this subsection may waive the applicability, with respect to such mortgage, of the requirements under subsection (d)(2)(B) (relating to third party counseling), but only if—

(A) the mortgagor has received the disclosure required under paragraph (2);

(B) the increase in the principal limit described in paragraph (2) exceeds the amount of the total cost of refinancing (as described in such paragraph) by an amount to be determined by the Secretary; and

(C) the time between the closing of the original home equity conversion mortgage that is refinanced through the mortgage insured under this subsection and the application for a refinancing mortgage insured under this subsection does not exceed 5 years.

**(4) Credit for premiums paid**

Notwithstanding section 1709(c)(2)(A) of this title, the Secretary may reduce the amount of the single premium payment otherwise collected under such section at the time of the insurance of a mortgage refinanced and insured under this subsection. The amount of the single premium for mortgages refinanced under this subsection shall be determined by the Secretary based on the actuarial study required under paragraph (5).

**(5) Actuarial study**

Not later than 180 days after December 27, 2000, the Secretary shall conduct an actuarial analysis to determine the adequacy of the insurance premiums collected under the program under this subsection with respect to—

(A) a reduction in the single premium payment collected at the time of the insurance of a mortgage refinanced and insured under this subsection;

(B) the establishment of a single national limit on the benefits of insurance under subsection (g) (relating to limitation on insurance authority); and

(C) the combined effect of reduced insurance premiums and a single national limitation on insurance authority.

**(6) Fees**

The Secretary may establish a limit on the origination fee that may be charged to a mortgagor under a mortgage insured under this subsection, except that such limitation shall provide that the origination fee may be fully financed with the mortgage and shall include any fees paid to correspondent mortgagees approved by the Secretary.

**(f) Funding for counseling**

The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.

**(m) Authority to insure home purchase mortgage****(1) In general**

Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

**(2) Limitation on principal obligation**

A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 1454(a)(2) of this title for a 1-family residence.

**(n) Requirements on mortgage originators****(1) In general**

The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

**(2) Approval of other parties**

All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

**(o) Prohibition against requirements to purchase additional products**

The mortgagor or any other party shall not be required by the mortgagee or any other party to purchase an insurance, annuity, or other similar product as a requirement or condition of eligibility for insurance under subsection (c), except for title insurance, hazard, flood, or other peril insurance, or other such products that are customary and normal under subsection (c), as determined by the Secretary.

**(p) Study to determine consumer protections and underwriting standards**

The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the purchase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall con-

sult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.

**(r)<sup>2</sup> Limitation on origination fees**

The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

(1) be equal to 2.0 percent of the maximum claim amount of the mortgage, up to a maximum claim amount of \$200,000 plus 1 percent of any portion of the maximum claim amount that is greater than \$200,000, unless adjusted thereafter on the basis of an analysis of—

(A) the costs to mortgagors; and

(B) the impact on the reverse mortgage market;

(2) be subject to a minimum allowable amount;

(3) provide that the origination fee may be fully financed with the mortgage;

(4) include any fees paid to correspondent mortgagees approved by the Secretary;

(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation; and

(6) be subject to a maximum origination fee of \$6,000, except that such maximum limit shall be adjusted in accordance with the annual percentage increase in the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor in increments of \$500 only when the percentage increase in such index, when applied to the maximum origination fee, produces dollar increases that exceed \$500.

(June 27, 1934, ch. 847, title II, §255, as added Pub. L. 100-242, title IV, §417(a), Feb. 5, 1988, 101 Stat. 1908; amended Pub. L. 100-628, title X, §1066, Nov. 7, 1988, 102 Stat. 3275; Pub. L. 101-508, title II, §2106, Nov. 5, 1990, 104 Stat. 1388-20; Pub. L. 101-625, title III, §334(b)-(d), Nov. 28, 1990, 104 Stat. 4141, 4142; Pub. L. 102-389, title II, Oct. 6, 1992, 106 Stat. 1592; Pub. L. 102-550, title V, §§503(c)(2), 520, Oct. 28, 1992, 106 Stat. 3779, 3793; Pub. L. 104-99, title IV, §406, Jan. 26, 1996, 110 Stat. 45; Pub. L. 104-120, §6, Mar. 28, 1996, 110 Stat. 835; Pub. L. 105-276, title V, §593(a)-(e)(1), Oct. 21, 1998, 112 Stat. 2654, 2655; Pub. L. 106-569, title II, §201(a)(1), (b), (c)(1), Dec. 27, 2000, 114 Stat. 2948, 2950; Pub. L. 109-13, div. A, title VI, §6074, May 11, 2005, 119 Stat. 300; Pub. L. 109-289, div. B, §131, Sept. 29, 2006, 120 Stat. 1316; Pub. L. 110-289, div. B, title I, §§2118(b)(2), 2122(a)-(c), July 30, 2008, 122 Stat. 2835-2838; Pub. L. 111-22, div. A, title II, §206, May 20, 2009, 123 Stat. 1654; Pub. L. 113-29, §2, Aug. 9, 2013, 127 Stat. 509.)

**Editorial Notes**

**AMENDMENTS**

2013—Subsec. (h)(3). Pub. L. 113-29 added par. (3).

2009—Subsec. (b)(4)(B). Pub. L. 111-22 added subpar. (B) and struck out former subpar. (B), which read as follows: “under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.”

2008—Subsec. (b)(2). Pub. L. 110-289, §2122(a)(1), inserted “‘real estate,’” after “‘mortgagor’.”

Subsec. (b)(4). Pub. L. 110-289, §2122(b)(1), in introductory provisions, inserted “a first or subordinate mortgage or lien” before “on all stock”, “unit” before “in a residential”, and “a first mortgage or first lien” before “on a leasehold”.

Subsec. (b)(5). Pub. L. 110-289, §2122(b)(2), inserted “a first or subordinate lien on” before “all stock”.

Subsec. (d)(1). Pub. L. 110-289, §2122(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;”.

Subsec. (d)(2)(B). Pub. L. 110-289, §2122(a)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “has received adequate counseling by a third party (other than the lender) as provided in subsection (f) of this section;”.

Subsec. (f). Pub. L. 110-289, §2122(a)(4), substituted “Counseling services and information for mortgagors” for “Information services for mortgagors” in heading and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B) of this section. Such information shall be discussed with the mortgagor and shall include—”.

Subsec. (g). Pub. L. 110-289, §2122(a)(5), substituted “limitation established under section 1454(a)(2) of this title for a 1-family residence” for “established under section 1709(b)(2) of this title for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located”.

Subsec. (i)(2)(A). Pub. L. 110-289, §2118(b)(2), substituted “Mutual Mortgage Insurance Fund” for “General Insurance Fund”.

Subsec. (l). Pub. L. 110-289, §2122(a)(8), amended subsec. (l) generally. Prior to amendment, subsec. (l) related to funding for counseling and consumer education and outreach.

Pub. L. 110-289, §2122(a)(6), (7), redesignated subsec. (m) as (l) and struck out former subsec. (l) which related to waiver of up-front premiums for mortgages to fund long-term care insurance.

Subsecs. (m) to (p). Pub. L. 110-289, §2122(a)(9), added subsecs. (m) to (p). Former subsec. (m) redesignated (l).

Subsec. (r). Pub. L. 110-289, §2122(c), added subsec. (r). 2006—Subsec. (g). Pub. L. 109-289 substituted “275,000” for “250,000”.

2005—Subsec. (g). Pub. L. 109-13 substituted “250,000” for “150,000”.

2000—Subsec. (b)(2). Pub. L. 106-569, §201(b)(1), struck out “‘mortgage,’” before “‘mortgagee’.”

Subsec. (b)(4), (5). Pub. L. 106-569, §201(b)(2), added pars. (4) and (5).

Subsecs. (k) to (m). Pub. L. 106-569, §201(a)(1), (c)(1), added subsecs. (k) and (l) and redesignated former subsec. (k) as (m).

1998—Pub. L. 105-276, §593(d)(1), struck out “Demonstration program of” before “Insurance” in section catchline.

Subsec. (a). Pub. L. 105-276, §593(d)(2), (3), struck out “demonstration” before “program” in introductory provisions, inserted “and” at end of par. (1), substituted a period for “; and” at end of par. (2), and struck out par. (3) which read as follows: “to require the evaluation of data to determine—

“(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

“(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

“(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.”

Subsec. (d)(2)(C), (D). Pub. L. 105-276, §593(e)(1)(A), added subpar. (C) and redesignated former subpar. (C) as (D).

<sup>2</sup> So in original. No subsec. (q) has been enacted.

Subsec. (d)(11). Pub. L. 105-276, § 593(e)(1)(B)–(D), added par. (11).

Subsec. (f). Pub. L. 105-276, § 593(b), inserted concluding provisions.

Subsec. (g). Pub. L. 105-276, § 593(a), substituted “The aggregate number of mortgages insured under this section may not exceed 150,000.” for “No mortgage may be insured under this section after September 30, 2000, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 50,000.”

Subsec. (i)(1). Pub. L. 105-276, § 593(d)(2), struck out “demonstration” before “program” in introductory provisions.

Subsec. (k). Pub. L. 105-276, § 593(d)(4), (5), redesignated subsec. (l) as (k) and struck out heading and text of former subsec. (k), which had required interim report not later than Sept. 30, 1989, on design and implementation of demonstration program of insurance of home equity conversion mortgages for elderly homeowners, preliminary evaluation of program incorporating comments and recommendations not later than Mar. 30, 1992, and updated report and evaluation biennially thereafter, including analysis of repayment of home equity conversion mortgages during report period.

Subsec. (l). Pub. L. 105-276, § 593(d)(5), redesignated subsec. (l) as (k).

Pub. L. 105-276, § 593(c), added subsec. (l).

1996—Subsec. (d)(3). Pub. L. 104-120, § 6(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor;”.

Subsec. (g). Pub. L. 104-120, § 6(a), (b), substituted “2000” for “1996” and “50,000” for “30,000”.

Pub. L. 104-99 substituted “1996” for “1995” and “30,000” for “25,000”.

1992—Subsec. (g). Pub. L. 102-389 and Pub. L. 102-550, § 503(c)(2), amended subsec. (g) identically, substituting “for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located” for “for a 1-family residence”.

Subsec. (j). Pub. L. 102-550, § 520, inserted at end “Section 1647(b) of title 15 and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.”

1990—Subsec. (d)(7)(A). Pub. L. 101-625, § 334(c), added subpar. (A) and struck out former subpar. (A) which read as follows: “the foreclosure sale; or”.

Subsec. (d)(9), (10). Pub. L. 101-625, § 334(b), added pars. (9) and (10).

Subsec. (e)(2). Pub. L. 101-625, § 334(d)(1), substituted “statement informing the homeowner that the liability of the homeowner under the mortgage is limited and” for “statement” and struck out “and” at end.

Subsec. (e)(4). Pub. L. 101-625, § 334(d)(2), (3), added par. (4).

Subsec. (g). Pub. L. 101-508, § 2106, substituted “September 30, 1995” for “September 30, 1991” and “may not exceed 25,000” for “may not exceed 2,500”.

1988—Subsec. (b)(3). Pub. L. 100-628, § 1066(a), made technical amendment to reference to section 3802(2) of this title to correct reference to corresponding provision of original act.

Subsec. (d)(3). Pub. L. 100-628, § 1066(b), struck out “and that has a value not to exceed the maximum dollar amount established by the Secretary under section 1709(b)(2) of this title for a 1-family residence” after “by the mortgagor”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-569, title II, § 201(c)(2), Dec. 27, 2000, 114 Stat. 2951, provided that: “The provisions of section 255(l) of the National Housing Act [former 12 U.S.C. 1715z-20(l)] (as added by paragraph (1) of this subsection) shall apply only to mortgages closed on or after April 1, 2001.”

##### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, § 593(f), Oct. 21, 1998, 112 Stat. 2655, provided that: “This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

##### 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 an Effective and Termination Dates of 1996 Amendments note under section 1437d of Title 42, The Public Health and Welfare.

##### REGULATIONS

Pub. L. 106-569, title II, § 201(a)(2), Dec. 27, 2000, 114 Stat. 2949, provided that: “The Secretary shall issue any final regulations necessary to implement the amendments made by paragraph (1) of this subsection [amending this section], which shall take effect not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 27, 2000]. The regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(3), and (d)(3) of such section).”

Pub. L. 100-242, title IV, § 417(b), Feb. 5, 1988, 101 Stat. 1912, directed Secretary of Housing and Urban Development, not later than 6 months after Feb. 5, 1988, to consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing this section and not later than 9 months after Feb. 5, 1988, to issue proposed regulations implementing this section.

##### IMPLEMENTATION OF 1998 AMENDMENT

Pub. L. 105-276, title V, § 593(e)(2), Oct. 21, 1998, 112 Stat. 2655, provided that:

“(A) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by paragraph (1) [amending this section] in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subparagraph (B) of this paragraph.

“(B) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 21, 1998], issue final regulations to implement the amendments made by paragraph (1). Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of such section).”

#### § 1715z-21. Delegation of insuring authority to direct endorsement mortgagees

##### (a) Authority

The Secretary may delegate, to one or more mortgagees approved by the Secretary under the direct endorsement program, the authority of the Secretary under this chapter to insure mortgages involving property upon which there is located a dwelling designed principally for occupancy by 1 to 4 families.

##### (b) Considerations

In determining whether to delegate authority to a mortgagee under this section, the Secretary shall consider the experience and performance of the mortgagee compared to the default rate of all insured mortgages in comparable markets, and such other factors as the Secretary determines appropriate to minimize risk of loss to the insurance funds under this chapter.



**(c) Enforcement of insurance requirements****(1) In general**

If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

**(2) Fraud or misrepresentation**

If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

**(d) Termination of mortgagee's authority**

If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

**(e) Requirements and procedures**

Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures, including requirements and procedures governing the indemnification of the Secretary by the mortgagee.

(June 27, 1934, ch. 847, title II, §256, as added Pub. L. 104-204, title IV, §427, Sept. 26, 1996, 110 Stat. 2928.)

**§ 1715z-22. Multifamily mortgage credit programs****(a) In general**

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall carry out programs through the Federal Housing Administration to provide new forms of Federal credit enhancement for multifamily loans. In carrying out the programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

**(b) Risk-sharing program****(1) In general**

The Secretary shall carry out a program in conjunction with qualified participating enti-

ties to provide Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

**(2) Program requirements****(A) In general**

In carrying out the program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

**(B) Mortgage insurance and reinsurance**

Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans, on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

**(C) Risk apportionment**

Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

**(D) Reimbursement capacity**

Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

- (i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;
- (ii) reserves pledged or otherwise restricted by the qualified participating entity in an amount equal to an agreed upon percentage of the loss assumed by the entity under subparagraph (C);
- (iii) funds pledged through a State or local guarantee fund; or
- (iv) any other form of evidence mutually agreed upon by the Secretary and the qualified participating entity.

**(E) Underwriting standards**

The Secretary shall allow any qualified participating entity to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection, except as provided in this section, without further review by the Secretary, except that the Secretary may impose additional underwriting

criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss. Any financing permitted on property insured under this subsection other than the first mortgage shall be expressly subordinate to the insured mortgage.

**(F) Authority of Secretary**

The Secretary, upon request of a qualified participating entity, may insure or reinsure and make commitments to insure or reinsure under this section any mortgage, advance, loan, or pool of mortgages otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the qualified participating entity will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, issuance of commitments, approval of insurance of advances, cost certification, servicing, property disposition, or other functions as the Secretary shall approve as consistent with the purpose of this section. All appraisals of property for mortgage insurance under this section shall be completed by a Certified General Appraiser in accordance with the Uniform Standards of Professional Appraisal Practice.

**(G) Disclosure of records**

Qualified participating entities shall make available to the Secretary or the Secretary's designee, at the Secretary's request, such financial and other records as the Secretary deems necessary for purposes of review and monitoring for the program under this section.

**(3) Development of alternatives**

The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

**(4) Eligibility standards**

The Secretary shall establish and enforce standards for eligibility under this subsection of qualified participating entities under this subsection, as the Secretary determines to be appropriate.

**(5) Insurance authority**

Using any authority provided in appropriation Acts to insure mortgages under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may enter into commitments under this subsection for risk-sharing units.

**(6) Fees**

The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

**(7) Non-Federal participation**

The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

**(8) Prohibition on Ginnie Mae securitization**

The Government National Mortgage Association shall not securitize any multifamily loans insured or reinsured under this subsection.

**(9) Qualification as affordable housing**

Multifamily housing securing loans insured or reinsured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of title 26.

**(10) Certification of subsidy layering compliance**

The requirements of section 3545(d) of title 42 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit

agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

**(11) Implementation**

The Secretary shall take any administrative actions necessary to initiate the program under this subsection.

**(c) Housing finance agency program**

**(1) In general**

The Secretary shall carry out a specific program in conjunction with qualified housing finance agencies (including entities established by States that provide mortgage insurance) to provide Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

**(2) Program requirements**

**(A) In general**

In carrying out the program authorized under this subsection, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

**(B) Mortgage insurance**

Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

**(C) Risk apportionment**

Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement.

**(D) Reimbursement capacity**

Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

- (i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;
- (ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the

housing finance agency under subparagraph (C);

(iii) funds pledged through a State or local guarantee fund; or

(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

**(E) Underwriting standards**

The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

**(F) Disclosure of records**

Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.

**(3) Mortgage insurance premiums**

The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

**(4) Insurance authority**

Using any authority provided in appropriation Acts to insure mortgages under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may enter into commitments under this subsection for risk-sharing units.

**(5) Identity of interest**

Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

**(6) Prohibition on Ginnie Mae securitization**

The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

**(7) Qualification as affordable housing**

Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of title 26.

**(8) Regulations**

Not later than 90 days after October 28, 1992, the Secretary shall issue such regulations as may be necessary to carry out this subsection.

**(9) Environmental and other reviews**

**(A) Environmental reviews**

**(i) In general**

(I) In order to assure that the policies of the National Environmental Policy Act of

1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

**(ii) Procedure**

The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et

seq.] and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

**(iii) Certification**

A certification under the procedures authorized by this paragraph shall—

(I) be in a form acceptable to the Secretary;

(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

**(iv) Approval by States**

In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

**(B) Lead-based paint poisoning prevention**

In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act [42 U.S.C. 4822], the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act [42 U.S.C. 4801 et seq.] by qualified housing finance agencies, for purposes of this section.

**(C) Certification of subsidy layering compliance**

The requirements of section 3545(d) of title 42 may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall

not be any greater than is necessary to provide affordable housing.

#### (10) Definitions

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

##### (A) Mortgage

The term “mortgage” means a first mortgage on real estate that is—

- (i) owned in fee simple; or
- (ii) subject to a leasehold interest that—
  - (I) has a term of not less than 99 years and is renewable; or
  - (II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

##### (B) First mortgage

The term “first mortgage” means a single first lien given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State in which the real estate is located, together with the credit instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

##### (C) Unit of general local government; State

The terms “unit of general local government” and “State” have the same meanings as in section 5302(a) of title 42.

(Pub. L. 102-550, title V, §542, Oct. 28, 1992, 106 Stat. 3794; Pub. L. 103-233, title III, §307(a), (b), Apr. 11, 1994, 108 Stat. 373, 376; Pub. L. 104-120, §8, Mar. 28, 1996, 110 Stat. 836; Pub. L. 104-134, title I, §101(e) [title II, §205], Apr. 26, 1996, 110 Stat. 1321-257, 1321-284; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-18, title II, §10003, June 12, 1997, 111 Stat. 201; Pub. L. 105-276, title II, §211, Oct. 21, 1998, 112 Stat. 2486; Pub. L. 106-74, title II, §226, as added Pub. L. 106-113, div. A, title I, §175(d), Nov. 29, 1999, 113 Stat. 1534; Pub. L. 106-377, §1(a)(1) [title II, §235], Oct. 27, 2000, 114 Stat. 1441A-35.)

#### Editorial Notes

##### REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (b)(5) and (c)(4), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The National Environmental Policy Act of 1969, referred to in subsec. (c)(9)(A)(i)(I), (ii), (iii)(IV), is Pub. L. 91-190, Jan. 1, 1970, 83 Stat. 852, which is classified generally to chapter 55 (§4321 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4321 of Title 42 and Tables.

The Lead-Based Paint Poisoning Prevention Act, referred to in subsec. (c)(9)(B), is Pub. L. 91-695, Jan. 13, 1971, 84 Stat. 2078, which is classified generally to chapter 63 (§4801 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4801 of Title 42 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

2000—Pub. L. 106-377, §1(a)(1) [title II, §235(6)], substituted “programs” for “demonstrations” in section catchline.

Subsec. (a). Pub. L. 106-377, §1(a)(1) [title II, §235(1)], substituted “provide” for “demonstrate the effectiveness of providing” in first sentence and “the programs” for “demonstration programs” in second sentence.

Subsec. (b). Pub. L. 106-377, §1(a)(1) [title II, §235(5)], struck out “pilot” after “Risk-sharing” in heading.

Subsec. (b)(1). Pub. L. 106-377, §1(a)(1) [title II, §235(2)(A)], substituted “provide” for “determine the effectiveness of”.

Subsec. (b)(2)(A). Pub. L. 106-377, §1(a)(1) [title II, §235(5)], struck out “pilot” before “program”.

Subsec. (b)(5). Pub. L. 106-377, §1(a)(1) [title II, §235(2)(B)], added par. (5) and struck out heading and text of former par. (5). Text read as follows: “Using any authority provided in appropriation Acts to insure loans under the National Housing Act, the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 7,500 units during fiscal year 1996. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress, and not more than an additional 25,000 units in each of the fiscal years 1999 and 2000.”

Subsec. (c). Pub. L. 106-377, §1(a)(1) [title II, §235(5)], struck out “pilot” after “finance agency” in heading.

Subsec. (c)(1). Pub. L. 106-377, §1(a)(1) [title II, §235(3)(A), (5)], struck out “pilot” before “program” and substituted “provide Federal credit enhancement” for “test the effectiveness of Federal credit enhancement”.

Subsec. (c)(2). Pub. L. 106-377, §1(a)(1) [title II, §235(5)], struck out “pilot” after “Program requirements” in heading.

Subsec. (c)(2)(A). Pub. L. 106-377, §1(a)(1) [title II, §235(5)], struck out “pilot” before “program”.

Subsec. (c)(4). Pub. L. 106-377, §1(a)(1) [title II, §235(3)(B)], added par. (4) and struck out heading and text of former par. (4). Text read as follows: “Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act, the Secretary may enter into commitments under this subsection with respect to mortgages on not more than 12,000 units during fiscal year 1996, not more than an additional 7,500 units during fiscal year 1997 and not more than an additional 25,000 units in each of fiscal years 1999 and 2000. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) of this section are submitted to the Congress.”

Subsec. (d). Pub. L. 106-377, §1(a)(1) [title II, §235(4)], struck out heading and text of subsec. (d) which related to independent studies and reports.

1999—Subsec. (b)(5). Pub. L. 106-74, §226(1), as added by 106-113, §175(d), substituted “in each of the fiscal years 1999 and 2000” for “during fiscal year 1999”.

Subsec. (c)(4). Pub. L. 106-74, §226(2), as added by Pub. L. 106-113, §175(d), substituted “in each of fiscal years 1999 and 2000” for “during fiscal year 1999”.

1998—Subsec. (b)(5). Pub. L. 105-276, §211(1), inserted before period at end “, and not more than an additional 25,000 units during fiscal year 1999”.

Subsec. (c)(4). Pub. L. 105-276, §211(2), substituted “1996,” for “1996 and” and inserted “and not more than an additional 25,000 units during fiscal year 1999” after “fiscal year 1997”.

1997—Subsec. (c)(4). Pub. L. 105-18 substituted “on not more than 12,000 units during fiscal year 1996 and not more than an additional 7,500 units during fiscal year 1997” for “on not more than 12,000 units during fiscal year 1996”.

1996—Subsec. (b)(5). Pub. L. 104-120, §8(a), and Pub. L. 104-134, §101(e) [title II, §205(a)], amended par. (5) iden-

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 principle<sup>1</sup> 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

<sup>1</sup> 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)<sup>2</sup> 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

<sup>2</sup> 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 principle<sup>1</sup> 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

process established under this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary under this subchapter during the preceding fiscal year.

**(d) Sunset**

After the expiration of the 5-year period beginning on July 30, 2008, the Secretary may not enter into any new commitment to insure any mortgage, or newly insure any mortgage, pursuant to the automated process established under this section.

(June 27, 1934, ch. 847, title II, §258, formerly §257, as added Pub. L. 110-289, div. B, title I, §2124(a), July 30, 2008, 122 Stat. 2839; renumbered §258, Pub. L. 111-22, div. A, title II, §202(c), May 20, 2009, 123 Stat. 1643.)

**§ 1715z-25. Mortgage modification data collecting and reporting**

**(a) Reporting requirements**

Not later than 120 days after May 20, 2009, and quarterly thereafter, the Comptroller of the Currency and the Director of the Office of Thrift Supervision,<sup>1</sup> shall jointly submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate,<sup>2</sup> the Committee on Financial Services of the House of Representatives on the volume of mortgage modifications reported to the Office of the Comptroller of the Currency and the Office of Thrift Supervision, under the mortgage metrics program of each such Office, during the previous quarter, including the following:

(1) A copy of the data collection instrument currently used by the Office of the Comptroller of the Currency and the Office of Thrift Supervision to collect data on loan modifications.

(2) The total number of mortgage modifications in each State that result in each of the following:

(A) Additions of delinquent payments and fees to loan balances.

(B) Interest rate reductions and freezes.

(C) Term extensions.

(D) Reductions of principal.

(E) Deferrals of principal.

(F) Combinations of modifications described in subparagraph (A), (B), (C), (D), or (E).

(3) The total number of mortgage modifications in each State for which the total monthly principal and interest payment resulted in the following:

(A) An increase.

(B) Remained the same.

(C) Decreased less than 10 percent.

(D) Decreased between 10 percent and 20 percent.

(E) Decreased 20 percent or more.

(4) The total number of loans in each State that have been modified and then entered into default, where the loan modification resulted in—

(A) higher monthly payments by the homeowner;

(B) equivalent monthly payments by the homeowner;

(C) lower monthly payments by the homeowner of up to 10 percent;

(D) lower monthly payments by the homeowner of between 10 percent to 20 percent; or

(E) lower monthly payments by the homeowner of more than 20 percent.

**(b) Data collection**

**(1) Required**

**(A) In general**

Not later than 60 days after May 20, 2009, the Comptroller of the Currency and the Director of the Office of Thrift Supervision,<sup>1</sup> shall issue mortgage modification data collection and reporting requirements to institutions covered under the reporting requirement of the mortgage metrics program of the Comptroller or the Director. Not later than 60 days after the date of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.

**(B) Inclusiveness of collections**

The requirements under subparagraph (A) shall provide for the collection of all mortgage modification data needed by the Comptroller of the Currency and the Director of the Office of Thrift Supervision to fulfill the reporting requirements under subsection (a).

**(2) Report**

The Comptroller of the Currency shall report all requirements established under paragraph (1) to each committee receiving the report required under subsection (a).

(Pub. L. 111-22, div. A, title I, §104, May 20, 2009, 123 Stat. 1636; Pub. L. 111-203, title XIV, §1493, July 21, 2010, 124 Stat. 2206.)

**Editorial Notes**

**REFERENCES IN TEXT**

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in subsec. (b)(1)(A), is Pub. L. 111-203, July 21, 2010, 124 Stat. 1376, which enacted chapter 53 (§5301 et seq.) of this title and chapters 108 (§8201 et seq.) and 109 (§8301 et seq.) of Title 15, Commerce and Trade, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

**CODIFICATION**

Section was enacted as part of the Helping Families Save Their Homes Act of 2009, and not as part of the National Housing Act which comprises this chapter.

**AMENDMENTS**

2010—Subsec. (a)(2). Pub. L. 111-203, §1493(a)(1), substituted “in each State that result” for “resulting” in introductory provisions.

Subsec. (a)(3). Pub. L. 111-203, §1493(a)(2), inserted “each State for” after “modifications in” in introductory provisions.

<sup>1</sup> So in original. The comma probably should not appear.

<sup>2</sup> So in original. The word “and” probably should appear instead of the comma.

Subsec. (a)(4). Pub. L. 111-203, §1493(a)(3), inserted “in each State” after “total number of loans” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 111-203, §1493(b), inserted at end “Not later than 60 days after the date of the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Comptroller of the Currency and the Director of the Office of Thrift Supervision shall update such requirements to reflect amendments made to this section by such Act.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of Title 15, Commerce and Trade.

#### SUBCHAPTER III—NATIONAL MORTGAGE ASSOCIATIONS

### § 1716. Declaration of purposes of subchapter

The Congress declares that the purposes of this subchapter are to establish secondary market facilities for residential mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to—

(1) provide stability in the secondary market for residential mortgages;

(2) respond appropriately to the private capital market;

(3) provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing;

(4) promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and

(5) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the residential mortgage market and minimum loss to the Federal Government.

(June 27, 1934, ch. 847, title III, §301, 48 Stat. 1252; May 28, 1935, ch. 150, §30, 49 Stat. 300; Feb. 3, 1938, ch. 13, §§4, 5, 52 Stat. 23; June 3, 1939, ch. 175, §§15, 16, 53 Stat. 808; Mar. 28, 1941, ch. 31, §5, 55 Stat. 62; July 1, 1948, ch. 784, §1, 62 Stat. 1206; Aug. 10, 1948, ch. 832, title II, §§201, 202, 62 Stat. 1275; Aug. 8, 1949, ch. 403, §4, 63 Stat. 576; Oct. 25, 1949, ch. 729, §7, 63 Stat. 906; Apr. 20, 1950, ch. 94, title I, §§116, 122, 64 Stat. 57, 59; Sept. 1, 1951, ch. 378, title II, §205, title VI, §608(b), 65 Stat. 303, 315; Apr. 9, 1952, ch. 173, 66 Stat. 51; July 14, 1952, ch. 723, §§3(a), 10(a)(2), 66 Stat. 602, 603; June 30, 1953, ch. 170, §§12, 13(a), 67 Stat. 125; June 29,

1954, ch. 410, §1(1), 68 Stat. 320; Aug. 2, 1954, ch. 649, title II, §201, 68 Stat. 612; Pub. L. 90-448, title VIII, §802(b), Aug. 1, 1968, 82 Stat. 536; Pub. L. 101-73, title VII, §731(m)(1), Aug. 9, 1989, 103 Stat. 435; Pub. L. 102-550, title XIII, §1381(a), Oct. 28, 1992, 106 Stat. 3994.)

#### Editorial Notes

##### AMENDMENTS

1992—Pub. L. 102-550, §1381(a)(1), substituted “residential” for “home” in introductory provisions.

Par. (1). Pub. L. 102-550, §1381(a)(1), substituted “residential” for “home”.

Par. (3). Pub. L. 102-550, §1381(a)(1), (2), substituted “residential” for “home” in two places, substituted “(including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities)” for “(including mortgages securing housing for low- and moderate-income families involving a reasonable economic return)”, and struck out “and” at end.

Par. (4). Pub. L. 102-550, §1381(a)(3), (4), added par. (4) and redesignated former par. (4) as (5).

Par. (5). Pub. L. 102-550, §1381(a)(1), (3), redesignated par. (4) as (5) and substituted “residential” for “home”.

1989—Pub. L. 101-73 added pars. (1) to (3), struck out subsecs. (a) and (b), and redesignated subsec. (c) as par. (4). Prior to amendment, subsecs. (a) and (b) related to supplementary assistance to the secondary market and to provision of special assistance, respectively.

1968—Pub. L. 90-448 struck out provisions which established in the Federal Government a secondary market facility for home mortgages in view of section 1716b of this title which created two separate and distinct corporations.

1954—Act Aug. 2, 1954, amended section generally, substituting entirely new provisions for provisions now covered by section 1717 of this title and other sections in this subchapter.

Subsec. (a)(1)(G). Act June 29, 1954, substituted in first sentence “August 1, 1954” for “July 1, 1954”.

1953—Subsec. (a)(1)(E). Act June 30, 1953, §12, in cl. (2), substituted “principal amount to be paid therefor” for “unpaid principal balance thereof”, and “aggregate principal amount” for “aggregate amount”; and substituted three provisos for former proviso which made such cl. (2) and any terms therein inapplicable to any defense or disaster mortgages as defined in subpar. (G) of par. (1).

Subsec. (a)(1)(G). Act June 30, 1953, §13(a), substituted in first sentence “July 1, 1954” for “July 1, 1953”.

1952—Subsec. (a)(1). Act July 14, 1952, §3(a)(1), authorized the FNMA to purchase Government-insured or guaranteed home mortgages other than defense or disaster mortgages if they are insured after Feb. 29, 1952.

Subsec. (a)(1)(E). Act July 14, 1952, §3(a)(2), (3), changed the base date from Apr. 30, 1948 to Feb. 29, 1952, and exempted defense or disaster mortgages from the limitation of this subparagraph.

Subsec. (a)(1)(G). Act July 14, 1952, §3(a)(4), increased the FNMA commitment powers from \$252,000,000 to \$1,152,000,000 outstanding at any one time if the commitments relate to defense or disaster mortgages.

S.J. Res. Apr. 9, 1952, increased the \$200,000,000 authorization to \$252,000,000 and struck out Dec. 31, 1951, deadline, (1) with respect to programed defense housing for which applications were received prior to Dec. 28, 1951, and (2) with respect to subchapter VIII military housing if the commitment to insure the mortgage was issued after Dec. 27 and before Dec. 31, 1951.

Subsec. (c)(4). Act July 14, 1952, inserted “Guam,” after “District of Columbia”.

1951—Subsec. (a)(1). Act Sept. 1, 1951, §205, inserted reference to subchapter X of this chapter.

Subsec. (a)(1)(G). Act Sept. 1, 1951, §608(b), inserted proviso.

1950—Act Apr. 20, 1950, §122, substituted “Commissioner” for “Administrator” wherever appearing.