

hold (1) under a lease for not less than ninety-nine years which is renewable; or (2) under a lease having a period of not less than fifty years to run from the date the mortgage was executed; 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, and the Virgin Islands.

(June 27, 1934, ch. 847, title VI, § 601, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 55; amended 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.)

#### Editorial Notes

##### AMENDMENTS

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" wherever appearing.

#### Statutory Notes and Related Subsidiaries

##### SEPARABILITY

Act Mar. 28, 1941, ch. 31, § 9, 55 Stat. 62, provided that: "If any provision of this Act [enacting sections 1736 to 1742 of this title, and section 609k of Title 15, Commerce and Trade, and amending sections 371, 1430, 1702, 1706, 1707, 1713, and 1715, 1716, 1717 of this title] or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby."

#### § 1737. Repealed. Pub. L. 89-117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VI, § 602, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 55; amended May 26, 1942, ch. 319, § 14(b) 56 Stat. 305; June 30, 1947, ch. 166, title II, § 206(l), 61 Stat. 208; 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, created the War Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

#### § 1738. Insurance of mortgages

##### (a) Relief of housing shortage; eligibility; limitations on time and amount

In order to assist in relieving the acute shortage of housing which now exists and to increase

the supply of housing accommodations available to veterans of World War II at prices within their reasonable ability to pay, the Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage 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: *Provided*, That the aggregate amount of principal obligations of all mortgages insured under this subchapter shall not exceed \$6,150,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed \$6,650,000,000: *Provided further*, That no mortgage shall be insured under this section after April 30, 1948, except (A) pursuant to a commitment to insure issued on or before April 30, 1948, or (B) a mortgage given to refinance an existing mortgage insured under this section and which does not exceed the original principal amount and unexpired term of such existing mortgage, and no mortgage shall be insured under section 1743 of this title after March 1, 1950, except (i) pursuant to a commitment to insure issued on or before March 1, 1950, or (ii) a mortgage given to refinance an existing mortgage insured under section 1743 of this title and which does not exceed the original principal amount and unexpired term of such existing mortgage: *Provided further*, That no mortgage shall be insured under section 1743 of this title 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 certifications to be filed with the Secretary; and violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed \$500: *And provided further*, That the Secretary shall, in his discretion, have power to require the availability for rental purposes of properties covered by mortgages insured under this subchapter, in such instances and for such periods of time as he may prescribe.

Notwithstanding the first proviso of this subsection, mortgages may be insured under sections 1744 and 1746 of this title if the aggregate amounts of principal obligations of mortgages insured under said sections plus the aggregate amount of principal obligations of mortgages insured under section 1745 of this title do not exceed the limitation contained in said section 1745 upon the aggregate amount of principal obligations of mortgages insured pursuant to said section.

Notwithstanding the second proviso of this subsection, mortgages otherwise eligible for insurance under section 1743 of this title may be hereafter insured thereunder if the application for such insurance was received by the Department of Housing and Urban Development on or before March 1, 1950, and for such purpose the aggregate amount of principal obligations authorized to be insured under section 1743 of this title is increased by not to exceed \$500,000,000.

**(b) Eligibility requirements**

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) 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 90 per centum of the Secretary's estimate of the value (as of the date the mortgage is accepted for insurance), except that as to applications received by the Secretary on or before March 31, 1948, the mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the Secretary's estimate of the necessary current cost (including the land and such initial service charges and such appraisal, inspection, and other fees as the Secretary shall approve); of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, which is approved for mortgage insurance prior to the beginning of construction. The principal obligation of such mortgage shall in no event, however, exceed—

(A) \$5,400 if such dwelling is designed for a single-family residence, or

(B) \$7,500 if such dwelling is designed for a two-family residence, or

(C) \$9,500 if such dwelling is designed for a three-family residence, or

(D) \$12,000 if such dwelling is designed for a four-family residence:

*Provided*, That the Secretary may, if he finds that at any time or in any particular geographical area it is not feasible, within such limitations of maximum mortgage amounts, to construct dwellings without sacrifice of sound standards of construction, design, or livability, prescribe by regulation or otherwise higher maximum mortgage amounts not to exceed—

(A) \$8,100 if such dwelling is designed for a single-family residence, or

(B) \$12,500 if such dwelling is designed for a two-family residence, or

(C) \$15,750 if such dwelling is designed for a three-family residence, or

(D) \$18,000 if such dwelling is designed for a four-family residence.

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the date of the insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary;

(5) bear interest (exclusive of premium charges for insurance) at not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time;

(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 herein provided) to amortization of the principal of the mortgage; and

(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.

**(c) Premium charges; payments; acceptance for insurance; preferences; adjustments and refunds**

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter but in the case of any mortgage 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 1½ 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. 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 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 and such other charges as the Secretary may require, that the mortgage complies with the provisions of this subchapter, 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 subchapter unless the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk in view of the shortage of housing referred to in this section. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter 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 subchapter 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. The Secretary shall prescribe such procedures as in his judgment are necessary to secure to veterans of World War II, and their immediate families, and to hardship cases as defined by the Secretary, preference or priority of opportunity to purchase or rent properties covered by mortgages insured under this subchapter.

**(d) Conclusiveness of insurance contract as to eligibility**

Any contract of insurance heretofore or hereafter executed by the Secretary under this sub-

chapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(June 27, 1934, ch. 847, title VI, §603, as added Mar. 28, 1941, ch. 31, §1, 55 Stat. 56; amended Sept. 2, 1941, ch. 410, 55, Stat. 686; May 26, 1942, ch. 319, §§1-4, 14(b), 56 Stat. 301, 305; Mar. 23, 1943, ch. 21, §1, 57 Stat. 42; Oct. 15, 1943, ch. 259, §1, 57 Stat. 571; June 30, 1944, ch. 334, 58 Stat. 648; Mar. 31, 1945, ch. 48, §1, 59 Stat. 47; May 22, 1946, ch. 268, §10(a)-(d), 60 Stat. 212, 213; June 30, 1947, ch. 163, title I, §2, 61 Stat. 193; Aug. 5, 1947, ch. 495, §1, 61 Stat. 777; Dec. 27, 1947, ch. 525, §1, 61 Stat. 945; Mar. 31, 1948, ch. 165, §1(a)-(c), 62 Stat. 101; Aug. 10, 1948, ch. 832, title I, §101(a), (k)(2), 62 Stat. 1268, 1273; Mar. 30, 1949, ch. 42, title III, §304, 63 Stat. 29; July 15, 1949, ch. 338, title II, §201(3), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, §1(4), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§119, 122, 64 Stat. 57, 59; Pub. L. 90-19, §1(a)(1), (3), (4), (n), May 25, 1967, 81 Stat. 17, 19.)

### Editorial Notes

#### AMENDMENTS

1967—Pub. L. 90-19, §1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (a), (b)(1), (2), (b)(2)(D), (b)(3), (4), (6), (7), (c), and (d).

Subsec. (a). Pub. L. 90-19, §1(a)(1), (n), substituted “Department of Housing and Urban Development” for “Federal Housing Administration” and “by” for “in any field office of” after “received”, in third par., respectively.

Subsec. (b)(2). Pub. L. 90-19, §1(a)(4), substituted “Secretary’s” for “Commissioner’s” wherever appearing.

1950—Act Apr. 20, 1950, §122, substituted “Commissioner” for “Administrator” wherever appearing.

Subsec. (a). Act Apr. 20, 1950, §119, added last two pars.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted “\$6,150,000,000” for “\$5,750,000,000” and “\$6,650,000,000” for “\$6,150,000,000” in first proviso, and extended section to “March 1, 1950” by substituting the same for “October 31, 1949” in second proviso.

Act Aug. 30, 1949, extended section from “August 31, 1949” to “October 31, 1949”.

Act July 15, 1949, extended section from “June 30, 1949” to “August 31, 1949”.

Act Mar. 30, 1949, extended section from “March 30, 1949” to “June 30, 1949”.

1948—Subsec. (a). Act Aug. 10, 1948, struck out “\$5,350,000,000” and inserted in lieu thereof “\$5,750,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed \$6,150,000,000”, and struck out the second proviso and inserted in lieu thereof the present second proviso.

Act Mar. 31, 1948, increased the insurance authorization from \$4,950,000,000 to \$5,350,000,000, and provided for an extension from Mar. 31, 1948, to Apr. 30, 1948.

Subsec. (b)(2). Act Mar. 31, 1948, changed the emergency necessary current-cost formula to the appraised-value formula.

Subsec. (c). Act Aug. 10, 1948, struck out of next to last sentence “and a mortgage on the same property is accepted for insurance at the time of such payment”.

1947—Subsec. (a). Act Dec. 27, 1947, increased the mortgage obligation from \$4,000,000,000 to \$4,450,000,000,

and increased the amount of obligation from \$4,200,000,000 to \$4,950,000,000 with the President’s approval.

Act Aug. 5, 1947, increased mortgage obligation from \$2,800,000,000 to \$4,000,000,000 and the amount of obligation from \$3,800,000,000 to \$4,200,000,000 with the President’s approval.

Act June 30, 1947, extended limitation dates in second proviso from June 30, 1947, to Mar. 31, 1948.

1946—Subsec. (a). Act May 22, 1946, amended provisions generally, and among other changes, increased the mortgage obligation from \$1,800,000,000 to \$2,800,000,000, and extended the limitation date from July 1, 1946, to June 30, 1947.

Subsec. (b)(2). Act May 22, 1946, amended provisions generally, and among other changes, inserted proviso.

Subsec. (b)(5). Act May 22, 1946, lowered interest rate from 5 to 4 per centum and struck out provision allowing Administrator to increase the rate in certain cases.

Subsec. (c). Act May 22, 1946, substituted “shortage of housing” for “emergency” in third sentence and amended last sentence.

1945—Subsec. (a). Act Mar. 31, 1945, increased the limit of obligations from \$1,700,000,000 to \$1,800,000,000 and extended the limitation date from 1945 to 1946.

1944—Subsec. (a). Act June 30, 1944, substituted “\$1,700,000,000” for “\$1,600,000,000” and inserted the provision contained in cl. (B).

1943—Subsec. (a). Act Oct. 15, 1943, substituted “\$1,600,000,000” for “\$1,200,000,000” and “July 1, 1945” for “July 1, 1944”.

Act Mar. 23, 1943, substituted “\$1,200,000,000” for “\$800,000,000” and “July 1, 1944” for “July 1, 1943”.

1942—Act May 21, 1942, §14(b), substituted “War” and “war” for “Defense” and “defense” wherever occurring.

Subsec. (a). Act May 26, 1942, §1, substituted “\$800,000,000” for “\$300,000,000”, among other changes.

Subsec. (b)(2). Act May 26, 1942, §2, increased limitations on amount of obligations.

Subsec. (b)(3). Act May 26, 1942, §3, substituted “twenty-five” for “twenty”.

Subsec. (c). Act May 26, 1942, §4, amended subsec. (c).

1941—Subsec. (a). Act Sept. 2, 1941, substituted “\$300,000,000” for “\$100,000,000”.

### Statutory Notes and Related Subsidiaries

#### 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.

#### INFLATION SAFEGUARDS

Act Dec. 27, 1947, ch. 525, §2, 61 Stat. 945, provided: “Title VI of the National Housing Act, as amended [this subchapter], shall be employed to assist in maintaining a high volume of new residential construction without supporting unnecessary or artificial costs. In estimating necessary current cost for the purposes of said title, the Federal Housing Commissioner shall therefore use every feasible means to assure that such estimates will approximate as closely as possible the actual costs of efficient building operations.”

### § 1739. Mortgage insurance benefits

#### (a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure

In any case in which the mortgagee under a mortgage insured under section 1738 of this title shall have foreclosed and taken possession of the mortgaged property, in accordance with regulations of, and within a period to be determined by, the Secretary, or shall, with the consent of the Secretary, have otherwise acquired such property from the mortgagor after default, the mortgagee shall be entitled to receive the ben-