

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