

ing the low-income character of the project, or for keeping the health care facility operational to serve community needs, the Secretary may request the mortgagee, in lieu of assignment, to—

- (1) accept partial payment of the claim under the mortgage insurance contract; and
- (2) recast the mortgage, under such terms and conditions as the Secretary may determine.

(b) Existing mortgages

Notwithstanding any other provision of law, the Secretary, in connection with a mortgage restructuring under section 514 of the Multifamily Assisted Housing Reform and Affordability Act of 1997, may make a one time, non-default partial or full payment of claim under one or more mortgage insurance contracts, which shall include a determination by the Secretary or the participating administrative entity, in accordance with the Multifamily Assisted Housing Reform and Affordability Act of 1997, of the market value of the project and a restructuring of the mortgage, under such terms and conditions as are permitted by section 517(a) of such Act.

(c) Repayment

As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(June 27, 1934, ch. 847, title V, § 541, as added Pub. L. 103-233, title I, § 101(e), Apr. 11, 1994, 108 Stat. 357; amended Pub. L. 105-65, title II, § 210, title V, § 523(b), Oct. 27, 1997, 111 Stat. 1366, 1406; Pub. L. 106-74, title II, § 213(a), Oct. 20, 1999, 113 Stat. 1073.)

Editorial Notes

REFERENCES IN TEXT

The Multifamily Assisted Housing Reform and Affordability Act of 1997, referred to in subsec. (b), is title V of Pub. L. 105-65, Oct. 27, 1997, 111 Stat. 1384. Sections 514 and 517(a) of the Act are set out as a note under section 1437f of Title 42, The Public Health and Welfare. 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.

AMENDMENTS

1999—Pub. L. 106-74, § 213(a)(1), substituted “defaulted mortgages and in connection with mortgage restructuring” for “multifamily housing projects and health care facilities” in section catchline.

Subsec. (b). Pub. L. 106-74, § 213(a)(2), substituted “partial or full payment of claim under one or more mortgage insurance contracts” for “partial payment of the claim under the mortgage insurance contract”.

1997—Pub. L. 105-65, § 210(1), inserted “and health care facilities” after “housing projects” in section catchline.

Subsec. (a). Pub. L. 105-65, § 523(b)(1), substituted “Defaulted mortgages” for “Authority” in heading.

Pub. L. 105-65, § 210(2)(B), inserted “or for keeping the health care facility operational to serve community needs,” after “character of the project,” in introductory provisions.

Pub. L. 105-65, § 210(2)(A), which directed the insertion, in introductory provisions, of “or a health care fa-

cility (including a nursing home, intermediate care facility, or board and care home (as those terms are defined in section 1715w of this title), a hospital (as that term is defined in section 1715z-7 of this title), or a group practice facility (as that term is defined in section 1749aaa-5 of this title))” after “section 1701z-11(b) of this title”, was executed by inserting the language after “section 1701z-11(b) of this title)” to reflect the probable intent of Congress.

Subsecs. (b), (c). Pub. L. 105-65, § 523(b)(2), (3), added subsec. (b) and redesignated former subsec. (b) as (c).

§ 1735f-20. Authorization of appropriations for General and Special Risk Insurance Funds

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 and 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 1735c of this title, and the Special Risk Insurance Fund, as provided by section 1715z-3 of this title:

(1) The cost to the Government, as defined in section 661a¹ of title 2, of new insurance commitments.

(2) The cost to the Government, as defined in section 661a¹ of title 2, of modifications to existing loans, loan guarantees, or insurance commitments.

(3) The cost to the Government, as defined in section 661a¹ of title 2, of loans provided under section 1701z-11(f) of this title.

(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 1701z-11(b) of this title) upon disposition by the Secretary.

(June 27, 1934, ch. 847, title V, § 542, as added Pub. L. 103-233, title I, § 105(c), Apr. 11, 1994, 108 Stat. 363.)

Editorial Notes

REFERENCES IN TEXT

Section 661a of title 2, referred to in pars. (1) to (3), was in the original “section 502 of the Congressional Budget Act”, which was translated as meaning “section 502 of the Congressional Budget Act of 1974” to reflect the probable intent of Congress.

§ 1735g. Mortgage relief for homeowners who are unemployed as result of closing of Federal installation

(a) Definitions

For the purposes of this section—

(1) The term “mortgage” means a mortgage which (A) is insured under the National Housing Act [12 U.S.C. 1701 et seq.], or (B) secures a home loan guaranteed or insured under the Servicemen’s Readjustment Act of 1944 or chapter 37 of title 38.

(2) The term “Federal mortgage agency” means—

(A) The Secretary of Housing and Urban Development when used in connection with mortgages insured under the National Housing Act, and

(B) the Secretary of Veterans Affairs when used in connection with mortgages securing

¹ See References in Text note below.

home loans guaranteed or insured under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38.

(3) The term "distressed mortgagor" means an individual who—

(A) was employed by the Federal Government at, or was assigned as a serviceman to, a military base or other Federal installation and whose employment or service at such base or installation was terminated subsequent to November 1, 1964, as the result of the closing (in whole or in part) of such base or installation; and

(B) is the owner-occupant of a dwelling situated at or near such base or installation and upon which there is a mortgage securing a loan which is in default because of the inability of such individual to make payments due under such mortgage.

(b) Application for, issuance and expiration of certificate of moratorium

(1) Any distressed mortgagor, for the purpose of avoiding foreclosure of his mortgage, may apply to the appropriate Federal mortgage agency for a determination that suspension of his obligation to make payments due under such mortgage during a temporary period is necessary in order to avoid such foreclosure.

(2) Upon receipt of an application made under this subsection by a distressed mortgagor, the Federal mortgage agency shall issue to such mortgagor a certificate of moratorium if it determines, after consultation with the interested mortgagee, that such action is necessary to avoid foreclosure.

(3) Prior to the issuance to any distressed mortgagor of a certificate of moratorium under paragraph (2), the Federal mortgage agency, the mortgagor, and the mortgagee shall enter into a binding agreement under which—

(A) the mortgagor will be required to make payments to such agency, after the expiration of such certificate, in an aggregate amount equal to the amount paid by such agency on behalf of such mortgagor as provided in subsection (c), together with interest thereon at a rate not to exceed the rate provided in the mortgage; the manner and time in which such payments shall be made to be determined by the Federal mortgage agency having due regard for the purposes sought to be achieved by this section; and

(B) the Federal mortgage agency will be subrogated to the rights of the mortgagee to the extent of payments made pursuant to such certificate, which rights, however, shall be subject to the prior right of the mortgagee to receive the full amount payable under the mortgage.

(4) Any certificate of moratorium issued under this subsection shall expire on whichever of the following dates is the earliest—

(A) two years from the date on which such certificate was issued;

(B) thirty days after the date on which the mortgagor gives notice in writing to the Federal mortgage agency that he is able to resume his obligation to make payments due under his mortgage; or

(C) thirty days after the date on which the Federal mortgage agency determines that the mortgagor to whom such certificate was issued has ceased to be a distressed mortgagor as defined in subsection (a)(3).

(c) Notice to mortgagee of assumption of mortgagor's obligation by agency; amount of payments; suspension of payments by mortgagor; prohibition against further action to enforce or collect payments; liability of mortgagor upon expiration of certificate; notice of expiration of certificate

(1) Whenever a Federal mortgage agency issues a certificate of moratorium to any distressed mortgagor with respect to any mortgage, it shall transmit to the mortgagee a copy of such certificate, together with a notice stating that, while such certificate is in effect, such agency will assume the obligation of such mortgagor to make payments due under the mortgage.

(2) Payments made by any Federal mortgage agency pursuant to a certificate of moratorium issued under this section with respect to the mortgage of any distressed mortgagor may include, in addition to the payments referred to in paragraph (1), an amount equal to the unpaid payments under such mortgage prior to the issuance of such certificate, plus a reasonable allowance for foreclosure costs actually paid by the mortgagee if a foreclosure action was dismissed as a result of the issuance of a moratorium certificate. Payments by the Federal mortgage agency may also include payments of taxes and insurance premiums on the mortgaged property as deemed necessary when these items are not provided for through payments to a tax and insurance account held by the interested mortgagee.

(3) While any certificate of moratorium issued under this section is in effect with respect to the mortgage of any distressed mortgagor, no further payments due under the mortgage shall be required of such mortgagor, and no action (legal or otherwise) shall be taken or maintained by the mortgagee to enforce or collect such payments. Upon the expiration of such certificate, the mortgagor shall again be liable for the payment of all amounts due under the mortgage in accordance with its terms.

(4) Each Federal mortgage agency shall give prompt notice in writing to the interested mortgagor and mortgagee of the expiration of any certificate of moratorium issued by it under this section.

(d) Regulations

The Federal mortgage agencies are authorized to issue such individual and joint regulations as may be necessary to carry out this section and to insure the uniform administration thereof.

(e) Fund for extending financial assistance to distressed mortgagors

There shall be in the Treasury (1) a fund which shall be available to the Secretary of Housing and Urban Development for the purpose of extending financial assistance in behalf of distressed mortgagors as provided in subsection (c) and for paying administrative expenses incurred in connection with such assistance, and (2) a

fund which shall be available to the Secretary of Veterans Affairs for the same purpose, except administrative expenses. The capital of each such fund shall consist of such sums as may, from time to time, be appropriated thereto, and any sums so appropriated shall remain available until expended. Receipts arising from the programs of assistance under subsection (c) shall be credited to the funds from which such assistance was extended. Moneys in either of such funds not needed for current operations, as determined by the Secretary of Housing and Urban Development, or the Secretary of Veterans Affairs, as the case may be, shall be invested in bonds or other obligations of the United States, or paid into the Treasury as miscellaneous receipts.

(Pub. L. 89-117, title I, §107(a)–(e), Aug. 10, 1965, 79 Stat. 458, 459; Pub. L. 89-754, title X, §1012, Nov. 3, 1966, 80 Stat. 1288; Pub. L. 102-54, §13(d)(3), June 13, 1991, 105 Stat. 275.)

Editorial Notes

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), 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 Servicemen's Readjustment Act of 1944, referred to in subsec. (a), 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 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 and Urban Development Act of 1965, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1991—Subsecs. (a)(2)(B), (e). Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans Affairs" wherever appearing.

1966—Subsec. (a)(2)(A). Pub. L. 89-754 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

Subsec. (a)(3). Pub. L. 89-754 redefined as distressed mortgagor, describing in subpar. (A) such a person as an individual whose employment or military service at a military base or other Federal installation was terminated subsequent to Nov. 1, 1964, as the result of closing of such base or installation, formerly defined as an individual who was unemployed, although willing to work, as the result of the closing of a Federal installation, and providing in subpar. (B) for dwelling situated at or near the base or installation and substituting "payments due under such mortgage" for "payments of principal and/or interest under such mortgage".

Subsec. (b)(1). Pub. L. 89-754 substituted "payments due under such mortgage" for "payments of principal and/or interest under such mortgage".

Subsec. (b)(2). Pub. L. 89-754 struck out subpar. (A) providing for determination that mortgagor is not in default with respect to any condition or covenant of the mortgage other than requiring the payment of installments of principal and/or interest under the mortgage and incorporated without subpar. designation provision for determination that such action is necessary to avoid foreclosure, formerly providing in subpar. (B) that such action was the only available means of avoiding foreclosure of such mortgage.

Subsec. (b)(3). Pub. L. 89-754 substituted in introductory text "the Federal mortgage agency, the mortgagor, and the mortgagee shall enter into a binding agreement" for "the Federal mortgage agency shall require such mortgagor to enter into a binding agreement", designated existing provisions as subpar. (A), provided for payment of interest at rate not to exceed the rate provided in the mortgage, and added subpar. (B).

Subsec. (b)(4). Pub. L. 89-754 increased the period from one to two years in subpar. (A), substituted subpar. (B) provision for expiration date as thirty days after date on which mortgagor gives notice in writing to Federal mortgage agency of ability to resume obligation to make payments due under his mortgage for former provision as the date thirty days after date on which mortgagor to whom certificate was issued ceased to be a distressed mortgagor, now incorporated in subpar. (C), redesignated former subpar. (B) as (C), providing for a determination by the Federal mortgage agency, and struck out former subpar. (C) provision for date on which mortgagor becomes in default with respect to any condition or covenant in his mortgage other than that requiring the payment by him of installments of principal and/or interest under the mortgage.

Subsec. (c)(1). Pub. L. 89-754 substituted "payments due under the mortgage" for "payments of principal, and, if so specified in the certificate, of interest, under the mortgage".

Subsec. (c)(2). Pub. L. 89-754 substituted "may include" for "shall include" and "unpaid payments under such mortgage" for "unpaid principal and interest charges which had accrued and subsequent to the date on which such mortgagor became a distressed mortgagor as defined in subsection (a) of this section", and authorized payments of reasonable allowance for foreclosure costs actually paid by the mortgagee if a foreclosure action was dismissed as result of issuance of moratorium certificate and taxes and insurance premiums on mortgaged property as deemed necessary when not provided for through payments to a tax and insurance account held by the interested mortgagee.

Subsec. (c)(3). Pub. L. 89-754 substituted "payments due under the mortgage" for "payments of principal, and, if so specified in the certificate, of interest, under the mortgage".

Subsec. (d). Pub. L. 89-754 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 89-754 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in two places and made fund available for payment of administrative expenses incurred in connection with assistance to distressed mortgagors and unavailable for payment of administrative expenses of the Administrator of Veterans' Affairs.

§ 1735h. Repealed. Pub. L. 89-754, title X, § 1013(j), Nov. 3, 1966, 80 Stat. 1292

Section, Pub. L. 89-117, title I, §108(a)–(d), (f), Aug. 10, 1965, 79 Stat. 460, 461, provided for acquisition of property at or near military bases which have been ordered to be closed. See section 3374 of Title 42, The Public Health and Welfare.

SUBCHAPTER VI—WAR HOUSING INSURANCE

Editorial Notes

AMENDMENTS

1942—Act May 26, 1942, ch. 319, §14(a), 56 Stat. 305, amended subchapter heading, substituting "WAR" for "DEFENSE".

§ 1736. Definitions

As used in this subchapter—

(a) The term "mortgage" means a first mortgage on real estate, in fee simple, or on a lease-