

the absence of qualified requests for insurance, to the authority provided in this chapter, and to any funding limitation approved in appropriation Acts, the Secretary shall enter into commitments during each of the fiscal years 1984 and 1985 to insure mortgages under this chapter with an aggregate principal amount of \$50,900,000,000.”

1984—Pub. L. 98-479 substituted “this chapter” for “subchapter II of this chapter” in two places.

1983—Pub. L. 98-181 substituted provision authorizing the Secretary, subject to certain qualifications, to enter into commitments during fiscal years 1984 and 1985 to insure mortgages under subchapter II of this chapter with an aggregate principal amount of \$50,900,000,000 for provision which directed the Secretary, during fiscal year 1982, not to enter into commitments under this chapter to insure loans and mortgages with an aggregate principal amount in excess of \$41,000,000,000.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE

Section effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as a note under section 3701 of this title.

##### AUTHORIZATION TO ENTER INTO ADDITIONAL COMMITMENTS TO INSURE LOANS AND MORTGAGES DURING FISCAL YEAR 1986

For increase in the applicable limitation on additional commitments to insure mortgages and loans to carry out this chapter during fiscal year 1986, see Pub. L. 99-349, title I, July 2, 1986, 100 Stat. 728; Pub. L. 99-345, § 2, June 24, 1986, 100 Stat. 673; and Pub. L. 99-289, May 2, 1986, 100 Stat. 412, set out as notes under section 1721 of this title.

#### § 1735f-10. Change of mortgagee status

##### (a) Notification

Upon the occurrence of any action described in subsection (b), an approved mortgagee shall immediately submit to the Secretary, in writing, notification of such occurrence.

##### (b) Actions

The actions described in this subsection are as follows:

(1) The debarment, suspension or a Limited Denial of Participation (LDP), or application of other sanctions, other exclusions, fines, or penalties applied to the mortgagee or to any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the mortgagee pursuant to applicable provisions of State or Federal law.

(2) The revocation of a State-issued mortgage loan originator license issued pursuant to the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any other similar declaration of ineligibility pursuant to State law.

(June 27, 1934, ch. 847, title V, § 532, as added Pub. L. 111-22, div. A, title II, § 203(e), May 20, 2009, 123 Stat. 1647.)

#### Editorial Notes

##### REFERENCES IN TEXT

The S.A.F.E. Mortgage Licensing Act of 2008, referred to in subsec. (b)(2), 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.

##### PRIOR PROVISIONS

A prior section 1735f-10, act June 27, 1934, ch. 847, title V, § 532, as added Pub. L. 97-35, title III, § 339G, Aug. 13, 1981, 95 Stat. 418, which related to purchaser-broker arrangement payments for insurance purposes, was repealed by section 203(e) of Pub. L. 111-22.

#### § 1735f-11. Review of mortgagee performance and authority to terminate

##### (a) Periodic review of mortgagee performance

To reduce losses in connection with single family mortgage insurance programs under this chapter, at least once a year the Secretary shall review the rate of early defaults and claims for insured single family mortgages originated or underwritten by each mortgagee.

##### (b) Comparison with other mortgagees

For each mortgagee, the Secretary shall compare the rate of early defaults and claims for insured single family mortgage loans originated or underwritten by the mortgagee in an area with the rate of early defaults and claims for other mortgagees originating or underwriting insured single family mortgage loans in the area. For purposes of this section, the term “area” means each geographic area in which the mortgagee is authorized by the Secretary to originate insured single family mortgages.

##### (c) Termination of mortgagee origination approval

(1) Notwithstanding section 1708(c) of this title, the Secretary may terminate the approval of a mortgagee to originate or underwrite single family mortgages if the Secretary determines that the mortgage loans originated or underwritten by the mortgagee present an unacceptable risk to the insurance funds. The determination shall be based on the comparison required under subsection (b) and shall be made in accordance with regulations of the Secretary. The Secretary may rely on existing regulations published before this section takes effect.

(2) The Secretary shall give a mortgagee at least 60 days prior written notice of any termination under this subsection. The termination shall take effect at the end of the notice period, unless the Secretary withdraws the termination notice or extends the notice period. If requested in writing by the mortgagee within 30 days of the date of the notice, the mortgagee shall be entitled to an informal conference with the official authorized to issue termination notices on behalf of the Secretary (or a designee of that official). At the informal conference, the mortgagee may present for consideration specific factors that it believes were beyond its control and that caused the excessive default and claim rate.

(June 27, 1934, ch. 847, title V, § 533, as added Pub. L. 100-242, title IV, § 407(b), Feb. 5, 1988, 101 Stat. 1902; amended Pub. L. 107-73, title II, § 209, Nov. 26, 2001, 115 Stat. 675.)

**Editorial Notes****AMENDMENTS**

2001—Pub. L. 107-73 amended section catchline and text generally. Prior to amendment, text read as follows:

“(a) To reduce losses in connection with mortgage insurance programs under this chapter, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this chapter. On the basis of this review, the Secretary shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee’s (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined.

“(b) Failure of the mortgagee to submit a report required under subsection (a) of this section within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this chapter.”

**§ 1735f-12. Assurance of adequate processing of applications for loan and mortgage insurance**

**(a) State offices**

In order to ensure the adequate processing of applications for insurance of loans and mortgages under this chapter, the Secretary shall maintain not less than one office in each State to carry out the provisions of this chapter.

**(b) Expedited procedure for RTC properties**

To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this chapter that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.

(June 27, 1934, ch. 847, title V, § 534, as added Pub. L. 100-242, title IV, § 418, Feb. 5, 1988, 101 Stat. 1912; amended Pub. L. 102-550, title V, § 512(a), Oct. 28, 1992, 106 Stat. 3786.)

**Editorial Notes****AMENDMENTS**

1992—Pub. L. 102-550 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

**Statutory Notes and Related Subsidiaries****REGULATIONS**

Pub. L. 102-550, title V, § 512(b), Oct. 28, 1992, 106 Stat. 3786, provided that: “The procedure referred to in the amendment made by subsection (a) [amending this section] shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure

not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

**§ 1735f-13. Prohibition of requirement of minimum principal loan amount**

A mortgagee or lender may not require, as a condition of providing a loan insured under this chapter or secured by a mortgage insured under this chapter, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.

(June 27, 1934, ch. 847, title V, § 535, as added Pub. L. 100-242, title IV, § 419(a), Feb. 5, 1988, 101 Stat. 1913.)

**§ 1735f-14. Civil money penalties against mortgagees, lenders, and other participants in FHA programs**

**(a) In general****(1) Authority**

If a mortgagee approved under the<sup>1</sup> chapter, a lender holding a contract of insurance under subchapter I, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or subchapter I loan transaction under this chapter or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b), the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

**(2) Amount of penalty**

The amount of the penalty, as determined by the Secretary, may not exceed \$5,000 for each violation, except that the maximum penalty for all violations by any particular mortgagee or lender or such other person or entity during any 1-year period shall not exceed \$1,000,000. Each violation of a<sup>2</sup> the provisions of subsection (b)(1) shall constitute a separate violation with respect to each mortgage or loan application. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

In the case of the mortgagee’s failure to engage in loss mitigation activities, as provided

<sup>1</sup> So in original. Probably should be “this”.

<sup>2</sup> So in original. The word “a” probably should not appear.