

insurance fund involved, and the Secretary is authorized and directed to pay the amount of such indebtedness to the Secretary of the Treasury, with simple interest thereon from the date the funds were advanced to the date of final payment at a rate determined by the Secretary of the Treasury, taking into consideration the average rate on outstanding marketable obligations of the United States from the date the funds were advanced until the date of final payment—

(1) funds made available to the Secretary pursuant to the provisions of sections 1705 and 1708 of this title, exclusive of amounts heretofore refunded, (a) for carrying out this subchapter and section 484d of title 48 with respect to mortgages insured under section 1709 of this title where such funds were credited to the general reinsurance account in the Mutual Mortgage Insurance Fund, and (b) for the payment of salaries and expenses with respect to mortgage insurance under sections 1713 and 1715a of this title where such funds were credited to the Housing Insurance Fund;

(2) funds made available to the Secretary pursuant to sections 1737 and 1748a¹ of this title; and

(3) funds made available to the Secretary by the Secretary of the Treasury pursuant to section 1747i¹ of this title.

Payments to the Secretary of the Treasury under this section shall be made in such amounts and at such times as the Secretary determines, after consultations with the Secretary of the Treasury, that funds are available for that purpose, taking into consideration the continued solvency of the funds involved. All payments made pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(June 27, 1934, ch. 847, title V, §516, as added June 30, 1953, ch. 170, §9, 67 Stat. 123; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, §204(a)(21), Oct. 17, 1984, 98 Stat. 2232.)

Editorial Notes

REFERENCES IN TEXT

Section 1715a of this title, referred to in par. (1), in the original was a reference to section 210 of the National Housing Act (June 27, 1934, ch. 847, §210, as added Feb. 3, 1938, ch. 13, §3, 52 Stat. 22), which was repealed by act June 3, 1939, ch. 175, §13, 53 Stat. 807. See note set out under section 1715a.

Section 484d of title 48, referred to in text, which authorized the Federal Housing Commissioner to prescribe a higher maximum for the principal obligation of mortgages, was omitted from the Code.

Sections 1737, 1747i, and 1748a of this title, referred to in text, were repealed by Pub. L. 89-117, title II, §1108(aa), Aug. 10, 1965, 79 Stat. 507.

AMENDMENTS

1984—Pub. L. 98-479 inserted “Payment of certain funds to Treasury” as section catchline.

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

¹ See References in Text note below.

§ 1735a. Prepayment of mortgages by nonprofit educational institutions; refunds

(a) Notwithstanding any other provision of this chapter, no adjusted premium charge shall be collected in connection with the payment in full, prior to maturity, of any mortgage insured under this chapter, if the mortgagor certifies to the Secretary that the loan was paid in full by or on behalf of a nonprofit educational institution which intends to use the property for educational purposes.

(b) The Secretary shall refund any adjusted premium charge collected subsequent to July 1, 1962, and prior to September 2, 1964, in connection with the payment in full, prior to maturity, of any mortgage insured under this chapter, if the mortgagor under such mortgage makes the certification prescribed by subsection (a).

(June 27, 1934, ch. 847, title V, §517, as added Pub. L. 88-560, title I, §120, Sept. 2, 1964, 78 Stat. 782; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

Editorial Notes

AMENDMENTS

1967—Subsecs. (a), (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

§ 1735b. Expenditures to correct or reimburse for structural or other major defects in mortgaged homes

(a) Prior to beginning of construction

(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

(B) was approved, before the beginning of construction, for mortgage insurance under this chapter or for guaranty, insurance, or direct loan under chapter 37 of title 38 or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

(C) the Secretary finds to have structural defects.

(2) Expenditures under this subsection may be made for (A) correcting such defects, (B) paying the claims of the owner of the property arising from such defects, or (C) acquiring title to the property: *Provided*, That such authority of the Secretary shall exist only (A) if the owner has requested assistance from the Secretary not later than four years (or such shorter time as the Secretary may prescribe) after insurance of the mortgage, and (B) if the property is encumbered by a mortgage which is insured under this chapter after September 2, 1964.

(b) Mortgages insured on or after August 1, 1968, but prior to January 1, 1973; requirements; reimbursement from seller; insurance fund chargeable

The Secretary is authorized to make expenditures to correct, or to reimburse the owner for the correction of, structural or other major de-

fects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one, two, three, or four family dwelling which is covered by a mortgage insured under section 1715z of this title or which is located in an older, declining urban area and is covered by a mortgage insured under section 1709 or 1715/ of this title on or after August 1, 1968, but prior to January 1, 1973, and which is more than one year old on the date of the issuance of the insurance commitment, if (1) the owner requests assistance from the Secretary not later than one year after the insurance of the mortgage, or, in the case of a dwelling covered by a mortgage insured under section 1709 or 1715/ of this title the insurance commitment for which was issued on or after August 1, 1968, but prior to January 1, 1973, not more than four months after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(c) Regulations; finality of decision

The Secretary shall by regulations prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and his decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(d) Mortgages insured on or after January 1, 1973, but prior to August 1, 1976; requirements; reimbursement from seller; insurance fund chargeable

The Secretary is authorized to make expenditures to correct or to reimburse the owner for the correction of structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one-, two-, three-, or four-family dwelling which is more than one year old on the date of issuance of the insurance commitment, is located in an older, declining urban area, and is covered by a mortgage insured under section 1709 or 1715/ of this title on or after January 1, 1973, but prior to August 3, 1976, if (1) the owner requests assistance from the Secretary not more than one year after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably have been expected to have disclosed. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling.

Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(e) Report to Congress on effective program for protecting home buyers

The Secretary of Housing and Urban Development is authorized and directed to conduct a full and complete investigation and study and report to Congress, with recommendations, not later than March 1, 1977, with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes financed with mortgages insured under this chapter. In the study and report the Secretary shall particularly investigate the need for, cost and feasible structure of, a national home inspection and warranty program, with respect to such homes, to be operated by the Federal Government out of fees assessed on the home buyer and amortized over a period of two years. The Secretary's report shall also present an analysis of alternative Federal programs to meet these needs, and the cost and means of financing such programs. In the report the Secretary shall also outline administrative steps which can be taken to provide disclosure to purchasers of existing homes financed with mortgages insured under this chapter of the actual condition of the home and the types of repairs or replacements likely to be needed within a period of two years, such as repairs or replacement of furnace, roof or major appliances, based on age and useful life expectancy of such appurtenances.

(June 27, 1934, ch. 847, title V, §518, as added Pub. L. 88-560, title I, §121, Sept. 2, 1964, 78 Stat. 783; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 91-609, title I, §104, Dec. 31, 1970, 84 Stat. 1771; Pub. L. 93-383, title III, §306, Aug. 22, 1974, 88 Stat. 678; Pub. L. 94-50, title III, §302, July 2, 1975, 89 Stat. 256; Pub. L. 94-375, §9, Aug. 3, 1976, 90 Stat. 1072; Pub. L. 98-181, title I [title IV, §427], Nov. 30, 1983, 97 Stat. 1218; Pub. L. 102-550, title V, §515, Oct. 28, 1992, 106 Stat. 3789.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 substituted par. (1) and “(2) Expenditures under this subsection may be made for” for “The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling that, before the beginning of construction, was approved for mortgage insurance under this chapter or for guaranty, insurance, or a direct loan under chapter 37 of title 38 and that the Secretary finds to have structural defects, to make expenditures for” and redesignated former cls. (1) to (3) appearing before proviso as cls. (A) to (C), respectively, of par. (2).

1983—Subsec. (a). Pub. L. 98-181 substituted “that, before the beginning of construction, was approved for mortgage insurance under this chapter or for guaranty, insurance, or a direct loan under chapter 37 of title 38 and that the Secretary finds” for “approved for mortgage insurance prior to the beginning of construction which he finds”.

1976—Subsec. (b). Pub. L. 94-375, §9(a), substituted “not more than four months after August 3, 1976” for “not more than 19 months after August 22, 1974”, and provision requiring expenditures be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure and appropriating sums for expenditures not otherwise covered for provision requiring expenditures be made from the Special Risk Insurance Fund.

Subsecs. (d), (e). Pub. L. 94-375, §9(b), added subsecs. (d) and (e).

1975—Subsec. (b). Pub. L. 94-50 substituted “one, two, three, or four” for “one or two”, and “not more than 19 months” for “not more than one year”.

1974—Subsec. (b). Pub. L. 93-383 substituted provisions relating to authorization of the Secretary to make expenditures to correct, or to reimburse the owner for the correction of structural or other major defects of covered one or two family dwellings, for provisions relating to the authorization of the Secretary to make expenditures to correct, or to compensate the owner for, structural or other defects of covered single-family dwellings.

1970—Subsecs. (b), (c). Pub. L. 91-609 added subsec. (b) and redesignated former subsec. (b) as (c).

1967—Subsecs. (a), (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

§ 1735c. General Insurance Fund

(a) Establishment; purpose; mortgages or loans insurable; transfers to

There is hereby created a General Insurance Fund which shall be used by the Secretary, on and after August 10, 1965, as a revolving fund for carrying out all the insurance provisions of this chapter with the exception of those specified in subsection (e). All mortgages or loans insured under this chapter pursuant to commitments issued on or after August 10, 1965, except those specified in subsection (e), and all loans reported for insurance under section 1703 of this title on or after August 10, 1965, shall be insured under the General Insurance Fund. The Secretary shall transfer to the General Insurance Fund—

(1) the assets and liabilities of all insurance accounts and funds, except the Mutual Mortgage Insurance Fund, existing under this chapter immediately prior to August 10, 1965;

(2) all outstanding commitments for insurance issued prior to August 10, 1965, except those specified in subsection (e);

(3) the insurance on all mortgages and loans insured prior to August 10, 1965, except insurance specified in subsection (e); and

(4) the insurance of all loans made by approved financial institutions pursuant to section 1703 of this title prior to August 10, 1965.

(b) Expenses chargeable to Fund

The general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are the obligation of the General Insurance Fund may be charged to the General Insurance Fund.

(c) Deposit or investment of moneys; purchase of debentures

Moneys in the General Insurance Fund not needed for the current operations of the Department of Housing and Urban Development with respect to mortgages and loans which are the obligation of the General Insurance Fund shall be deposited with the Treasurer of the United States to the credit of such 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 as obligations of the General Insurance Fund or issued prior to August 10, 1965, under other provisions of this chapter, except debentures issued under the Mutual Mortgage 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 section. Debentures so purchased shall be canceled and not reissued.

(d) Credits and charges to Fund

Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage or loan which is the obligation of the General Insurance Fund, the receipts derived from the property covered by such mortgages and loans and from the claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings on the assets of the Fund shall be credited to the General Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages and loans which are the obligation of such Fund, shall be charged to such Fund.

(e) Restrictions on use of Fund

The General Insurance Fund shall not be used for carrying out the provisions of section 1709 of this title, except as determined by the Secretary, or the provisions of section 1715e of this title to the extent that they involve mortgages the insurance for which is the obligation of the Cooperative Management Housing Insurance Fund created by section 1715e(k) of this title, or the provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1 and 1715z-2¹ of this title; and nothing in this section shall apply to or affect any mortgages, loans, commitments, or insurance under such provisions.

(f) Risk assessment

The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

(June 27, 1934, ch. 847, title V, §519, as added Pub. L. 89-117, title II, §214, Aug. 10, 1965, 79 Stat. 471; amended Pub. L. 90-19, §1(a)(1), (3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §104(c), Aug. 1, 1968, 82 Stat. 488; Pub. L. 91-609, title I, §117(e), Dec. 31, 1970, 84 Stat. 1775; Pub. L. 94-375, §10,

¹ See References in Text note below.