

The Director shall include, in the annual report submitted to the Congress pursuant to section 4521 of this title, information regarding the compensation and expenses paid by the Federal Home Loan Banks to the directors on the boards of directors of the Banks.

(j) Duties of directors

Such board of directors shall administer the affairs of the bank fairly and impartially and without discrimination in favor of or against any member, and shall, subject to the provisions hereof, extend to each institution authorized to secure advances such advances as may be made safely and reasonably with due regard for the claims and demands of other institutions, and with due regard to the maintenance of adequate credit standing for the Federal Home Loan Bank and its obligations.

(k) Indemnification of directors, officers, and employees

The board of directors of each Bank shall determine the terms and conditions under which such Bank may indemnify its directors, officers, employees or agents.

(l) ² Withholding of compensation

Notwithstanding any other provision of this section, a Federal Home Loan Bank shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 4518 of this title.

(l) ² Transition rule

Any member of the board of directors of a Bank elected or appointed in accordance with this section prior to July 30, 2008, may continue to serve as a member of that board of directors for the remainder of the existing term of service.

(July 22, 1932, ch. 522, §7, 47 Stat. 730; May 28, 1935, ch. 150, §3, 49 Stat. 294; Aug. 11, 1955, ch. 783, title I, §109(a)(2), 69 Stat. 640; Pub. L. 86-349, §§1, 2, Sept. 22, 1959, 73 Stat. 625; Pub. L. 87-211, §1, Sept. 8, 1961, 75 Stat. 486; Pub. L. 87-676, Sept. 19, 1962, 76 Stat. 559; Pub. L. 93-541, §3, Dec. 26, 1974, 88 Stat. 1739; Pub. L. 101-73, title VII, §§707, 710(b)(4), Aug. 9, 1989, 103 Stat. 417, 418; Pub. L. 106-102, title VI, §606(a), (b), Nov. 12, 1999, 113 Stat. 1452, 1453; Pub. L. 110-289, div. A, title I, §1113(b)(3), title II, §§1202, 1204(8)-(10), July 30, 2008, 122 Stat. 2678, 2783, 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

The effective date of the amendment to this section, referred to in subsec. (e), probably means the effective date of Pub. L. 87-211. See Effective Date of 1961 Amendment note below.

CODIFICATION

Section 1202(2) of Pub. L. 110-289, which directed amendment of this section by substituting "member" for "elective" wherever appearing other than in subsecs. (d), (e), and (f), was executed by making the substitution in subsec. (h) but not in subsecs. (b) and (c) to reflect the probable intent of Congress and subsequent amendment by Pub. L. 110-289, §1202(3)(A), (4)(A). See 2008 Amendment notes below.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, §1202(1), added subsec. (a) and struck out former subsec. (a) which related to number, appointment and election, qualifications, and conflicts of interest of Federal Home Loan Bank directors.

Subsec. (b). Pub. L. 110-289, §1202(3), designated existing provisions as par. (1), inserted subsec. (b) and par. (1) headings, substituted "Each member directorship" for "Each elective directorship", and added par. (2).

Pub. L. 110-289, §1202(2), which directed substitution of "member" for "elective" wherever appearing, was not executed in subsec. (b) because of subsequent amendment by Pub. L. 110-289, §1202(3)(A). See Amendment and Codification notes above.

Subsec. (b)(1). Pub. L. 110-289, §1204(8), substituted "the Director" for "the Board" in two places.

Subsec. (c). Pub. L. 110-289, §1204(8), (9), substituted "the Director" for "the Board" wherever appearing

and "The Director" for "The Board".

Pub. L. 110-289, §1202(4)(B), in second sentence, inserted "(A) except as provided in clause (B) of this sentence," before "if at any time" and ", and (B) clause (A) of this sentence shall not apply to the directorships of any Federal Home Loan Bank resulting from the merger of any 2 or more such Banks" before period at end.

Pub. L. 110-289, §1202(4)(A), substituted "member" for "elective" wherever appearing before "directorship" or "directorships", except second place appearing in second sentence and each place appearing in fifth sentence.

Pub. L. 110-289, §1202(2), which directed substitution of "member" for "elective" wherever appearing, was not executed in subsec. (c) because of subsequent amendment by Pub. L. 110-289, §1202(4)(A). See Amendment and Codification notes above.

Subsec. (d). Pub. L. 110-289, §1204(9), (10), substituted "the Director" for "the Finance Board" and "The Director" for "The Board".

Pub. L. 110-289, §1202(5), in first sentence, struck out ", whether elected or appointed," after "each director" and substituted "4 years" for "3 years", in second sentence, struck out "or appointed" after "first elected" and substituted "July 30, 2008" for "November 12, 1999" and "1/4" for "1/3", and in third sentence, substituted "a" for "an elective" after "full terms as" and after "for election to" and struck out "in any elective directorship or elective directorships" after "Federal home loan bank".

Subsec. (e). Pub. L. 110-289, §1204(8), (9), substituted "The Director" for "The Board" in two places and "the Director" for "the Board".

Subsec. (f)(1). Pub. L. 110-289, §1202(6)(B), struck out "appointed or" before "elected" in two places.

Subsec. (f)(2), (3). Pub. L. 110-289, §1202(6)(A), (C), redesignated par. (3) as (2), substituted "Election process" for "Elected bank directors" in heading, struck out "elective" after "in any" and after "If any" in text, and struck out former par. (2). Prior to amendment, text of par. (2) read as follows: "In the event of a vacancy in any appointive Bank directorship, such vacancy shall be filled through appointment by the Board for the unexpired term. If any appointive Bank director shall cease to have the qualifications set forth in subsection (a) of this section, the office held by such person shall immediately become vacant, but such person may continue to act as a Bank director until his or her successor assumes the vacated office or the term of such office expires, whichever occurs first."

Subsec. (h). Pub. L. 110-290, §1204(8), substituted "the Director" for "the Board" in two places.

Pub. L. 110-289, §1202(2), substituted "member" for "elective".

Subsec. (i). Pub. L. 110-289, §1202(7), substituted "Each" for "Subject to paragraph (2), each" in par. (1), added par. (2), and struck out former par. (2) which related to limitations on compensation of members of the board of directors of a Federal home loan bank.

Subsec. (l). Pub. L. 110-289, §1202(8), added subsec. (l) relating to transition rule.

Pub. L. 110-289, §1113(b), added subsec. (l) relating to withholding of compensation.

1999—Subsec. (a). Pub. L. 106-102, §606(a)(1), substituted ", and each of whom shall be either a bona fide resident of the district in which such bank is located or an officer or director of a member of such bank located in that district" for "and bona fide residents of the district in which such bank is located".

Subsec. (d). Pub. L. 106-102, §606(a)(2), substituted "The term of each director, whether elected or appointed, shall be 3 years. The board of directors of each Federal home loan bank and the Finance Board shall adjust the terms of members first elected or appointed after November 12, 1999, to ensure that the terms of the members of the board of directors are staggered with approximately 1/3 of the terms expiring each year." for "The term of each elective directorship shall be two years and the term of each appointive directorship shall be four years."

Subsec. (g). Pub. L. 106-102, §606(a)(3), added subsec. (g) and struck out former subsec. (g) which read as follows: "The Board shall designate one of the directors of each bank to be chairman, and one to be vice chairman, of the board of directors of such bank."

Subsec. (i). Pub. L. 106-102, §606(b), inserted heading, designated existing provisions as par. (1), inserted heading, substituted "Subject to paragraph (2), each bank may pay its directors" for "Each bank may pay its directors", and added par. (2).

1989—Subsec. (a). Pub. L. 101-73, §707(1), inserted provisions relating to requirements for at least 2 of the directors and provisions respecting conflicts of interests, and substituted provisions relating to appointment under section 1422a of this title for provisions relating to appointment under section 1437(b) of this title.

Subsec. (b). Pub. L. 101-73, §707(2), inserted after first sentence "No person who is an officer or director of a member that fails to meet any applicable capital requirement is eligible to hold the office of Federal Home Loan Bank director."

Subsec. (f). Pub. L. 101-73, §707(3), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "In the event of a vacancy in any appointive or elective directorship, such vacancy shall be filled

through appointment by the Board for the unexpired term: *Provided*, That if any director shall cease to have the qualifications set forth in subsection (a) of this section, or if any elective director shall cease to have any qualification set forth in this section, the office held by such director shall immediately become vacant, but such director may continue to act as such director until his successor assumes the vacated office or the term of such office expires, whichever shall first occur."

Subsec. (j). Pub. L. 101-73, §710(b)(4), struck out "or nonmember borrower" after "against any member".

Subsec. (k). Pub. L. 101-73, §707(4), added subsec. (k).

1974—Subsec. (a). Pub. L. 93-541 increased number of directors from twelve to fourteen, increased number of appointive directors from four to six, and in proviso relating to districts including five or more States, substituted provisions authorizing increase of appointive directors to a number not exceeding three-fourths the number of elective directors for provisions authorizing increase of appointive directors to a number not exceeding one-half the number of elective directors.

1962—Subsec. (e). Pub. L. 87-676 included Commonwealth of Puerto Rico within term "States" or "State", and authorized Board to add an additional elective directorship to board of bank of any district in which Commonwealth of Puerto Rico is included at time such directorship is added and which doesn't include five or more States, and to fill such initial term by appointment, provided, that any such added directorship shall be designated as representing members in Commonwealth of Puerto Rico, that such designation shall not be changed, and that such directorship shall cease to exist if and when Commonwealth of Puerto Rico ceases to be included in such district.

1961—Subsec. (a). Pub. L. 87-211 authorized Board to increase appointive directors in any district which includes five or more States to a number not exceeding one-half number of elective directors, directed Board to exercise its authority to increase the elective directors to a number at least equal to number of States in a district whenever number of elective directors in district is not at least equal to number of States in district, and struck out provisions which related to apportionment of additional elective directors, required at least one but not more than three elective directors from any of the States in any district in which number of elective directors is increased, limited number of elective directors in any one district to not more than eleven, and defined term "States". See subsec. (c) of this section.

Subsec. (b). Pub. L. 87-211 amended subsection generally, substituting provisions relating to designation of elective directorships, nominations for such office, manner of election, and voting power of each member, for provisions which required four directors to be appointed by Board, limited their term of office to four years, and which authorized Board to increase total number of appointive directors to not more than one-half total number of elective directors in cases where number of elective directors has been increased. See subsec. (a) of this section.

Subsec. (c). Pub. L. 87-211 required number of elective directorships designated as representing members located in each separate State in a bank district to be determined by Board in approximate ratio of percentage of required stock of members located in that State at end of calendar year next preceding date of election to total required stock of all members of such bank at end of such year, except that in case of each State such number shall not be less than one and not more than six, directed Board, in cases where number of elective directorships in any State would not be at least equal to total number of elective directorships in such State on Dec. 31, 1960, to add such number of elective directorships so that their number will equal such total number, provided that an elective directorship so added shall exist only until expiration of its first term, authorized designation of State location of each member, defined terms "total number of elective directorships" and "members", and struck out provisions which related to election of two directors from each of classes A, B, and C and limited their term of office to two years. See subsec. (d) of this section.

Subsec. (d). Pub. L. 87-211 established term of each elective directorship at two years and of each appointive directorship at four years, restricted eligibility for election of persons elected to each of three consecutive full terms and who have served for all or part of each of said terms, empowered Board to prescribe rules and regulations for nomination and election of directors, and struck out provisions which required two directors to be elected by members of bank without regard to classes and limited their term of office to two years.

Subsec. (e). Pub. L. 87-211 amended subsection generally, substituting provisions permitting continuation of terms of elective and appointive directorships, empowering Board to shorten next succeeding term of any elective directorship to one year and to fill such term by appointment, defining terms "States" and "State", for provisions which required the Board to divide members of each bank into either group A, B, or C, permitted each member to nominate persons for election as directors of class corresponding to group to which member belongs, and limited each member to one vote for each director in its class.

Subsec. (f). Pub. L. 87-211 substituted "In the event of a vacancy in any appointive or elective directorship, such vacancy shall be filled through appointment by the Board for the unexpired term" for "Any director

appointed or elected as provided in this section to fill a vacancy shall hold office only until the expiration of the term of his predecessor", and inserted proviso stating that if any director ceases to have the qualifications set forth in this section his office shall immediately become vacant but permits him to act as such director until his successor assumes the vacated office or the term of his office expires, whichever first occurs.

Subsec. (g). Pub. L. 87-211 reenacted subsec. (g) without change.

Subsec. (h). Pub. L. 87-211 authorized Board, prior to filing of the certificate mentioned in section 1432 of this title, to appoint directors and required Board to designate appointees as either appointive or elective directors, and struck out provisions which permitted directors appointed under this subsection to serve until expiration of the calendar year during which they took office.

1959—Subsec. (a). Pub. L. 86-349, §1, authorized increase of up to 13 in number of elective directors of bank having district which includes five or more States.

Subsec. (b). Pub. L. 86-349, §2, authorized increase in number of appointive directors of up to one-half number of elective directors in district in which number of elective directors were increased pursuant to subsec. (a), and provided for expiration of term of initial incumbent of any office so established.

1955—Subsec. (a). Act Aug. 11, 1955, authorized an increase in number of elective directors of any Federal Home Loan Bank having a district which includes five or more States.

1935—Act May 28, 1935, amended subsecs. (a) to (c) generally, added subsec. (d), and redesignated former subsecs. (d) to (i) as (e) to (j).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1961 AMENDMENT

Pub. L. 87-211, §2, Sept. 8, 1961, 75 Stat. 488, provided that: "The amendment made by this Act [amending this section] shall take effect on the second day of the first calendar year which begins after the date of enactment of this Act [Sept. 8, 1961]."

EFFECTIVE DATE OF 1935 AMENDMENT

Act May 28, 1935, ch. 150, §3, 49 Stat. 294, provided that the amendment made by that section is effective Jan. 1, 1936.

¹ *So in original.*

² *So in original. Two subsecs. (l) have been enacted.*

§1428. Examination of State laws, regulations, and procedures; studies of values, etc.

The Director shall cause to be made from time to time examinations of the laws of the various States of the United States and the regulations and procedure thereunder governing conditions under which institutions of the kinds which may become members or nonmember borrowers under this chapter are permitted to be formed or to do business, or relating to the conveying or recording of land titles, or to homestead and other rights, or to the enforcement of the rights of holders of mortgages on lands securing loans, or otherwise. If any such examination shall indicate, in the opinion of the Director, that under the laws of any such State or the regulations or procedure thereunder there would be inadequate protection to a Federal Home Loan Bank in making or collecting advances under this chapter, the Director may withhold or limit the operation of any Federal Home Loan Bank in such State until satisfactory conditions of law, regulation, or procedure shall be established. In any State where State examination of members or nonmember borrowers is deemed inadequate for the purposes of the Federal Home Loan Banks, the Director shall establish such examination, all or part of the cost of which may be considered as part of the cost of making advances in such State. The banks and/or the Director may make studies of trends of home and other property values, methods of appraisals, and other subjects such as they may deem useful for the general guidance of their policies and operations and those of institutions authorized to secure advances.

(July 22, 1932, ch. 522, §8, 47 Stat. 731; Pub. L. 101–73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110–289, div. A, title II, §1204(8), (9), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289 substituted "The Director" for "The Board" and "the Director" for "the Board" wherever appearing.

1989—Pub. L. 101–73 substituted "Board" for "board" wherever appearing.

§1428a. Repealed. Pub. L. 101–73, title VII, §718, Aug. 9, 1989, 103 Stat. 422

Section, act July 22, 1932, ch. 522, §8a, as added May 28, 1935, ch. 150, §4, 49 Stat. 294; amended 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Dec. 26, 1974, Pub. L. 93–541, §6, 88 Stat. 1739; Oct. 15, 1982, Pub. L. 97–320, title III, §354, 96 Stat. 1508, established Federal Savings and Loan Advisory Council.

§1429. Eligibility to secure advances

Any member of a Federal Home Loan Bank shall be entitled to apply in writing for advances. Such application shall be in such form as shall be required by the Federal Home Loan Bank. Such Federal Home Loan Bank may at its discretion deny any such application, or may grant it on such conditions as the Federal Home Loan Bank may prescribe.

(July 22, 1932, ch. 522, §9, 47 Stat. 731; Pub. L. 101–73, title VII, §§701(b)(1), (3)(A), 710(a), Aug. 9, 1989, 103 Stat. 412, 418; Pub. L. 106–102, title VI, §606(f)(1), Nov. 12, 1999, 113 Stat. 1455.)

EDITORIAL NOTES

AMENDMENTS

1999—Pub. L. 106–102 struck out "with the approval of the Board" after "Federal Home Loan Bank" in second sentence and struck out ", subject to the approval of the Board," after "deny any such application, or" in third sentence.

1989—Pub. L. 101–73, §710(a), struck out "or nonmember borrower" after "Any member".

Pub. L. 101–73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

§1430. Advances to members

(a) In general

(1) All advances

Each Federal Home Loan Bank is authorized to make secured advances to its members upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 1431(g) of this title.

(2) Purposes of advances

A long-term advance may only be made for the purposes of—

(A) providing funds to any member for residential housing finance; and

(B) providing funds to any community financial institution for small businesses, small farms, small agri-businesses, and community development activities.

(3) Collateral

A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:

(A) Fully disbursed, whole first mortgages on improved residential property (not more than 90 days delinquent), or securities representing a whole interest in such mortgages.

(B) Securities issued, insured, or guaranteed by the United States Government or any agency thereof (including without limitation, mortgage-backed securities issued or guaranteed by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Corporation, and the Government National Mortgage Association).

(C) Cash or deposits of a Federal Home Loan Bank.

(D) Other real estate related collateral acceptable to the Bank if such collateral has a readily ascertainable value and the Bank can perfect its interest in the collateral.

(E) Secured loans for small business, agriculture, or community development activities or securities representing a whole interest in such secured loans, in the case of any community financial institution.

(4) Additional bank authority

Subparagraphs (A) through (E) of paragraph (3) shall not affect the ability of any Federal Home Loan Bank to take such steps as it deems necessary to protect its security position with respect to outstanding advances, including requiring deposits of additional collateral security, whether or not such additional security would be eligible to originate an advance. If an advance existing on August 9, 1989, matures and the member does not have sufficient eligible collateral to fully secure a renewal of such advance, a Bank may renew such advance secured by such collateral as the Bank determines is appropriate. A member that has an advance secured by such insufficient eligible collateral must reduce its level of outstanding advances promptly and prudently in accordance with a schedule determined by the Federal home loan bank.

(5) Review of certain collateral standards

The Director may review the collateral standards applicable to each Federal home loan bank for the classes of collateral described in subparagraphs (D) and (E) of paragraph (3), and may, if necessary for safety and soundness purposes, require an increase in the collateral standards for any or all of those classes of collateral.

(6) Definitions

For purposes of this subsection, the terms "small business", "agriculture", "small farm", "small agri-business", and "community development activities" shall have the meanings given those terms by regulation of the Director.

(b) Appraisals and other investigations; acceptance of home mortgages as collateral security only by approval of Director

For the purposes of this section, each Home Loan Bank shall have power to make, or to cause or require to be made, such appraisals and other investigations as it may deem necessary. No home mortgage otherwise eligible to be accepted as collateral security for an advance by a Home Loan Bank shall be accepted if any director, officer, employee, attorney or agent of the Home Loan Bank or of the borrowing institution is personally liable thereon, unless the Director has specifically approved such acceptance.

(c) Notes of borrowing members; interest rate; lien on stock

Such advances shall be made upon the note or obligation of the member secured as provided in this section, bearing such rate of interest as the Federal home loan bank may approve or determine, and the Federal Home Loan Bank shall have a lien upon and shall hold the stock of such member as further collateral security for all indebtedness of the member to the Federal Home Loan Bank.

(d) Obligation to repay; additional security; sale of advances to other banks

The institution applying for an advance shall enter into a primary and unconditional obligation to pay off all advances, together with interest and any unpaid costs and expenses in connection therewith according to the terms under which they were made, in such form as shall meet the requirements of the bank. The bank shall reserve the right to require at any time, when deemed necessary for its protection, deposits of additional collateral security or substitutions of security by

the borrowing institution, and each borrowing institution shall assign additional or substituted security when and as so required. Any Federal Home Loan Bank shall have power to sell to any other Federal Home Loan Bank, with or without recourse, any advance made under the provisions of this chapter, or to allow to such bank a participation therein, and any other Federal Home Loan Bank shall have power to purchase such advance or to accept a participation therein, together with an appropriate assignment of security therefor.

(e) Priority of certain secured interests

Notwithstanding any other provision of law, any security interest granted to a Federal Home Loan Bank by any member of any Federal Home Loan Bank or any affiliate of any such member shall be entitled to priority over the claims and rights of any party (including any receiver, conservator, trustee, or similar party having rights of a lien creditor) other than claims and rights that—

- (1) would be entitled to priority under otherwise applicable law; and
- (2) are held by actual bona fide purchasers for value or by actual secured parties that are secured by actual perfected security interests.

(g) ¹ Community support requirements

(1) In general

Before the end of the 2-year period beginning on August 9, 1989, the Director shall adopt regulations establishing standards of community investment or service for members of Banks to maintain continued access to long-term advances.

(2) Factors to be included

The regulations promulgated pursuant to paragraph (1) shall take into account factors such as a member's performance under the Community Reinvestment Act of 1977 [12 U.S.C. 2901 et seq.] and the member's record of lending to first-time homebuyers.

(h) Special liquidity advances

(1) In general

Subject to paragraph (2), the Federal Home Loan Banks may, upon the request of the Director of the Office of Thrift Supervision, make short-term liquidity advances to a savings association that—

- (A) is solvent but presents a supervisory concern because of such association's poor financial condition; and
- (B) has reasonable and demonstrable prospects of returning to a satisfactory financial condition.

(2) Interest on and security for special liquidity advances

Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be subject to all applicable collateral requirements, including the requirements of subsection (a), and shall be at an interest rate no less favorable than those made available for similar short-term liquidity advances to savings associations that do not present such supervisory concern.

(i) Community investment program

(1) In general

Each Bank shall establish a program to provide funding for members to undertake community-oriented mortgage lending. Each Bank shall designate a community investment officer to implement community lending and affordable housing advance programs of the Banks under this subsection and subsection (j) and provide technical assistance and outreach to promote such programs. Advances under this program shall be priced at the cost of consolidated Federal Home Loan Bank obligations of comparable maturities, taking into account reasonable administrative costs.

(2) Community-oriented mortgage lending

For purposes of this subsection, the term "community-oriented mortgage lending" means

providing loans—

(A) to finance home purchases by families whose income does not exceed 115 percent of the median income for the area,

(B) to finance purchase or rehabilitation of housing for occupancy by families whose income does not exceed 115 percent of median income for the area,

(C) to finance commercial and economic development activities that benefit low- and moderate-income families or activities that are located in low- and moderate-income neighborhoods, and

(D) to finance projects that further a combination of the purposes described in subparagraphs (A) through (C).

(j) Affordable housing program

(1) In general

Pursuant to regulations promulgated by the Director, each Bank shall establish an Affordable Housing Program to subsidize the interest rate on advances to members engaged in lending for long term, low- and moderate-income, owner-occupied and affordable rental housing at subsidized interest rates.

(2) Standards

The Board's ² regulations shall permit Bank members to use subsidized advances received from the Banks to—

(A) finance homeownership by families with incomes at or below 80 percent of the median income for the area;

(B) finance the purchase, construction, or rehabilitation of rental housing, at least 20 percent of the units of which will be occupied by and affordable for very low-income households for the remaining useful life of such housing or the mortgage term; or

(C) during the 2-year period beginning on July 30, 2008, use such percentage as the Director may by regulation establish of any subsidized advances set aside to finance homeownership under subparagraph (A) to refinance loans that are secured by a first mortgage on a primary residence of any family having an income at or below 80 percent of the median income for the area.

(3) Priorities for making advances

In using advances authorized under paragraph (1), each Bank member shall give priority to qualified projects such as the following:

(A) purchase of homes by families whose income is 80 percent or less of the median income for the area,

(B) purchase or rehabilitation of housing owned or held by the United States Government or any agency or instrumentality of the United States; and

(C) purchase or rehabilitation of housing sponsored by any nonprofit organization, any State or political subdivision of any State, any local housing authority or State housing finance agency.

(4) Report

Each member receiving advances under this program shall report annually to the Bank making such advances concerning the member's use of advances received under this program.

(5) Contribution to program

Each Bank shall annually contribute the percentage of its annual net earnings prescribed in the following subparagraphs to support subsidized advances through the Affordable Housing Program:

(A) In 1990, 1991, 1992, and 1993, 5 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of all the Banks shall not be less than \$50,000,000 for each such year.

(B) In 1994, 6 percent of the preceding year's net income, or such prorated sum as may be

required to assure that the aggregate contribution of the Banks shall not be less than \$75,000,000 for such year.

(C) In 1995, and subsequent years, 10 percent of the preceding year's net income, or such prorated sums as may be required to assure that the aggregate contribution of the Banks shall not be less than \$100,000,000 for each such year.

(6) Grounds for suspending contributions

(A) In general

If a Bank finds that the payments required under this paragraph are contributing to the financial instability of such Bank, it may apply to the Director for a temporary suspension of such payments.

(B) Financial instability

In determining the financial instability of a Bank, the Director shall consider such factors as (i) whether the Bank's earnings are severely depressed, (ii) whether there has been a substantial decline in membership capital, and (iii) whether there has been a substantial reduction in advances outstanding.

(C) Review

The Director shall review the application and any supporting financial data and issue a written decision approving or disapproving such application. The Board's ² decision shall be accompanied by specific findings and reasons for its action.

(D) Monitoring suspension

If the Director grants a suspension, it shall specify the period of time such suspension shall remain in effect and shall continue to monitor the Bank's financial condition during such suspension.

(E) Limitations on grounds for suspension

The Director shall not suspend payments to the Affordable Housing Program if the Bank's reduction in earnings is a result of (i) a change in the terms for advances to members which is not justified by market conditions, (ii) inordinate operating and administrative expenses, or (iii) mismanagement.

(F) Congressional notification and action

The Director shall notify the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate not less than 60 days before such suspension takes effect. Such suspension shall become effective unless a joint resolution is enacted disapproving such suspension.

(7) Failure to use amounts for affordable housing

If any Bank fails to utilize or commit the full amount provided in this subsection in any year, 90 percent of the amount that has not been utilized or committed in that year shall be deposited by the Bank in an Affordable Housing Reserve Fund administered by the Director. The 10 percent of the unutilized and uncommitted amount retained by a Bank should be fully utilized or committed by that Bank during the following year and any remaining portion must be deposited in the Affordable Housing Reserve Fund. Under regulations established by the Director, funds from the Affordable Housing Reserve Fund may be made available to any Bank to meet additional affordable housing needs in such Bank's district pursuant to this section.

(8) Net earnings

The net earnings of any Federal Home Loan Bank shall be determined for purposes of this paragraph—

- (A) after reduction for any payment required under section 1441 or 1441b of this title; and
- (B) before declaring any dividend under section 1436 of this title.

(9) Regulations

The Director shall promulgate regulations to implement this subsection. Such regulations shall, at a minimum—

- (A) specify activities eligible to receive subsidized advances from the Banks under this program;
- (B) specify priorities for the use of such advances;
- (C) ensure that advances made under this program will be used only to assist projects for which adequate long-term monitoring is available to guarantee that affordability standards and other requirements of this subsection are satisfied;
- (D) ensure that a preponderance of assistance provided under this subsection is ultimately received by low- and moderate-income households;
- (E) ensure that subsidies provided by Banks to member institutions under this program are passed on to the ultimate borrower;
- (F) establish uniform standards for subsidized advances under this program and subsidized lending by member institutions supported by such advances, including maximum subsidy and risk limitations for different categories of loans made under this subsection; and
- (G) coordinate activities under this subsection with other Federal or federally-subsidized affordable housing activities to the maximum extent possible.

(10) Other programs

No provision of this subsection or subsection (i) shall preclude any Bank from establishing additional community investment cash advance programs or contributing additional sums to the Affordable Housing Reserve Fund.

(11) Advisory Council

Each Bank shall appoint an Advisory Council of 7 to 15 persons drawn from community and nonprofit organizations actively involved in providing or promoting low- and moderate-income housing in its district. The Advisory Council shall meet with representatives of the board of directors of the Bank quarterly to advise the Bank on low- and moderate-income housing programs and needs in the district and on the utilization of the advances for these purposes. Each Advisory Council established under this paragraph shall submit to the Director at least annually its analysis of the low-income housing activity of the Bank by which it is appointed.

(12) Reports to Congress

(A) The Director shall monitor and report annually to the Congress and the Advisory Council for each Bank the support of low-income housing and community development by the Banks and the utilization of advances for these purposes.

(B) The analyses submitted by the Advisory Councils to the Director under paragraph (11) shall be included as part of the report required by this paragraph.

(C) REPORTS.—The Director shall annually report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the collateral pledged to the Banks, including an analysis of collateral by type and by Bank district.

(D) SUBMISSION TO CONGRESS.—The Director shall submit the reports under subparagraphs (A) and (C) to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, not later than 180 days after July 30, 2008.

(13) Definitions

For purposes of this subsection—

(A) Low- or moderate-income household

The term "low- or moderate-income household" means any household which has an income of 80 percent or less of the area median.

(B) Very low-income household

The term "very low-income household" means any household that has an income of 50 percent or less of the area median.

(C) Low- or moderate-income neighborhood

The term "low- or moderate-income neighborhood" means any neighborhood in which 51 percent or more of the households are low- or moderate-income households.

(D) Affordable for very-low income households

For purposes of paragraph (2)(B) the term "affordable for very-low income households" means that rents charged to tenants for units made available for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 50 percent of the income for the area (as determined by the Secretary of Housing and Urban Development) with adjustment for family size.

(k) Public use database

(1) Data

Each Federal Home Loan Bank shall provide to the Director, in a form determined by the Director, census tract level data relating to mortgages purchased, if any, including—

- (A) data consistent with that reported under section 4543 of this title;
- (B) data elements required to be reported under the Home Mortgage Disclosure Act of 1975 [12 U.S.C. 2801 et seq.]; and
- (C) any other data elements that the Director considers appropriate.

(2) Public use database

(A) In general

The Director shall make available to the public, in a form that is useful to the public (including forms accessible electronically), and to the extent practicable, the data provided to the Director under paragraph (1).

(B) Proprietary information

Notwithstanding subparagraph (A), the Director may not provide public access to, or disclose to the public, any information required to be submitted under this subsection that the Director determines is proprietary or that would provide personally identifiable information and that is not otherwise publicly accessible through other forms, unless the Director determines that it is in the public interest to provide such information.

(July 22, 1932, ch. 522, §10, 47 Stat. 731; Apr. 27, 1934, ch. 168, §10, 48 Stat. 646; June 27, 1934, ch. 847, §501, 48 Stat. 1261; May 28, 1935, ch. 150, §§5, 6, 49 Stat. 294, 295; Mar. 28, 1941, ch. 31, §7, 55 Stat. 62; Aug. 1, 1947, ch. 431, 61 Stat. 714; Apr. 20, 1950, ch. 94, title V, §501, 64 Stat. 80; Sept. 1, 1951, ch. 378, title II, §208, 65 Stat. 303; Aug. 2, 1954, ch. 649, title V, §502, 68 Stat. 634; Pub. L. 85–857, §13(e), Sept. 2, 1958, 72 Stat. 1264; Pub. L. 87–779, §2(b), Oct. 9, 1962, 76 Stat. 779; Pub. L. 88–560, title IX, §906, Sept. 2, 1964, 78 Stat. 805; Pub. L. 93–449, §4(c), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 95–128, title IV, §406, Oct. 12, 1977, 91 Stat. 1137; Pub. L. 97–320, title III, §352, Oct. 15, 1982, 96 Stat. 1507; Pub. L. 97–457, §15, Jan. 12, 1983, 96 Stat. 2509; Pub. L. 100–86, title I, §105, title III, §306(d), Aug. 10, 1987, 101 Stat. 575, 601; Pub. L. 101–73, title VII, §§701(b)(1), (3)(A), 710(b)(4), (5), (c), 714, 721, Aug. 9, 1989, 103 Stat. 412, 418, 419, 423; Pub. L. 102–550, title XIII, §1392(a), Oct. 28, 1992, 106 Stat. 4009; Pub. L. 106–102, title VI, §§604(a)–(c), 606(f)(2), Nov. 12, 1999, 113 Stat. 1451, 1452, 1455; Pub. L. 110–289, div. A, title II, §§1204(5), (8)–(10), (12), 1211(b), 1212, 1218, July 30, 2008, 122 Stat. 2786, 2790, 2793.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Community Reinvestment Act of 1977, referred to in subsec. (g)(2), is title VIII of Pub. L. 95–128, Oct. 12, 1977, 91 Stat. 1147, which is classified generally to chapter 30 (§2901 et seq.) of this title. For

complete classification of this Act to the Code, see Short Title note set out under section 2901 of this title and Tables.

The Home Mortgage Disclosure Act of 1975, referred to in subsec. (k)(1)(B), is title III of Pub. L. 94-200, Dec. 31, 1975, 89 Stat. 1125, which is classified generally to chapter 29 (§2801 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2801 of this title and Tables.

AMENDMENTS

2008—Subsec. (a)(2)(B). Pub. L. 110-289, §1211(b)(1), struck out "and" before "small agri-businesses" and inserted ", and community development activities" before period at end.

Subsec. (a)(3)(E). Pub. L. 110-289, §1211(b)(2), inserted "or community development activities" after "agriculture,".

Subsec. (a)(5). Pub. L. 110-289, §1204(9), substituted "The Director" for "The Board".

Subsec. (a)(6). Pub. L. 110-289, §1211(b)(3), struck out "and" before " 'small agri-business' " and inserted ", and 'community development activities' " before "shall".

Pub. L. 110-289, §1204(10), substituted "the Director" for "the Finance Board".

Subsec. (b). Pub. L. 110-289, §1204(5), (8), substituted "approval of Director" for "formal Board resolution" in heading and substituted "the Director" for "the Board" and struck out "by formal resolution" before "such acceptance" in text.

Subsecs. (g)(1), (j)(1). Pub. L. 110-289, §1204(8), substituted "the Director" for "the Board".

Subsec. (j)(2)(C). Pub. L. 110-289, §1218, added subpar. (C).

Subsec. (j)(6)(A), (B). Pub. L. 110-289, §1204(12), substituted "Director" for "Federal Housing Finance Board".

Subsec. (j)(6)(C). Pub. L. 110-289, §1204(9), substituted "The Director" for "The Board".

Subsec. (j)(6)(D). Pub. L. 110-289, §1204(8), substituted "the Director" for "the Board".

Subsec. (j)(6)(E). Pub. L. 110-289, §1204(9), substituted "The Director" for "The Board".

Subsec. (j)(6)(F). Pub. L. 110-289, §1204(12), substituted "Director" for "Federal Housing Finance Board".

Subsec. (j)(7). Pub. L. 110-289, §1204(8), substituted "the Director" for "the Board" in two places.

Subsec. (j)(9). Pub. L. 110-289, §1204(12), substituted "Director" for "Federal Housing Finance Board" in introductory provisions.

Subsec. (j)(11) to (12)(B). Pub. L. 110-289, §1204(8), (9), substituted "the Director" for "the Board" and "The Director" for "The Board" wherever appearing.

Subsec. (j)(12)(C), (D). Pub. L. 110-289, §1212(1), added subpars. (C) and (D) and struck out former subpar. (C) which read as follows: "The Comptroller General of the United States shall audit and evaluate the Affordable Housing Program established by this subsection after such program has been operating for 2 years. The Comptroller General shall report to Congress on the conclusions of the audit and recommend improvements or modifications to the program."

Subsec. (k). Pub. L. 110-289, §1212(2), added subsec. (k).

1999—Pub. L. 106-102, §604(b), amended section catchline generally.

Subsec. (a). Pub. L. 106-102, §604(a), inserted heading, designated first sentence of introductory provisions as par. (1) and inserted heading, substituted par. (2) for former second sentence of introductory provisions which read as follows: "All long-term advances shall only be made for the purpose of providing funds for residential housing finance.", designated third sentence of introductory provisions as par. (3), inserted heading, redesignated former pars. (1) to (4) as subpars. (A) to (D), respectively, of par. (3) and realigned margins, in subpar. (C), substituted "Cash or deposits" for "Deposits", in subpar. (D), struck out at end "The aggregate amount of outstanding advances secured by such other real estate related collateral shall not exceed 30 percent of such member's capital.", and added subpar. (E), redesignated former par. (5) as (4), inserted heading, substituted "Subparagraphs (A) through (E) of paragraph (3)" for "Paragraphs (1) through (4)", struck out "and the Board" after "such collateral as the Bank" and substituted "determined by the Federal home loan bank" for "determined by the Board", and added pars. (5) and (6).

Subsec. (c). Pub. L. 106-102, §606(f)(2)(A), substituted "Federal home loan bank" for "Board" before "may approve or determine" and struck out at end "At no time shall the aggregate outstanding advances made by any Federal Home Loan Bank to any member exceed twenty times the amounts paid in by such member for outstanding capital stock held by it exceed twenty times the value of the security required to be deposited under subsection (e) of section 1426 of this title."

Subsec. (d). Pub. L. 106-102, §606(f)(2)(B), struck out "and the approval of the Board" after "requirements of the bank" in first sentence and substituted "Any" for "Subject to the approval of the Board, any" in third sentence.

Subsec. (e). Pub. L. 106-102, §604(c), struck out subsec. (e) relating to qualified thrift lender status.

1992—Subsec. (e)(2). Pub. L. 102-550 added sentence at end and struck out former second sentence which read as follows: "The aggregate amount of any Bank's advances to members that are not qualified thrift lenders shall not exceed 30 percent of a Bank's total advances."

1989—Subsec. (a). Pub. L. 101-73, §714(a), substituted "upon collateral sufficient, in the judgment of the Bank, to fully secure advances obtained from the Bank under this section or section 1431(g) of this title. All long-term advances shall only be made for the purpose of providing funds for residential housing finance. A Bank, at the time of origination or renewal of a loan or advance, shall obtain and maintain a security interest in collateral eligible pursuant to one or more of the following categories:" and pars. (1) to (5) for "upon such security as the Board may prescribe."

Subsec. (b). Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board".

Subsec. (c). Pub. L. 101-73, §710(b)(4), (5), struck out "or nonmember borrower" after "obligation of the member", and ", or made to a nonmember borrower" after "stock held by it".

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board".

Subsec. (d). Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

Subsec. (e). Pub. L. 101-73, §714(b), which directed the general amendment of subsec. (e), was executed to the subsec. (e) added by section 105 of Pub. L. 100-86, as the probable intent of Congress. As thus executed, the amendment substituted provisions relating to qualified thrift lender status for provisions relating to reduced eligibility for advances for certain members which were not qualified thrift lenders.

Subsec. (g). Pub. L. 101-73, §710(c), added subsec. (g).

Subsec. (h). Pub. L. 101-73, §714(c), added subsec. (h).

Subsecs. (i), (j). Pub. L. 101-73, §721, added subsecs. (i) and (j).

1987—Subsec. (e). Pub. L. 100-86, §306(d), added subsec. (e) relating to priority of certain secured interests.

Pub. L. 100-86, §105, added subsec. (e) relating to reduced eligibility for advances for certain members which are not qualified thrift lenders.

1982—Subsec. (a). Pub. L. 97-320, §352(1), as amended by Pub. L. 97-457, amended subsec. (a) generally. Prior to amendment subsec. (a) read as follows: "Each Federal Home Loan Bank is authorized to make advances to its members upon the security of home mortgages, or obligations of the United States, or obligations fully guaranteed by the United States, subject to such regulations, restrictions, and limitations as the Board may prescribe. Any such advance shall be subject to the following limitations as to amount:

"(1) If secured by a mortgage insured under the provisions of title I, title II, title VI, title VIII, or title IX of the National Housing Act [12 U.S.C. 1702 et seq., 1707 et seq., 1736 et seq., 1748 et seq., and 1750 et seq., respectively], the advance may be for an amount not in excess of 90 per centum of the unpaid principal of the mortgage loan.

"(2) If secured by a home mortgage given in respect of an amortized home mortgage loan which was for an original term of six years or more, or in cases where shares of stock, which are pledged as security for such loan, mature in a period of six years or more, the advance may be for an amount not in excess of 65 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of the advance exceed 60 per centum of the value of the real estate securing the home mortgage loan.

"(3) If secured by a home mortgage given in respect of any other home mortgage loan, the advance shall not be for an amount in excess of 50 per centum of the unpaid principal of the home mortgage loan; but in no case shall the amount of such advance exceed 40 per centum of the value of the real estate securing the home mortgage loan.

"(4) If secured by obligations of the United States, or obligations fully guaranteed by the United States, the advance shall not be for an amount in excess of the face value of such obligations."

Subsec. (b). Pub. L. 97-320, §352(2), struck out provisions relating to acceptance of home mortgages as collateral security for advances by a Home Loan Bank.

Subsec. (c). Pub. L. 97-320, §352(3), substituted "twenty" for "twelve" wherever appearing.

1977—Subsec. (b). Pub. L. 95-128 substituted prohibition against acceptance of a home mortgage as collateral security for an advance by a Federal Home Loan Bank if, at the time the advance is made, the home mortgage exceeds a sum equal to the dollar limitation under the first proviso of the first sentence of section 1464(c) of this title for each home or other dwelling unit covered by such mortgage for prior prohibition where the home mortgage exceeded a sum equal to \$55,000 (except that with respect to dwellings in Alaska, Guam, and Hawaii the foregoing limitation, might, by regulation of the Board, be increased by not to exceed 50 per centum) for each home or other dwelling unit covered by the mortgage.

1974—Subsec. (b). Pub. L. 93-449 substituted provisions limiting the home mortgage to a sum not to exceed \$55,000, except with respect to dwellings in Alaska, Guam, etc., for provisions limiting the home

mortgage to a sum not to exceed \$40,000.

1964—Subsec. (b). Pub. L. 88-560 substituted "thirty" for "twenty-five" in cl. (1) and "\$40,000" for "\$35,000" in cl. (2).

1962—Subsec. (b). Pub. L. 87-779 substituted "exceeds a sum equal to \$35,000 for each home or other dwelling unit covered by such mortgage" for "exceeds \$35,000".

1958—Subsec. (b). Pub. L. 85-857 inserted "chapter 37 of title 38," after "Servicemen's Readjustment Act of 1944, as amended,".

1954—Subsec. (b)(2). Act Aug. 2, 1954, substituted "\$35,000" for "\$20,000".

1951—Subsec. (a)(1). Act Sept. 1, 1951, inserted a reference to subchapter X of chapter 13 of this title.

1950—Subsec. (a) (1). Act Apr. 20, 1950, §501(1), substituted "subchapters I, II, VI, and VIII of chapter 13 of this title" for "sections 1707-1715b and 1736-1742 of this title".

Subsec. (b). Act Apr. 20, 1950, §501(2), inserted "unless such home mortgage is insured under the National Housing Act, as amended, or insured or guaranteed under the Servicemen's Readjustment Act of 1944, as amended" after "Maturity" in first sentence.

1947—Subsec. (b). Act Aug. 1, 1947, increased period collateral security can run from twenty years to twenty-five years.

1941—Subsec. (a)(1). Act Mar. 28, 1941, inserted reference to sections 1736-1742 of this title.

1935—Subsec. (a). Act May 28, 1935, §5, added cl. (4).

Subsec. (b)(1). Act May 28, 1935, §6, substituted "twenty" for "fifteen" and omitted reference to value of real estate in cl. 2.

1934—Subsec. (a). Act June 27, 1934, amended subsec. (a) generally.

Subsec. (b). Act Apr. 27, 1934, inserted "unless the amount," etc. to end of first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding Part 1 of Title 38, Veterans' Benefits.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (j)(12)(A) of this section relating to requirement to report annually to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 170 of House Document No. 103-7.

AUTHORIZATION OF APPROPRIATIONS FOR DISBURSEMENT TO FEDERAL HOME LOAN BANKS FOR ADJUSTMENT OF INTEREST CHARGES

Pub. L. 91-351, title I, §101, July 24, 1970, 84 Stat. 450, provided that:

"(a) There is authorized to be appropriated not to exceed \$250,000,000, without fiscal year limitation, to be used by the Federal Home Loan Bank Board for disbursement to Federal home loan banks for the purpose of adjusting the effective interest charged by such banks on short-term and long-term borrowing to promote an orderly flow of funds into residential construction. The disbursement of sums appropriated hereunder shall be made under such terms and conditions as may be prescribed by the Board to assure that such sums are used to assist in the provision of housing for low- and middle-income families, and that such families share fully in the benefits resulting from the disbursement of such sums. No member of a Federal home loan bank shall use funds the interest charges on which have been adjusted pursuant to the provisions of this section to make any loan, if—

"(1) the effective rate of interest on such loan exceeds the effective rate of interest on such funds payable by such member by a percentile amount which is in excess of such amount as the Board determines to be appropriate in furtherance of the purposes of this section; or

"(2) the principal obligation of any such loan which is secured by a mortgage on a residential structure exceeds the dollar limitations on the maximum mortgage amount, in effect on the date the mortgage was originated, which would be applicable if the mortgage was insured by the Secretary of Housing and Urban Development under section 203(b) or 207 of the National Housing Act [section 1709(b) or 1713 of this title].

"(b) Not more than 20 per centum of the sums appropriated pursuant to subsection (a) shall be disbursed in any one Federal home loan bank district."

¹ *So in original. No subsec. (f) has been enacted.*

² *So in original. Probably should be "The Director's".*

§1430a. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 22, 1932, ch. 522, §10a, as added June 27, 1934, ch. 847, §502, 48 Stat. 1261, provided for advances by Federal Home Loan Banks to finance home repairs, improvements, and alterations until July 1, 1936.

§1430b. Advances to nonmember mortgagee; terms and conditions

(a) In general

Each Federal Home Loan Bank is authorized to make advances to nonmember mortgagees approved under title II of the National Housing Act [12 U.S.C. 1707 et seq.]. Such mortgagees must be chartered institutions having succession and subject to the inspection and supervision of some governmental agency, and whose principal activity in the mortgage field must consist of lending their own funds. Such advances shall not be subject to the other provisions and restrictions of this chapter, but shall be made upon the security of insured mortgages, insured under title II of the National Housing Act. Advances made under the terms of this section shall be at such rates of interest and upon such terms and conditions as shall be determined by the Director, but no advance may be for an amount in excess of 90 per centum of the unpaid principal of the mortgage loan given as security.

(b) Exception

An advance made to a State housing finance agency for the purpose of facilitating mortgage lending that benefits individuals and families that meet the income requirements set forth in section 142(d) or 143(f) of title 26, need not be collateralized by a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or otherwise, if—

(1) such advance otherwise meets the requirements of this subsection; and

(2) such advance meets the requirements of section 1430(a) of this title, and any real estate collateral for such loan comprises single family or multifamily residential mortgages.

(July 22, 1932, ch. 522, §10b, as added May 25, 1935, ch. 150, §7, 49 Stat. 295; amended Pub. L. 101–73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 102–550, title XIII, §1392(b), Oct. 28, 1992, 106 Stat. 4009; Pub. L. 110–289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–289 substituted "the Director" for "the Board".

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

1989—Pub. L. 101–73 substituted "Board" for "Federal Home Loan Bank Board".

§1430c. Housing goals

(a) In general

The Director shall establish housing goals with respect to the purchase of mortgages, if any, by the Federal Home Loan Banks. Such goals shall be consistent with the goals established under sections 4561 through 4564 of this title.

(b) Considerations

In establishing the goals required by subsection (a), the Director shall consider the unique mission and ownership structure of the Federal Home Loan Banks.

(c) Transition period

To facilitate an orderly transition, the Director shall establish interim target goals for purposes of this section for each of the 2 calendar years following July 30, 2008.

(d) Monitoring and enforcement of goals

The requirements of section 4566 ¹ of this title, shall apply to this section, in the same manner and to the same extent as that section applies to the Federal housing enterprises.

(e) Annual report

The Director shall annually report to Congress on the performance of the Banks in meeting the goals established under this section.

(July 22, 1932, ch. 522, §10C, as added Pub. L. 110–289, div. A, title II, §1205, July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 4566 of this title, referred to in subsec. (d), was in the original "section 1336 of the Federal Housing Enterprises Safety and Soundness Act of 1992", which was translated as meaning section 1336 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, to reflect the probable intent of Congress.

¹ [*See References in Text note below.*](#)

§1431. Powers and duties of banks

(a) Borrowing money; issuing bonds and debentures; general powers

Each Federal Home Loan Bank shall have power, subject to rules and regulations prescribed by the Director, to borrow and give security therefor and to pay interest thereon, to issue debentures, bonds, or other obligations upon such terms and conditions as the Director may approve, and to do all things necessary for carrying out the provisions of this chapter and all things incident thereto.

(b) Issuance of consolidated Federal Home Loan Bank debentures; restrictions

The Office of Finance, as agent for the Banks, may issue consolidated Federal Home Loan Bank debentures which shall be the joint and several obligations of all Federal Home Loan Banks organized and existing under this chapter, in order to provide funds for any such bank or banks, and such debentures shall be issued upon such terms and conditions as such Office may prescribe. No such debentures shall be issued at any time if any of the assets of any Federal Home Loan Bank are pledged to secure any debts or subject to any lien, and neither the Office of Finance nor any Federal Home Loan Bank shall have power to pledge any of the assets of any Federal Home Loan Bank, or voluntarily to permit any lien to attach to the same while any of such debentures so issued are outstanding. The debentures issued under this section and outstanding shall at no time exceed five times the total paid-in capital of all the Federal Home Loan Banks as of the time of the issue of such debentures. It shall be the duty of the Office of Finance not to issue debentures under this section in excess of the notes or obligations of member institutions held and secured under section 1430(a) of this title by all the Federal Home Loan Banks.

(c) Issuance of Federal Home Loan Bank bonds

At any time that no debentures are outstanding under this chapter, or in order to refund all outstanding consolidated debentures issued under this section, the Office of Finance, as agent for the Banks, may issue consolidated Federal Home Loan Bank bonds which shall be the joint and several obligations of all the Federal Home Loan Banks, and shall be secured and be issued upon such terms and conditions as such Office may prescribe.

(d) Additional or substituted collateral on adjustment of equities

The Director shall have full power to require any Federal Home Loan Bank to deposit additional collateral or to make substitutions of collateral or to adjust equities between the Federal Home Loan Banks.

(e) Acceptance of deposits; restrictions on transaction of banking business; collection and settlement of checks, drafts, etc.; charges; rules and regulations

(1) Each Federal Home Loan Bank shall have power to accept deposits made by members of such bank or by any other Federal Home Loan Bank or other instrumentality of the United States, upon such terms and conditions as the Director may prescribe, but no Federal Home Loan Bank shall transact any banking or other business not incidental to activities authorized by this chapter.

(2)(A) The Director may, subject to such rules and regulations, including definitions of terms used in this paragraph, as the Director shall from time to time prescribe, authorize Federal Home Loan Banks to be drawees of, and to engage in, or be agents or intermediaries for, or otherwise participate or assist in, the collection and settlement of (including presentment, clearing, and payment of, and remitting for), checks, drafts, or any other negotiable or nonnegotiable items or instruments of payment drawn on or issued by members of any Federal Home Loan Bank or by institutions which are eligible to make application to become members pursuant to section 1424 of this title, and to have such incidental powers as the Director shall find necessary for the exercise of any such authorization.

(B) A Federal Home Loan Bank shall make charges, to be determined and regulated by the Director consistent with the principles set forth in section 248a(c) of this title, or utilize the services of, or act as agent for, or be a member of, a Federal Reserve bank, clearinghouse, or any other public or private financial institution or other agency, in the exercise of any powers or functions pursuant to this paragraph.

(C) The Director is authorized, with respect to participation in the collection and settlement of any items by Federal Home Loan Banks, and with respect to the collection and settlement (including payment by the payor institution) of items payable by Federal savings and loan associations and Federal mutual savings banks, to prescribe rules and regulations regarding the rights, powers, responsibilities, duties, and liabilities, including standards relating thereto, of such Federal Home Loan Banks, associations, or banks and other parties to any such items or their collection and settlement. In prescribing such rules and regulations, the Director may adopt or apply, in whole or in part, general banking usage and practices, and, in instances or respects in which they would

otherwise not be applicable, Federal Reserve regulations and operating letters, the Uniform Commercial Code, and clearinghouse rules.

(f) Rediscount of notes held by other banks; purchase of bonds of other banks

The Director is authorized and empowered to permit or to require Federal Home Loan Banks, upon such terms and conditions as the Director may prescribe, to rediscount the discounted notes of members held by other Federal Home Loan Banks, or to make loans to, or make deposits with, such other Federal Home Loan Banks, or to purchase any bonds or debentures issued under this section.

(g) Reserves

Each Federal Home Loan Bank shall at all times have at least an amount equal to the current deposits received from its members invested in (1) obligations of the United States, (2) deposits in banks or trust companies, (3) advances with a maturity of not to exceed five years which are made to members, upon such terms and conditions as the Director may prescribe, and (4) advances with a maturity of not to exceed five years which are made to members whose creditor liabilities (not including advances from the Federal home loan bank) do not exceed 5 per centum of their net assets, and which may be made without the security of home mortgages or other security, upon such terms and conditions as the Director may prescribe.

(h) Investment of surplus funds

Such part of the assets of each Federal Home Loan Bank (except reserves and amounts provided for in subsection (g)) as are not required for advances to members, may be invested, to such extent as the bank may deem desirable and subject to such regulations, restrictions, and limitations as may be prescribed by the Director, in obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title, in the stock of the Federal National Mortgage Association, in stock, obligations, or other securities of any small business investment company formed pursuant to section 681 of title 15, for the purpose of aiding members of the Federal Home Loan Bank System, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(i) Treasury purchase of banks' obligations; exercise of authority

The Secretary of the Treasury is authorized in his discretion to purchase any obligations issued pursuant to this section, as heretofore, now, or hereafter in force and for such purpose the Secretary of the Treasury is authorized to use as a public-debt transaction the proceeds of the sale of any securities hereafter issued under chapter 31 of title 31, as now or hereafter in force, and the purposes for which securities may be issued under chapter 31 of title 31, as now or hereafter in force, are extended to include such purchases. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public-debt transactions of the United States. The Secretary of the Treasury shall not at any time purchase any obligations under this paragraph if such purchase would increase the aggregate principal amount of his then outstanding holdings of such obligations under this paragraph to an amount greater than \$4,000,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions as shall be determined by the Secretary of the Treasury and shall bear such rate of interest as may be determined by the Secretary of the Treasury taking into consideration the current average market yield for the month preceding the month of such purchase on outstanding marketable obligations of the United States.

In addition to obligations authorized to be purchased by the preceding paragraph, the Secretary of the Treasury is authorized to purchase any obligations issued pursuant to this section in amounts not to exceed \$2,000,000,000. The authority provided in this paragraph shall expire August 10, 1975.

Notwithstanding the foregoing, the authority provided in this subsection may be exercised during

any calendar quarter beginning after October 28, 1974, only if the Secretary of the Treasury and the Chairperson of the Director ¹ certify to the Congress that (1) alternative means cannot be effectively employed to permit members of the Federal Home Loan Bank System to continue to supply reasonable amounts of funds to the mortgage market, and (2) the ability to supply such funds is substantially impaired because of monetary stringency and a high level of interest rates. Any funds borrowed under this subsection shall be repaid by the Home Loan Banks at the earliest practicable date.

(j) Audits

Notwithstanding the provisions of section 9105(a)(1)(B) ² of title 31, audits by the Government Accountability Office of the financial transactions of a Federal Home Loan Bank shall not be limited to periods during which Government capital has been invested therein. The provisions of sections 9107(c)(2) and 9108(d)(1) of title 31 shall not apply to any Federal Home Loan Bank.

(k) Bank loans to the Deposit Insurance Fund

(1) Loans authorized

Subject to paragraph (3), the Federal Home Loan Banks may, upon the request of the Federal Deposit Insurance Corporation, make loans to such Corporation for the use of the Deposit Insurance Fund.

(2) Liability of the Fund

Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall be a direct liability of the Deposit Insurance Fund.

(3) Interest on and security for such loans

Any loan by a Federal Home Loan Bank pursuant to paragraph (1) shall—

- (A) bear a rate of interest not less than such Bank's current marginal cost of funds, taking into account the maturities involved; and
- (B) be adequately secured.

(l) Temporary authority of Treasury to purchase obligations; conditions

(1) Authority to purchase

(A) General authority

In addition to the authority under subsection (i) of this section, the Secretary of the Treasury is authorized to purchase any obligations issued by any Federal Home Loan Bank under any section of this chapter, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires a Federal Home Loan Bank to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the Federal Home Loan Bank. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the Federal Home Loan Bank, to engage in open market purchases of the common securities of any Federal Home Loan Bank.

(B) Emergency determination required

In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

- (i) provide stability to the financial markets;
- (ii) prevent disruptions in the availability of mortgage finance; and
- (iii) protect the taxpayer.

(C) Considerations

To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

- (i) The need for preferences or priorities regarding payments to the Government.
- (ii) Limits on maturity or disposition of obligations or securities to be purchased.

(iii) The Federal Home Loan Bank's plan for the orderly resumption of private market funding or capital market access.

(iv) The probability of the Federal Home Loan Bank fulfilling the terms of any such obligation or other security, including repayment.

(v) The need to maintain the Federal Home Loan Bank's status as a private shareholder-owned company.

(vi) Restrictions on the use of Federal Home Loan Bank resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

(D) Reports to Congress

Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

(2) Rights; sale of obligations and securities

(A) Exercise of rights

The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

(B) Sale of obligations

The Secretary of the Treasury may, at any time, subject to the terms of the security or otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation acquired by the Secretary under this subsection.

(C) Deficit reduction

The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

- (i) dedicated for the sole purpose of deficit reduction; and
- (ii) prohibited from use as an offset for other spending increases or revenue reductions.

(D) Application of sunset to purchased obligations

The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations purchased is not subject to the provisions of paragraph (4).

(3) Funding

For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) Termination of authority

The authority under this subsection (1), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) Authority of the Director with respect to executive compensation

The Director shall have the power to approve, disapprove, or modify the executive compensation of the Federal Home Loan Bank, as defined under Regulation S-K, 17 C.F.R. 229.

(July 22, 1932, ch. 522, §11, 47 Stat. 733; June 27, 1934, ch. 847, §503, 48 Stat. 1261; June 27, 1950, ch. 369, §§3, 4, 64 Stat. 257; Aug. 2, 1954, ch. 649, title II, §204(a), 68 Stat. 622; Pub. L. 88-560, title VII, §701(d)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 90-448, title VIII, §807(k), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91-151, title I, §3, Dec. 23, 1969, 83 Stat. 374; Pub. L. 91-609, title IX, §914, Dec. 31, 1970, 84 Stat. 1815; Pub. L. 93-383, title VIII, §805(c)(2), Aug. 22, 1974, 88 Stat. 727; Pub. L. 93-495, title I, §112, Oct. 28, 1974, 88 Stat. 1506; Pub. L. 96-153, title III, §324, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 96-221, title III, §311, Mar. 31, 1980, 94 Stat. 149; Pub. L. 97-320, title I, §125(c), Oct. 15, 1982, 96 Stat. 1485; Pub. L. 101-73, title VII, §§701(b)(1)-(3)(A), (c), 709, 710(b)(6), Aug. 9, 1989, 103 Stat. 412, 418; Pub. L. 104-208, div. A, title II, §2704(d)(11)(A), div. D, title II, §208(h)(2), Sept. 30, 1996, 110 Stat. 3009-489, 3009-747; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(d)(1), Feb. 15, 2006, 119 Stat. 3616; Pub. L. 110-289, div. A, title I, §1117(c), title II, §1204(3), (8), (9), July 30, 2008, 122 Stat. 2686, 2786; Pub. L. 111-203, title XIII, §1304(c), July 21, 2010, 124 Stat. 2134.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 9105 of title 31, referred to in subsec. (j), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, subsec. (a) does not contain a par. (1)(B). Prior to the general amendment, subsec. (a)(1)(B) related to audits of mixed-ownership Government corporations during periods in which capital of the United States Government was invested therein.

CODIFICATION

In subssecs. (i) (first par.) and (j), "chapter 31 of title 31" substituted for "the Second Liberty Bond Act", and "section 9105(a)(1)(B) of title 31" and "sections 9107(c)(2) and 9108(d)(1) of title 31" substituted for "the first sentence of section 202 of the Government Corporation Control Act [31 U.S.C. 857]" and "the first sentence of subsection (d) of section 303 of the Government Corporation Control Act [31 U.S.C. 868(d)]", respectively, on authority of Pub. L. 97-258, §4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

AMENDMENTS

2010—Subsec. (l)(2)(C), (D). Pub. L. 111-203 added subpar. (C) and redesignated former subpar. (C) as (D).

2008—Pub. L. 110-289, §1204(9), substituted "The Director" for "The Board" wherever appearing in subssecs. (d) to (f).

Pub. L. 110-289, §1204(8), substituted "the Director" for "the Board" wherever appearing in subssecs. (a) and (e) to (i).

Subsec. (b). Pub. L. 110-289, §1204(3)(A), substituted "The Office of Finance, as agent for the Banks," for "The Board" and "such Office" for "the Board" in first sentence and "the Office of Finance" for "the Board" in second and fourth sentences.

Subsec. (c). Pub. L. 110-289, §1204(3)(B), substituted "the Office of Finance, as agent for the Banks," for "the Board" before "may issue" and "such Office" for "the Board" before "may prescribe".

Subsec. (f). Pub. L. 110-289, §1204(3)(C), struck out the two commas after "permit" and inserted "or" and struck out the comma after "require".

Subsec. (l). Pub. L. 110-289, §1117(c), added subsec. (l).

2006—Subsec. (k). Pub. L. 109-173 substituted "the Deposit Insurance Fund" for "SAIF" in heading and "Deposit Insurance Fund" for "Savings Association Insurance Fund" in pars. (1) and (2).

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(11)(A). See 1996 Amendment note below.

2004—Subsec. (j). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office".

1996—Subsec. (h). Pub. L. 104-208, §208(h)(2), substituted "section 681 of title 15" for "section 681(d) of title 15".

Subsec. (k). Pub. L. 104-208, §2704(d)(11)(A), which directed the amendment of subsec. (k) by substituting "the Deposit Insurance Fund" for "SAIF" in heading and "Deposit Insurance Fund" for "Savings Association Insurance Fund" in pars. (1) and (2), was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1989—Subsecs. (a) to (d). Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

Subsec. (e)(1). Pub. L. 101-73, §709(1), inserted "incidental to activities" after "other business not".

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board".

Subsec. (e)(2)(C). Pub. L. 101-73, §701(c)(1), which directed insertion of "Federal Home Loan" before "Banks," was executed the second time that term appeared, because "Federal Home Loan" already preceded the term "Banks," the first place it appeared.

Subsec. (f). Pub. L. 101-73, §709(2), which directed amendment of subsec. (f) by striking out "or whenever in the judgment of at least 4 members of the board an emergency exists requiring such action" after "empowered to permit," was executed by striking out "or whenever in the judgment of at least four members of the board an emergency exists requiring such action", as the probable intent of Congress. The amendment probably should also have struck out the comma after "empowered to permit" and the words ", to require," after "such action".

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

Subsec. (g). Pub. L. 101-73, §710(b)(6), struck out "or nonmember borrowers" after "made to members" wherever appearing.

Subsec. (h). Pub. L. 101-73, §710(b)(6), struck out "or nonmember borrowers" after "advances to members".

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board".

Subsec. (i). Pub. L. 101-73, §701(c)(2), inserted "Federal" before "Home Loan Bank System".

Pub. L. 101-73, §701(b)(1), (2), substituted "Chairperson of the Board" for "Chairman of the Federal Home Loan Bank Board".

Subsec. (k). Pub. L. 101-73, §709(3), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: "The Federal Home Loan Banks are hereby authorized, as directed by the Board, to make loans to the Federal Savings and Loan Insurance Corporation. All such loans shall be made in accordance with the provisions of section 1725(d) of this title."

1982—Subsec. (k). Pub. L. 97-320 added subsec. (k).

1980—Subsec. (e). Pub. L. 96-221 designated existing provisions as par. (1) and added par. (2).

1979—Subsec. (h). Pub. L. 96-153 inserted provisions relating to stock, obligations, or other securities of any small business investment company formed pursuant to section 681(d) of title 15, for the purpose of aiding members of the Federal Home Loan Bank System.

1974—Subsec. (h). Pub. L. 93-383 inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or 1455 of this title.

Subsec. (i). Pub. L. 93-495 substituted "obligations under this paragraph" for "obligations under this subsection" wherever appearing in fourth sentence of initial par., in second par. substituted provisions authorizing purchase of obligations issued pursuant to this section in amounts not to exceed \$2,000,000,000, for provisions relating to exercise of authority of this subsection by the Secretary of the Treasury, and added third par.

1970—Subsec. (g). Pub. L. 91-609 substituted "five years" for "one year" in items (3) and (4).

1969—Subsec. (i). Pub. L. 91-151 increased the borrowing limit to \$4,000,000,000 and made it a requirement that the rate charged on such borrowing be set at the current market yield on Treasury obligations and added a new paragraph which allows the Secretary to permit members of the Home Loan Bank System to continue to supply funds to the mortgage market during tight market conditions.

1968—Subsec. (h). Pub. L. 90-448 inserted "or the Government National Mortgage Association, in the stock of the Federal National Mortgage Association".

1964—Subsec. (h). Pub. L. 88-560 substituted "in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "in obligations of the Federal National Mortgage Association".

1954—Subsec. (h). Act Aug. 2, 1954, inserted reference to obligations of the Federal National Mortgage Association.

1950—Subsec. (g). Act June 27, 1950, §3, struck out requirement that sums paid in on outstanding capital subscriptions of members from the base for determining the amount of money which the Federal Home Loan Banks shall at all times have invested.

Subsecs. (i), (j). Act June 27, 1950, §4, added subsecs. (i) and (j).

1934—Subsecs. (i), (j). Act June 27, 1934, among other changes, struck out subsecs. (i) and (j).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(11)(A) of Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

¹ [So in original. See 2008 Amendment note below.](#)

² [See References in Text note below.](#)

§1432. Incorporation of banks; corporate powers; housing project loans

(a) The directors of each Federal Home Loan Bank shall, in accordance with such rules and regulations as the Director may prescribe, make and file with the Director at the earliest practicable date after the establishment of such bank, an organization certificate which shall contain such information as the Director may require. Upon the making and filing of such organization certificate with the Director, such bank shall become, as of the date of the execution of its organization certificate, a body corporate, and as such and in its name as designated by the Director it shall have power to adopt, alter, and use a corporate seal; to make contracts; to purchase or lease and hold or dispose of such real estate as may be necessary or convenient for the transaction of its business; to sue and be sued, to complain and to defend, in any court of competent jurisdiction, State or Federal; to select, employ, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary for the transaction of its business; ¹ to define their duties, require bonds of them and fix the penalties thereof, and to dismiss at pleasure such officers, employees, attorneys, and agents; and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Director. No officer, employee, attorney, or agent of a Federal home loan bank who receives compensation, may be a member of the board of directors. Each such bank shall have all such incidental powers, not inconsistent with the provisions of this chapter, as are customary and usual in corporations generally.

(b) Subject to such regulations as may be prescribed by the Director, one or more Federal home loan banks may acquire, hold, or dispose of, in whole or in part, or facilitate such acquisition, holding, or disposition by members of any such bank of, housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, as now or hereafter in effect, or loans, or interests therein, having the benefit of any guaranty under section 2184 of title 22 or any commitment or agreement with respect to such loans, or interests therein, made pursuant to either of such sections. This authority extends to the acquisition, holding, and disposition of loans, or interests therein, having the benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

(July 22, 1932, ch. 522, §12, 47 Stat. 735; Pub. L. 89–754, title X, §1016(a), Nov. 3, 1966, 80 Stat.

1293; Pub. L. 90-448, title XVII, §1717, Aug. 1, 1968, 82 Stat. 609; Pub. L. 91-609, title IX, §907(a), Dec. 31, 1970, 84 Stat. 1811; Pub. L. 101-73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 106-102, title VI, §606(d), Nov. 12, 1999, 113 Stat. 1454; Pub. L. 110-289, div. A, title II, §1204(8), (10), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 2184 of title 22, referred to in subsec. (b), which related to housing projects in Latin American countries, was omitted in the general amendment made by section 105 of Pub. L. 91-175, Dec. 30, 1969, 83 Stat. 807. See section 2182 of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289 substituted "administered by the Director" for "administered by the Finance Board" and "the Director" for "the Board" wherever appearing.

Subsec. (b). Pub. L. 110-289, §1204(8), substituted "the Director" for "the Board".

1999—Subsec. (a). Pub. L. 106-102, §606(d)(1), struck out ", but, except with the prior approval of the Board, no bank building shall be bought or erected to house any such bank, or leased by such bank under any lease for such purpose which has a term of more than ten years" after "convenient for the transaction of its business", struck out "subject to the approval of the Board" after "necessary for the transaction of its business", substituted "and, by the board of directors of the bank, to prescribe, amend, and repeal by-laws governing the manner in which its affairs may be administered, consistent with applicable laws and regulations, as administered by the Finance Board. No officer, employee, attorney, or agent of a Federal home loan bank" for "and, by its Board of directors, to prescribe, amend, and repeal bylaws, rules, and regulations governing the manner in which its affairs may be administered; and the powers granted to it by law may be exercised and enjoyed subject to the approval of the Board. The president of a Federal Home Loan Bank may also be a member of the Board of directors thereof, but no other officer, employee, attorney, or agent of such bank," and, in penultimate sentence, substituted "board of directors" for "Board of directors" after "may be a member of the".

Subsec. (b). Pub. L. 106-102, §606(d)(2), substituted "Federal home loan banks" for "Federal home loans banks".

1989—Subsec. (a). Pub. L. 101-73 substituted "Board" for "board" wherever appearing.

1970—Subsec. (b). Pub. L. 91-609 extended authority to make housing project loans to acquisition, holding, and disposition of loans, or interest therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty.

1968—Pub. L. 90-448 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89-754 substituted "but, except with the prior approval of the board, no bank building shall be bought or erected to house any such bank, or leased by such bank under any lease" for "but no bank building shall be bought or erected to house any such bank, nor shall any such bank make any lease" in second sentence.

¹ *So in original.*

§1433. Exemption from taxation; obligations acceptable as credit on debt of home owner

Any and all notes, debentures, bonds, and other such obligations issued by any bank, and consolidated Federal Home Loan Bank bonds and debentures, shall be exempt both as to principal and interest from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. The bank, including its franchise, its capital, reserves, and surplus, its advances, and its income, shall be exempt from all taxation now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that in ¹ any real property of the bank shall be subject

to State, Territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed. The notes, debentures, and bonds issued by any bank, with unearned coupons attached, shall be accepted at par by such bank in payment of or as a credit against the obligation of any home-owner debtor of such bank.

(July 22, 1932, ch. 522, §13, 47 Stat. 735; May 28, 1935, ch. 150, §8, 49 Stat. 295.)

EDITORIAL NOTES

AMENDMENTS

1935—Act May 28, 1935, inserted "and consolidated Federal Home Loan Bank bonds and debentures" in first sentence.

¹ So in original. Word "in" probably should not appear.

§1434. Depositaries of public money; financial agents

When designated for that purpose by the Secretary of the Treasury, each Federal Home Loan Bank shall be a depositary of public money, except receipts from customs, under such regulations as may be prescribed by said Secretary; and it may also be employed as a financial agent of the Government; and it shall perform all such reasonable duties as depositary of public money and financial agent of the Government as may be required of it.

(July 22, 1932, ch. 522, §14, 47 Stat. 736.)

§1435. Obligations as lawful investments; liability of United States for debentures, etc., issued by banks

Obligations of the Federal Home Loan Banks issued with the approval of the Board or the Director under this chapter shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer or officers thereof. The Federal reserve banks are authorized to act as depositaries, custodians, and/or fiscal agents for Federal Home Loan Banks in the general performance of their powers under this chapter. All obligations of Federal Home Loan Banks shall plainly state that such obligations are not obligations of the United States and are not guaranteed by the United States.

(July 22, 1932, ch. 522, §15, 47 Stat. 736; Pub. L. 101–73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110–289, div. A, title II, §1204(7), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289 inserted "or the Director" after "the Board".

1989—Pub. L. 101–73 substituted "Board" for "board".

§1436. Reserves and dividends; emergency suspensions of requirements

(a) Accumulation and maintenance of reserves; payment of dividends

Each Federal Home Loan Bank may carry to a reserve account from time-to-time such portion of its net earnings as may be determined by its board of directors. Each Federal Home Loan Bank shall establish such additional reserves and/or make such charge-offs on account of depreciation or impairment of its assets as the Director shall require from time to time. No dividends shall be paid

except out of previously retained earnings or current net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this chapter have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 1441 of this title or payments relating to the Funding Corporation Principal Fund under section 1441b(e) of this title. The reserves of each Federal Home Loan Bank shall be invested, subject to such regulations, restrictions, and limitations as may be prescribed by the Director, in direct obligations of the United States, in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association, in mortgages, obligations, or other securities which are or ever have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title, and in such securities as fiduciary and trust funds may be invested in under the laws of the State in which the Federal Home Loan Bank is located.

(b) Assistance to member institutions in event of severe financial conditions

Notwithstanding subsection (a) or any other provision of this chapter, if the Director determines that severe financial conditions exist threatening the stability of member institutions, the Director may suspend temporarily the requirements of subsection (a) that a portion of net earnings be set aside semiannually by each Federal Home Loan Bank to a reserve account and permit each Federal Home Loan Bank to declare and pay dividends out of undivided profits.

(c) Exception in case of losses in connection with Financing Corporation stock

(1) In general

Notwithstanding subsection (a) of this section, if—

(A) a Federal Home Loan Bank incurs a chargeoff or an expense in connection with such bank's investment in the stock of the Financing Corporation under section 1441 of this title;

(B) the Director determines there is an extraordinary need for the member institutions of the bank to receive dividends; and

(C) the bank has reduced all reserves (other than the reserve account required by the first 2 sentences of subsection (a)) to zero,

the Director may authorize such bank to declare and pay dividends out of undivided profits (as such term is defined in section 1441(d)(7) of this title) or the reserve account required by the first 2 sentences of subsection (a).

(2) Requirements of section 1441 of this title not affected

Notwithstanding any payment of dividends by any Federal Home Loan Bank pursuant to an authorization by the Director under paragraph (1), the applicable provisions of section 1441 of this title shall continue to apply with respect to such bank, and to such bank's investment in the Financing Corporation, in the same manner and to the same extent as if such payment had not been made.

(July 22, 1932, ch. 522, §16, 47 Stat. 736; Aug. 2, 1954, ch. 649, title II, §204(a), 68 Stat. 622; Pub. L. 88–560, title VII, §701(d)(2), Sept. 2, 1964, 78 Stat. 800; Pub. L. 90–448, title VIII, §807(l), Aug. 1, 1968, 82 Stat. 545; Pub. L. 93–383, title VIII, §805(c)(3), Aug. 22, 1974, 88 Stat. 727; Pub. L. 97–320, title I, §124, Oct. 15, 1982, 96 Stat. 1485; Pub. L. 100–86, title III, §306(a), Aug. 10, 1987, 101 Stat. 600; Pub. L. 101–73, title VII, §§701(b)(1), (3)(A), 724(a), Aug. 9, 1989, 103 Stat. 412, 428; Pub. L. 106–102, title VI, §606(g), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 110–289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289 substituted "the Director" for "the Board" wherever appearing.

1999—Subsec. (a). Pub. L. 106–102, in third sentence substituted "previously retained earnings or current

net earnings" for "net earnings" and struck out ", and then only with the approval of the Federal Housing Finance Board" after "section 1441b(e) of this title" and struck out fourth sentence which read as follows: "Beginning on January 1, 1992, the preceding sentence shall be applied by substituting 'previously retained earnings or current net earnings' for 'net earnings'."

1989—Subsec. (a). Pub. L. 101-73, §724(a)(1), substituted "Each Federal Home Loan Bank may carry to a reserve account from time-to-time such portion of its net earnings as may be determined by its board of directors." for "Each Federal Home Loan Bank shall carry to a reserve account semiannually 20 per centum of its net earnings until said reserve account shall show a credit balance equal to 100 per centum of the paid-in capital of such bank. After said reserve has reached 100 per centum of the paid-in capital of said bank, 5 per centum of its net earnings shall be added thereto semiannually. Whenever said reserve shall have been impaired below 100 per centum of the paid-in capital it shall be restored before any dividends are paid."

Pub. L. 101-73, §724(a)(2), substituted "No dividends shall be paid except out of net earnings remaining after reductions for all reserves, chargeoffs, purchases of capital certificates of the Financing Corporation, and payments relating to the Funding Corporation required under this chapter have been provided for, other than chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation under section 1441 of this title or payments relating to the Funding Corporation Principal Fund under section 1441b(e) of this title, and then only with the approval of the Federal Housing Finance Board. Beginning on January 1, 1992, the preceding sentence shall be applied by substituting 'previously retained earnings or current net earnings' for 'net earnings'." for "No dividends shall be paid except out of net earnings remaining after all reserves and charge-offs required under this chapter have been provided for, and then only with the approval of the board."

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

1987—Subsec. (c). Pub. L. 100-86 added subsec. (c).

1982—Pub. L. 97-320 designated existing provisions as subsec. (a) and added subsec. (b).

1974—Pub. L. 93-383 inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 1454 or section 1455 of this title.

1968—Pub. L. 90-448 authorized investments in obligations, participations, or other instruments issued by the Government National Mortgage Association.

1964—Pub. L. 88-560 substituted "in obligations, participations, or other instruments of or issued by the Federal National Mortgage Association" for "in obligations of the Federal National Mortgage Association".

1954—Act Aug. 2, 1954, inserted reference to obligations of Federal National Mortgage Association in last sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-73, title VII, §724(b), Aug. 9, 1989, 103 Stat. 429, provided that: "The amendment made by subsection (a)(1) [amending this section] shall take effect on January 1, 1992."

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90-448, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of this title.

§1437. Repealed. Pub. L. 101-73, title VII, §703(a), Aug. 9, 1989, 103 Stat. 415

Section, acts July 22, 1932, ch. 522, §17, 47 Stat. 736; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, §109(a)(3), 69 Stat. 640; June 29, 1977, Pub. L. 95-56, 91 Stat. 252; Aug. 4, 1977, Pub. L. 95-90, §§1, 2, 91 Stat. 564; Oct. 15, 1982, Pub. L. 97-320, title I, §127, 96 Stat. 1486; Jan. 12, 1983, Pub. L. 97-457, §8, 96 Stat. 2507; Nov. 30, 1983, Pub. L. 98-181, title I [title VII, §702(b)], 97 Stat. 1267, set forth powers and duties, etc., of Federal Home Loan Bank Board.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS, PERSONNEL, AND PROPERTY OF FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION AND FEDERAL HOME LOAN BANK BOARD

Pub. L. 101-73, title IV, §§401-406, Aug. 9, 1989, 103 Stat. 354-363, as amended by Pub. L. 102-233,

title III, §313, Dec. 12, 1991, 105 Stat. 1770; Pub. L. 111-203, title III, §367(5), July 21, 2010, 124 Stat. 1556, provided that:

"SEC. 401. FSLIC AND FEDERAL HOME LOAN BANK BOARD ABOLISHED.

"(a) IN GENERAL.—

"(1) FSLIC.—Effective on the date of the enactment of this Act [Aug. 9, 1989], the Federal Savings and Loan Insurance Corporation established under section 402 of the National Housing Act [former 12 U.S.C. 1725] is abolished.

"(2) FHLBB.—Effective at the end of the 60-day period beginning on the date of the enactment of this Act, the Federal Home Loan Bank Board and the position of Chairman of the Federal Home Loan Bank Board are abolished.

"(b) DISPOSITION OF AFFAIRS.—

"(1) IN GENERAL.—During the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Chairman of the Federal Home Loan Bank Board—

"(A) shall, solely for the purpose of winding up the affairs of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board—

"(i) manage the employees of the Board and provide for the payment of the compensation and benefits of any such employee which accrue before the effective date of the transfer of such employee pursuant to section 403; and

"(ii) manage any property of the Board and the Corporation until such property is transferred pursuant to section 405; and

"(B) may take any other action necessary for the purpose of winding up the affairs of the Corporation and the Board.

"(2) AVAILABILITY OF FUNDS IN FSLIC RESOLUTION FUND ON A REIMBURSABLE BASIS.—

"(A) AVAILABILITY OF FUNDS.—Notwithstanding any provision of section 11A of the Federal Deposit Insurance Act [12 U.S.C. 1821a] (as added by section 215 of this Act), funds in the FSLIC Resolution Fund shall be available to the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out the requirements of paragraph (1).

"(B) PAYMENT BY FDIC.—Upon the request of the Chairman of the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation shall pay to the Chairman from the FSLIC Resolution Fund the amounts requested for expenses described in subparagraph (A).

"(C) EXCLUSIVE SOURCE OF FUNDS.—No funds or other property of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation (other than the FSLIC Resolution Fund) may be used by the Chairman of the Federal Home Loan Bank Board to pay any expense incurred in carrying out any provision of this title [see Tables for classification].

"(D) REIMBURSEMENT BY SUCCESSOR AGENCIES.—Disbursements from the FSLIC Resolution Fund pursuant to subparagraph (A) which are attributable to employees described in paragraph (1)(A)(i) and property described in paragraph (1)(A)(ii) shall be reimbursed by the agency to which any such employee or property is transferred.

"(c) AUTHORITY AND STATUS OF CHAIRMAN OF THE FEDERAL HOME LOAN BANK BOARD.—

"(1) IN GENERAL.—Notwithstanding the repeal of section 17 of the Federal Home Loan Bank Act [12 U.S.C. 1437] by section 703 of this Act, the repeal of section 402(c) of the National Housing Act [12 U.S.C. 1725(c)] by section 407 of this title, the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, the Chairman of the Federal Home Loan Bank Board shall have any authority vested in the Chairman or the Board before such date of enactment [Aug. 9, 1989] which is necessary for the Chairman to carry out the requirements of this section, paragraphs (1) and (2) of section 403(b), and section 405(a) during the 60-day period beginning on such date.

"(2) OTHER PROVISIONS.—For purposes of paragraph (1), the Chairman of the Federal Home Loan Bank Board shall continue to be—

"(A) treated as an officer of the United States during the 60-day period referred to in such subparagraph; and

"(B) entitled to compensation at the annual rate of basic pay payable for level III of the Executive Schedule [5 U.S.C. 5314].

"(3) NO ADDITIONAL COMPENSATION IF APPOINTED DIRECTOR.—During the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Chairman of the Federal Home Loan Bank Board shall not be entitled to any additional compensation by reason of his appointment as Director of the Office of Thrift Supervision.

"(d) STATUS OF EMPLOYEES BEFORE TRANSFER.—

"(1) EMPLOYEES OF FSLIC.—Any employee of the Federal Savings and Loan Insurance Corporation shall be treated as an employee of the Federal Home Loan Bank Board for purposes of subsection (b)(1)(A)(i).

"(2) RULE OF CONSTRUCTION.—The repeal of section 17 of the Federal Home Loan Bank Act [12 U.S.C. 1437] by section 703 of this Act, the repeal of section 402(c) of the National Housing Act [12 U.S.C. 1725(c)] by section 407 of this title, and the abolishment of the Federal Savings and Loan Insurance Corporation under section 401 of this title, shall not be construed as affecting the status of employees of such Corporation or of the Federal Home Loan Bank Board as employees of an agency of the United States for purposes of any other provision of law before the effective date of the transfer of any such employee pursuant to section 403.

"(e) CONTINUATION OF SERVICES.—

"(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board may use the services of employees and other personnel and the property of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, on a reimbursable basis, to perform functions which have been transferred to such agencies for such time as is reasonable to facilitate the orderly transfer of functions transferred pursuant to any other provision of this Act [see Tables for classification] or any amendment made by this Act to any other provision of law.

"(2) REIMBURSEMENT.—The reimbursement required under paragraph (1) with respect to employees, personnel, and property described in such paragraph shall be made to the FSLIC Resolution Fund and shall be taken into account in determining the amount of any reimbursement required under subsection (b)(2)(D).

"(3) AGENCY SERVICES.—Any agency, department, or other instrumentality of the United States (including any Federal home loan bank), and any successor to any such agency, department, or instrumentality, which was providing supporting services to the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation before the enactment of this Act [Aug. 9, 1989] in connection with functions that are transferred to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall—

"(A) continue to provide such services, on a reimbursable basis, until the transfer of such functions is complete; and

"(B) consult with any such agency to coordinate and facilitate a prompt and reasonable transition.

"(f) SAVINGS PROVISIONS RELATING TO FSLIC.—

"(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Savings and Loan Insurance Corporation, or any other person, which—

"(A) arises under or pursuant to any section of title IV of the National Housing Act [former 12 U.S.C. 1724 et seq.]; and

"(B) existed on the day before the date of the enactment of this Act [Aug. 9, 1989].

"(2) CONTINUATION OF SUITS.—No action or other proceeding commenced by or against the Federal Savings and Loan Insurance Corporation, or any Federal home loan bank with respect to any function of the Corporation which was delegated to employees of such bank, shall abate by reason of the enactment of this Act [see Tables for classification], except that the appropriate successor to the interests of such Corporation shall be substituted for the Corporation or the Federal home loan bank as a party to any such action or proceeding.

"(g) SAVINGS PROVISIONS RELATING TO FHLBB.—

"(1) EXISTING RIGHTS, DUTIES, AND OBLIGATIONS NOT AFFECTED.—Subsection (a) shall not affect the validity of any right, duty, or obligation of the United States, the Federal Home Loan Bank Board, or any other person, which—

"(A) arises under or pursuant to the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.], the Home Owners' Loan Act of 1933 [12 U.S.C. 1461 et seq.], or any other provision of law applicable with respect to such Board (other than title IV of the National Housing Act [former 12 U.S.C. 1724 et seq.]); and

"(B) existed on the day before the date of the enactment of this Act [Aug. 9, 1989].

"(2) CONTINUATION OF SUITS.—

"(A) [sic] IN GENERAL.—No action or other proceeding commenced by or against the Federal Home Loan Bank Board, or any Federal home loan bank with respect to any function of the Board which

was delegated to employees of such bank, shall abate by reason of the enactment of this Act [see Tables for classification], except that the appropriate successor to the interests of such Board shall be substituted for the Board or the Federal home loan bank as a party to any such action or proceeding.

"(h) CONTINUATION OF ORDERS, RESOLUTIONS, DETERMINATIONS, AND REGULATIONS

—Subject to section 402, all orders, resolutions, determinations, and regulations, which—

"(1) have been issued, made, prescribed, or allowed to become effective by the Federal Savings and Loan Insurance Corporation or the Federal Home Loan Bank Board (including orders, resolutions, determinations, and regulations which relate to the conduct of conservatorships and receiverships), or by a court of competent jurisdiction, in the performance of functions which are transferred by this Act [see Tables for classification]; and

"(2) are in effect on the date this Act takes effect [Aug. 9, 1989], shall continue in effect according to the terms of such orders, resolutions, determinations, and regulations and shall be enforceable by or against the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, until modified, terminated, set aside, or superseded in accordance with applicable law by the Director of the Office of Thrift Supervision, the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, or the Resolution Trust Corporation, as the case may be, by any court of competent jurisdiction, or by operation of law.

"(i) IDENTIFICATION OF REGULATIONS WHICH REMAIN IN EFFECT PURSUANT TO THIS SECTION.—Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Director of the Office of Thrift Supervision and the Chairperson of the Federal Deposit Insurance Corporation shall—

"(1) identify the regulations and orders which relate to the conduct of conservatorships and receiverships in accordance with the allocation of authority between them under this Act [see Tables for classification] and the amendments made by this Act; and

"(2) promptly publish notice of such identification in the Federal Register.

"SEC. 402. CONTINUATION AND COORDINATION OF CERTAIN REGULATIONS.

"(a) REGULATIONS RELATING TO INSURANCE FUNCTIONS.—All regulations and orders of the Federal Savings and Loan Insurance Corporation, or the Federal Home Loan Bank Board (in such Board's capacity as the board of trustees of such Corporation), which are in effect on the date of the enactment of this Act [Aug. 9, 1989] and relate to—

"(1) the provision, rates, or cancellation of insurance of accounts; or

"(2) the administration of the insurance fund of the Federal Savings and Loan Insurance Corporation, shall remain in effect according to the terms of such regulations and orders and shall be enforceable by the Federal Deposit Insurance Corporation unless determined otherwise by such Corporation after consultation with the Comptroller of the Currency and, with respect to regulations and orders relating to the scope of deposit insurance coverage, pursuant to subsection (c).

"[(b) Repealed. Pub. L. 111–203, title III, §367(5)(B), July 21, 2010, 124 Stat. 1556.]

"(c) PROCEDURE FOR DIFFERENCES IN DEPOSIT INSURANCE COVERAGE BETWEEN FSLIC AND FDIC.—

"(1) TRANSITION RULE.—Until the effective date of regulations prescribed under paragraph (3)(B), any determination of the amount of any insured deposit in any depository institution which becomes an insured depository institution as a result of the amendment made to section 4(a) of the Federal Deposit Insurance Act [12 U.S.C. 1814(a)] by section 205(1) of this Act shall be made in accordance with the regulations and interpretations of the Federal Savings and Loan Insurance Corporation for determining the amount of an insured account which were in effect on the day before the date of the enactment of this Act [Aug. 9, 1989].

"(2) LIMITATION ON EXTENT OF COVERAGE.—During the period beginning on the date of the enactment of this Act and ending on the effective date of regulations prescribed under paragraph (3)(B), the amount of any insured account which is required to be treated as an insured deposit pursuant to paragraph (1) shall not exceed the amount of insurance to which such insured account would otherwise have been entitled pursuant to the regulations and interpretations of the Federal Savings and Loan Insurance Corporation which were in effect on the day before the date of the enactment of this Act.

"(3) UNIFORM TREATMENT OF INSURED DEPOSITS.—The Federal Deposit Insurance Corporation shall—

"(A) review its regulations, principles, and interpretations for deposit insurance coverage and those established by the Federal Savings and Loan Insurance Corporation; and

"(B) on or before the end of the 270-day period beginning on the date of the enactment of this

Act, prescribe a uniform set of regulations which shall be applicable to all insured deposits in insured depository institutions (except to the extent any provision of this Act, any amendment made by this Act to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], or any other provision of law requires or explicitly permits the Federal Deposit Insurance Corporation to treat insured deposits of Savings Association Insurance Fund members differently than insured deposits of Bank Insurance Fund members).

"(4) FACTORS REQUIRED TO BE CONSIDERED.—In prescribing regulations providing for the uniform treatment of deposit insurance coverage, the Federal Deposit Insurance Corporation shall consider all relevant factors necessary to promote safety and soundness, depositor confidence, and the stability of deposits in insured depository institutions.

"(5) NOTICE; EFFECTIVE DATE.—Regulations prescribed under this subsection shall—

"(A) provide for effective notice to depositors in insured depository institutions of any change in deposit insurance coverage which would result under such regulations; and

"(B) take effect on or before the end of the 90-day period beginning on the date such regulations become final.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) INSURED ACCOUNT.—The term 'insured account' has the meaning given to such term in section 401(c) of the National Housing Act [former 42 U.S.C. 1724(c)] (as in effect before the date of the enactment of this Act [Aug. 9, 1989]).

"(B) INSURED DEPOSITORY INSTITUTION.—The term 'insured depository institution' has the meaning given to such term in section 3(c)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1813(c)(2)].

"(d) INTERIM TREATMENT OF CUSTODIAL ACCOUNTS.—

"(1) IN GENERAL.—Subject to paragraph (2) and notwithstanding subsection (a) or any limitation contained in the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] relating to the amount of deposit insurance available to any 1 borrower, amounts held in custodial accounts in insured depository institutions (as defined in section 3(c)(2) of such Act [12 U.S.C. 1813(c)(2)]) for the payment of principal, interest, tax, and insurance payments for mortgage borrowers, shall be insured under the Federal Deposit Insurance Act in the amount of \$100,000 per mortgage borrower.

"(2) TREATMENT AFTER EFFECTIVE DATE OF NEW REGULATIONS.—After the effective date of the regulations prescribed under subsection (c)—

"(A) the amount of deposit insurance available for custodial accounts shall be determined in accordance with such regulations; and

"(B) paragraph (1) shall cease to apply with respect to such accounts.

"(e) TREATMENT OF REFERENCES IN ADJUSTABLE RATE MORTGAGE INSTRUMENTS.—

"(1) IN GENERAL.—For purposes of adjustable rate mortgage instruments that are in effect as of the date of enactment of this Act [Aug. 9, 1989], any reference in the instrument to the Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, or institutions insured by the Federal Savings and Loan Insurance Corporation before such date shall be treated as a reference to the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Comptroller of the Currency, or institutions which are members of the Savings Association Insurance Fund, as appropriate on the basis of the transfer of functions pursuant to this Act [see Tables for classification], unless the context of the reference requires otherwise.

"(2) SUBSTITUTION FOR INDEXES.—If any index used to calculate the applicable interest rate on any adjustable rate mortgage instrument is no longer calculated and made available as a direct or indirect result of the enactment of this Act, any index—

"(A) made available by the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Agency pursuant to paragraph (3); or

"(B) determined by the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Agency, pursuant to paragraph (4), to be substantially similar to the index which is no longer calculated or made available, may be substituted by the holder of any such adjustable rate mortgage instrument upon notice to the borrower.

"(3) AGENCY ACTION REQUIRED TO PROVIDE CONTINUED AVAILABILITY OF INDEXES.—Promptly after the enactment of this subsection [Aug. 9, 1989], the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Agency shall take such action as may be necessary to assure that the indexes prepared by the

Federal Savings and Loan Insurance Corporation, the Federal Home Loan Bank Board, and the Federal home loan banks immediately prior to the enactment of this subsection and used to calculate the interest rate on adjustable rate mortgage instruments continue to be available.

"(4) REQUIREMENTS RELATING TO SUBSTITUTE INDEXES.—If any agency can no longer make available an index pursuant to paragraph (3), an index that is substantially similar to such index may be substituted for such index for purposes of paragraph (2) if the Comptroller of the Currency, the Chairperson of the Federal Deposit Insurance Corporation, or the Chairperson of the Federal Housing Finance Agency, as the case may be, determines, after notice and opportunity for comment, that—

"(A) the new index is based upon data substantially similar to that of the original index; and

"(B) the substitution of the new index will result in an interest rate substantially similar to the rate in effect at the time the original index became unavailable.

"SEC. 403. DETERMINATION OF TRANSFERRED FUNCTIONS AND EMPLOYEES.

"(a) ALL FHLBB AND FSLIC EMPLOYEES SHALL BE TRANSFERRED.—All employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall be identified for transfer under subsection (b) to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, or the Federal Housing Finance Board.

"(b) FUNCTIONS AND EMPLOYEES TRANSFERRED.—

"(1) IN GENERAL.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the Federal Housing Finance Board, and the Chairman of the Federal Home Loan Bank Board (as of the day before the date of the enactment of this Act [Aug. 9, 1989]) shall jointly determine the functions or activities of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation, and the number of employees of such Board and Corporation necessary to perform or support such functions or activities, which are transferred from the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board, as the case may be.

"(2) ALLOCATION OF EMPLOYEES.—The Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall allocate the employees of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation consistent with the number determined pursuant to paragraph (1) in a manner which such Director, Chairman, and Chairpersons, in their sole discretion, deem equitable, except that, within work units, the agency preferences of individual employees shall be accommodated as far as possible.

"(c) FEDERAL HOME LOAN BANK PERSONNEL.—Employees of the Federal home loan banks or the joint offices of such banks who, on the day before the date of the enactment of this Act [Aug. 9, 1989], are performing functions or activities on behalf of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation shall be treated as employees of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Board or Corporation to the extent such functions or activities are transferred to the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Resolution Trust Corporation, or the Federal Housing Finance Board.

"(d) FSLIC EMPLOYEES ENGAGED IN CONSERVATORSHIP OR RECEIVERSHIP FUNCTIONS.—Individuals who, on the day before the date of the enactment of this Act [Aug. 9, 1989], are employed by the Federal Savings and Loan Insurance Corporation in such Corporation's capacity as conservator or receiver of any insured depository institution shall be treated as employees of the Federal Savings and Loan Insurance Corporation for purposes of determining, pursuant to subsection (b)(1), the number of employees performing or supporting functions or activities of such Corporation if such conservatorship or receivership is transferred to the Federal Deposit Insurance Corporation or the Resolution Trust Corporation.

"SEC. 404. RIGHTS OF EMPLOYEES OF ABOLISHED AGENCIES.

"All employees identified for transfer under subsection (b) of section 403 (other than individuals described in subsection (c) or (d) of such section) shall be entitled to the following rights:

"(1) Each employee so identified shall be transferred to the appropriate agency or entity for employment no later than 60 days after the date of the enactment of this Act [Aug. 9, 1989] and such transfer shall be deemed a transfer of function for the purpose of section 3503 of title 5, United States Code.

"(2) Each transferred employee shall be guaranteed a position with the same status, tenure, grade, and pay as that held on the day immediately preceding the transfer. Each such employee holding a permanent

position shall not be involuntarily separated or reduced in grade or compensation for 1 year after the date of transfer, except for cause or, if the employee is a temporary employee, separated in accordance with the terms of the appointment.

"(3)(A) In the case of employees occupying positions in the excepted service or the Senior Executive Service, any appointment authority established pursuant to law or regulations of the Office of Personnel Management for filling such positions shall be transferred, subject to subparagraph (B).

"(B) An agency or entity may decline a transfer of authority under subparagraph (A) (and the employees appointed pursuant thereto) to the extent that such authority relates to positions excepted from the competitive service because of their confidential, policy-making, policy-determining, or policy-advocating character, and noncareer positions in the Senior Executive Service (within the meaning of section 3132(a)(7) of title 5, United States Code).

"(4) If any agency or entity to which employees are transferred determines, after the end of the 1-year period beginning on the date the transfer of functions to such agency or entity is completed, that a reorganization of the combined work force is required, that reorganization shall be deemed a 'major reorganization' for purposes of affording affected employees retirement under section 8336(d)(2) or 8414(b)(1)(B) of title 5, United States Code.

"(5) Any employee accepting employment with any agency or entity (other than the Office of Thrift Supervision) as a result of such transfer may retain for 1 year after the date such transfer occurs membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, to which such employee belongs on the date of the enactment of this Act [Aug. 9, 1989] if—

"(A) the employee does not elect to give up the benefit or membership in the program; and

"(B) the benefit or program is continued by the Director of the Office of Thrift Supervision.

The difference in the costs between the benefits which would have been provided by such agency or entity and those provided by this section shall be paid by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, the employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or notice, without regard to any other regularly scheduled open season.

"(6) Any employee employed by the Office of Thrift Supervision as a result of the transfer may retain membership in any employee benefit program of the Federal Home Loan Bank Board, including insurance, which such employee has on the date of enactment of this Act, if such employee does not elect to give up such membership and the benefit or program is continued by the Director of the Office of Thrift Supervision. If any employee elects to give up membership in a health insurance program or the health insurance program is not continued by the Director of the Office of Thrift Supervision, such employee shall be permitted to select an alternate Federal health insurance program within 30 days of such election or discontinuance, without regard to any other regularly scheduled open season.

"(7) A transferring employee in the Senior Executive Service shall be placed in a comparable position at the agency or entity to which such employee is transferred.

"(8) Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

"(9) Upon the termination of the Resolution Trust Corporation pursuant to section 21A(m)(o) of the Federal Home Loan Bank Act [former 12 U.S.C. 1441a(o)], any employee of the Federal Deposit Insurance Corporation assigned to the Resolution Trust Corporation shall be reassigned to a position within the Federal Deposit Insurance Corporation in accordance with the provisions of paragraphs (2) and (4) through (7) of this section, except that the liability for any difference in the costs of benefits described in paragraph (5) shall be a liability of the Resolution Trust Corporation and not the Office of Thrift Supervision.

"SEC. 405. DIVISION OF PROPERTY AND FACILITIES.

"Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Director of the Office of Thrift Supervision, the Chairperson of the Oversight Board of the Resolution Trust Corporation, the Chairperson of the Federal Deposit Insurance Corporation, and the Chairperson of the Federal Housing Finance Board shall jointly divide all property of the Federal Savings and Loan Insurance Corporation and the Federal Home Loan Bank Board used to perform functions and activities of the Federal Home Loan Bank Board among the Office of Thrift Supervision, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, and the Federal Housing Finance Board in accordance with the division of responsibilities, functions, and activities effected by this Act [see Tables for classification]. Any disagreement between them in so doing shall be resolved by the Director of the Office of Management and Budget.

"SEC. 406. REPORT.

"Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 9, 1989], the Chairman of the Federal Home Loan Bank Board shall provide by written report to the Secretary of the Treasury, the Director of the Office of Management and Budget, and the Congress, a final accounting of the finances and operations of the Federal Savings and Loan Insurance Corporation."

TRANSFERRED EMPLOYEES OF FEDERAL HOME LOAN BANKS AND JOINT OFFICES

Pub. L. 101-73, title VII, §722, Aug. 9, 1989, 103 Stat. 426, provided that:

"(a) IN GENERAL.—Each employee of the Federal Home Loan Banks or joint offices of such Banks performing a function identified for transfer under section 403 of this Act [set out above], including employees who otherwise would be ineligible for employment by the United States because of their citizenship, shall be transferred for employment not later than 60 days after the date of the enactment of this Act [Aug. 9, 1989].

"(b) NOTICE TO EMPLOYEES.—Transferring employees shall receive notice of their position assignments not later than 120 days after the effective date of their transfer.

"(c) GUARANTEED POSITION.—Each transferred employee shall be guaranteed a position with the same status and tenure as that held by such employee on the day immediately preceding the transfer. Each such employee holding a permanent position shall not be involuntarily separated for one year after the date of transfer, except for cause.

"(d) PAY AND BENEFITS.—Each employee transferred under this section shall be entitled to receive, during the one-year period immediately following the transfer, pay and benefits comparable to those received by such employee immediately preceding the transfer. Where necessary or appropriate to further the safety and soundness of the thrift industry, the employing agency may continue the pre-transfer compensation of any transferring employee for up to 2 years beyond the expiration of the period provided for under the preceding sentence. Such pay and benefits shall be subject to the comparability provisions of this Act [see Tables for classification]. Any transferred employee who suffers a reduction of pay or benefits as a result of such comparability provisions shall be compensated for such reduction during the 1 year period following the transfer by assessments from the Federal Home Loan Bank or joint office of such Banks, from which the employee transferred. In any event, this subsection shall only apply to a transferred employee while such employee remains with the agency to which the employee is transferred.

"(e) HEALTH INSURANCE.—If the health insurance program of a transferred employee is not continued by the agency to which the employee is transferred, such employee may elect to participate in the agency's health insurance program notwithstanding health conditions pre-existing at the time of election or enrollment into an alternate health insurance program of the agency to which he or she is transferred and without regard to any other regularly scheduled open season. Such election shall be made within 30 days of the transfer.

"(f) EQUITABLE TREATMENT.—The Director of the Office of Thrift Supervision or the Chairperson of the Federal Housing Finance Board shall take such action as is necessary on a case-by-case basis so that employees transferring under this section receive equitable treatment regarding credit for prior service with a Federal entity or instrumentality, or with a Federal Home Loan Bank or joint office of such Banks, with respect to the transferring employees' retirement accounts and the transferring employees' accrued leave or vacation time, in recognition of the transferring employees' supervisory service.

"(g) SPECIAL RULE FOR CERTAIN ANNUITANTS.—An individual who was a reemployed annuitant on July 26, 1989, and who is transferred under this section, shall not be subject to the deduction from pay required by section 8344 or 8468 of title 5, United States Code, during the 1-year period beginning on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Aug. 9, 1989]."

TRANSITIONAL PROVISIONS

Pub. L. 101-73, title VII, §723, Aug. 9, 1989, 103 Stat. 427, provided that:

"(a) FEDERAL HOME LOAN BANKS' SHARE OF ADMINISTRATIVE EXPENSES.—The Federal Home Loan Banks shall pay to the Director of the Office of Thrift Supervision the amount obtained by multiplying the administrative expenses of the Office of Thrift Supervision incurred in connection with functions of the Banks that are transferred to the Office (less any fees or assessments collected by the Office) by a fraction—

"(1) the numerator of which is the amount of such expenses of the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation paid by the Banks during the 1-year period ending on the date of enactment of this Act [Aug. 9, 1989]; and

"(2) the denominator of which is the total expenses of such Board and Corporation during such period. No payment under this subsection is required after December 31, 1989.

"(b) COMPENSATION OF SUPERVISORY AND EXAMINATIONS EMPLOYEES.—The Federal Home Loan Banks shall continue to pay the compensation of employees of the Federal Home Loan Banks or the joint offices of such banks who, on the day before the date of the enactment of this Act [Aug. 9, 1989], are performing supervisory and examination functions until such supervisory and examination functions are transferred under this Act [see Tables for classification]. Thereafter, the obligation of the Federal Home Loan Banks hereunder to pay such applicable compensation shall continue until the later of—

"(1) the date which is 120 days after the date of transfer of such supervisory and examination functions to the Office of Thrift Supervision, or

"(2) March 31, 1990.

Payment of such compensation by the Federal Home Loan Banks shall be in lieu of, and not in addition to, the payment of compensation by the Office of Thrift Supervision.

"(c) FACILITIES AND SUPPORT SERVICES.—Until December 31, 1990, the Federal Home Loan Banks, as necessary, shall (with respect to supervisory and examination functions performed by employees transferred from the Federal Home Loan Banks or joint offices of such Banks to the Office of Thrift Supervision), provide the Office of Thrift Supervision facilities and support services comparable to those presently provided for the employees of the Federal Home Loan Banks or joint offices of such Banks performing such supervisory and examination functions, including office space, furniture and equipment, computer, personnel, and other support services. With respect to supervisory and examination functions presently performed by employees of individual Federal Home Loan Banks, each such Bank will only be required to provide such facilities and support services to the extent that the functions continue to be performed in that Bank's offices.

"(d) PRINCIPAL SUPERVISORY AGENT.—Beginning on the date of enactment of this Act [Aug. 9, 1989] until the Director of the Office of Thrift Supervision shall otherwise provide, the Principal Supervisory Agent for each Federal Home Loan Bank district shall be the senior supervisory official (other than the President of the Federal Home Loan Bank) employed by the Federal Home Loan Bank in such district on the day before the date of the enactment of this Act, and such employees performing supervisory and examination functions shall continue to be responsible for the supervision and examination of savings associations within such district."

SPECIAL ACCOUNT

Pub. L. 101-73, title VII, §725, Aug. 9, 1989, 103 Stat. 429, provided that: "At the time of dissolution of the Federal Home Loan Bank Board, all such moneys and funds as shall remain in the special deposit account of the Federal Home Loan Bank Board, or other such accounts, shall become the property of the Federal Housing Finance Board."

IMPROVEMENTS IN SUPERVISORY PROCESS

Pub. L. 100-86, title IV, §407(a)-(c), Aug. 10, 1987, 101 Stat. 616, 617, provided that:

"(a) ENHANCED FLEXIBILITY IN THE SUPERVISORY PROCESS.—The Federal Home Loan Bank Board (acting as such under the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.] and in the Board's capacity as the board of trustees of the Federal Savings and Loan Insurance Corporation under section 402(a) of the National Housing Act [12 U.S.C. 1725(a)]) shall issue guidelines which provide greater flexibility for supervisory agents, examiners, and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks in applying regulations, standards, and other requirements of the Board or such Corporation with regard to particular situations or particular thrift institutions.

"(b) PARTICULAR GUIDELINES REQUIRED.—The guidelines issued under subsection (a) shall contain the following provisions:

"(1) FLEXIBLE APPROVAL PROCESS FOR RENEGOTIATED LOANS.—A provision establishing a flexible procedure for obtaining supervisory approval of the terms of loans renegotiated by thrift institutions if a supervisory agreement is in effect between such institution and the principal supervisory agent of the Federal home loan bank district where such institution is located.

"(2) RECOGNITION OF ADDITIONAL FINANCIAL CAPABILITY OF A BORROWER.—A provision permitting examiners and other employees and agents of the Board, the Federal Savings and Loan Insurance Corporation, and the Federal home loan banks to take into account, to the extent consistent with the practices of the Federal banking agencies, other financial resources of a borrower (in addition to the financial assets of the borrower which are pledged to secure a loan) in classifying the assets of the thrift institution which holds a loan made to such borrower or with recourse to the borrower.

"(3) APPRAISAL REVIEW.—A provision establishing an appraisal review system to avoid overly optimistic or conservative appraisals with the goal of achieving appraisals that are more consistent in

reflecting underlying values.

"(4) 1-TO-4 FAMILY RESIDENCES.—A provision eliminating the scheduled item system except as such system relates to 1-to-4 family residences.

"(c) DEFINITIONS.—For purposes of subsections (a) and (b)—

"(1) THRIFT INSTITUTION.—The term 'thrift institution' means—

"(A) any association (within the meaning given to such term in section 2(d) of the Home Owners' Loan Act of 1933 [former 12 U.S.C. 1462(d)]);

"(B) any insured institution (within the meaning given to such term in section 401(a) of the National Housing Act [12 U.S.C. 1724(a)]); and

"(C) any member (within the meaning given to such term in section 2(4) [now 2(3)] of the Federal Home Loan Bank Act [12 U.S.C. 1422(3)]).

"(2) BOARD.—The term 'Board' means the Federal Home Loan Bank Board.

"(3) FEDERAL BANKING AGENCY.—The term 'Federal banking agency' means the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation."

GUIDELINES RESPECTING ACTION ON APPLICATIONS TO BANK BOARD OR FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Pub. L. 100–86, title IV, §410(a), (c), (d), Aug. 10, 1987, 101 Stat. 620, provided that:

"(a) IN GENERAL.—The Federal Home Loan Bank Board shall promulgate guidelines which provide that with respect to each type of completed application (other than an application under section 408(g) of the National Housing Act [12 U.S.C. 1730a(g)]) by any person for approval by the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, the application shall be deemed to be approved as of the end of the period prescribed under such guidelines unless the Board or the Federal Savings and Loan Insurance Corporation, as the case may be, approves or disapproves such application before the end of such period.

"(c) REPORT TO CONGRESS.—Before the end of the 60-day period beginning on the date of the enactment of this Act [Aug. 10, 1987], the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the guidelines required to be promulgated under subsection (a).

"(d) EFFECTIVE DATE.—The guidelines required to be promulgated under subsection (a) shall take effect at the end of the 60-day period referred to in subsection (c)."

GUIDELINES FOR ASSET DISPOSITION

Pub. L. 100–86, title IV, §411, Aug. 10, 1987, 101 Stat. 620, which directed Federal Home Loan Bank Board to submit, not later than 6 months after Aug. 10, 1987, to congressional committees a report containing appropriate new guidelines to prevent dumping of assets over which it had direct or indirect control and which the Board was to promulgate at end of such period, ceased to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register (Mar. 30, 1992). See section 416 of Pub. L. 100–86, set out as a Sunset and Savings Provision note under section 1441 of this title.

EXPANSION OF USE OF UNDERUTILIZED MINORITY THRIFT INSTITUTIONS

Pub. L. 100–86, title IV, §412, Aug. 10, 1987, 101 Stat. 620, provided that:

"(a) CONSULTATION ON EXPANDED USE.—The Secretary of the Treasury shall consult with the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation on methods for increasing the use of underutilized minority thrift institutions as depositaries or financial agents of Federal agencies.

"(b) DESIGNATION OF MINORITY THRIFT INSTITUTIONS INVOLVED IN CAPITAL RECOVERY PROGRAM AS UNDERUTILIZED THRIFT.—If the Federal Home Loan Bank Board approves any plan submitted under regulations prescribed under section 10 of the Home Owners' Loan Act of 1933 [12 U.S.C. 1467a] (as added by section 404(a) of this title) or section 416 of the National Housing Act [12 U.S.C. 1730i] (as added by section 404(c) [404(b)] of this title) by any minority institution (as defined in each such section), such minority institution shall be designated by the Board as an underutilized thrift institution for purposes of increasing the use of such association as a depositary or financial agent of other Federal agencies.

"(c) REPORT TO CONGRESS.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Aug. 10, 1987], the Secretary of the Treasury, the Federal Home Loan Bank Board, and the Federal Savings and Loan Insurance Corporation shall each submit a report to the Congress on actions taken by such Secretary or agency pursuant to subsection (a) or (b).

"(d) THRIFT INSTITUTION DEFINED.—For purposes of this section, the term 'thrift institution' has the meaning given to such term in section 407(c)(1) [section 407(c)(1) of Pub. L. 100–86, set out as a note above]."

CONGRESSIONAL OVERSIGHT

Pub. L. 100–86, title IV, §415, Aug. 10, 1987, 101 Stat. 622, provided that:

"(a) BANKING COMMITTEE REVIEW OF PANEL ACTIONS.—The Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate shall monitor and review the actions taken by each review panel established pursuant to the amendment made by section 407(d) of this Act [enacting former section 1442a of this title].

"(b) OTHER CONGRESSIONAL OVERSIGHT.—The Federal Home Loan Bank Board shall submit a report to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives, at the end of the 6-month period beginning on the date of the enactment of this title [Aug. 10, 1987], at the end of the 1-year period beginning on such date, and on an annual basis after the end of such 1-year period, containing—

"(1) a description of the Board's existing manpower and talent;

"(2) an estimate of the Board's projected manpower and talent needs for the year, including the cost of such projected needs;

"(3) a description and explanation of the goals and objectives, of the Board and all its related entities (including the Federal Asset Disposition Association), for the coming year and the management strategies to be employed by such entities in accomplishing such goals and objectives;

"(4) a summary of the operations, receipts, expenses, and expenditures, of the Board and all its related entities (including the Federal Asset Disposition Association), during the preceding year; and

"(5) a summary of the operations and the aggregate receipts, expenses, and expenditures of any other person not referred to in paragraph (4), including receivers, conservators, accountants, attorneys, and consultants, who is engaged in any activity on behalf of the Board or any other entity which is referred to in such paragraph, to the extent such operations, receipts, expenses, and expenditures are in connection with such activity.

"(c) APPEARANCE.—The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation shall, before the beginning of each fiscal year, appear before the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate to describe and explain each such agency's plans and proposals with respect to administrative expenses for such fiscal year.

"(d) GUIDELINES FOR EMPLOYMENT OF OUTSIDE ACCOUNTANTS, ATTORNEYS, CONSERVATORS, AND OTHER CONSULTANTS.—Before the end of the 6-month period beginning on the date of the enactment of this Act [Aug. 10, 1987], the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing guidelines to improve the management of and control over all outside accountants, attorneys, conservators, consultants, and other persons whose services are employed by the Board, the Federal Savings and Loan Insurance Corporation, the Federal Asset Disposition Association, the principal supervisory agent for any Federal home loan bank district, or any other entity created, owned, or controlled by the Board in connection with any function for which the Board has direct or indirect regulatory or supervisory responsibility."

STUDY AND REPORTS CONCERNING DIRECT INVESTMENTS

Pub. L. 100–86, title XII, §1203, Aug. 10, 1987, 101 Stat. 661, provided that:

"(a) STUDY REQUIRED.—The Federal Home Loan Bank Board shall conduct a study of the effect of direct investment activities on insured institutions, including comparative analyses of the effect of direct investment activities on—

"(1) different sized insured institutions;

"(2) State chartered insured institutions;

"(3) federally chartered insured institutions; and

"(4) insured institutions in each of the Supervisory Examinations Rating Classifications.

"(b) REPORT REQUIRED.—Not later than 18 months after the date of enactment of this Act [Aug. 10, 1987], the Federal Home Loan Bank Board shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report containing the findings and conclusions of the Board with respect to the study required under subsection (a), including—

"(1) the findings and conclusions of the Board concerning the losses to the insurance fund and the

degree to which such losses were the result of direct investment activities with respect to each of the classes of institutions described in subsection (a); and

"(2) a comparison of the effects of direct investment activities prior to April 16, 1987, and the effect of such activities on or after April 16, 1987, for each of the classes of institutions described in subsection (a) and the losses to the insurance fund as a result of such activities.

"(c) PRIOR REPORTS TO CONGRESS ON CHANGES TO DIRECT INVESTMENT

REGULATIONS.—

"(1) IN GENERAL.—Not less than 90 days before final approval is given by the Federal Home Loan Bank Board to any regulation which repeals or modifies (or has the effect of repealing or modifying) any regulation limiting direct investment activities, the Board shall submit to the Committee on Banking, Finance and Urban Affairs [now Committee on Financial Services] of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report describing the proposed regulation and the reasons for the proposed regulation, including the effect of such regulation on the insurance fund.

"(2) PROSPECTIVE APPLICATION OF RULE.—Paragraph (1) shall not apply with respect to Board Resolution Numbered 87–215 and Board Resolution Numbered 87–215A.

"(d) DIRECT INVESTMENT ACTIVITY DEFINED.—For purposes of this section, the term 'direct investment activities' means activities which are limited under Board Resolution Numbered 87–215 and Board Resolution Numbered 87–215A."

§1438. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act July 22, 1932, ch. 522, §18, 47 Stat. 737; Pub. L. 89–754, title X, §1016(b), Nov. 3, 1966, 80 Stat. 1293; Pub. L. 101–73, title VII, §§701(b)(2), (b)(3)(B), 711, 712, Aug. 9, 1989, 103 Stat. 412, 419; Pub. L. 104–66, title II, §2191, Dec. 21, 1995, 109 Stat. 732; Pub. L. 106–102, title VI, §606(h), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–289, div. A, title II, §1204(2), July 30, 2008, 122 Stat. 2786; Pub. L. 111–203, title III, §364(a), July 21, 2010, 124 Stat. 1555, was omitted in view of the repeal of subsecs. (a) to (c) which comprised this section. Subsec. (a), which related to authorization of appropriations for certain expenses of the Federal Home Loan Bank Board, was repealed by Pub. L. 101–73, title VII, §712, Aug. 9, 1989, 103 Stat. 419. Subsec. (b), which related to assessments for administrative expenses of the Federal Housing Finance Board, was repealed by Pub. L. 110–289, div. A, title II, §1204(2), July 30, 2008, 122 Stat. 2786. Subsec. (c), which related to acquisition of property by the Director of the Office of Thrift Supervision, was repealed by Pub. L. 111–203, title III, §364(a), July 21, 2010, 124 Stat. 1555.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–203, title III, §364(a), July 21, 2010, 124 Stat. 1555, provided that, effective 90 days after the transfer date, subsection (c) of this section is repealed. For definition of "transfer date", see section 5301 of this title.

§1438a. Nonadministrative expenses; expenses of studies and investigations

On and after July 12, 1960, expenses of the Board in making studies or investigations specifically directed by law, or requested by the Congress or either House thereof or by a committee of either House, including services authorized by section 3109 of title 5, shall be considered as nonadministrative expenses.

(Pub. L. 86–626, title II, §201, July 12, 1960, 74 Stat. 441.)

EDITORIAL NOTES

CODIFICATION

"Section 3109 of title 5" substituted in text for "section 15 of the Act of August 2, 1946 (5 U.S.C. 55a)" on authority of section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, section 1 of which enacted Title 5, Government Organization and Employees.

§§1439, 1439-1. Repealed. Pub. L. 101-73, title VII, §§708, 712, Aug. 9, 1989, 103 Stat. 418, 419

Section 1439, acts July 22, 1932, ch. 522, §19, 47 Stat. 737; May 28, 1935, ch. 150, §9, 49 Stat. 295; July 3, 1948, ch. 825, §2, 62 Stat. 1240, related to appointment, compensation, etc., of officers and employees of Board.

Section 1439-1, act July 22, 1932, ch. 522, §19A, as added Aug. 10, 1987, Pub. L. 100-86, title V, §505(d), 101 Stat. 633, related to apportionment of monies received by Board.

§1439a. Deposits in special fund; availability for all purposes of Federal Home Loan Bank Board and Federal Home Loan Bank Administration

All moneys and funds heretofore deposited in the Treasury of the United States under the last sentence of section 1439 ¹ of this title (including unexpended balances of moneys appropriated therefrom for administrative expenses), and hereafter all moneys and funds which would, except for this provision, be so depositable thereunder, shall be deposited with the Treasurer of the United States in a special deposit account and shall be available, retroactively as well as prospectively, for expenditure for all purposes of the Federal Home Loan Bank Board and the Federal Home Loan Bank Administration, subject to subsections (a) and (b) of section 712a of title 15.

(June 26, 1943, ch. 145, title I, §101, 57 Stat. 186; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, §109(a)(3), 69 Stat. 640.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1439 of this title, referred to in text, was repealed by Pub. L. 101-73, title VII, §708, Aug. 9, 1989, 103 Stat. 418.

CODIFICATION

Section was enacted as part of the Independent Offices Appropriation Act, 1944, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Home Loan Bank Board" changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955, ch. 783, §109(a)(3), which was classified to section 1437(b) of this title prior to the repeal of section 1437 by Pub. L. 101-73, title VII, §703(a), Aug. 9, 1989, 103 Stat. 415. Previously, "Home Loan Bank Board" had been substituted for "Federal Home Loan Bank Board" by Reorg. Plan No. 3 of 1947.

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

For transfer of functions to Secretary of the Treasury, see note set out under section 55 of this title.

¹ [See References in Text note below.](#)

§1440. Examinations and audits

The Director shall from time to time, at least annually, require examinations and reports of condition of all Federal Home Loan Banks in such form as the Director shall prescribe and shall furnish periodically statements based upon the reports of the banks to the Director. For the purposes of this chapter, examiners appointed by the Director shall be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the National Bank Act [12 U.S.C. 21 et seq.] and the Federal Reserve Act [12 U.S.C. 221 et seq.], and shall have, in the exercise of functions under this chapter, the same powers and privileges as are vested in such examiners by law. In addition to such examinations, the Comptroller General may audit or examine the Director and the Banks, to determine the extent to which the Director and the Banks are fairly and effectively fulfilling the purposes of this chapter.

(July 22, 1932, ch. 522, §20, 47 Stat. 738; June 27, 1950, ch. 369, §10, 64 Stat. 259; Aug. 2, 1954, ch. 649, title VIII, §802(f), 68 Stat. 643; Pub. L. 101-73, title VII, §§701(b)(1), (3)(A), 702(b), Aug. 9, 1989, 103 Stat. 412, 415; Pub. L. 110-289, div. A, title II, §1204(8), (9), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Bank Act, referred to in text, is act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

The Federal Reserve Act, referred to in text, is act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

2008—Pub. L. 110-289 substituted "The Director" for "The Board" and "the Director" for "the Board" wherever appearing.

1989—Pub. L. 101-73, §702(b), inserted provisions relating to audit or examination by the Comptroller General.

Pub. L. 101-73, §701(b)(1), (3)(A), substituted "Board" for "board" wherever appearing.

1954—Act Aug. 2, 1954, struck out second sentence relating to annual report of the board to Congress. See section 1437(b) of this title.

1950—Act June 27, 1950, struck out "twice" before "annually".

§1440a. Sharing of information among Federal Home Loan Banks

(a) Information on financial condition

In order to enable each Federal Home Loan Bank to evaluate the financial condition of one or more of the other Federal Home Loan Banks individually and the Federal Home Loan Bank System (including any risks associated with the issuance or repayment of consolidated Federal Home Loan Bank bonds and debentures or other borrowings and the joint and several liabilities of the Banks incurred due to such borrowings), as well as to comply with any of its obligations under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), the Director shall make available to the Banks such reports, records, or other information as may be available, relating to the condition of any Federal Home Loan Bank.

(b) Sharing of information

(1) In general

The Director shall promulgate regulations to facilitate the sharing of information made available under subsection (a) directly among the Federal Home Loan Banks.

(2) Limitation

Notwithstanding paragraph (1), a Federal Home Loan Bank responding to a request from another Bank or from the Director for information pursuant to this section may request that the Director determine that such information is proprietary and that the public interest requires that such information not be shared.

(c) Limitation

Nothing in this section shall affect the obligations of any Federal Home Loan Bank under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the regulations issued by the Securities and Exchange Commission thereunder.

(d) No waiver of privilege

The Director shall not be deemed to have waived any privilege applicable to any information concerning a Federal Home Loan Bank by transferring, or permitting the transfer of, that information to any other Federal Home Loan Bank for the purposes set out in subsection (a).

(July 22, 1932, ch. 522, §20A, as added Pub. L. 110–289, div. A, title II, §1207, July 30, 2008, 122 Stat. 2787.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Securities Exchange Act of 1934, referred to in subsecs. (a) and (c), is act June 6, 1934, ch. 404, 48 Stat. 881, which is classified principally to chapter 2B (§78a et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

§1441. Financing Corporation

(a) Establishment

Notwithstanding any other provision of law, the Director shall charter a corporation to be known as the Financing Corporation.

(b) Management of Financing Corporation

(1) Directorate

The Financing Corporation shall be under the management of a directorate composed of 3 members as follows:

(A) The Director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor to such office).

(B) 2 members selected by the Director from among the presidents of the Federal Home Loan Banks.

(2) Terms

Each member appointed under paragraph (1)(B) shall be appointed for a term of 1 year.

(3) Vacancy

If any member leaves the office in which such member was serving when appointed to the Directorate—

(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

(B) the successor to the office of such member shall serve the remainder of such member's

term.

(4) Equal representation of banks

No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms on the Directorate as the president of such bank (before the appointment of such president to such additional term).

(5) Chairperson

The Director shall select the chairperson of the Directorate from among the 3 members of the Directorate.

(6) Staff

(A) No paid employees

The Financing Corporation shall have no paid employees.

(B) Powers

The Directorate may, with the approval of the Director, authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Financing Corporation in such manner as may be necessary to carry out the functions of the Financing Corporation.

(7) Administrative expenses

(A) In general

All administrative expenses of the Financing Corporation shall be paid by the Federal Home Loan Banks.

(B) Pro rata distribution

The amount each Federal Home Loan Bank shall pay shall be determined by the Director by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

- (i) the aggregate amount the Director required such bank to invest in the Financing Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (d) (as computed without regard to paragraph (3) or (6) of such subsection); by
- (ii) the aggregate amount the Director required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(C) Administrative expenses defined

For purposes of this paragraph, the term "administrative expenses" does not include—

- (i) issuance costs (as such term is defined in subsection (g)(5)(A));
- (ii) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; or
- (iii) custodian fees (as such term is defined in subsection (g)(5)(B)).

(8) Regulation by Director

The Directorate shall be subject to such regulations, orders, and directions as the Director may prescribe.

(9) No compensation from Financing Corporation

Members of the Directorate shall receive no pay, allowances, or benefits from the Financing Corporation by reason of their service on the Directorate.

(c) Powers of Financing Corporation

The Financing Corporation shall have only the following powers, subject to the other provisions of this section and such regulations, orders, and directions as the Director may prescribe:

- (1) To issue nonvoting capital stock to the Federal Home Loan Banks.
- (2) To invest in any security issued by the Federal Savings and Loan Insurance Corporation

under section 1725(b) of this title prior to August 9, 1989, and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund.

(3) To issue debentures, bonds, or other obligations and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(4) To impose assessments in accordance with subsection (f).

(5) To adopt, alter, and use a corporate seal.

(6) To have succession until dissolved.

(7) To enter into contracts.

(8) To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Financing Corporation in any State or Federal court of competent jurisdiction.

(9) To exercise such incidental powers not inconsistent with the provisions of this section as are necessary or appropriate to carry out the provisions of this section.

(d) Capitalization of Financing Corporation

(1) Purchase of capital stock by Federal Home Loan Banks

(A) In general

Each Federal Home Loan Bank shall invest in nonvoting capital stock of the Financing Corporation at such times and in such amounts as the Director may prescribe under this subsection.

(B) Par value; transferability

Each share of stock issued by the Financing Corporation to a Federal Home Loan Bank shall have par value in an amount determined by the Director and shall be transferable only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Director at not less than par value.

(2) Aggregate dollar amount limitation on all investments

The aggregate amount of funds invested by all Federal Home Loan Banks in nonvoting capital stock of the Financing Corporation shall not exceed \$3,000,000,000.

(3) Maximum investment amount limitation for each Federal Home Loan Bank

The cumulative amount of funds invested in nonvoting capital stock of the Financing Corporation by each Federal Home Loan Bank shall not exceed the aggregate amount of—

(A) the sum of—

(i) the reserves maintained by such bank on December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 1436 of this title; and

(ii) the undivided profits (as defined in paragraph (7)) of such bank on such date; and

(B) the sum of—

(i) the amounts added to reserves after December 31, 1985, pursuant to the requirement contained in the first 2 sentences of section 1436 of this title; and

(ii) the undivided profits of such bank accruing after such date.

(4) Pro rata distribution of 1st \$1,000,000,000 invested in Financing Corporation by Home Loan Banks

Of the first \$1,000,000,000 in the aggregate which the Thrift Depositor Protection Oversight Board pursuant to section 1441b of this title or the Director under this section (as the case may be) may require the Federal Home Loan Banks collectively to invest in the stock of the Funding Corporation or invest in the capital stock of the Financing Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be

determined by the Thrift Depositor Protection Oversight Board or the Director (as the case may be) by multiplying the aggregate amount of such payment or investment by all Banks by the percentage appearing in the following table for each such Bank:

| Bank | Percentage |
|---|-------------------|
| Federal Home Loan Bank of Boston | 1.8629 |
| Federal Home Loan Bank of New York | 9.1006 |
| Federal Home Loan Bank of Pittsburgh | 4.2702 |
| Federal Home Loan Bank of Atlanta | 14.4007 |
| Federal Home Loan Bank of Cincinnati | 8.2653 |
| Federal Home Loan Bank of Indianapolis | 5.2863 |
| Federal Home Loan Bank of Chicago | 9.6886 |
| Federal Home Loan Bank of Des Moines | 6.9301 |
| Federal Home Loan Bank of Dallas | 8.8181 |
| Federal Home Loan Bank of Topeka | 5.2706 |
| Federal Home Loan Bank of San Francisco | 19.9644 |
| Federal Home Loan Bank of Seattle | 6.1422 |

(5) Pro rata distribution of amounts required to be invested in excess of \$1,000,000,000

With respect to any amount in excess of the \$1,000,000,000 amount referred to in paragraph (4) which the Director may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Director by multiplying such excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members which are members of such bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members which are members of any Federal Home Loan Bank.

(6) Special provisions relating to maximum amount limitations

(A) In general

If the amount any Federal Home Loan Bank is required to invest in capital stock of the Financing Corporation pursuant to a determination by the Director under paragraph (5) (or under subparagraph (B) of this paragraph) exceeds the maximum investment amount applicable with respect to such bank under paragraph (3) at the time of such determination (hereinafter in this paragraph referred to as the "excess amount")—

(i) the Director shall require each remaining Federal Home Loan Bank to invest (in addition to the amount determined under paragraph (5) for such remaining bank and subject to the maximum investment amount applicable with respect to such remaining bank under paragraph (3) at the time of such determination) in such capital stock on behalf of the bank in the amount determined under subparagraph (B);

(ii) the Director shall require the bank to subsequently purchase the excess amount of capital stock from the remaining banks in the manner described in subparagraph (C); and

(iii) the requirements contained in subparagraphs (D) and (E) relating to the use of net earnings shall apply to such bank until the bank has purchased all of the excess amount of capital stock.

(B) Allocation of excess amount among remaining Home Loan Banks

The amount each remaining Federal Home Loan Bank shall be required to invest under subparagraph (A)(i) is the amount determined by the Director by multiplying the excess amount

by the percentage arrived at by dividing—

- (i) the amount of capital stock of the Financing Corporation held by such remaining bank at the time of such determination; by
- (ii) the aggregate amount of such stock held by all remaining banks at such time.

(C) Purchase procedure

The bank on whose behalf an investment in capital stock is made under subparagraph (A)(i) shall purchase, annually and at the issuance price, from each remaining bank an amount of such stock determined by the Director by multiplying the amount available for such purchases (at the time of such determination) by the percentage determined under subparagraph (B) with respect to such remaining bank until the aggregate amount of such capital stock has been purchased by the bank.

(D) Limitation on dividends

The amount of dividends which may be paid for any year by a bank on whose behalf an investment is made under subparagraph (A)(i) shall not exceed an amount equal to $\frac{1}{2}$ of the net earnings of the bank for the year.

(E) Transfer to account for purchase of stock required

Of the net earnings for any year of a bank on whose behalf an investment is made under subparagraph (A)(i), such amount as is necessary to make the purchases of stock required under subparagraph (A)(ii) shall be placed in a reserve account (established in such manner as the Director shall prescribe by regulations) the balance in which shall be available only for such purchases.

(7) Undivided profits defined

For purposes of paragraph (3), the term "undivided profits" means retained earnings minus the sum of—

- (A) that portion required to be added to reserves maintained pursuant to the first two sentences of section 1436 of this title; and
- (B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined under the following table:

| Bank | Dollar amount |
|---|----------------------|
| Federal Home Loan Bank of Boston | \$3.2 million |
| Federal Home Loan Bank of New York | 7.7 million |
| Federal Home Loan Bank of Pittsburgh | 5.2 million |
| Federal Home Loan Bank of Atlanta | 12.3 million |
| Federal Home Loan Bank of Cincinnati | 5.9 million |
| Federal Home Loan Bank of Indianapolis | 37.4 million |
| Federal Home Loan Bank of Chicago | 6.0 million |
| Federal Home Loan Bank of Des Moines | 32.7 million |
| Federal Home Loan Bank of Dallas | 45.0 million |
| Federal Home Loan Bank of Topeka | 13.7 million |
| Federal Home Loan Bank of San Francisco | 21.9 million |
| Federal Home Loan Bank of Seattle | 33.6 million |

(e) Obligations of Financing Corporation

(1) Limitation on amount of outstanding obligations

The aggregate amount of obligations of the Financing Corporation which may be outstanding at any time (as determined by the Director) shall not exceed the lesser of—

(A) an amount equal to the greater of—

(i) 5 times the amount of the nonvoting capital stock of the Financing Corporation which is outstanding at such time; or

(ii) the sum of the face amounts (the amount of principal payable at maturity) of securities described in subsection (g)(2) which are held at such time in the segregated account established pursuant to such subsection; or

(B) \$10,825,000,000.

(2) Termination of borrowing authority

No obligation of the Financing Corporation shall be issued after December 12, 1991.

(3) Limitation on term of obligations

No obligation of the Financing Corporation may be issued which matures—

(A) more than 30 years after the date of issue; or

(B) after December 31, 2026.

(4) Investment of United States funds in obligations

Obligations issued under this section by the Financing Corporation with the approval of the Director shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

(5) Market for obligations

All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Financing Corporation.

(6) No full faith and credit of the United States

Obligations of the Financing Corporation and the interest payable on such obligations shall not be obligations of, or guaranteed as to principal or interest by, the Federal Home Loan Banks, the United States, or the FSLIC Resolution Fund and the obligations shall so plainly state.

(7) Tax exempt status

(A) In general

Except as provided in subparagraph (B), obligations of the Financing Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 1433 of this title.

(B) Exception

The Financing Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31 (relating to determination of tax status of interest on obligations).

(8) Obligations are exempt securities

Notwithstanding paragraph (7),¹ obligations of the Financing Corporation shall be deemed to be exempt securities (within the meaning of laws administered by the Securities and Exchange Commission) to the same extent as securities which are direct obligations of the United States or are guaranteed as to principal or interest by the United States.

(9) Minority participation in public offerings

The Chairperson of the Director ² and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public offering of obligations issued under this section.

(f) Sources of funds for interest payments; Financing Corporation assessment authority

The Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued hereunder from the following sources:

(1) Preenactment assessments

The Financing Corporation assessments which were assessed on insured institutions pursuant to this section as in effect prior to August 9, 1989.

(2) New assessment authority

In addition to the amounts obtained pursuant to paragraph (1), the Financing Corporation, with the approval of the Board ³ of Directors of the Federal Deposit Insurance Corporation, shall assess against each insured depository institution an assessment (in the same manner as assessments are assessed against such institutions by the Federal Deposit Insurance Corporation under section 1817 of this title).

(3) Receivership proceeds

To the extent the amounts available pursuant to paragraphs (1) and (2) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees, and if the funds are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund under section 1441b of this title, the Federal Deposit Insurance Corporation shall transfer to the Financing Corporation, from the liquidating dividends and payments made on claims received by the FSLIC Resolution Fund (established under section 1821a of this title) from receiverships, the remaining amount of funds necessary for the Financing Corporation to make interest payments.

(g) Use and disposition of assets of Financing Corporation not invested in FSLIC

(1) In general

Subject to such regulations, restrictions, and limitations as may be prescribed by the Director, assets of the Financing Corporation, which are not invested in capital certificates or capital stock issued by the Federal Savings and Loan Insurance Corporation under section 1725(b)(1)(A) of this title before August 9, 1989, and after August 9, 1989, in capital certificates issued by the FSLIC Resolution Fund, shall be invested in—

- (A) direct obligations of the United States;
- (B) obligations, participations, or other instruments of, or issued by, the Federal National Mortgage Association or the Government National Mortgage Association;
- (C) mortgages, obligations, or other securities for sale by, or which have been disposed of by, the Federal Home Loan Mortgage Corporation under section 1454 or 1455 of this title; or
- (D) any other security in which it is lawful for fiduciary and trust funds to be invested under the laws of any State.

(2) Segregated account for zero coupon instruments held to assure payment of principal

The Financing Corporation shall invest in, and hold in a segregated account, noninterest bearing instruments—

- (A) which are securities described in paragraph (1); and
- (B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Financing Corporation,

to assure the repayment of principal on obligations of the Financing Corporation. For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral.

(3) Dollar amount limitation on investment in zero coupon instruments for segregated account

The aggregate amount invested by the Financing Corporation under paragraph (2) shall not exceed \$2,200,000,000 (as determined on the basis of the purchase price).

(4) Exception for payment of issuance costs, interest, and custodian fees

Notwithstanding the requirements of paragraph (1), the assets of the Financing Corporation referred to in paragraph (1) which are not invested under paragraph (2) may be used to pay—

(A) issuance costs;

(B) any interest on (and any redemption premium with respect to) any obligation of the Financing Corporation; and

(C) custodian fees.

(5) Definitions

For purposes of this subsection—

(A) Issuance costs

The term "issuance costs"—

(i) means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of any obligation of the Financing Corporation; and

(ii) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Financing Corporation in connection with issuing any obligation.

(B) Custodian fees

The term "custodian fee" means—

(i) any fee incurred by the Financing Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under paragraph (2); and

(ii) any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

(h) Miscellaneous provisions relating to Financing Corporation

(1) Treatment for certain purposes

Except as provided in subsection (e)(8)(B), the Financing Corporation shall be treated as a Federal Home Loan Bank for purposes of sections 1433 and 1443 of this title.

(2) Federal Reserve banks as depositaries and fiscal agents

The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Financing Corporation.

(3) Applicability of certain provisions relating to Government corporation

Notwithstanding the fact that no Government funds may be invested in the Financing Corporation, the Financing Corporation shall be treated, for purposes of sections 9105,⁴ 9107, and 9108 of title 31, as a mixed-ownership Government corporation which has capital of the Government.

(i) Termination of Financing Corporation

(1) In general

The Financing Corporation shall be dissolved, as soon as practicable, after the earlier of—

(A) the maturity and full payment of all obligations issued by the Financing Corporation pursuant to this section; or

(B) December 31, 2026.

(2) Director authority to conclude the affairs of Financing Corporation

Effective on the date of the dissolution of the Financing Corporation under paragraph (1), the Director may exercise, on behalf of the Financing Corporation, any power of the Financing

Corporation which the Director determines to be necessary to settle and conclude the affairs of the Financing Corporation.

(j) Regulations

The Director may prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations defining terms used in this section.

(k) Definitions

For purposes of this section, the following definitions shall apply:

(1) Directorate

The term "Directorate" means the directorate established in the manner provided in subsection (b)(1) to manage the Financing Corporation.

(2) Net earnings

The term "net earnings" means net earnings without reduction for any chargeoffs or expenses incurred by a Bank in connection with the purchase of capital stock of the Financing Corporation or the purchase of stock of the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f) of section 1441b of this title.

(3) Insured depository institution

The term "insured depository institution" has the same meaning as in section 1813 of this title ⁵ (July 22, 1932, ch. 522, §21, as added Pub. L. 100-86, title III, §302, Aug. 10, 1987, 101 Stat. 585; amended Pub. L. 101-73, title V, §512, title VII, §§701(b)(2), 713, Aug. 9, 1989, 103 Stat. 406, 412, 419; Pub. L. 102-233, title I, §104, title III, §302(b), Dec. 12, 1991, 105 Stat. 1762, 1767; Pub. L. 102-550, title XVI, §1611(c), Oct. 28, 1992, 106 Stat. 4090; Pub. L. 104-208, div. A, title II, §2703(a), Sept. 30, 1996, 110 Stat. 3009-485; Pub. L. 109-173, §9(d)(2), Feb. 15, 2006, 119 Stat. 3616; Pub. L. 110-289, div. A, title II, §1204(6), (8), (12), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1725 of this title, referred to in subsecs. (c)(2), (e)(2)(A), and (g)(1), was repealed by Pub. L. 101-73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

Section 9105 of title 31, referred to in subsec. (h)(3), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, no longer contains provisions relating to mixed-ownership Government corporations having capital of the Government.

PRIOR PROVISIONS

A prior section 1441, act July 22, 1932, ch. 522, §21, 47 Stat. 738, related to unlawful acts and penalties, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See sections 433, 493, 657, 659, 660, 709, 1006, 1014, and 2117 of Title 18, Crimes and Criminal Procedure.

AMENDMENTS

2008—Pub. L. 110-289, §1204(12), substituted "Director" for "Federal Housing Finance Board" wherever appearing in subsecs. (a), (b)(1)(B), (6)(B), (7)(B), (8), (c), (d), (e)(1), (4), (9), (g), (i), and (j).

Subsec. (b)(5). Pub. L. 110-289, §1204(6), substituted "Director" for "Chairperson of the Federal Housing Finance Board".

Subsec. (f)(2). Pub. L. 110-289, §1204(8), which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting "the Director" for "the Board" wherever appearing, was not executed to subsec. (f)(2) to reflect the probable intent of Congress.

2006—Subsec. (f)(2). Pub. L. 109-173, §9(d)(2)(A), struck out before period at end ", except that—

"(A) the assessments imposed on insured depository institutions with respect to any BIF-assessable deposit shall be assessed at a rate equal to 1/5 of the rate of the assessments imposed on insured depository institutions with respect to any SAIF-assessable deposit; and

"(B) no limitation under clause (i) or (iii) of section 7(b)(2)(A) of the Federal Deposit Insurance Act shall apply for purposes of this paragraph."

Subsec. (k)(4). Pub. L. 109-173, §9(d)(2)(B), struck out heading and text of par. (4). Text read as follows:

"(A) BIF-ASSESSABLE DEPOSITS.—The term 'BIF-assessable deposit' means a deposit that is subject to assessment for purposes of the Bank Insurance Fund under the Federal Deposit Insurance Act (including a deposit that is treated as a deposit insured by the Bank Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act).

"(B) SAIF-ASSESSABLE DEPOSIT.—The term 'SAIF-assessable deposit' has the meaning given to such term in section 2710 of the Deposit Insurance Funds Act of 1996."

1996—Subsec. (f)(2). Pub. L. 104-208, §2703(a)(1)(A), in introductory provisions, substituted "In addition to the amounts obtained pursuant to paragraph (1)," for "To the extent the amounts available pursuant to paragraph (1) are insufficient to cover the amount of interest payments, issuance costs, and custodial fees," "insured depository institution" for "Savings Association Insurance Fund member", and "against such institutions" for "against such members".

Subsec. (f)(2)(A) to (C). Pub. L. 104-208, §2703(a)(1)(B), added subpars. (A) and (B) and struck out former subpars. (A) to (C) which read as follows:

"(A) the sum of—

"(i) the amount assessed under this paragraph; and

"(ii) the amount assessed by the Funding Corporation under section 1441b of this title; shall not exceed the amount authorized to be assessed against Savings Association Insurance Fund members pursuant to section 1817 of this title;

"(B) the Financing Corporation shall have first priority to make the assessment; and

"(C) the amount of the applicable assessment determined under such section 1817 of this title shall be reduced by the sum described in subparagraph (A) of this paragraph."

Subsec. (k). Pub. L. 104-208, §2703(a)(2)(A), substituted "section, the following definitions shall apply:" for "section—" in introductory provisions.

Subsec. (k)(1). Pub. L. 104-208, §2703(a)(2)(B), (C), redesignated par. (2) as (1) and struck out heading and text of former par. (1). Text read as follows: "The term 'Savings Association Insurance Fund member' means a savings association which is a Savings Association Insurance Fund member as defined by section 7(l) of the Federal Deposit Insurance Act."

Subsec. (k)(2) to (4). Pub. L. 104-208, §2703(a)(2)(C), (D), added pars. (3) and (4) and redesignated former pars. (2) and (3) as (1) and (2), respectively.

1992—Subsec. (e)(2). Pub. L. 102-550 made technical amendment to reference to December 12, 1991, to correct reference to corresponding provisions of original act.

1991—Subsec. (d)(4). Pub. L. 102-233, §302(b), substituted "Thrift Depositor Protection Oversight Board" for "Oversight Board" in two places.

Subsec. (e)(2). Pub. L. 102-233, §104, amended par. (2) generally, substituting provisions setting forth termination date of Financing Corporation borrowing authority for provisions relating to investment of proceeds of obligations of such Corporation.

Subsec. (k)(3). Pub. L. 102-233, §302(b), substituted "Thrift Depositor Protection Oversight Board" for "Oversight Board".

1989—Subsec. (a). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (b)(1)(B). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Federal Home Loan Bank Board".

Subsec. (b)(5). Pub. L. 101-73, §701(b)(2), substituted "Chairperson" for "Chairman".

Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Federal Home Loan Bank Board".

Subsecs. (b)(6)(B), (7)(B), (8), (c). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board" wherever appearing.

Subsec. (c)(2). Pub. L. 101-73, §512(3), inserted "prior to August 9, 1989, and thereafter to transfer the proceeds of any obligation issued by the Financing Corporation to the FSLIC Resolution Fund".

Subsec. (c)(9). Pub. L. 101-73, §512(4), struck out "or section 1725(b) of this title" after "with the provisions of this section".

Subsec. (d)(1). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board" wherever appearing.

Subsec. (d)(4). Pub. L. 101-73, §512(5), amended generally the portion of par. (4) appearing before the table. Prior to amendment, such portion read as follows: "With respect to the first \$1,000,000,000 which the Board may require the Federal Home Loan Banks to invest in capital stock of the Financing Corporation

under this subsection, the amount which each Federal Home Loan Bank (or any successor to such bank) shall invest shall be determined by the Board by applying to the total amount of such investment by all such banks the percentage appearing in the following table for each such bank:".

Subsec. (d)(5). Pub. L. 101-73, §512(6), substituted "the \$1,000,000,000 amount referred to in paragraph (4) which the Federal Housing Finance Board" for "\$1,000,000,000 which the Board".

Pub. L. 101-73, §512(2), substituted "by the Federal Housing Finance Board" for "by the Board".

Subsec. (d)(5)(A), (B). Pub. L. 101-73, §512(1), which directed the amendment of this section by substituting "Savings Association Insurance Fund member" for "insured institution" wherever appearing, was executed by substituting "Savings Association Insurance Fund members" for "insured institutions", as the probable intent of Congress.

Subsec. (d)(6)(A). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board" in introductory provisions and in cls. (i) and (ii).

Subsec. (d)(6)(A)(iii). Pub. L. 101-73, §512(7), struck out "available for dividends" after "use of net earnings".

Subsec. (d)(6)(B), (C). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (d)(6)(D). Pub. L. 101-73, §512(8), struck out "available for dividends" after "net earnings".

Subsec. (d)(6)(E). Pub. L. 101-73, §512(9), struck out "available for dividends" after "Of the net earnings".

Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (d)(6)(F). Pub. L. 101-73, §512(10), struck out subpar. (F) which defined "net earnings available for dividends".

Subsec. (e)(1). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (e)(2). Pub. L. 101-73, §512(12)(A), redesignated par. (3) as (2) and struck out former par. (2) which set an annual limit on net new borrowing by the Financing Corporation.

Pub. L. 101-73, §512(11), which directed amendment of par. (2)(A), was executed, as the probable intent of Congress, to the introductory text of par. (2), to par. (2)(A), and to par. (2)(B), as follows: striking out "used to" after "issued by the Financing Corporation" in the introductory text, inserting "used to" before "purchase" and inserting "prior to August 9, 1989, and thereafter transferred to the FSLIC Resolution Fund" before "; or" in subpar. (A), and by inserting "used to" before "refund" in subpar. (B).

Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (e)(3). Pub. L. 101-73, §512(12)(A), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (e)(4). Pub. L. 101-73, §512(2), (12)(A), redesignated par. (5) as (4) and substituted "Federal Housing Finance Board" for "Board". Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 101-73, §512(12)(A), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (e)(6). Pub. L. 101-73, §512(12), redesignated par. (7) as (6) and substituted "FSLIC Resolution Fund" for "Federal Savings and Loan Insurance Corporation". Former par. (6) redesignated (5).

Subsec. (e)(7), (8). Pub. L. 101-73, §512(12)(A), redesignated pars. (8) and (9) as (7) and (8), respectively. Former par. (7) redesignated (6).

Subsec. (e)(9), (10). Pub. L. 101-73, §§512(2), (12)(A), 701(b)(2), redesignated par. (10) as (9) and substituted "Chairperson" for "Chairman" and "Federal Housing Finance Board" for "Board". Former par. (9) redesignated (8).

Subsec. (f). Pub. L. 101-73, §512(13), amended subsec. (f) generally, substituting provisions enumerating various sources from which Financing Corporation shall obtain funds for anticipated interest payments, issuance costs, and custodial fees on obligations issued from preenactment assessments, new assessment authority, and receivership proceeds, for former provisions which had outlined assessment authority of Financing Corporation, setting up supplementary assessment authority, setting limits on total amount assessed, and providing for termination assessments.

Subsec. (g)(1). Pub. L. 101-73, §512(14), inserted reference to before August 9, 1989, and after August 9, 1989, in capital certificates issued by the FSLIC Resolution Fund.

Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (g)(2). Pub. L. 101-73, §512(15), inserted at end "For purposes of the foregoing, the Financing Corporation shall be deemed to hold noninterest bearing instruments that it lends temporarily to primary United States Treasury dealers in order to enhance market liquidity and facilitate deliveries, provided that United States Treasury securities of equal or greater value have been delivered as collateral."

Subsec. (i). Pub. L. 101-73, §713, redesignated subsec. (j) as (i) and struck out former subsec. (i) which related to Federal Savings and Loan Insurance Corporation Industry Advisory Committee.

Subsec. (i)(1)(A). Pub. L. 101-73, §512(16), added subpar. (A) and struck out former subpar. (A) which read as follows: "the date by which all stock purchased by the Financing Corporation in the Federal Savings and Loan Insurance Corporation has been retired; or".

Subsec. (i)(2). Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board" wherever appearing.

Subsec. (j). Pub. L. 101-73, §713, redesignated subsec. (k) as (j). Former subsec. (j) redesignated (i).

Pub. L. 101-73, §512(2), substituted "Federal Housing Finance Board" for "Board".

Subsec. (k). Pub. L. 101-73, §713, redesignated subsec. (l) as (k). Former subsec. (k) redesignated (j).

Subsec. (k)(1). Pub. L. 101-73, §512(17)(A), substituted definition of "Savings Association Insurance Fund member" for definition of "insured institution".

Subsec. (k)(2). Pub. L. 101-73, §512(17)(B), redesignated par. (3) as (2) and struck out former par. (2) which defined "insured member".

Subsec. (k)(3), (4). Pub. L. 101-73, §512(10), (17)(B), added par. (4) and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsec. (l). Pub. L. 101-73, §713, redesignated subsec. (l) as (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Pub. L. 104-208, div. A, title II, §2703(c), Sept. 30, 1996, 110 Stat. 3009-485, provided that:

"(1) IN GENERAL.—Subsections (a) [amending this section] and (c) [probably should be (b), amending section 1817 of this title] and the amendments made by such subsections shall apply with respect to semiannual periods which begin after December 31, 1996.

"(2) TERMINATION OF CERTAIN ASSESSMENT RATES.—Subparagraph (A) of section 21(f)(2) of the Federal Home Loan Bank Act [subsec. (f)(2) of this section] (as amended by subsection (a)) shall not apply after the earlier of—

"(A) December 31, 1999; or

"(B) the date as of which the last savings association ceases to exist."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title XVI, §1618, Oct. 28, 1992, 106 Stat. 4097, provided that: "Except as otherwise provided by a specific provision of this subtitle [subtitle B (§§1611-1618) of title XVI of Pub. L. 102-550, amending this section, sections 1441a, 1441b, 1821, 3345, and 3348 of this title and provisions set out as a note under section 1441a of this title], the amendments made by this subtitle to the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [Pub. L. 102-233; see Short Title of 1991 Amendment note set out under section 1421 of this title] and the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.] shall take effect as if such amendments had been included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991 [Pub. L. 102-233] as of the date of the enactment of such Act [Dec. 12, 1991]."

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-233, title III, §318, Dec. 12, 1991, 105 Stat. 1773, provided that: "The effective date of the Resolution Trust Corporation Thrift Depositor Protection Reform Act of 1991 [title III of Pub. L. 102-233, amending this section, sections 1441a, 1441b, 1786, 1818, 1821, 1833b, and 1833e of this title, sections 5313 and 5314 of Title 5, Government Organization and Employees, and section 11 of the Inspector General Act of 1978, Pub. L. 95-452, set out in the Appendix to Title 5, enacting provisions set out as notes under section 1441a of this title, and amending provisions set out as notes under sections 1437 and 1441a of this title] shall be February 1, 1992."

TRANSFER OF FUNCTIONS

Federal Savings and Loan Insurance Corporation abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

ABOLITION OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Thrift Depositor Protection Oversight Board abolished, see section 14(a)-(d) of Pub. L. 105-216, formerly set out as a note under section 1441a of this title.

PROHIBITION ON DEPOSIT SHIFTING

Pub. L. 104–208, div. A, title II, §2703(d), Sept. 30, 1996, 110 Stat. 3009–486, provided that:

"(1) IN GENERAL.—Effective as of the date of the enactment of this Act [Sept. 30, 1996] and ending on the date provided in subsection (c)(2) of this section [set out as a note above], the Comptroller of the Currency, the Board of Directors of the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision shall take appropriate actions, including enforcement actions, denial of applications, or imposition of entrance and exit fees as if such transactions qualified as conversion transactions pursuant to section 5(d) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)], to prevent insured depository institutions and depository institution holding companies from facilitating or encouraging the shifting of deposits from SAIF-assessable deposits to BIF-assessable deposits (as defined in section 21(k) of the Federal Home Loan Bank Act [12 U.S.C. 1441(k)]) for the purpose of evading the assessments imposed on insured depository institutions with respect to SAIF-assessable deposits under section 7(b) of the Federal Deposit Insurance Act [12 U.S.C. 1817(b)] and section 21(f)(2) of the Federal Home Loan Bank Act [12 U.S.C. 1441(f)(2)].

"(2) REGULATIONS.—The Board of Directors of the Federal Deposit Insurance Corporation may issue regulations, including regulations defining terms used in paragraph (1), to prevent the shifting of deposits described in such paragraph.

"(3) RULE OF CONSTRUCTION.—No provision of this subsection shall be construed as prohibiting conduct or activity of any insured depository institution which—

"(A) is undertaken in the ordinary course of business of such depository institution; and

"(B) is not directed towards the depositors of an insured depository institution affiliate (as defined in section 2(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1841(k)]) of such depository institution."

STATE COOPERATIVE BANKS DEEMED INSURED INSTITUTIONS UNDER SUBSECTION (F)(4)(F)

Pub. L. 100–202, §101(f) [title III, §301], Dec. 22, 1987, 101 Stat. 1329–187, 1329–211, provided that any cooperative bank established under the law of any State which was directed by the State banking authority to obtain Federal deposit insurance between Jan. 1, 1985, and Jan. 1, 1987, would be deemed to be an insured institution described in 12 U.S.C. 1441(f)(4)(F).

SUNSET AND SAVINGS PROVISION

Pub. L. 100–86, title IV, §416, Aug. 10, 1987, 101 Stat. 623, provided that:

"(a) IN GENERAL.—The following provisions shall cease to be effective on the date that a notice is published in the Federal Register by the Financing Corporation pursuant to subsection (b):

"(1) Paragraphs (2), (3), and (5) of—

"(A) section 9(a) of the Home Owners' Loan Act of 1933 [12 U.S.C. 1467(a)(2), (3), (5)]; and

"(B) section 415(a) of the National Housing Act [12 U.S.C. 1730h(a)(2), (3), (5)],

(as added by subsections (a) and (b), respectively, of section 402 of this title).

"(2) Section 10 of the Home Owners' Loan Act of 1933 [12 U.S.C. 1467a] and section 416 of the National Housing Act [12 U.S.C. 1730i] (as added by subsections (a) and (b), respectively, of section 404 of this title).

"(3) Paragraph (6) of section 406(f) of the National Housing Act [12 U.S.C. 1729(f)(6)] (as added by section 405 of this title).

"(4) Section 22A of the Federal Home Loan Bank Act [12 U.S.C. 1442a] (as added by section 407(d) of this title).

"(5) Section 411 of this title [12 U.S.C. 1437 note].

"(b) NOTICE OF COMPLETION OF NET NEW BORROWING BY FINANCING CORPORATION.—When the Financing Corporation established pursuant to section 21 of the Federal Home Loan Bank Act [12 U.S.C. 1441] has completed all net new borrowing under such section, the Financing Corporation shall publish a notice of such fact in the Federal Register. [Notice that the Financing Corporation had completed all net new borrowings and would issue no additional obligations after Dec. 12, 1991, was published Mar. 30, 1992, 57 F.R. 10763.]

"(c) SAVINGS PROVISION.—The termination by subsection (a) of the effectiveness of any provision described in such subsection shall not be construed to affect or limit any authority of the Federal Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law."

¹ *So in original. Probably should refer to paragraph (6) in view of the renumbering of*

paragraph (7) as (6) by Pub. L. 101-73.

² So in original. See 2008 Amendment note below.

³ See 2008 Amendment note below.

⁴ See References in Text note below.

⁵ So in original. Probably should be followed by a period.

§1441a. Repealed. Pub. L. 111-203, title III, §364(b), July 21, 2010, 124 Stat. 1555

Section, act July 22, 1932, ch. 522, §21A, as added Pub. L. 101-73, title V, §501(a), Aug. 9, 1989, 103 Stat. 363; amended Pub. L. 101-625, title VIII, §804(d), title IX, §914(c), Nov. 28, 1990, 104 Stat. 4323, 4395; Pub. L. 101-647, title XXV, §§2526(c), 2540, Nov. 29, 1990, 104 Stat. 4876, 4885; Pub. L. 102-18, title I, §§101, 102(a), 103(a), 104, 105, title II, §§201, 202, title III, §301, title IV, §401, Mar. 23, 1991, 105 Stat. 58, 60-63, 65; Pub. L. 102-139, title V, §523(a), Oct. 28, 1991, 105 Stat. 781; Pub. L. 102-233, title I, §§101, 103, 105, 106(a)-(e)(1), title II, §201, title III, §§302(b), (c), 303-312, 314, 316, title IV, §§401, 402(a), 403-405, title V, §501, title VI, §§601-611, 613-617, Dec. 12, 1991, 105 Stat. 1761-1765, 1767-1770, 1772-1774, 1776-1789; Pub. L. 102-242, title I, §141(a)(3), title II, §251(c)(1), title IV, §471, Dec. 19, 1991, 105 Stat. 2276, 2333, 2385; Pub. L. 102-378, §5(e), Oct. 2, 1992, 106 Stat. 1358; Pub. L. 102-550, title V, §§503(c)(3), 509(i), title XVI, §§1611(a), (d)(1)-(3), 1612, 1613(a)(1)-(6), (8), (b)-(h), 1614(a)(1)-(5), (7), (b), 1615(a)(2), 1616, Oct. 28, 1992, 106 Stat. 3780, 3783, 4090-4096; Pub. L. 103-204, §§2-3(b), 4(a), 5(a), (b)(2), 7, 12, 14(a)(1), (c)(2), (d)(1), (e)(1), (f)(1), 15(a), 16(a), 17(a), 21(b), 24, 27(a), 29-31, 36, Dec. 17, 1993, 107 Stat. 2370-2380, 2382, 2383, 2390, 2391, 2395-2400, 2406, 2408, 2410-2413, 2415; Pub. L. 103-211, title IV, §406, Feb. 12, 1994, 108 Stat. 41; Pub. L. 103-325, title VI, §602(b), Sept. 23, 1994, 108 Stat. 2291; Pub. L. 103-328, title II, §201(b), Sept. 29, 1994, 108 Stat. 2368; Pub. L. 104-66, title II, §2231, Dec. 21, 1995, 109 Stat. 733; Pub. L. 104-208, div. A, title II, §2704(d)(11)(B)-(D), Sept. 30, 1996, 110 Stat. 3009-489; Pub. L. 105-135, title VI, §604(b), Dec. 2, 1997, 111 Stat. 2633; Pub. L. 106-400, §2, Oct. 30, 2000, 114 Stat. 1675; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 109-171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109-173, §9(d)(3)-(6), Feb. 15, 2006, 119 Stat. 3616, 3617; Pub. L. 110-289, div. A, title II, §1204(8), (12), July 30, 2008, 122 Stat. 2786, related to establishment of Thrift Depositor Protection Oversight Board and Resolution Trust Corporation.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Pub. L. 102-233, title III, §302(a), Dec. 12, 1991, 105 Stat. 1767, redesignated the Oversight Board, as established by former subsec. (a)(1) of this section, as the Thrift Depositor Protection Oversight Board.

EFFECTIVE DATE OF REPEAL

Repeal effective on the transfer date, see section 351 of Pub. L. 111-203, set out as an Effective Date of 2010 Amendment note under section 906 of Title 2, The Congress.

SAVINGS PROVISION

Pub. L. 102-233, title III, §317, Dec. 12, 1991, 105 Stat. 1773, provided that the rights and duties, actions and proceedings, and orders and regulations that had attached to the Oversight Board as of Feb. 1, 1992, would not be affected by title III of Pub. L. 102-233 and that the Thrift Depositor Protection Oversight Board would assume the role of the Oversight Board where applicable.

ABOLITION OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Pub. L. 105-216, §14(a)-(d), July 29, 1998, 112 Stat. 908-910, abolished the Thrift Depositor Protection Oversight Board established under former section 1441a of this title, effective at the end of the 3-month period beginning July 29, 1998, provided that, effective July 29, 1998, the Chairperson of the Oversight Board (or the designee of the Chairperson) may exercise on behalf of the Oversight Board any power of the Oversight Board necessary to settle and conclude the affairs of the Oversight Board, included savings provisions, and

transferred authority and duties of the Oversight Board under former section 1441a(a)(6)(I) and section 1441b of this title to the Secretary of the Treasury (or the designee of the Secretary).

FDIC–RTC TRANSITION TASK FORCE

Pub. L. 103–204, §6, Dec. 17, 1993, 107 Stat. 2382, required the Federal Deposit Insurance Corporation (FDIC) and the Resolution Trust Corporation (RTC) to establish an interagency transition task force to facilitate the transfer of the assets, personnel, and operations of the RTC to the FDIC or the FSLIC Resolution Fund, as the case may be, in a coordinated manner; prescribed the composition, appointment, and duties of the task force; required the task force to submit certain reports to certain congressional committees; and required the FDIC to submit a follow up report to certain congressional committees.

§1441a–1. Definitions

For purposes of section 1441a–2 of this title:

(1) State housing finance authority

The term "State housing finance authority" means any public agency, authority, or corporation which—

- (A) serves as an instrumentality of any State or any political subdivision of any State; and
- (B) functions as a source of residential mortgage loan financing in that State.

(2) Nonprofit entity

The term "nonprofit entity" means any not-for-profit corporation chartered under State law that is exempt from Federal taxation under section 501(c) of title 26 and no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual (including any nonprofit entity established by the corporation established under title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.]).

(3) Mortgage-related assets

The term "mortgage-related assets" means—

- (A) residential mortgage loans secured by 1- to 4-family or multifamily dwellings; and
- (B) real property improved with 1- to 4-family or multifamily residential dwellings,

which are located within the jurisdiction of the applicable State housing finance authority or within the geographical area served by the nonprofit entity.

(4) Net income

The term "net income" means income after deduction of all associated expenses calculated in accordance with generally accepted accounting principles.

(Pub. L. 101–73, title XIII, §1301, Aug. 9, 1989, 103 Stat. 547.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Urban Development Act of 1968, referred to in par. (2), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476. Title IX of the Housing and Urban Development Act of 1968 is classified principally to chapter 49 (§3931 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

§1441a–2. Authorization for State housing finance agencies and nonprofit entities

to purchase mortgage-related assets

(a) Authorization

Notwithstanding any other provision of Federal or State law, a State housing finance authority or nonprofit entity may purchase mortgage-related assets from the Resolution Trust Corporation or from financial institutions with respect to which the Federal Deposit Insurance Corporation is acting as a conservator or receiver (including assets associated with any trust business), and any contract for such purchase shall be effective in accordance with its terms without any further approval, assignment, or consent with respect to that contract.

(b) Investment requirement

Any State housing finance authority or nonprofit entity which purchases mortgage-related assets pursuant to subsection (a) shall invest any net income attributable to the ownership of those assets in financing, refinancing, or rehabilitating low- and moderate-income housing within the jurisdiction of the State housing finance authority or within the geographical area served by the nonprofit entity.

(Pub. L. 101-73, title XIII, §1302, Aug. 9, 1989, 103 Stat. 548.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

DEFINITIONS

The definitions in section 1441a-1 of this title apply to this section.

§1441a-3. RTC and FDIC properties

(a) Reports

(1) Submission

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation shall each submit to the Congress for each year a report identifying and describing any property that is covered property of the corporation concerned as of September 30 of such year. The report shall be submitted on or before March 30 of the following year.

(2) Consultation

In preparing the reports required under this subsection, each corporation concerned may consult with the Secretary of the Interior for purposes of identifying the properties described in paragraph (1).

(b) Limitation on transfer

(1) Notice

The Resolution Trust Corporation and the Federal Deposit Insurance Corporation may not sell or otherwise transfer any covered property unless the corporation concerned causes to be published in the Federal Register a notice of the availability of the property for purchase or other transfer that identifies the property and describes the location, characteristics, and size of the property.

(2) Expression of serious interest

During the 90-day period beginning on the date that notice under paragraph (1) concerning a covered property is first published, any governmental agency or qualified organization may submit

to the corporation concerned a written notice of serious interest for the purchase or other transfer of a particular covered property for which notice has been published. The notice of serious interest shall be in such form and include such information as the corporation concerned may prescribe.

(3) Prohibition of transfer

During the period under paragraph (2), a corporation concerned may not sell or otherwise transfer any covered property for which notice has been published under paragraph (1). Upon the expiration of such period, the corporation concerned may sell or otherwise transfer any covered property for which notice under paragraph (1) has been published if a notice of serious interest under paragraph (2) concerning the property has not been timely submitted.

(4) Offers and permitted transfer

If a notice of serious interest in a covered property is timely submitted pursuant to paragraph (2), the corporation concerned may not sell or otherwise transfer such covered property during the 90-day period beginning upon the expiration of the period under paragraph (2) except to a governmental agency or qualified organization for use primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes, unless all notices of serious interest under paragraph (2) have been withdrawn.

(c) Definitions

For purposes of this section:

(1) Corporation concerned

The term "corporation concerned" means—

(A) the Federal Deposit Insurance Corporation, with respect to matters relating to the Federal Deposit Insurance Corporation; and

(B) the Resolution Trust Corporation, with respect to matters relating to the Resolution Trust Corporation.

(2) Covered property

The term "covered property" means any property—

(A) to which—

(i) the Resolution Trust Corporation has acquired title in its corporate or receivership capacity; or

(ii) the Federal Deposit Insurance Corporation has acquired title in its corporate capacity or which was acquired by the former Federal Savings and Loan Insurance Corporation in its corporate capacity; and

(B) that—

(i) is located within the John H. Chafee Coastal Barrier Resources System; or

(ii) is undeveloped, greater than 50 acres in size, and adjacent to or contiguous with any lands managed by a governmental agency primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

(3) Governmental agency

The term "governmental agency" means any agency or entity of the Federal Government or a State or local government.

(4) Undeveloped

The term "undeveloped" means—

(A) containing few manmade structures and having geomorphic and ecological processes that are not significantly impeded by any such structures or human activity; and

(B) having natural, cultural, recreational, or scientific value of special significance.

(Pub. L. 101–591, §10, Nov. 16, 1990, 104 Stat. 2939; Pub. L. 106–167, §3(c)(5), Dec. 9, 1999, 113 Stat. 1804.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Coastal Barrier Improvement Act of 1990, and not as part of the Federal Home Loan Bank Act which comprises this chapter.

AMENDMENTS

1999—Subsec. (c)(2)(B)(i). Pub. L. 106–167 substituted "John H. Chafee Coastal Barrier Resources System" for "Coastal Barrier Resources System".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (a)(1) of this section requiring submittal of an annual report to Congress, see section 3003 of Pub. L. 104–66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and pages 168 and 190 of House Document No. 103–7.

§1441b. Resolution Funding Corporation established

(a) Purpose

The purpose of the Resolution Funding Corporation is to provide funds to the Resolution Trust Corporation to enable the Resolution Trust Corporation to carry out the provisions of this chapter.

(b) Establishment

There is established a corporation to be known as the Resolution Funding Corporation.

(c) Management of Funding Corporation

(1) Directorate

The Funding Corporation shall be under the management of a Directorate composed of 3 members as follows:

(A) The director of the Office of Finance of the Federal Home Loan Banks (or the head of any successor office).

(B) 2 members selected by the Thrift Depositor Protection Oversight Board from among the presidents of the Federal Home Loan Banks.

(2) Terms

Of the 2 members appointed under paragraph (1)(B), 1 shall be appointed for an initial term of 2 years and 1 shall be appointed for an initial term of 3 years. Thereafter, such members shall be appointed for a term of 3 years.

(3) Vacancy

If any member leaves the office in which such member was serving when appointed to the Directorate—

(A) such member's service on the Directorate shall terminate on the date such member leaves such office; and

(B) the successor to the office of such member shall serve the remainder of such member's term.

(4) Equal representation of banks

No president of a Federal Home Loan Bank may be appointed to serve an additional term on the Directorate until such time as the presidents of each of the other Federal Home Loan Banks have served as many terms as the president of such bank.

(5) Chairperson

The Thrift Depositor Protection Oversight Board shall select the chairperson of the Directorate

from among the 3 members of the Directorate.

(6) Staff

(A) No paid employees

The Funding Corporation shall have no paid employees.

(B) Powers

The Directorate may, with the approval of the Director authorize the officers, employees, or agents of the Federal Home Loan Banks to act for and on behalf of the Funding Corporation in such manner as may be necessary to carry out the functions of the Funding Corporation.

(7) Administrative expenses

(A) In general

All administrative expenses of the Funding Corporation, including custodian fees, shall be paid by the Federal Home Loan Banks.

(B) Pro rata distribution

The amount each Federal Home Loan Bank shall pay under subparagraph (A) shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the total administrative expenses for any period by the percentage arrived at by dividing—

(i) the aggregate amount the Thrift Depositor Protection Oversight Board required such bank to invest in the Funding Corporation (as of the time of such determination) under paragraphs (4) and (5) of subsection (e) (computed without regard to paragraphs (3) or (6) of such subsection); by

(ii) the aggregate amount the Thrift Depositor Protection Oversight Board required all Federal Home Loan Banks to invest (as of the time of such determination) under such paragraphs.

(8) Regulation by Thrift Depositor Protection Oversight Board

The Directorate of the Funding Corporation shall be subject to such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe.

(9) No compensation from Funding Corporation

Members of the Directorate of the Funding Corporation shall receive no pay, allowance, or benefit from the Funding Corporation for serving on the Directorate.

(d) Powers of Funding Corporation

The Funding Corporation shall have only the powers described in paragraphs (1) through (9), subject to the other provisions of this section and such regulations, orders, and directions as the Thrift Depositor Protection Oversight Board may prescribe:

(1) Issue stock

To issue nonvoting capital stock to the Federal Home Loan Banks.

(2) Purchase capital stock; transfer amounts

To purchase capital certificates issued by the Resolution Trust Corporation under section 1441a of this title, and to transfer amounts to the Resolution Trust Corporation pursuant to subsection (e)(8) of this section.

(3) Issue obligations

To issue debentures, bonds, or other obligations, and to borrow, to give security for any amount borrowed, and to pay interest on (and any redemption premium with respect to) any such obligation or amount.

(4) Impose assessments

To impose assessments in accordance with subsection (e)(7).

(5) Corporate seal

To adopt, alter, and use a corporate seal.

(6) Succession

To have succession until dissolved.

(7) Contracts

To enter into contracts.

(8) Authority to sue

To sue and be sued in its corporate capacity, and to complain and defend in any action brought by or against the Funding Corporation in any State or Federal court of competent jurisdiction.

(9) Incidental powers

To exercise such incidental powers not inconsistent with the provisions of this section and section 1441a of this title as are necessary and appropriate to carry out the provisions of this section.

(e) Capitalization of Funding Corporation, etc.

(1) In general

(A) Amount required

The Thrift Depositor Protection Oversight Board shall ensure that the aggregate of the amounts obtained under this subsection shall be sufficient so that—

- (i) the Funding Corporation may transfer the amounts required under paragraph (8); and
- (ii) the total of the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation.

(B) Purchases of stock by Federal Home Loan Banks

Each Federal Home Loan Bank shall purchase stock in the Funding Corporation at times and in amounts prescribed by the Thrift Depositor Protection Oversight Board.

(2) Par value; transferability

Each share of stock issued by the Funding Corporation to a Federal Home Loan Bank shall have a par value in an amount determined by the Thrift Depositor Protection Oversight Board and shall be transferable at not less than par value only among the Federal Home Loan Banks in the manner and to the extent prescribed by the Thrift Depositor Protection Oversight Board.

(3) Maximum investment amount limitation for each Federal Home Loan Bank

The cumulative amount of funds invested in nonvoting capital stock of the Funding Corporation by each Federal Home Loan Bank under paragraph (1) shall not at any time exceed the sum of the amounts calculated under subparagraphs (A) and (B), as adjusted in subparagraph (C), as follows:

(A) Reserves and undivided profits on December 31, 1988

The sum on December 31, 1988, of—

- (i) the reserves maintained by such Bank pursuant to the reserve requirement contained in the first 2 sentences of section 1436 of this title (as in effect on December 31, 1988); and
- (ii) the undivided profits of such Bank, minus the amounts invested in the capital stock of the Financing Corporation pursuant to section 1441 of this title.

(B) Subsequent additions to reserves and undivided profits

The amount, calculated until the date on which the Funding Corporation Principal Fund is fully funded, equal to—

- (i) the sum of—
 - (I) the amounts added to reserves by such Bank after December 31, 1988, pursuant to the reserve requirement contained in the first 2 sentences of section 1436 of this title (as in

effect on December 31, 1988); and

(II) the quarterly additions to undivided profits of the Bank after December 31, 1988; minus

(ii) the amounts invested by such Bank in the capital stock of the Financing Corporation after December 31, 1988, pursuant to the requirement contained in section 1441 of this title.

(C) Annual adjustment

The amounts in subparagraph (B) shall be adjusted as follows:

(i) Increase in limit

If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is less than \$300,000,000 per year, the limit for each Bank shall be increased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate deficiency by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(ii) Decrease in limit

If the aggregate amount for all Federal Home Loan Banks determined under subparagraph (B)(i) is more than \$300,000,000 per year, the limit for each Bank shall be decreased by an amount determined by the Thrift Depositor Protection Oversight Board by multiplying the aggregate excess by the percentage applicable to such Bank arrived at in the manner described in paragraph (5).

(4) Pro rata distribution of first \$1,000,000,000 invested in Funding Corporation by Federal Home Loan Banks

Of the first \$1,000,000,000 of the aggregate that the Director (pursuant to section 1441 of this title) or the Thrift Depositor Protection Oversight Board (under this section) may require the Federal Home Loan Banks collectively to invest in the capital stock of the Financing Corporation or invest in the capital stock of the Funding Corporation, respectively, the amount which each Federal Home Loan Bank (or any successor to the Bank) shall invest shall be determined by the Director or the Thrift Depositor Protection Oversight Board (as the case may be) by multiplying the aggregate amount of such investment by all Banks by the percentage appearing in the following table for each such Bank:

| Bank | Percentage |
|---|-------------------|
| Federal Home Loan Bank of Boston | 1.8629 |
| Federal Home Loan Bank of New York | 9.1006 |
| Federal Home Loan Bank of Pittsburgh | 4.2702 |
| Federal Home Loan Bank of Atlanta | 14.4007 |
| Federal Home Loan Bank of Cincinnati | 8.2653 |
| Federal Home Loan Bank of Indianapolis | 5.2863 |
| Federal Home Loan Bank of Chicago | 9.6886 |
| Federal Home Loan Bank of Des Moines | 6.9301 |
| Federal Home Loan Bank of Dallas | 8.8181 |
| Federal Home Loan Bank of Topeka | 5.2706 |
| Federal Home Loan Bank of San Francisco | 19.9644 |
| Federal Home Loan Bank of Seattle | 6.1422 |

(5) Pro rata distribution of amounts required to be invested in excess of \$1,000,000,000

Of any amount which the Thrift Depositor Protection Oversight Board may require the Federal

Home Loan Banks to invest in capital stock of the Funding Corporation under this subsection in excess of the \$1,000,000,000 amount referred to in paragraph (4), the amount which each Federal Home Loan Bank (or any successor to such Bank) shall invest shall be determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(A) the sum of the total assets (as of the most recent December 31) held by all Savings Association Insurance Fund members as of the date of funding which are members of such Bank; by

(B) the sum of the total assets (as of such date) held by all Savings Association Insurance Fund members as of the date of funding which are members of a Federal Home Loan Bank.

(6) Special provisions relating to maximum amount limitations

(A) In general

If the amount of any Federal Home Loan Bank's allocation under paragraph (5) exceeds the maximum amount applicable with respect to such Bank (in this paragraph referred to as a "deficient Bank") under paragraph (3) at the time of such determination (in this paragraph referred to as the "excess amount")—

(i) the Thrift Depositor Protection Oversight Board shall require each Federal Home Loan Bank that is not allocated an amount under paragraph (5) that exceeds its maximum under paragraph (3) (in this paragraph referred to as a "remaining Bank") to purchase stock in the Funding Corporation (in addition to the amount determined under paragraph (5) for such remaining Bank and subject to the maximum amount applicable with respect to such remaining Bank under paragraph (3) at the time of such determination) on behalf of the deficient Bank the amount determined under subparagraph (B);

(ii) the Thrift Depositor Protection Oversight Board shall require the deficient Bank to subsequently reimburse the remaining Banks out of its net earnings (or reimbursements received from other Banks) in the manner described in subparagraphs (C) and (D); and

(iii) the requirements contained in subparagraph (D) relating to the use of net earnings shall apply to the deficient Bank until such Bank has reimbursed the remaining Banks for all of the excess amount.

(B) Allocation of excess amount among remaining Federal Home Loan Banks

(i) In general

The amount of stock each remaining Federal Home Loan Bank shall be required to purchase under subparagraph (A)(i) is the amount determined by the Thrift Depositor Protection Oversight Board by multiplying the excess amount by the percentage arrived at by dividing—

(I) the cumulative amount of stock in the Funding Corporation purchased under this subsection by such remaining Bank at the time of such determination; by

(II) the aggregate of the cumulative amounts invested under this subsection by all remaining Banks at such time.

(ii) Reallocation

If the allocation under this subparagraph results in a remaining Bank exceeding its maximum amount under paragraph (3), such excess amount shall be reallocated to the other remaining Bank in accordance with this subparagraph.

(C) Reimbursement procedure

(i) In general

A Bank on whose behalf stock is purchased under subparagraph (A)(i) shall make payments annually from amounts, if any, in its reserve account (as described in subparagraph (D)) to each Bank that made payments on its behalf until a full reimbursement has been completed. A full reimbursement shall require repayment of the excess amounts invested by other Banks plus interest which shall accrue at a rate equal to the annual average cost of

funds in the most recent year to all Federal Home Loan Banks and which shall begin to accrue 2 years after the investments under subparagraph (A)(i) are made.

(ii) Determination of amounts

The Thrift Depositor Protection Oversight Board shall annually determine the dollar amounts of such reimbursements by distributing the amount available for such reimbursements (at the time of such determination) from the reimbursing Bank to the Banks that made purchases on its behalf according to the shares of the reimbursing Bank's excess amount that the other Banks invested.

(D) Transfer to account for reimbursements required

(i) In general

Of the net earnings for any year of a Bank on whose behalf a purchase is made under subparagraph (A)(i) and any reimbursements received from other Banks, the amount necessary to make the reimbursements required under subparagraph (A)(ii) shall be placed in a reserve account (established in the manner prescribed by the Thrift Depositor Protection Oversight Board), which shall be available only for such reimbursements.

(ii) Limitation

The total amount placed in such reserve account in any year by any Bank shall not exceed an amount equal to 20 percent of the net earnings of such Bank for such year.

(f) Obligations of Funding Corporation

(1) Issuance

The Funding Corporation may issue bonds, notes, debentures, and similar obligations in an aggregate amount not to exceed \$30,000,000,000. No obligation may be issued under this paragraph unless, at the time of issuance, the face amounts (the amount of principal payable at maturity) of noninterest bearing instruments in the Funding Corporation Principal Fund are equal to the aggregate amount of principal on the obligations of the Funding Corporation that will be outstanding following such issuance.

(2) Interest payments

The Funding Corporation shall pay the interest due on such obligations from funds obtained for such interest payments from the following sources:

(A) Earnings on certain assets

Earnings on assets of the Funding Corporation which are not invested in the Funding Corporation Principal Fund shall be used for interest payments on outstanding debt of the Funding Corporation.

(B) Proceeds from Resolution Trust Corporation

To the extent the amounts available pursuant to subparagraph (A) are insufficient to cover the amount of interest payments, the Resolution Trust Corporation shall pay to the Funding Corporation—

(i) the liquidating dividends and payments made on claims received by the Resolution Trust Corporation from receiverships to the extent such proceeds are determined by the Thrift Depositor Protection Oversight Board to be in excess of funds presently necessary for resolution costs; and

(ii) any proceeds from warrants and participations acquired by the Resolution Trust Corporation.

(C) Payments by Federal home loan banks

(i) In general

To the extent that the amounts available pursuant to subparagraphs (A) and (B) are insufficient to cover the amount of interest payments, each Federal home loan bank shall pay

to the Funding Corporation in each calendar year, 20.0 percent of the net earnings of that Bank (after deducting expenses relating to section 1430(j) of this title and operating expenses).

(ii) Annual determination

The Director annually shall determine the extent to which the value of the aggregate amounts paid by the Federal home loan banks exceeds or falls short of the value of an annuity of \$300,000,000 per year that commences on the issuance date and ends on the final scheduled maturity date of the obligations, and shall select appropriate present value factors for making such determinations, in consultation with the Secretary of the Treasury.

(iii) Payment term alterations

The Director shall extend or shorten the term of the payment obligations of a Federal home loan bank under this subparagraph as necessary to ensure that the value of all payments made by the Banks is equivalent to the value of an annuity referred to in clause (ii).

(iv) Term beyond maturity

If the Director extends the term of payment obligations beyond the final scheduled maturity date for the obligations, each Federal home loan bank shall continue to pay 20.0 percent of its net earnings (after deducting expenses relating to section 1430(j) of this title and operating expenses) to the Treasury of the United States until the value of all such payments by the Federal home loan banks is equivalent to the value of an annuity referred to in clause (ii). In the final year in which the Federal home loan banks are required to make any payment to the Treasury under this subparagraph, if the dollar amount represented by 20.0 percent of the net earnings of the Federal home loan banks exceeds the remaining obligation of the Banks to the Treasury, the Director shall reduce the percentage pro rata to a level sufficient to pay the remaining obligation.

(v) Semiannual reports

The Director shall report semiannually to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the projected date for the completion of contributions required by this section.

(D) Proceeds from sale of assets

To the extent the amounts available pursuant to subparagraphs (A), (B), and (C) are insufficient to cover the amount of interest payments, the FSLIC Resolution Fund shall transfer to the Funding Corporation any net proceeds from the sale of assets received from the Resolution Trust Corporation, which shall be used by the Funding Corporation to pay such interest.

(E) Treasury backup

(i) In general

To the extent the amounts available pursuant to subparagraphs (A), (B), (C), and (D) are insufficient to cover the amount of interest payments, the Secretary of the Treasury shall pay to the Funding Corporation the additional amount due, which shall be used by the Funding Corporation to pay such interest.

(ii) Liability of Funding Corporation

In each instance where the Secretary is required to make a payment under this subparagraph to the Funding Corporation, the amount of the payment shall become a liability of the Funding Corporation to be repaid to the Secretary upon dissolution of the Funding Corporation (to the extent the Funding Corporation may have any remaining assets).

(iii) Appropriation of funds

There are hereby appropriated to the Secretary, for fiscal year 1989 and each fiscal year

thereafter, such sums as may be necessary to carry out clause (i).

(3) Principal payments

On maturity of an obligation issued under this subsection, the obligation shall be repaid by the Funding Corporation from the liquidation of noninterest bearing instruments held in the Funding Corporation Principal Fund.

(4) Proceeds to be transferred to Resolution Trust Corporation

Subject to terms and conditions approved by the Thrift Depositor Protection Oversight Board, the proceeds (less any discount, plus any premium, net of issuance costs) of any obligation issued by the Funding Corporation shall be used to—

(A) purchase the capital certificates issued by the Resolution Trust Corporation under section 1441a of this title; or

(B) refund any previously issued obligation the proceeds of which were transferred in the manner described in subparagraph (A).

(5) Investment of United States funds in obligations

Obligations issued under this section by the Funding Corporation, at the direction of the Thrift Depositor Protection Oversight Board shall be lawful investments, and may be accepted as security, for all fiduciary, trust, and public funds the investment or deposit of which shall be under the authority or control of the United States or any officer of the United States.

(6) Market for obligations

All persons having the power to invest in, sell, underwrite, purchase for their own accounts, accept as security, or otherwise deal in obligations of the Federal Home Loan Banks shall also have the power to do so with respect to obligations of the Funding Corporation.

(7) Tax exempt status

(A) In general

Except as provided in subparagraph (B), obligations of the Funding Corporation shall be exempt from tax both as to principal and interest to the same extent as any obligation of a Federal Home Loan Bank is exempt from tax under section 1433 of this title.

(B) Exception

The Funding Corporation, like the Federal Home Loan Banks, shall be treated as an agency of the United States for purposes of the first sentence of section 3124(b) of title 31 (relating to determination of tax status of interest on obligations).

(8) Obligations not exempt securities

(A) In general

For purposes of the laws administered by the Securities and Exchange Commission, obligations of the Funding Corporation—

(i) shall not be considered to be securities issued or guaranteed by a person controlled or supervised by, or acting as an instrumentality of, the Government of the United States; and

(ii) shall not be considered to be "exempted securities" within the meaning of section 78c(a)(12)(A)(i) of title 15, except that such obligations shall be considered to be exempted securities for purposes of section 78o of title 15.

(B) Authority of Commission

Notwithstanding subparagraph (A), the Securities and Exchange Commission may, by rule or order, consistent with the public interest and the protection of investors, exempt securities issued by the Funding Corporation from the registration requirements of the Securities Act of 1933 [15 U.S.C. 77a et seq.], subject to such terms and conditions as the Commission may prescribe.

(9) Minority participation in public or negotiated offerings

The Thrift Depositor Protection Oversight Board and the Directorate shall ensure that minority owned or controlled commercial banks, investment banking firms, underwriters, and bond counsels throughout the United States have an opportunity to participate to a significant degree in any public or negotiated offering of obligations issued under this section.

(10) No full faith and credit of the United States

Obligations of the Funding Corporation shall not be obligations of, or guaranteed as to principal by, the Federal Home Loan Bank System, the Federal Home Loan Banks, the United States, or the Resolution Trust Corporation and the obligations shall so plainly state. The Secretary shall pay interest on such obligations as required pursuant to this subsection.

(g) Use and disposition of assets of Funding Corporation not transferred to Resolution Trust Corporation

(1) In general

Subject to regulations, restrictions, and limitations prescribed by the Thrift Depositor Protection Oversight Board, assets of the Funding Corporation which are not required to be invested in capital certificates issued by the Resolution Trust Corporation under section 1441a of this title and are not needed for current interest payments shall be invested in direct obligations of the United States issued by the Secretary.

(2) Separate account for zero coupon instruments held to ensure payment of principal

Except as provided in subsection (e)(8), the Funding Corporation shall invest amounts received pursuant to subsection (e) in, and hold in a separate account to be known as the Funding Corporation Principal Fund, noninterest bearing instruments—

(A) which are direct obligations of the United States issued by the Secretary; and

(B) the total of the face amounts (the amount of principal payable at maturity) of which is approximately equal to the aggregate amount of principal on the obligations of the Funding Corporation.

(h) Miscellaneous provisions

(1) Treatment for certain purposes

Except as provided in subsection (f)(7)(B), the Funding Corporation shall be treated as a Federal Home Loan Bank for purposes of section 1433 of this title (to the extent such section relates to State, municipal, and local taxation) and section 1443 of this title.

(2) Federal Reserve banks as depositaries and fiscal agents

The Federal Reserve banks are authorized to act as depositaries for or fiscal agents or custodians of the Funding Corporation.

(3) Applicability of certain provisions relating to Government corporations

The Funding Corporation shall be treated, for purposes of sections 9105,¹ 9107, and 9108 of title 31, as a mixed-ownership Government corporation which has capital of the Government.

(4) Jurisdiction and power to remove

(A) Federal court jurisdiction

Notwithstanding any other provision of law, any civil action, suit, or proceeding to which the Funding Corporation is a party shall be deemed to arise under the laws of the United States, and the United States district courts shall have original jurisdiction over such action, suit, or proceeding.

(B) Removal

The Funding Corporation may, without bond or security, remove any such action, suit, or proceeding from a State court to the United States District Court for the District of Columbia.

(i) Annual report

(1) In general

The Thrift Depositor Protection Oversight Board shall annually submit a full report of the operations, activities, budget, receipts, and expenditures of the Funding Corporation for the preceding 12-month period.

(2) Contents

The report required under paragraph (1) shall include—

(A) audited statements and any information necessary to make known the financial condition and operations of the Funding Corporation in accordance with generally accepted accounting principles;

(B) the financial operating plans and forecasts (including estimates of actual and future spending, and estimates of actual and future cash obligations) of the Funding Corporation taking into account its financial commitments, guarantees, and other contingent liabilities; and

(C) the results of the annual audit of the financial transactions of the Funding Corporation conducted by the Comptroller General pursuant to section 9105(a) of title 31.

(3) Submission to Congress and President

The Thrift Depositor Protection Oversight Board shall submit each annual report required under this subsection to the Congress and the President as soon as practicable after the end of the calendar year for which the report is made, but not later than June 30 of the year following such calendar year.

(j) Termination of Funding Corporation

(1) In general

The Funding Corporation shall be dissolved, as soon as practicable, after the maturity and full payment of all obligations issued by the Funding Corporation under this section.

(2) Authority of Thrift Depositor Protection Oversight Board to conclude affairs of Funding Corporation

Effective on the date of the dissolution of the Funding Corporation under paragraph (1), the Thrift Depositor Protection Oversight Board may exercise on behalf of the Funding Corporation any power of the Funding Corporation which the Thrift Depositor Protection Oversight Board determines to be necessary to settle and conclude the affairs of the Funding Corporation.

(k) Definitions

For purposes of this section, the following definitions shall apply:

(1) Administrative expenses

The term "administrative expenses" does not include—

(A) any interest on, or any redemption premium with respect to, any obligation of the Funding Corporation; or

(B) issuance costs.

(2) Custodian fee

The term "custodian fee" means—

(A) any fee incurred by the Funding Corporation in connection with the transfer of any security to, or the maintenance of any security in, the segregated account established under subsection (g); and

(B) any other expense incurred by the Funding Corporation in connection with the establishment or maintenance of such account.

(3) Funding Corporation

The term "Funding Corporation" means the Resolution Funding Corporation established in subsection (b).

(4) Funding Corporation Principal Fund

The term "Funding Corporation Principal Fund" means the separate account established under subsection (g)(2).

(5) Issuance costs

The term "issuance costs"—

(A) means issuance fees and commissions incurred by the Funding Corporation in connection with the issuance or servicing of any obligation of the Funding Corporation; and

(B) includes legal and accounting expenses, trustee and fiscal and paying agent charges, costs incurred in connection with preparing and printing offering materials, and advertising expenses, to the extent that any such cost or expense is incurred by the Funding Corporation in connection with issuing any obligation.

(6) Net earnings

The term "net earnings" means net earnings without reduction for chargeoffs or expenses incurred by a Federal Home Loan Bank for the purchase of capital stock of the Financing Corporation or payments relating to the Funding Corporation required by the Thrift Depositor Protection Oversight Board under subsections (e) and (f).

(7) Thrift Depositor Protection Oversight Board

The term "Thrift Depositor Protection Oversight Board" means—

(A) the Thrift Depositor Protection Oversight Board of the Resolution Trust Corporation under section 1441a of this title; and

(B) after the termination of the Resolution Trust Corporation—

(i) the Secretary of the Treasury;

(ii) the Chairman of the Board ² of Governors of the Federal Reserve System; and

(iii) the Secretary of Housing and Urban Development.

(8) Secretary

The term "Secretary" means the Secretary of the Treasury.

(9) Undivided profits

The term "undivided profits" means earnings retained after dividends have been paid minus the sum of—

(A) that portion required to be added to reserves maintained pursuant to the first 2 sentences of section 1436 of this title; and

(B) the dollar amounts held by the respective Federal Home Loan Banks in special dividend stabilization reserves on December 31, 1985, as determined by the table set forth in section 1441(d)(7) of this title.

(I) Regulations

The Thrift Depositor Protection Oversight Board may prescribe any regulations necessary to carry out this section.

(July 22, 1932, ch. 522, §21B, as added Pub. L. 101–73, title V, §511(a), Aug. 9, 1989, 103 Stat. 394; amended Pub. L. 102–233, title III, §302(b), Dec. 12, 1991, 105 Stat. 1767; Pub. L. 102–550, title XVI, §1613(a)(7), (9), Oct. 28, 1992, 106 Stat. 4092; Pub. L. 104–208, div. A, title II, §2704(d)(5), (11)(E), (F), Sept. 30, 1996, 110 Stat. 3009–488, 3009–489; Pub. L. 106–102, title VI, §607(a), Nov. 12, 1999, 113 Stat. 1455; Pub. L. 109–171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, §9(d)(7), (8), Feb. 15, 2006, 119 Stat. 3617; Pub. L. 110–289, div. A, title II, §§1204(8)–(10), (12), 1213, July 30, 2008, 122 Stat. 2786, 2791.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Securities Act of 1933, referred to in subsec. (f)(8)(B), is act May 27, 1933, ch. 38, title I, 48 Stat. 74, which is classified generally to subchapter I (§77a et seq.) of chapter 2A of Title 15, Commerce and Trade.

For complete classification of this Act to the Code, see section 77a of Title 15 and Tables.

Section 9105 of title 31, referred to in subsec. (h)(3), was amended generally by Pub. L. 101-576, title III, §305, Nov. 15, 1990, 104 Stat. 2853, and, as so amended, no longer contains provisions relating to mixed-ownership Government corporations having capital of the Government.

AMENDMENTS

2008—Subsecs. (c)(6)(B), (e)(4). Pub. L. 110-289, §1204(12), substituted "Director" for "Federal Housing Finance Board" wherever appearing.

Subsec. (f)(2)(C)(ii) to (iv). Pub. L. 110-289, §1204(8)–(10), substituted, in cls. (ii) and (iii), "The Director" for "The Board" and, in cl. (iv), "the Director" for "the Board" before "extends" and "the Director" for "the Finance Board" before "shall reduce".

Subsec. (f)(2)(C)(v). Pub. L. 110-289, §1213, added cl. (v).

Subsec. (k)(7)(B)(ii). Pub. L. 110-289, §1204(8), which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting "the Director" for "the Board" wherever appearing, was not executed to subsec. (k)(7)(B)(ii), to reflect the probable intent of Congress.

2006—Subsec. (e). Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(11)(E). See 1996 Amendment note below.

Subsec. (e)(5). Pub. L. 109-173, §9(d)(7)(A), inserted "as of the date of funding" after "Savings Association Insurance Fund members" in subpars. (A) and (B).

Subsec. (e)(7), (8). Pub. L. 109-173, §9(d)(7)(B), struck out pars. (7) and (8) which related to additional sources to fund the Funding Corporation Principal Fund and a transfer of funds to the Resolution Trust Corporation in fiscal year 1989, respectively.

Subsec. (f)(2)(C)(ii)(I), (II). Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(5). See 1996 Amendment note below.

Subsec. (k). Pub. L. 109-173, §9(d)(8)(A), in introductory provisions, inserted before colon ", the following definitions shall apply".

Subsec. (k)(8) to (10). Pub. L. 109-173, §9(d)(8)(B), (C), redesignated pars. (9) and (10) as (8) and (9), respectively, and struck out heading and text of former par. (8). Text read as follows: "The term 'Savings Association Insurance Fund member' means a Savings Association Insurance member as such term is defined by section 1817(l) of this title."

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(11)(F). See 1996 Amendment note below.

1999—Subsec. (f)(2)(C). Pub. L. 106-102 amended subpar. (C) generally, substituting present provisions for provisions requiring Federal Home Loan Banks to pay to the Funding Corporation each calendar year an amount sufficient to cover amount of interest payments made by the Corporation in that year, and provisions relating to determination of each Bank's individual share of such annual amount.

1996—Subsec. (e). Pub. L. 104-208, §2704(d)(11)(E), which directed the amendment of subsec. (e) by inserting, in par. (5), "as of the date of funding" after "Savings Association Insurance Fund members" in two places and by striking par. (7) and redesignating par. (8) as (7), was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (f)(2)(C)(ii)(I), (II). Pub. L. 104-208, §2704(d)(5), which directed the amendment of subcls. (I) and (II) by substituting "to insured depository institutions, and their successors, which were Savings Association Insurance Fund members on September 1, 1995" for "to Savings Associations Insurance Fund members", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below.

Subsec. (k)(8) to (10). Pub. L. 104-208, §2704(d)(11)(F), which directed the amendment of subsec. (k) by striking par. (8) and redesignating pars. (9) and (10) as (8) and (9), respectively, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1992—Subsecs. (c)(8), (j)(2). Pub. L. 102-550, §1613(a)(7), inserted "Thrift Depositor Protection" before "Oversight" in headings.

Subsec. (k)(7). Pub. L. 102-550, §1613(a)(9), substituted "Thrift Depositor Protection Oversight" for "Oversight" in heading.

1991—Pub. L. 102-233 substituted "Thrift Depositor Protection Oversight Board" for "Oversight Board" wherever appearing in text.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–102, title VI, §607(b), Nov. 12, 1999, 113 Stat. 1456, provided that: "The amendment made by subsection (a) [amending this section] shall become effective on January 1, 2000. Payments made by a Federal home loan bank before that effective date shall be counted toward the total obligation of that Bank under section 21B(f)(2)(C) of the Federal Home Loan Bank Act [12 U.S.C. 1441b(f)(2)(C)], as amended by this section."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–550 effective as if included in the Resolution Trust Corporation Refinancing, Restructuring, and Improvement Act of 1991, Pub. L. 102–233, as of Dec. 12, 1991, see section 1618 of Pub. L. 102–550, set out as a note under section 1441 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–233 effective Feb. 1, 1992, see section 318 of Pub. L. 102–233, set out as a note under section 1441 of this title.

ABOLITION OF THRIFT DEPOSITOR PROTECTION OVERSIGHT BOARD

Thrift Depositor Protection Oversight Board abolished, see section 14(a)–(d) of Pub. L. 105–216, formerly set out as a note under section 1441a of this title.

¹ [*See References in Text note below.*](#)

² [*See 2008 Amendment note below.*](#)

§1442. Member financial information

(a) In general

In order to enable the Federal Home Loan Banks to carry out the provisions of this chapter, the Secretary of the Treasury, the Comptroller of the Currency, the Chairman of the Board ¹ of Governors of the Federal Reserve System, the Chairperson of the Federal Deposit Insurance Corporation, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision, upon request by any Federal Home Loan Bank—

(1) shall make available in confidence to any Federal Home Loan Bank, such reports, records, or other information as may be available, relating to the condition of any member of any Federal Home Loan Bank or any institution with respect to which any such Bank has had or contemplates having transactions under this chapter; and

(2) may perform through their examiners or other employees or agents, for the confidential use of the Federal Home Loan Bank, examinations of institutions for which such agency is the appropriate Federal banking regulatory agency.

In addition, the Comptroller of the Currency, the Chairman of the Board ¹ of Governors of the Federal Reserve System, the Chairperson of the National Credit Union Administration, and the Director of the Office of Thrift Supervision shall make available to the Director or any Federal Home Loan Bank the financial reports filed by members of any Bank to enable the Director or a Bank to compile and publish cost of funds indices or other financial or statistical reports.

(b) Consent by members

Every member of a Federal Home Loan Bank shall, as a condition precedent thereto, be deemed—

(1) to consent to such examinations as the Bank or the Director may require for the purposes of this chapter;

(2) to agree that reports of examinations by local, State, or Federal agencies or institutions may be furnished by such authorities to the Bank or the Director upon request; and

(3) to agree to give the Bank or the Federal agency, upon request, such information as they may need to compile and publish cost of funds indices and to publish other reports or statistical summaries pertaining to the activities of Bank members.

(July 22, 1932, ch. 522, §22, 47 Stat. 739; Pub. L. 101–73, title VII, §719, Aug. 9, 1989, 103 Stat. 422; Pub. L. 110–289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289 substituted "the Director" for "the Board" wherever appearing, except in two places in subsec. (a). See note below.

Subsec. (a). Pub. L. 110–289, which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting "the Director" for "the Board" wherever appearing, was not executed to subsec. (a) in two places where "the Board" appeared before "of Governors of the Federal Reserve System", to reflect the probable intent of Congress.

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows:

"(a) In order to enable the board to carry out the provisions of this chapter, the Treasury Department, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal reserve banks are authorized, under such conditions as they may prescribe, to make available to the board in confidence for its use and the use of any Federal Home Loan Bank such reports, records, or other information as may be available, relating to the condition of institutions with respect to which any such Federal Home Loan Bank has had or contemplates having transactions under this chapter or relating to persons whose obligations are offered to or held by any Federal Home Loan Bank, and to make through their examiners or other employees, for the confidential use of the board or any Federal Home Loan Bank, examinations of such institutions.

"(b) Every institution which shall apply for advances under this chapter shall, as a condition precedent thereto, consent to such examination as the bank or the board may require for the purposes of this chapter and/or that reports of examinations by constituted authorities may be furnished by such authorities to the bank or the board upon request therefor."

¹ [*See 2008 Amendment note below.*](#)

§1442a. Repealed. Pub. L. 106–102, title VI, §606(c), Nov. 12, 1999, 113 Stat. 1454

Section, act July 22, 1932, ch. 522, §22A, as added Aug. 10, 1987, Pub. L. 100–86, title IV, §407(d), 101 Stat. 617, related to informal review of certain supervisory decisions.

§1443. Forms of bank stock and obligations

Any stock, debentures, bonds, notes, or other obligations issued under the authority of this chapter may be issued in uncertificated form, utilizing a book entry method, or in certificated form under such rules, regulations, or guidelines as the Director ¹ may provide.

(July 22, 1932, ch. 522, §23, 47 Stat. 739; Pub. L. 101–73, title VII, §717, Aug. 9, 1989, 103 Stat. 422; Pub. L. 110–289, div. A, title II, §1204(8), (12), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289, which directed amendment of the Federal Home Loan Bank Act (this chapter) by substituting "the Director" for "the Board" and "Director" for "Federal Housing Finance Board" wherever appearing, was executed to this section by substituting "the Director" for "the Board of Directors of the Federal Housing Finance Board", to reflect the probable intent of Congress.

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows: "In order that the Federal Home Loan Banks may be supplied with such forms of stock, debentures, and bonds as may be necessary under this chapter, the Secretary of the Treasury is authorized to prepare such forms thereof as shall be suitable and approved by the board, which shall be held in the Treasury subject to delivery, upon order of the board. The engraved plates, dies, and bed pieces executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The board shall reimburse the Secretary of the Treasury for any expense incurred in the preparation, custody, and delivery of such stock, debentures, and bonds."

¹ [See 2008 Amendment note below.](#)

§1444. Eligibility to membership in banks

(a) Any organization organized under the laws of any State and subject to inspection and regulation under the banking or similar laws of such State shall be eligible to become a member under this chapter if—

(1) it is organized solely for the purpose of supplying credit to its members;

(2) its membership (A) is confined exclusively to building and loan associations, savings and loan associations, cooperative banks, and homestead associations; or (B) is confined exclusively to savings banks; and

(3) of the institutions to which its membership is confined which are organized within the State, its membership includes a majority of such institutions.

(b) In all respects, but subject to such additional rules and regulations as the Director may provide, any such organization shall be a member for the purposes of this chapter.

(July 22, 1932, ch. 522, §24, 47 Stat. 739; Pub. L. 101–73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110–289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (b). Pub. L. 110–289 substituted "the Director" for "the Board".

1989—Subsec. (b). Pub. L. 101–73 substituted "Board" for "board".

§1445. Succession of Federal Home Loan Banks

Each Federal Home Loan Bank shall have succession until dissolved by the Director under this chapter or by further act of Congress.

(July 22, 1932, ch. 522, §25, 47 Stat. 740; Pub. L. 101–73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110–289, div. A, title II, §1204(8), July 30, 2008, 122 Stat. 2786.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289 substituted "the Director" for "the Board".

1989—Pub. L. 101–73 substituted "Board" for "board".

§1446. Liquidation or reorganization; acquisition of assets by other banks; assumption of liabilities

(a) In general

Whenever the Director finds that the efficient and economical accomplishment of the purposes of this chapter will be aided by such action, and in accordance with such rules, regulations, and orders as the Director may prescribe, any Federal Home Loan Bank may be liquidated or reorganized, and its stock paid off and retired in whole or in part in connection therewith after paying or making provision for the payment of its liabilities. In the case of any such liquidation or reorganization, any other Federal Home Loan Bank may, with the approval of the Director, acquire assets of any such liquidated or reorganized bank and assume liabilities thereof, in whole or in part. At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5.

(b) Voluntary mergers authorized

(1) In general

Any Federal Home Loan Bank may, with the approval of the Director and of the boards of directors of the Banks involved, merge with another Bank.

(2) Regulations required

The Director shall promulgate regulations establishing the conditions and procedures for the consideration and approval of any voluntary merger described in paragraph (1), including the procedures for Bank member approval.

(July 22, 1932, ch. 522, §26, 47 Stat. 740; Pub. L. 101–73, title VII, §701(b)(1), (3)(A), Aug. 9, 1989, 103 Stat. 412; Pub. L. 110–289, div. A, title II, §§1204(8), 1209, 1214, July 30, 2008, 122 Stat. 2786, 2789, 2791.)

EDITORIAL NOTES

AMENDMENTS

2008—Pub. L. 110–289, §1209, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 110–289, §1204(8), substituted "the Director" for "the Board" wherever appearing.

Subsec. (a). Pub. L. 110–289, §1214, which directed insertion of "At least 30 days prior to liquidating or reorganizing any Bank under this section, the Director shall notify the Bank of its determination and the facts and circumstances upon which such determination is based. The Bank may contest that determination in a hearing before the Director, in which all issues shall be determined on the record pursuant to section 554 of title 5." at the end of this section, was executed by making the insertion at the end of subsec. (a), to reflect the probable intent of Congress and the amendment by Pub. L. 110–289, §1209. See above.

1989—Pub. L. 101–73 substituted "Board" for "board" wherever appearing.

§1447. Repealed. Pub. L. 106–102, title VI, §606(c), Nov. 12, 1999, 113 Stat. 1454

Section, act July 22, 1932, ch. 522, §27, as added Pub. L. 103–204, §18, Dec. 17, 1993, 107 Stat. 2401, related to Housing Opportunity Hotline program.

A prior section 1447, act July 22, 1932, ch. 522, §27, 47 Stat. 740, related to institutions authorized to subscribe for stock of banks, prior to repeal by Pub. L. 101–73, title VII, §704(c), Aug. 9, 1989, 103 Stat. 416.

§1448. Effect of partial invalidity of chapter

If any provision of this chapter, or the application thereof to any person or circumstances, is held

invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(July 22, 1932, ch. 522, §28, 47 Stat. 740.)

§1449. Reservation of right to amend or repeal chapter

The right to alter, amend, or repeal this chapter is expressly reserved.

(July 22, 1932, ch. 522, §30, 47 Stat. 741.)

CHAPTER 11A—FEDERAL HOME LOAN MORTGAGE CORPORATION

Sec.

- 1451. Definitions.
- 1452. Federal Home Loan Mortgage Corporation.
- 1453. Capitalization of Federal Home Loan Mortgage Corporation.
- 1454. Purchase and sale of mortgages; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authority to enter into, perform, and carry out transactions.
- 1455. Obligations and securities of the Corporation.
- 1456. Immunity of Corporation; audits and reporting requirements; data collection; Housing Advisory Council.
- 1457. Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals.
- 1458. Territorial applicability.
- 1459. Separability.

§1451. Definitions

As used in this chapter—

(a) The term "Board of Directors" means the Board of Directors of the Corporation.

(b) The term "Corporation" means the Federal Home Loan Mortgage Corporation created by this chapter.

(c) The term "law" includes any law of the United States or of any State (including any rule of law or of equity).

(d) The term "mortgage" includes such classes of liens as are commonly given or are legally effective 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 or a manufactured home that is personal property under the laws of the State in which the manufactured home is located together with the credit instruments, if any, secured thereby, and includes interests in mortgages.

(e) The term "organization" means any corporation, partnership, association, business trust, or business entity.

(f) The term "prescribe" means to prescribe by regulations or otherwise.

(g) The term "property" includes any property, whether real, personal, mixed, or otherwise, including without limitation on the generality of the foregoing choses in action and mortgages, and includes any interest in any of the foregoing.

(h) The term "residential mortgage" means a mortgage which (1) is a mortgage on real estate, in fee simple or under a leasehold having such term as may be prescribed by the Corporation, upon which there is located a structure or structures designed in whole or in part for residential use, or which comprises or includes one or more condominium units or dwelling units (as defined by the Corporation) and (2) has such characteristics and meets such requirements as to amount, term, repayment provisions, number of families, status as a lien on such real estate, and otherwise, as may

be prescribed by the Corporation. The term "residential mortgage" also includes a loan or advance of credit insured under title I of the National Housing Act [12 U.S.C. 1702 et seq.] whose original proceeds are applied for in order to finance energy conserving improvements, or the addition of a solar energy system, to residential real estate. The term "residential mortgage" also includes a loan or advance of credit for such purposes, or purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act [42 U.S.C. 8211 et seq.] if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) ¹ of the National Energy Conservation Policy Act) in residential real estate, not having the benefit of such insurance and includes loans made where the lender relies for purposes of repayment primarily on the borrower's general credit standing and forecast of income, with or without other security. The term "residential mortgage" is also deemed to include a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties as to which the Corporation may purchase a "residential mortgage" as defined under the first sentence of this subsection. Such term shall also include other secured loans that are secured by a subordinate lien against a property as to which the Corporation may purchase a residential mortgage as defined under the first sentence of this subsection. A "secured loan or advance of credit" is one in which a security interest is taken in the rehabilitated, renovated, modernized, refurbished, or improved property. Such term shall also include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, as defined in section 216 of title 26, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation. The term "residential mortgage" also includes a loan or advance of credit secured by a mortgage or other lien on a manufactured home that is the principal residence of the borrower, without regard to whether the security property is real, personal, or mixed.

(i) The term "conventional mortgage" means a mortgage other than a mortgage as to which the Corporation has the benefit of any guaranty, insurance or other obligation by the United States or any of its agencies or instrumentalities.

(j) The term "security" has the meaning ascribed to it by section 77b of title 15.

(k) The term "State", whether used as a noun or otherwise, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(l) The term "mortgage insurance program" includes, in the case of a residential mortgage secured by a manufactured home, any manufactured home lending program under title I of the National Housing Act [12 U.S.C. 1702 et seq.].

(Pub. L. 91-351, title III, §302, July 24, 1970, 84 Stat. 451; Pub. L. 95-619, title II, §245, Nov. 9, 1978, 92 Stat. 3233; Pub. L. 95-630, title XVII, §1702, Nov. 10, 1978, 92 Stat. 3718; Pub. L. 96-153, title III, §316(c), Dec. 21, 1979, 93 Stat. 1118; Pub. L. 96-294, title V, §534(a)(2), June 30, 1980, 94 Stat. 741; Pub. L. 98-440, title II, §§202, 203(b)(1), 204, Oct. 3, 1984, 98 Stat. 1693-1695; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 102-550, title XIII, §1382(b), Oct. 28, 1992, 106 Stat. 4002.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (h) and (l), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title I of the National Housing Act is classified generally to subchapter I (§1702 et seq.) of chapter 13 of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

The National Energy Conservation Policy Act, referred to in subsec. (h), is Pub. L. 95-619, Nov. 9, 1978, 92 Stat. 3208. Title II of the Act is classified principally to subchapter II (§8211 et seq.) of chapter 91 of Title 42, The Public Health and Welfare. Section 210 of the Act (42 U.S.C. 8211) was omitted from the Code pursuant to section 8229 of Title 42 which terminated authority under that section June 30, 1989. For

complete classification of this Act to the Code, see Short Title note set out under section 8201 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (h). Pub. L. 102–550 substituted "purchased from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate" for "made by a public utility and purchased by the Corporation pursuant to the first sentence of section 1454(a)(1) of this title".

1986—Subsec. (h). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954", which for purposes of codification was translated as "title 26" thus requiring no change in text.

1984—Subsec. (d). Pub. L. 98–440, §202(a), inserted reference to a manufactured home that is personal property under the laws of the State in which the manufactured home is located.

Subsec. (h). Pub. L. 98–440, §203(b)(1), substituted "status as a lien" for "status as a first lien" and "Such term shall also include other secured loans that are secured by a subordinate lien against a property as to which the Corporation may purchase a residential mortgage as defined under the first sentence of this subsection" for "The maximum principal obligation of loans purchased by virtue of the preceding sentence shall not exceed the dollar limits prescribed by the Federal Home Loan Bank Board with respect to similar types of loans made by Federal savings and loan associations".

Pub. L. 98–440, §202(b), inserted provision that term "residential mortgage" also includes a loan or advance of credit secured by a mortgage or other lien on a manufactured home that is the principal residence of the borrower, without regard to whether the security property is real, personal, or mixed.

Subsec. (i). Pub. L. 98–440, §204, substituted "any of its agencies or instrumentalities" for "a State or an agency or instrumentality of either".

Subsec. (l). Pub. L. 98–440, §202(c), added subsec. (l).

1980—Subsec. (h). Pub. L. 96–294 inserted provision relating to loans or advances of credit made by a public utility and purchased by the Corporation pursuant to section 1454(a)(1) of this title.

1979—Subsec. (h). Pub. L. 96–153 expanded definition of residential mortgage to include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member by a cooperative housing corporation, and on the proprietary lease, occupancy agreement, or right of tenancy in the dwelling unit of the tenant-stockholder or resident-member in such cooperative housing corporation.

1978—Subsec. (h). Pub. L. 95–630 inserted provisions expanding definition of "residential mortgage" to include a secured loan or advance of credit the proceeds of which are intended to finance the rehabilitation, renovation, modernization, refurbishment, or improvement of properties as to which the Corporation may purchase a "residential mortgage" as defined under first sentence of this subsection, provisions relating to the maximum principal obligation of loans, and provisions defining "secured loan or advance of credit".

Pub. L. 95–619 inserted provisions relating to loans or advances of credit insured under title I of the National Housing Act whose original proceeds were applied for to finance energy conserving improvements or solar energy systems and provisions relating to certain loans or advances of credit for such purposes not so insured.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–630, title XVII, §1703, Nov. 10, 1978, 92 Stat. 3719, provided that: "This title [amending sections 1451 and 1464 of this title] shall take effect upon enactment [Nov. 10, 1978]."

SHORT TITLE OF 1981 AMENDMENT

Pub. L. 97–110, title II, §201, Dec. 26, 1981, 95 Stat. 1514, provided that: "This title [amending sections 1454 and 1717 of this title and enacting provisions set out as a note under section 1454 of this title] may be cited as the 'Mortgage Purchase Amendments of 1981'."

SHORT TITLE AND STATEMENT OF PURPOSE

Pub. L. 91–351, title III, §301, July 24, 1970, 84 Stat. 451, as amended by Pub. L. 101–73, title VII, §731(a), Aug. 9, 1989, 103 Stat. 429; Pub. L. 102–550, title XIII, §1382(a), Oct. 28, 1992, 106 Stat. 4002, provided that:

"(a) This title [enacting this chapter] may be cited as the 'Federal Home Loan Mortgage Corporation Act'.

"(b) It is the purpose of the Federal Home Loan Mortgage Corporation—

"(1) to provide stability in the secondary market for residential mortgages;

"(2) to respond appropriately to the private capital market;

"(3) to provide ongoing assistance to the secondary market for residential mortgages (including activities relating to mortgages on housing for low- and moderate-income families involving a reasonable economic return that may be less than the return earned on other activities) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing; and

"(4) to promote access to mortgage credit throughout the Nation (including central cities, rural areas, and underserved areas) by increasing the liquidity of mortgage investments and improving the distribution of investment capital available for residential mortgage financing."

REGULATIONS

Pub. L. 102–550, title XIII, §1383, Oct. 28, 1992, 106 Stat. 4008, directed the Secretary of Housing and Urban Development and the Director to issue final regulations to implement amendments by subtitle D (§§1381–1383) of title XIII of Pub. L. 102–550 not later than the expiration of the 18-month period beginning on Oct. 28, 1992, prior to repeal by Pub. L. 110–289, div. A, title I, §1161(a)(4), July 30, 2008, 122 Stat. 2779.

¹ See References in Text note below.

§1452. Federal Home Loan Mortgage Corporation

(a) Creation; Board of Directors; policies; principal office; membership; term; vacancies

(1) There is hereby created the Federal Home Loan Mortgage Corporation, which shall be a body corporate under the direction of a Board of Directors. Within the limitations of law and regulation, the Board of Directors shall determine the general policies that govern the operations of the Corporation. The principal office of the Corporation shall be in the District of Columbia or at any other place determined by the Corporation.

(2)(A) The Board of Directors of the Corporation shall consist of 13 persons, or such other number as the Director determines appropriate, who shall be elected annually by the voting common stockholders. Except to the extent action under section 4636a of this title temporarily results in a lesser number, the Board of Directors shall at all times have as members at least 1 person from the homebuilding industry, at least 1 person from the mortgage lending industry, at least 1 person from the real estate industry, and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households.

(B) Each member of the Board of Directors shall be elected for a term ending on the date of the next annual meeting of the voting common stockholders.

(C) Any seat on the Board of Directors that becomes vacant after the annual election of the directors shall be filled by the Board of Directors, but only for the unexpired portion of the term.

(D) Any member of the Board of Directors who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for services as such a member.

(b) Capital distributions; limitation

(1) Except as provided in paragraph (2), the Corporation may make such capital distributions (as such term is defined in section 4502 of this title) as may be declared by the Board of Directors.

(2) The Corporation may not make any capital distribution that would decrease the total capital of the Corporation (as such term is defined in section 4502 of this title) to an amount less than the risk-based capital level for the Corporation established under section 4611 of this title or that would decrease the core capital of the Corporation (as such term is defined in section 4502 of this title) to

an amount less than the minimum capital level for the Corporation established under section 4612 of this title, without prior written approval of the distribution by the Director of the Federal Housing Finance Agency.

(c) Powers of the Corporation

The Corporation shall have power (1) to adopt, alter, and use a corporate seal; (2) to have succession until dissolved by Act of Congress; (3) to make and enforce such bylaws, rules, and regulations as may be necessary or appropriate to carry out the purposes or provisions of this chapter; (4) to make and perform contracts, agreements, and commitments; (5) to prescribe and impose fees and charges for services by the Corporation; (6) to settle, adjust, and compromise, and with or without consideration or benefit to the Corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the Corporation; (7) to sue and be sued, complain and defend, in any State, Federal, or other court; (8) to acquire, take, hold, and own, and to deal with and dispose of any property; and (9) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation and benefits of officers, employees, attorneys, and agents as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (including publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation, all without regard to any other law except as may be provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of this sentence. The Corporation, with the consent of any such department, establishment, or instrumentality, including any field services thereof, may utilize and act through any such department, establishment, or instrumentality and may avail itself of the use of information, services, facilities, and personnel thereof, and may pay compensation therefor, and all of the foregoing are hereby authorized to provide the same to the Corporation as it may request.

(d) Investment of funds; designation as depository, custodian, or agent for Corporation of any Federal Reserve bank, Federal home loan bank, or any bank designated as depository of public money

Funds of the Corporation may be invested in such investments as the Board of Directors may prescribe. Any Federal Reserve bank or Federal home loan bank, or any bank as to which at the time of its designation by the Corporation there is outstanding a designation by the Secretary of the Treasury as a general or other depository of public money, may be designated by the Corporation as a depository or custodian or as a fiscal or other agent of the Corporation, and is hereby authorized to act as such depository, custodian, or agent. When designated for that purpose by the Secretary of the Treasury, the Corporation shall be a depository of public money, under such regulations as may be prescribed by the Secretary of the Treasury, and may also be employed as fiscal or other agent of the United States, and it shall perform all such reasonable duties as such depository or agent as may be required of it.

(e) Exemption from Federal, State, and local taxation; exception; applicability of other provisions

The Corporation, including its franchise, activities, capital, reserves, surplus, and income, shall be exempt from all taxation now or hereafter imposed by any territory, dependency, or possession of the United States or by any State, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to State, territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

(f) Actions by and against the Corporation; jurisdiction; removal of actions; attachment or execution issued against the Corporation

Notwithstanding section 1349 of title 28 or any other provision of law, (1) the Corporation shall be deemed to be an agency included in sections 1345 and 1442 of such title 28; (2) all civil actions to which the Corporation is a party shall be deemed to arise under the laws of the United States, and the

district courts of the United States shall have original jurisdiction of all such actions, without regard to amount or value; and (3) any civil or other action, case or controversy in a court of a State, or in any court other than a district court of the United States, to which the Corporation is a party may at any time before the trial thereof be removed by the Corporation, without the giving of any bond or security, to the district court of the United States for the district and division embracing the place where the same is pending, or, if there is no such district court, to the district court of the United States for the district in which the principal office of the Corporation is located, by following any procedure for removal of causes in effect at the time of such removal.

(g) Mortgages, obligations, or other securities sold by Corporation deemed lawful investments for security purposes

All mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to section 1454 or section 1455 of this title shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposits of which shall be under the authority and control of the United States or any officers thereof.

(h) Report on comparability of compensation policies and financial performance of Corporation and payments earned by executive officers; prohibition on payments to terminated executive officers

(1) Not later than June 30, 1993, and annually thereafter, the Corporation shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on (A) the comparability of the compensation policies of the Corporation with the compensation policies of other similar businesses, (B) in the aggregate, the percentage of total cash compensation and payments under employee benefit plans (which shall be defined in a manner consistent with the Corporation's proxy statement for the annual meeting of shareholders for the preceding year) earned by executive officers of the Corporation during the preceding year that was based on the Corporation's performance, and (C) the comparability of the Corporation's financial performance with the performance of other similar businesses. The report shall include a copy of the Corporation's proxy statement for the annual meeting of shareholders for the preceding year.

(2) Notwithstanding the first sentence of subsection (c), after October 28, 1992, the Corporation may not enter into any agreement or contract to provide any payment of money or other thing of current or potential value in connection with the termination of employment of any executive officer of the Corporation, unless such agreement or contract is approved in advance by the Director of the Federal Housing Finance Agency. The Director may not approve any such agreement or contract unless the Director determines that the benefits provided under the agreement or contract are comparable to benefits under such agreements for officers of other public and private entities involved in financial services and housing interests who have comparable duties and responsibilities. For purposes of this paragraph, any renegotiation, amendment, or change after October 28, 1992, to any such agreement or contract entered into on or before October 28, 1992, shall be considered entering into an agreement or contract.

(3) For purposes of this subsection, the term "executive officer" has the meaning given the term in section 4502 of this title.

(4) Notwithstanding any other provision of this section, the Corporation shall not transfer, disburse, or pay compensation to any executive officer, or enter into an agreement with such executive officer, without the approval of the Director, for matters being reviewed under section 4518 of this title.

(Pub. L. 91-351, title III, §303, July 24, 1970, 84 Stat. 452; Pub. L. 96-153, title III, §316(b), Dec. 21, 1979, 93 Stat. 1118; Pub. L. 98-369, div. A, title I, §177(a), July 18, 1984, 98 Stat. 709; Pub. L. 101-73, title VII, §731(b)(1), (c), Aug. 9, 1989, 103 Stat. 429, 431; Pub. L. 102-550, title XIII, §1382(c)(1), (d)-(h), Oct. 28, 1992, 106 Stat. 4002-4004; Pub. L. 110-289, div. A, title I, §§1113(b)(2), 1153(b)(3), 1161(c)(1), 1162(b)(1), July 30, 2008, 122 Stat. 2678, 2775, 2780, 2781.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a)(2)(A). Pub. L. 110–289, §1162(b)(1)(A), substituted "13 persons, or such other number as the Director determines appropriate, who" for "18 persons, 5 of whom shall be appointed annually by the President of the United States and the remainder of whom" in first sentence and struck out "appointed by the President of the United States" after "as members" in second sentence.

Pub. L. 110–289, §1153(b)(3), substituted "Except to the extent action under section 4636a of this title temporarily results in a lesser number, the" for "The" in second sentence.

Subsec. (a)(2)(B). Pub. L. 110–289, §1162(b)(1)(B), struck out "such or" before "elected" and ", except that any appointed member may be removed from office by the President for good cause" before period at end.

Subsec. (a)(2)(C). Pub. L. 110–289, §1162(b)(1)(C), struck out "elective" after "Any" in second sentence and struck out first sentence which read as follows: "Any appointive seat on the Board of Directors that becomes vacant shall be filled by appointment by the President of the United States, but only for the unexpired portion of the term."

Subsecs. (b)(2), (h)(2). Pub. L. 110–289, §1161(c)(1), substituted "Director of the Federal Housing Finance Agency" for "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development".

Subsec. (h)(4). Pub. L. 110–289, §1113(b)(2), added par. (4).

1992—Subsec. (a)(2)(A). Pub. L. 102–550, §1382(c)(1), in second sentence, struck out "and" after "mortgage lending industry," and inserted before period ", and at least 1 person from an organization that has represented consumer or community interests for not less than 2 years or 1 person who has demonstrated a career commitment to the provision of housing for low-income households".

Subsec. (a)(2)(B). Pub. L. 102–550, §1382(d), inserted before period at end ", except that any appointed member may be removed from office by the President for good cause".

Subsec. (b). Pub. L. 102–550, §1382(e), amended subsec. (b) generally, substituting present provisions for provisions which outlined general regulatory authority of the Secretary of Housing and Urban Development over Corporation in such areas as mortgage purchases, dividends, examinations and audits, outstanding obligations, conversion of stock and debt obligations, residential mortgage transactions, and approval or disapproval of requests.

Subsec. (c). Pub. L. 102–550, §1382(f)(1), (g), in cl. (9) of first sentence, inserted "as the Board of Directors determines reasonable and comparable with compensation for employment in other similar businesses (including publicly held financial institutions or other major financial services companies) involving similar duties and responsibilities, except that a significant portion of potential compensation of all executive officers (as such term is defined in subsection (h)(3)) of the Corporation shall be based on the performance of the Corporation" and struck out after first sentence "Nothing in this chapter or any other law shall be construed to prevent the appointment, employment, and provision for compensation and benefits, as an officer, employee, attorney, or agent of the Corporation, of any officer, employee, attorney, or agent of any department, establishment, or corporate or other instrumentality of the Government, including any Federal home loan bank or member thereof."

Subsec. (f). Pub. L. 102–550, §1382(h), struck out at end "No attachment or execution shall be issued against the Corporation or any of its property before final judgment in any State, Federal, or other court."

Subsec. (h). Pub. L. 102–550, §1382(f)(2), added subsec. (h).

1989—Subsec. (a). Pub. L. 101–73, §731(b)(1), amended subsec. (a) generally, reorganizing provisions into pars. (1) and (2), and substituting provisions setting forth general policies as governing Board, membership requirements and vacancies, for provisions setting forth status of members, liabilities, and conditions and limitations.

Subsecs. (b) to (g). Pub. L. 101–73, §731(c), added subsec. (b) and redesignated former subsecs. (b) to (f) as (c) to (g), respectively.

1984—Subsec. (d). Pub. L. 98–369 struck out "by the United States," before "by any territory", substituted "possession of the United States" for "possession thereof," and struck out "The provisions of this subsection shall be applicable without regard to any other law, including without limitation on the generality of the foregoing section 3301 of title 26, except laws hereafter enacted by Congress expressly in limitation of this subsection."

1979—Subsec. (f). Pub. L. 96–153 added subsec. (f).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title XIII, §1382(c)(2), Oct. 28, 1992, 106 Stat. 4002, provided that: "The amendments made by paragraph (1) [amending this section] shall apply to the first annual appointment by the President of members to the Board of Directors of the Federal Home Loan Mortgage Corporation that occurs after the date of the enactment of this Act [Oct. 28, 1992]."

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369, effective Jan. 1, 1985, see section 177(d) of Pub. L. 98-369, set out as a note under section 172 of Title 26, Internal Revenue Code.

TRANSITIONAL PROVISIONS

Pub. L. 110-289, div. A, title I, §1162(b)(2), July 30, 2008, 122 Stat. 2782, provided that: "The amendments made by paragraph (1) [amending this section] shall not apply to any appointed position of the board of directors of the Federal Home Loan Mortgage Corporation until the expiration of the annual term for such position during which the effective date under section 1163 [set out as an Effective Date of 2008 Amendment note under section 3132 of Title 5, Government Organization and Employees] occurs."

Pub. L. 101-73, title VII, §731(b)(2), Aug. 9, 1989, 103 Stat. 430, provided that:

"(A) INTERIM BOARD.—

"(i) ESTABLISHMENT.—There shall be an interim Board of Directors of the Federal Home Loan Mortgage Corporation, which shall serve from the date of the enactment of this Act [Aug. 9, 1989] until the date of the 1st meeting of the voting common shareholders of the Corporation at which the first election of the directors elected by the shareholders occurs.

"(ii) MEMBERS.—The interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of—

"(I) the President of the Corporation; and

"(II) the persons who were (on the day before the date of the enactment of this Act) the Chairman of the Federal Home Loan Bank Board and the Secretary of Housing and Urban Development (or their designees).

"(iii) QUORUM.—A quorum of the interim Board of Directors of the Federal Home Loan Mortgage Corporation shall consist of a majority of the directors duly serving from time to time.

"(B) ELECTION OF PERMANENT DIRECTORS.—The first meeting of the voting common shareholders of the Federal Home Loan Mortgage Corporation for election of directors shall occur, under procedures established by the Corporation, within 6 months after the date of the enactment of this Act."

§1453. Capitalization of Federal Home Loan Mortgage Corporation

(a) Common stock; issuance

The common stock of the Corporation shall consist of voting common stock, which shall be issued to such holders in the manner and amount, and subject to any limitations on concentration of ownership, as may be established by the Corporation.

(b) Par value

The voting common stock shall have such par value and other characteristics as the Corporation provides. The voting common stock shall be vested with all voting rights, each share being entitled to 1 vote. The free transferability of the voting common stock at all times to any person, firm, corporation or other entity shall not be restricted except that, as to the Corporation, it shall be transferable only on the books of the Corporation.

(Pub. L. 91-351, title III, §304, July 24, 1970, 84 Stat. 454; Pub. L. 101-73, title VII, §731(d)(1), (3), Aug. 9, 1989, 103 Stat. 432; Pub. L. 102-550, title XIII, §1382(i), Oct. 28, 1992, 106 Stat. 4004.)

EDITORIAL NOTES

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550, §1382(i)(2), (3)(C), redesignated par. (1) as subsec. (a), struck out provisions of par. (1)(A) which related to common stock of Corporation consisting in part of nonvoting common stock issued only to Federal home loan banks, restate provisions of par. (1)(B) as text of subsec. (a), and redesignated par. (2) as subsec. (b).

Subsec. (b). Pub. L. 102-550, §1382(i)(1), (3), redesignated subsec. (a)(2) as (b), struck out "nonvoting common stock and the" before "voting common stock shall have such", struck out at end "Nonvoting common stock of the Corporation shall be evidenced in the manner and shall be transferable only to the extent, to the transferees, and in the manner, provided by the Corporation.", and struck out former subsec. (b) which read as follows: "The Federal home loan banks shall from time to time subscribe, at such price not less than par as the Corporation shall from time to time fix, for such amounts of nonvoting common stock as the Corporation prescribes, and such banks shall pay therefor at such time or times and in such amount or amounts as may from time to time be fixed by call of the Corporation. The amount of the payments for which such banks may be obligated under such subscriptions shall not exceed a cumulative total of \$100,000,000."

Subsec. (c). Pub. L. 102-550, §1382(i)(1), struck out subsec. (c) which read as follows: "Subscriptions of the respective Federal home loan banks to nonvoting common stock shall be allocated by the Corporation."

Subsec. (d). Pub. L. 102-550, §1382(i)(1), struck out subsec. (d) which read as follows: "The Corporation may retire at any time all or any part of the nonvoting common stock of the Corporation, or may call for retirement all or any part of the nonvoting common stock of the Corporation by (1) publishing a notice of the call in the Federal Register or providing such notice in such other manner as the Corporation may determine to be appropriate, and (2) depositing with the Treasurer of the United States, for the purpose of such retirement, funds sufficient to effect such retirement. No call for the retirement of any nonvoting common stock shall be made, and no nonvoting common stock shall be retired without call, if immediately after such action, the total of the nonvoting common stock not called for retirement and of the reserves and surplus of the Corporation would be less than \$100,000,000. The retirement of nonvoting common stock shall be at the par value thereof, or at the price at which such nonvoting common stock was issued if such price is greater than par value. No declaration of any dividend on nonvoting common stock of the Corporation shall be effective with respect to nonvoting common stock which at the time of such declaration is the subject of an outstanding retirement call the effective date of which has arrived."

1989—Subsec. (a). Pub. L. 101-73, §731(d)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: "The capital stock of the Corporation shall consist of nonvoting common stock which shall be issued only to Federal home loan banks and shall have such par value and such other characteristics as the Corporation prescribes. Stock of the Corporation shall be evidenced in such manner and shall be transferable only to such extent, to such transferees, and in such manner as the Corporation prescribes."

Subsec. (b). Pub. L. 101-73, §731(d)(3)(A), substituted "nonvoting common stock" for "common stock".

Subsec. (c). Pub. L. 101-73, §731(d)(3)(B), substituted "nonvoting common stock" for "such stock".

Subsec. (d). Pub. L. 101-73, §731(d)(3)(C), inserted "nonvoting common" before "stock" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

CONVERSION OF STOCK

Pub. L. 101-73, title VII, §731(d)(2), Aug. 9, 1989, 103 Stat. 432, provided that: "On the date of the enactment of this Act [Aug. 9, 1989], each share of outstanding senior participating preferred stock of the Federal Home Loan Mortgage Corporation, with a par value of \$2.50 per share, shall be changed into and shall become 1 share of voting common stock of the Corporation. Such voting common stock shall, with respect to the nonvoting common stock of the Corporation, retain all of the rights, priorities and privileges of the senior participating preferred stock. The transformation of the senior participating preferred stock into voting common stock under this paragraph shall be deemed to satisfy the obligation of the Corporation to redeem senior participating preferred stock for non-callable common stock."

§1454. Purchase and sale of mortgages; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; authority to enter into, perform, and carry out transactions

(a) Authority for purchase and sale; residential mortgages; conventional mortgages; terms and conditions of sale or other disposition; lending activities

(1) The Corporation is authorized to purchase, and make commitments to purchase, residential mortgages. The Corporation may hold and deal with, and sell or otherwise dispose of, pursuant to commitments or otherwise, any such mortgage or interest therein. The operations of the Corporation under this section shall be confined so far as practicable to residential mortgages which are deemed by the Corporation to be of such quality, type, and class as to meet generally the purchase standards imposed by private institutional mortgage investors. The Corporation may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or servicers, and for such purposes the Corporation is authorized to classify sellers or servicers according to type, size, location, assets, or, without limitation on the generality of the foregoing, on such other basis or bases of differentiation as the Corporation may consider necessary or appropriate to effectuate the purposes or provisions of this chapter. The Corporation may specify requirements concerning among other things, (A) minimum net worth; (B) supervisory mechanisms; (C) warranty compensation mechanisms; (D) prior approval of facilities; (E) prior origination and servicing experience with respect to different types of mortgages; (F) capital contributions and substitutes; (G) mortgage purchase volume limits; and (H) reduction of mortgage purchases during periods of borrowing. With respect to any particular type of seller, the Corporation shall not be required to make available programs involving prior approval of mortgages, optional delivery of mortgages, and purchase of other than conventional mortgages to an extent greater than the Corporation elects to make such programs available to other types of eligible sellers. Any requirements specified by the Corporation pursuant to the preceding three sentences must bear a rational relationship to the purposes or provisions of this chapter, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Insofar as is practicable, the Corporation shall make reasonable efforts to encourage participation in its programs by each type of eligible seller. Nothing in this section authorizes the Corporation to impose any charge or fee upon any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act [12 U.S.C. 1701 et seq.] solely because of such status.

(2) No conventional mortgage secured by a property comprising one- to four-family dwelling units shall be purchased under this section if the outstanding principal balance of the mortgage at the time of purchase exceeds 80 per centum of the value of the property securing the mortgage, unless (A) the seller retains a participation of not less than 10 per centum in the mortgage; (B) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default; or (C) that portion of the unpaid principal balance of the mortgage which is in excess of such 80 per centum is guaranteed or insured by a qualified insurer as determined by the Corporation. The Corporation shall not issue a commitment to purchase a conventional mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (A) of such sentence. The Corporation may purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, or any other seller currently engaged in mortgage lending or investing activities. With respect to any transaction in which a seller contemporaneously sells mortgages originated more than one year old prior to the date of sale to the Corporation and receives in payment for such mortgages securities representing undivided interests only in those mortgages, the Corporation shall not impose any fee or charge upon an eligible seller which is not a member of a

Federal Home Loan Bank which differs from that imposed upon an eligible seller which is such a member. The Corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the Corporation. Such limitations shall not exceed \$417,000 for a mortgage secured by a single-family residence, \$533,850 for a mortgage secured by a 2-family residence, \$645,300 for a mortgage secured by a 3-family residence, and \$801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 4542 of this title). If the change in such house price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines. The foregoing limitations may be increased by not to exceed 50 per centum with respect to properties located in Alaska, Guam, Hawaii, and the Virgin Islands. Such foregoing limitations shall also be increased, with respect to properties of a particular size located in any area for which 115 percent of the median house price for such size residence exceeds the foregoing limitation for such size residence, to the lesser of 150 percent of such limitation for such size residence or the amount that is equal to 115 percent of the median house price in such area for such size residence.

(3) The sale or other disposition by the Corporation of a mortgage under this section may be with or without recourse, and shall be upon such terms and conditions relating to resale, repurchase, guaranty, substitution, replacement, or otherwise as the Corporation may prescribe.

(4)(A) The Corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) residential mortgages that are secured by a subordinate lien against a one- to four-family residence that is the principal residence of the mortgagor; and (ii) residential mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the Corporation shall have purchased, serviced, sold, or otherwise dealt with any other outstanding mortgage secured by the same residence, the aggregate original amount of such other mortgage and the mortgage authorized to be purchased, serviced, sold, or otherwise dealt with under this paragraph shall not exceed the applicable limitation determined under paragraph (2).

(B) The Corporation shall establish limitations governing the maximum original principal obligation of such mortgages. In any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of such mortgage secured by a subordinate lien and not merely with respect to the interest purchased by the Corporation. Such limitations shall not exceed (i) with respect to mortgages described in subparagraph (A)(i), 50 per centum of the single-family residence mortgage limitation determined under paragraph (2); and (ii) with respect to mortgages described in subparagraph (A)(ii), the applicable limitation determined under paragraph (2).

(C) No subordinate mortgage against a one- to four-family residence shall be purchased by the Corporation if the total outstanding indebtedness secured by the property as a result of such mortgage exceeds 80 per centum of the value of such property unless (i) that portion of such total outstanding indebtedness that exceeds such 80 per centum is guaranteed or insured by a qualified insurer as determined by the Corporation; (ii) the seller retains a participation of not less than 10 per centum in the mortgage; or (iii) for such period and under such circumstances as the Corporation may require, the seller agrees to repurchase or replace the mortgage upon demand of the Corporation in the event that the mortgage is in default. The Corporation shall not issue a commitment to

purchase a subordinate mortgage prior to the date the mortgage is originated, if such mortgage is eligible for purchase under the preceding sentence only by reason of compliance with the requirements of clause (iii) of such sentence.

(5) The Corporation is authorized to lend on the security of, and to make commitments to lend on the security of, any mortgage that the Corporation is authorized to purchase under this section. The volume of the Corporation's lending activities and the establishment of its loan ratios, interest rates, maturities, and charges or fees in its secondary market operations under this paragraph, shall be determined by the Corporation from time to time; and such determinations shall be consistent with the objectives that the lending activities shall be conducted on such terms as will reasonably prevent excessive use of the Corporation's facilities, and that the operations of the Corporation under this paragraph shall be within its income derived from such operations and that such operations shall be fully self-supporting. The Corporation shall not be permitted to use its lending authority under this paragraph (A) to advance funds to a mortgage seller on an interim basis, using mortgage loans as collateral, pending the sale of the mortgages in the secondary market; or (B) to originate mortgage loans. Notwithstanding any Federal, State, or other law to the contrary, the Corporation is hereby empowered, in connection with any loan under this paragraph, whether before or after any default, to provide by contract with the borrower for the settlement or extinguishment, upon default, of any redemption, equitable, legal, or other right, title, or interest of the borrower in any mortgage or mortgages that constitute the security for the loan; and with respect to any such loan, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such security shall become the absolute property of the Corporation.

(b) Authority of other institutions to enter into, perform, and carry out transactions

Notwithstanding any other law, authority to enter into and to perform and carry out any transactions or matter referred to in this section is conferred on any Federal home loan bank, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the National Credit Union Administration, any Federal savings and loan association, any Federal home loan bank member, and any other financial institution the deposits or accounts of which are insured by an agency of the United States to the extent that Congress has the power to confer such authority.

(c) Prior approval of Secretary for new programs

The Corporation may not implement any new program (as such term is defined in section 4502 of this title) before obtaining the approval of the Secretary under section 4542 ¹ of this title.

(d) Use of credit scores as condition for approval of residential mortgages

(1) Definition

In this subsection, the term "credit score" means a numerical value or a categorization created by a third party derived from a statistical tool or modeling system used by a person who makes or arranges a loan to predict the likelihood of certain credit behaviors, including default.

(2) Use of credit scores

The Corporation shall condition purchase of a residential mortgage by the Corporation under this section on the provision of a credit score for the borrower only if—

(A) the credit score is derived from any credit scoring model that has been validated and approved by the Corporation under this subsection; and

(B) the Corporation provides for the use of the credit score by all of the automated underwriting systems of the Corporation and any other procedures and systems used by the Corporation to purchase residential mortgages that use a credit score.

(3) Validation and approval process

The Corporation shall establish a validation and approval process for the use of credit score models, under which the Corporation may not validate and approve a credit score model unless the credit score model—

(A) satisfies minimum requirements of integrity, reliability, and accuracy;

(B) has a historical record of measuring and predicting default rates and other credit

behaviors;

(C) is consistent with the safe and sound operation of the corporation;

(D) complies with any standards and criteria established by the Director of the Federal Housing Finance Agency under section 4548(1) of this title; and

(E) satisfies any other requirements, as determined by the Corporation.

(4) Replacement of credit score model

If the Corporation has validated and approved 1 or more credit score models under paragraph (3) and the Corporation validates and approves an additional credit score model, the Corporation may determine that—

(A) the additional credit score model has replaced the credit score model or credit score models previously validated and approved; and

(B) the credit score model or credit score models previously validated and approved shall no longer be considered validated and approved for the purposes of paragraph (2).

(5) Public disclosure

Upon establishing the validation and approval process required under paragraph (3), the Corporation shall make publicly available a description of the validation and approval process.

(6) Application

Not later than 30 days after the effective date of this subsection, the Corporation shall solicit applications from developers of credit scoring models for the validation and approval of those models under the process required under paragraph (3).

(7) Timeframe for determination; notice

(A) In general

The Corporation shall make a determination with respect to any application submitted under paragraph (6), and provide notice of that determination to the applicant, before a date established by the Corporation that is not later than 180 days after the date on which an application is submitted to the Corporation.

(B) Extensions

The Director of the Federal Housing Finance Agency may authorize not more than 2 extensions of the date established under subparagraph (A), each of which shall not exceed 30 days, upon a written request and a showing of good cause by the Corporation.

(C) Status notice

The Corporation shall provide notice to an applicant regarding the status of an application submitted under paragraph (6) not later than 60 days after the date on which the application was submitted to the Corporation.

(D) Reasons for disapproval

If an application submitted under paragraph (6) is disapproved, the Corporation shall provide to the applicant the reasons for the disapproval not later than 30 days after a determination is made under this paragraph.

(8) Authority of Director

If the Corporation elects to use a credit score under this subsection, the Director of the Federal Housing Finance Agency shall require the Corporation to periodically review the validation and approval process required under paragraph (3) as the Director determines necessary to ensure that the process remains appropriate and adequate and complies with any standards and criteria established pursuant to section 4548(1) of this title.

(9) Extension

If, as of the effective date of this subsection, a credit score model has not been approved under paragraph (3), the Corporation may use a credit score model that was in use before the effective date of this subsection, if necessary to prevent substantial market disruptions, until the earlier of—

- (A) the date on which a credit score model is validated and approved under paragraph (3); or
- (B) the date that is 2 years after the effective date of this subsection.

(Pub. L. 91–351, title III, §305, July 24, 1970, 84 Stat. 454; Pub. L. 93–383, title VIII, §805(a), (b), Aug. 22, 1974, 88 Stat. 726; Pub. L. 93–495, title I, §113, Oct. 28, 1974, 88 Stat. 1506; Pub. L. 95–128, title IV, §408(b), Oct. 12, 1977, 91 Stat. 1138; Pub. L. 95–557, title III, §321(a), (b), Oct. 31, 1978, 92 Stat. 2101; Pub. L. 96–294, title V, §534(a)(1), June 30, 1980, 94 Stat. 740; Pub. L. 96–399, title III, §313(b), Oct. 8, 1980, 94 Stat. 1644; Pub. L. 97–110, title II, §§202(a), (b)(1), 203, Dec. 26, 1981, 95 Stat. 1514, 1515; Pub. L. 98–440, title II, §§201(b), 203(b)(2), 205(b), 206(b), Oct. 3, 1984, 98 Stat. 1693–1696; Pub. L. 100–122, §2(b)(2), Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title IV, §§443(b), 445, Feb. 5, 1988, 101 Stat. 1922; Pub. L. 100–628, title X, §1068(b), Nov. 7, 1988, 102 Stat. 3726; Pub. L. 101–73, title VII, §731(e), (f)(2), Aug. 9, 1989, 103 Stat. 433; Pub. L. 102–550, title XIII, §1382(j)–(m), Oct. 28, 1992, 106 Stat. 4004; Pub. L. 105–276, title II, §202(a), title V, §582(a)(14), Oct. 21, 1998, 112 Stat. 2483, 2644; Pub. L. 105–277, div. A, §122, Oct. 21, 1998, 112 Stat. 2681–546; Pub. L. 110–289, div. A, title I, §1124(b)(1), (2), July 30, 2008, 122 Stat. 2692; Pub. L. 115–174, title III, §310(b), May 24, 2018, 132 Stat. 1353.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of this title. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

This chapter, referred to in subsec. (a)(1), was in the original "this Act" and has been translated as reading "this title", meaning title III of Pub. L. 91–351, to reflect the probable intent of Congress.

The effective date of the Federal Housing Finance Regulatory Reform Act of 2008, referred to in subsec. (a)(2), probably means the date of enactment of div. A of Pub. L. 110–289, which was approved July 30, 2008.

Section 4542 of this title, referred to in subsec. (c), was repealed and a new section 4542 was added by Pub. L. 110–289, div. A, title I, §§1121(2), 1124(d), July 30, 2008, 122 Stat. 2689, 2693. The new section 4542 does not relate to obtaining the approval of the Secretary.

The effective date of this subsection, referred to in subsec. (d)(6), (9), is 180 days after May 24, 2018, see section 310(d) of Pub. L. 115–174, set out as an Effective Date of 2018 Amendment note below.

AMENDMENTS

2018—Subsec. (d). Pub. L. 115–174 added subsec. (d).

2008—Subsec. (a)(2). Pub. L. 110–289 substituted "Such limitations shall not exceed \$417,000 for a mortgage secured by a single-family residence, \$533,850 for a mortgage secured by a 2-family residence, \$645,300 for a mortgage secured by a 3-family residence, and \$801,950 for a mortgage secured by a 4-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning after the effective date of the Federal Housing Finance Regulatory Reform Act of 2008, subject to the limitations in this paragraph. Each adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal to the percentage increase, during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment, in the housing price index maintained by the Director of the Federal Housing Finance Agency (pursuant to section 4542 of this title). If the change in such house price index during the most recent 12-month or 4-quarter period ending before the time of determining such annual adjustment is a decrease, then no adjustment shall be made for the next year, and the next adjustment shall take into account prior declines in the house price index, so that any adjustment shall reflect the net change in the house price index since the last adjustment. Declines in the house price index shall be accumulated and then reduce increases until subsequent increases exceed prior declines." for "Such limitations shall not exceed \$93,750 for a mortgage secured by a single-family residence, \$120,000 for a mortgage secured by a two-family residence, \$145,000 for a mortgage secured by a three-family residence, and \$180,000 for a mortgage secured by a four-family residence, except that such maximum limitations shall be adjusted effective January 1 of each year beginning with 1981. Each such adjustment shall be made by adding to each such amount (as it may have been previously adjusted) a percentage thereof equal

to the percentage increase during the twelve-month period ending with the previous October in the national average one-family house price in the monthly survey of all major lenders conducted by the Federal Housing Finance Board." and inserted last sentence.

1998—Subsec. (a)(2). Pub. L. 105–276, §582(a)(14), struck out penultimate sentence which read as follows: "With respect to mortgages secured by property comprising five or more family dwelling units, such limitations shall not exceed 125 per centum of the dollar amounts set forth in section 207(c)(3) of the National Housing Act, except that such limitations may be increased by the Corporation (taking into account construction costs) to not to exceed 240 per centum of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels require any increase in the dollar amount limitations under such section."

Pub. L. 105–276, §202(a), which directed the amendment of the first sentence of par. (2) by striking out "or" at end of cl. (B) and substituting "; or (D) the mortgage is subject to default loss protection that the Corporation determines is financially equal or superior, on an individual or pooled basis, to the protection provided by clause (C) of this sentence: *Provided*, That if the Director of the Office of Federal Housing Enterprise Oversight subsequently finds that such default loss protection determined by the Corporation does not provide such equal or superior protection, the Corporation shall provide such additional default loss protection for such mortgage, as approved by the Director of the Office of Federal Housing Enterprise Oversight, necessary to provide such equal or superior protection." for the period at end, was repealed by Pub. L. 105–277, effective upon enactment of Pub. L. 105–276.

1992—Subsec. (a)(1). Pub. L. 102–550, §1382(j), in first sentence, substituted a period for "from any Federal home loan bank, the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, the National Credit Union Administration, any member of a Federal home loan bank, or any other financial institution the deposits or accounts of which are insured by an agency of the United States, or from any financial institution the deposits or accounts of which are insured under the laws of any State if the total amount of time and savings deposits held in all such institutions in that State is more than 20 per centum of the total amount of such deposits in all banks, building and loan, savings and loan, and homestead associations (including cooperative banks) in that State or from any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act or from any public utility carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act if the residential mortgage to be purchased is a loan or advance of credit the original proceeds of which are applied for in order to finance the purchase and installation of residential energy conservation measures (as defined in section 210(11) of the National Energy Conservation Policy Act) in residential real estate." and in second sentence, substituted a period for ", and the servicing on any such mortgage may be performed by the seller or by a financial institution qualified as a seller under the provisions of the preceding sentence, or by a mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act, with which institution or mortgagee the seller may contract."

Subsec. (a)(2). Pub. L. 102–550, §1382(k), substituted "Hawaii, and the Virgin Islands" for "and Hawaii" in last sentence.

Subsec. (c). Pub. L. 102–550, §1382(l), (m), added subsec. (c) and struck out former subsec. (c) which read as follows: "The Board of Directors may not impose any annual limitation on the maximum aggregate principal amount of mortgages purchased by the Corporation."

1989—Subsec. (a)(1). Pub. L. 101–73, §731(e)(1), (f)(2)(A), substituted "Resolution Trust Corporation" for "Federal Savings and Loan Insurance Corporation" and inserted at end "Nothing in this section authorizes the Corporation to impose any charge or fee upon any mortgagee approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act solely because of such status."

Subsec. (a)(2). Pub. L. 101–73, §731(f)(2), substituted "Resolution Trust Corporation" for "Federal Savings and Loan Insurance Corporation" and "Federal Housing Finance Board" for "Federal Home Loan Bank Board".

Subsec. (a)(5). Pub. L. 101–73, §731(e)(2), added par. (5).

Subsec. (b). Pub. L. 101–73, §731(f)(2)(A), substituted "Resolution Trust Corporation" for "Federal Savings and Loan Insurance Corporation".

1988—Subsec. (a)(4)(A)(i). Pub. L. 100–242, §443(b), struck out "through March 15, 1988," before "residential mortgages".

Subsec. (a)(4)(A)(ii). Pub. L. 100–628 struck out "until October 1, 1985," before "residential mortgages".

Subsec. (c). Pub. L. 100–242, §445, added subsec. (c).

1987—Subsec. (a)(4)(A)(i). Pub. L. 100–200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100-179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100-170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100-154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100-122 substituted "through October 31, 1987" for "until October 1, 1987".

1984—Subsec. (a)(2). Pub. L. 98-440, §205(b), which directed insertion of "secured by a property comprising one- to four-family dwelling units" after "mortgages" where first appearing in first sentence was executed by inserting that phrase after "No conventional mortgage" as the probable intent of Congress.

Pub. L. 98-440, §201(b), substituted "The Corporation shall establish limitations governing the maximum original principal obligation of conventional mortgages that are purchased by it; in any case in which the Corporation purchases a participation interest in such a mortgage, the limitation shall be calculated with respect to the total original principal obligation of the mortgage and not merely with respect to the interest purchased by the Corporation" for "The Corporation shall establish limitations governing the maximum principal obligation of conventional mortgages purchased by it".

Pub. L. 98-440, §206(b), inserted provision that the limitations set forth in section 1713(c)(3) of this title may be increased by the Corporation (taking into account construction costs) to not to exceed 240 per centum of such dollar amounts in any geographical area for which the Secretary of Housing and Urban Development determines under such section that cost levels required any increase in the dollar amount limitations under such section.

Subsec. (a)(4). Pub. L. 98-440, §203(b)(2), added par. (4).

1981—Subsec. (a)(1). Pub. L. 97-110, §203, added the Federal Deposit Insurance Corporation and the National Credit Union Administration to the enumeration of agencies from which the Federal Home Loan Mortgage Corporation is authorized to purchase residential mortgages.

Subsec. (a)(2). Pub. L. 97-110, §202(a), substituted provisions authorizing the Corporation to purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller is the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the National Credit Union Administration, or any other seller currently engaged in mortgage lending or investing activities for provisions which had authorized the Corporation to purchase a conventional mortgage which was originated more than one year prior to the purchase date only if the seller was currently engaged in mortgage lending or investing activities and if, as a result thereof, the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation which were originated more than one year prior to the date of purchases did not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation.

Pub. L. 97-110, §202(b)(1), inserted provision that, with respect to any transaction in which a seller contemporaneously sells mortgages originated more than one year old prior to the date of sale to the Corporation and receives in payment for such mortgages securities representing undivided interests only in those mortgages, the Corporation shall not impose any fee or charge upon an eligible seller which is not a member of a Federal Home Loan Bank which differs from that imposed upon an eligible seller which is such a member.

Subsec. (b). Pub. L. 97-110, §203, added the Federal Deposit Insurance Corporation and the National Credit Union Administration to the enumeration of agencies having the authority to enter into and to perform and carry out transactions and matters referred to in this section.

1980—Subsec. (a)(1). Pub. L. 96-294 inserted provisions relating to public utilities carrying out activities in accordance with the requirements of title II of the National Energy Conservation Policy Act.

Subsec. (a)(2). Pub. L. 96-399 inserted provisions setting forth limitations respecting mortgages secured by a single-family residence, etc., and struck out provisions making the limitations set forth in first proviso of first sentence of section 1464(c) of this title.

1978—Subsec. (a)(1). Pub. L. 95-557 inserted reference to any mortgagee approved by the Secretary of Housing and Urban Development at end of first sentence, and inserted last five sentences relating to imposition of charges or fees for different classes of sellers or servicers, etc.

1977—Subsec. (a)(2). Pub. L. 95-128 inserted "by more than 25 per centum" after "exceed" in last sentence.

1974—Subsec. (a)(1). Pub. L. 93-495 inserted provisions relating to State insurance of deposits or accounts in financial institutions.

Pub. L. 93-383, §805(a), substituted ". The Corporation may hold" for ", and to hold" and inserted provisions relating to the servicing of any such mortgage by the seller or qualified financial institution.

Subsec. (a)(2). Pub. L. 93-383, §805(b), substituted "80" for "75" in two places and "not exceed 20" for "not exceed 10", struck out "private" before "insurer" in cl. (C), and substituted provisions relating to limitations contained in first proviso of first sentence of section 1464(c) of this title, for provisions relating to

limitations applicable if the mortgage were insured by the Secretary under section 1709(b) or 1713 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115–174, title III, §310(d), May 24, 2018, 132 Stat. 1355, provided that: "The amendments made by subsections (a) and (b) [amending this section and section 1717 of this title] shall take effect on the date that is 180 days after the date of enactment of this Act [May 24, 2018]."

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–289, div. A, title I, §1124(b)(3), July 30, 2008, 122 Stat. 2693, provided that: "The amendments made by paragraphs (1) and (2) of this subsection [amending this section] shall take effect upon the expiration of the date described in section 201(a) of the Economic Stimulus Act of 2008 (Public Law 110–185) [122 Stat. 619; probably means Dec. 31, 2008]."

EFFECTIVE DATE OF 1998 AMENDMENTS

Pub. L. 105–277, div. A, §122, Oct. 21, 1998, 112 Stat. 2681–546, provided that the amendment made by section 122 is effective upon enactment of Pub. L. 105–276 (Oct. 21, 1998).

Amendment by title V of Pub. L. 105–276 effective and applicable beginning upon Oct. 1, 1999, except as otherwise provided, with provision that Secretary may implement amendment before such date, except to extent that such amendment provides otherwise, and with savings provision, see section 503 of Pub. L. 105–276, set out as a note under section 1437 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97–110, title II, §202(b)(2), Dec. 26, 1981, 95 Stat. 1514, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect on January 1, 1982, and shall apply to commitments entered into on or after such date."

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–557, title III, §321(c), Oct. 31, 1978, 92 Stat. 2102, provided: "The amendments made by this section [amending this section] shall become effective at the end of the two hundred and ten calendar days after enactment of this Act [Oct. 31, 1978], but not before January 31, 1979, or on such earlier date as the Federal Home Loan Mortgage Corporation may prescribe."

SAVINGS PROVISION

Pub. L. 105–276, title V, §582(b), Oct. 21, 1998, 112 Stat. 2644, provided that: "Except to the extent otherwise provided in this Act [see Tables for classification], the repeals made by subsection (a) [amending this section and section 1717 of this title, repealing sections 1437a–1, 1437j–1, 1438, and 11903a of Title 42, The Public Health and Welfare, amending provisions set out as a note under section 1437f of Title 42, and repealing provisions set out as notes under section 1701z–6 of this title and sections 1437f, 1437g, and 1437t of Title 42] shall not affect any legally binding obligations entered into before the effective date under section 503(a) of this Act [set out as a note under section 1437 of Title 42]."

¹ [*See References in Text note below.*](#)

§1455. Obligations and securities of the Corporation

(a) Authority to issue; terms and conditions; validity

The Corporation is authorized, upon such terms and conditions as it may prescribe, to borrow, to give security, to pay interest or other return, and to issue notes, debentures, bonds, or other obligations, or other securities, including without limitation mortgage-backed securities guaranteed by the Government National Mortgage Association in the manner provided in section 1721(g) of this title. Any obligation or security of the Corporation shall be valid and binding notwithstanding that a person or persons purporting to have executed or attested the same may have died, become under disability, or ceased to hold office or employment before the issuance thereof.

(b) Prohibitions and restrictions; creation of liens and charges; rank and priority; causes of action to enforce; jurisdiction; service of process

The Corporation may, by regulation or by writing executed by the Corporation, establish prohibitions or restrictions upon the creation of indebtedness or obligations of the Corporation or of liens or charges upon property of the Corporation, including after-acquired property, and create liens and charges, which may be floating liens or charges, upon all or any part or parts of the property of the Corporation, including after-acquired property. Such prohibitions, restrictions, liens, and charges shall have such effect, including without limitation on the generality of the foregoing such rank and priority, as may be provided by regulations of the Corporation or by writings executed by the Corporation, and shall create causes of action which may be enforced by action in the United States District Court for the District of Columbia or in the United States district court for any judicial district in which any of the property affected is located. Process in any such action may run to and be served in any judicial district or any place subject to the jurisdiction of the United States.

(c) Purchase of obligations; funds, maximum amount of purchases, etc.

(1) The Secretary of the Treasury may purchase any obligations issued under subsection (a). For such purpose, the Secretary may use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include such purpose.

(2) The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if the purchase would increase the aggregate principal amount of the outstanding holdings of obligations under this subsection by the Secretary to an amount greater than \$2,250,000,000.

(3) Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon terms and conditions established to yield a rate of return determined by the Secretary to be appropriate, taking into consideration the current average rate on outstanding marketable obligations of the United States as of the last day of the month preceding the making of the purchase.

(4) The Secretary of the Treasury may at any time sell, upon terms and conditions and at prices determined by the Secretary, any of the obligations acquired by the Secretary under this subsection.

(5) All redemptions, purchases and sales by the Secretary of the Treasury of obligations under this subsection shall be treated as public debt transactions of the United States.

(d) Validity of provisions; validity of restrictions, prohibitions, liens, or charges

The provisions of this section and of any restriction, prohibition, lien, or charge referred to in subsection (b) shall be fully effective notwithstanding any other law, including without limitation on the generality of the foregoing any law of or relating to sovereign immunity or priority.

(e) Authority to purchase, hold, or invest by person, trust, or organization

(1) Any person, trust, or organization created pursuant to or existing under the laws of the United States or any State shall be authorized to purchase, hold, and invest in mortgages, obligations, or other securities which are or have been sold by the Corporation pursuant to this section or pursuant to section 1454 of this title to the same extent that such person, trust, or organization is authorized under any applicable law to purchase, hold, or invest in obligations issued by or guaranteed as to principal and interest by the United States or any agency or instrumentality thereof. Where State law limits the purchase, holding, or investment in obligations issued by the United States by such a person, trust, or organization, such Corporation mortgages, obligations, and other securities shall be considered to be obligations issued by the United States for purposes of the limitation.

(2) The provisions of paragraph (1) shall not apply with respect to a particular person, trust, or organization or class thereof in any State which, after December 21, 1979, enacts a statute which specifically names the Corporation and either prohibits or provides for a more limited authority to purchase, hold, or invest in such securities by such person, trust, or organization or class thereof than is provided in paragraph (1). The enactment by any State of any statute of the type described in the preceding sentence shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto.

(3) Any authority granted by paragraph (1) and not granted by any other Federal statute shall

expire as of the end of June 30, 1985. Such expiration shall not affect the validity of any contractual commitment to purchase, hold, or invest which was made prior thereto pursuant to paragraph (1), and shall not affect the validity of any contractual commitment or other action to purchase, hold, or invest pursuant to any other authorization.

(f) Preferred stock

The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not be entitled to vote with respect to the election of any member of the Board of Directors.

(g) Securities exempt from regulation

All securities issued or guaranteed by the Corporation (other than securities guaranteed by the Corporation that are backed by mortgages not purchased by the Corporation) shall, to the same extent as securities that are direct obligations of or obligations guaranteed as to principal or interest by the United States, be deemed to be exempt securities within the meaning of the laws administered by the Securities and Exchange Commission.

(h) Securities backed by mortgages not purchased by Corporation

(1) The Corporation may not guarantee mortgage-backed securities or mortgage related payment securities backed by mortgages not purchased by the Corporation.

(2) The Corporation shall insert appropriate language in all of the obligations and securities of the Corporation issued under this section and section 1454 of this title clearly indicating that such obligations and securities, together with the interest thereon, are not guaranteed by the United States and do not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Corporation.

(i) Prohibition on assessment or collection of fee or charge by United States

Except for fees paid pursuant to sections 1452(c) ¹ and 1455(c) of this title and assessments pursuant to section 4516 of this title, no fee or charge may be assessed or collected by the United States (including any executive department, agency, or independent establishment of the United States) on or with regard to the purchase, acquisition, sale, pledge, issuance, guarantee, or redemption of any mortgage, asset, obligation, or other security by the Corporation. No provision of this subsection shall affect the purchase of any obligation by any Federal home loan bank pursuant to section 1452(a) of this title.

(j) Notes, debentures, or substantially identical types of unsecured obligations; issuance, maturities, interest rates, etc.

(1) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation evidencing money borrowed, whether general or subordinated, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and bear such rate or rates of interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

(2) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation having maturities of 1 year or less that the Corporation has issued or is issuing as of August 9, 1989, shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 365 days after August 9, 1989.

(3) Any notes, debentures, or substantially identical types of unsecured obligations of the Corporation having maturities of more than 1 year that the Corporation has issued or is issuing as of August 9, 1989, shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection. Such deemed approval shall expire 60 days after August 9, 1989.

(k) Securities in form of debt obligations or trust certificates of beneficial interest; issuance, maturities, interest rates, etc.

(1) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, shall be issued upon the approval of the Secretary of the Treasury and shall have such maturities and shall bear such rate or rates of

interest as may be determined by the Corporation with the approval of the Secretary of the Treasury.

(2) Any securities in the form of debt obligations or trust certificates of beneficial interest, or both, and based upon mortgages held and set aside by the Corporation, that the Corporation has issued or is issuing as of August 9, 1989, shall be deemed to have been approved by the Secretary of the Treasury as required by this subsection.

(I) Temporary authority of Treasury to purchase obligations and securities; conditions

(1) Authority to purchase

(A) General authority

In addition to the authority under subsection (c) of this section, the Secretary of the Treasury is authorized to purchase any obligations and other securities issued by the Corporation under any section of this chapter, on such terms and conditions as the Secretary may determine and in such amounts as the Secretary may determine. Nothing in this subsection requires the Corporation to issue obligations or securities to the Secretary without mutual agreement between the Secretary and the Corporation. Nothing in this subsection permits or authorizes the Secretary, without the agreement of the Corporation, to engage in open market purchases of the common securities of the Corporation.

(B) Emergency determination required

In connection with any use of this authority, the Secretary must determine that such actions are necessary to—

- (i) provide stability to the financial markets;
- (ii) prevent disruptions in the availability of mortgage finance; and
- (iii) protect the taxpayer.

(C) Considerations

To protect the taxpayers, the Secretary of the Treasury shall take into consideration the following in connection with exercising the authority contained in this paragraph:

- (i) The need for preferences or priorities regarding payments to the Government.
- (ii) Limits on maturity or disposition of obligations or securities to be purchased.
- (iii) The Corporation's plan for the orderly resumption of private market funding or capital market access.
- (iv) The probability of the Corporation fulfilling the terms of any such obligation or other security, including repayment.
- (v) The need to maintain the Corporation's status as a private shareholder-owned company.
- (vi) Restrictions on the use of Corporation resources, including limitations on the payment of dividends and executive compensation and any such other terms and conditions as appropriate for those purposes.

(D) Reports to Congress

Upon exercise of this authority, the Secretary shall report to the Committees on the Budget, Financial Services, and Ways and Means of the House of Representatives and the Committees on the Budget, Finance, and Banking, Housing, and Urban Affairs of the Senate as to the necessity for the purchase and the determinations made by the Secretary under subparagraph (B) and with respect to the considerations required under subparagraph (C), and the size, terms, and probability of repayment or fulfillment of other terms of such purchase.

(2) Rights; sale of obligations and securities

(A) Exercise of rights

The Secretary of the Treasury may, at any time, exercise any rights received in connection with such purchases.

(B) Sale of obligation and securities

The Secretary of the Treasury may, at any time, subject to the terms of the security or

otherwise upon terms and conditions and at prices determined by the Secretary, sell any obligation or security acquired by the Secretary under this subsection.

(C) Deficit reduction

The Secretary of the Treasury shall deposit in the General Fund of the Treasury any amounts received by the Secretary from the sale of any obligation acquired by the Secretary under this subsection, where such amounts shall be—

- (i) dedicated for the sole purpose of deficit reduction; and
- (ii) prohibited from use as an offset for other spending increases or revenue reductions.

(D) Application of sunset to purchased obligations or securities

The authority of the Secretary of the Treasury to hold, exercise any rights received in connection with, or sell, any obligations or securities purchased is not subject to the provisions of paragraph (4).

(3) Funding

For the purpose of the authorities granted in this subsection, the Secretary of the Treasury may use the proceeds of the sale of any securities issued under chapter 31 of Title 31, and the purposes for which securities may be issued under chapter 31 of Title 31 are extended to include such purchases and the exercise of any rights in connection with such purchases. Any funds expended for the purchase of, or modifications to, obligations and securities, or the exercise of any rights received in connection with such purchases under this subsection shall be deemed appropriated at the time of such purchase, modification, or exercise.

(4) Termination of authority

The authority under this subsection (1), with the exception of paragraphs (2) and (3) of this subsection, shall expire December 31, 2009.

(5) Authority of the Director with respect to executive compensation

The Director shall have the power to approve, disapprove, or modify the executive compensation of the Corporation, as defined under Regulation S-K, 17 C.F.R. 229.

(Pub. L. 91–351, title III, §306, July 24, 1970, 84 Stat. 455; Pub. L. 96–153, title III, §316(a), Dec. 21, 1979, 93 Stat. 1118; Pub. L. 97–289, §6, Oct. 6, 1982, 96 Stat. 1232; Pub. L. 98–35, §5, May 26, 1983, 97 Stat. 198; Pub. L. 98–440, title II, §§210, 211, Oct. 3, 1984, 98 Stat. 1697; Pub. L. 100–242, title IV, §441(b), Feb. 5, 1988, 101 Stat. 1921; Pub. L. 101–73, title VII, §731(g)–(i), Aug. 9, 1989, 103 Stat. 434; Pub. L. 102–550, title XIII, §1382(n), Oct. 28, 1992, 106 Stat. 4005; Pub. L. 110–289, div. A, title I, §§1117(b), 1161(c)(2), July 30, 2008, 122 Stat. 2684, 2780; Pub. L. 111–203, title XIII, §1304(b), July 21, 2010, 124 Stat. 2134.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1452(c) of this title, referred to in subsec. (i), was redesignated section 1452(d) of this title by Pub. L. 101–73, title VII, §731(c)(1), Aug. 9, 1989, 103 Stat. 431.

This chapter, referred to in subsec. (l)(1)(A), was in the original "this Act" and has been translated as reading "this title", meaning title III of Pub. L. 91–351, to reflect the probable intent of Congress.

AMENDMENTS

2010—Subsec. (l)(2)(C), (D). Pub. L. 111–203 added subpar. (C) and redesignated former subpar. (C) as (D).

2008—Subsec. (c)(2). Pub. L. 110–289, §1161(c)(2)(A), inserted "the" after "Secretary of".

Subsec. (i). Pub. L. 110–289, §1161(c)(2)(B)(ii), made technical amendment to reference in original act which appears in text as reference to section 4516 of this title.

Pub. L. 110–289, §1161(c)(2)(B)(i), made technical amendment to reference in original act which appears in text as reference to section 1455(c) of this title. Amendment was given effect, notwithstanding error in directory language which directed substitution of "section 306(c)" for "section 1316(c)" in the original.

Subsec. (j)(2). Pub. L. 110–289, §1161(c)(2)(C), substituted "or substantially" for "of substantially".

Subsec. (l). Pub. L. 110–289, §1117(b), added subsec. (l).

1992—Subsec. (h). Pub. L. 102–550, §1382(n)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (i). Pub. L. 102–550, §1382(n)(2), substituted "sections 1452(c) and 1455(c) of this title and assessments pursuant to section 4516 of this title" for "section 1452(c) or 1455(c) of this title".

1989—Subsec. (c). Pub. L. 101–73, §731(g), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "The Federal home loan banks shall, to such extent as the Board of Directors may prescribe, guarantee the faithful and timely performance by the Corporation of any obligation or undertaking of the Corporation on or with respect to any security (which term as used in this sentence shall not include the capital stock referred to in section 1453 of this title)."

Subsec. (f). Pub. L. 101–73, §731(h), amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows: "The Corporation may have preferred stock on such terms and conditions as the Board of Directors shall prescribe. Any preferred stock shall not affect the status of the capital stock issued under section 1453 of this title as nonvoting common stock, and shall not be entitled to vote with respect to the election of any member of the Board of Directors. Such preferred stock, or any class thereof, may have such terms as would be required for listing of preferred stock on the New York Stock Exchange, except that this sentence does not apply to any preferred stock, or class thereof, the initial sale of which is made directly or indirectly by the Corporation exclusively to any Federal Home Loan Bank or Banks."

Subsecs. (j), (k). Pub. L. 101–73, §731(i), added subsecs. (j) and (k).

1988—Subsec. (i). Pub. L. 100–242 added subsec. (i).

1984—Subsec. (f). Pub. L. 98–440, §211, inserted provisions that preferred stock shall not be entitled to vote with respect to the election of any member of the Board of Directors and that such preferred stock, or any class thereof, may have such terms as would be required for listing of preferred stock on the New York Stock Exchange, except for any preferred stock, or class thereof, the initial sale of which is made directly or indirectly by the Corporation exclusively to any Federal Home Loan Bank or Banks.

Subsec. (h). Pub. L. 98–440, §210, added subsec. (h).

1983—Subsec. (g). Pub. L. 98–35 added subsec. (g).

1982—Subsec. (f). Pub. L. 97–289 added subsec. (f).

1979—Subsec. (e). Pub. L. 96–153 added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

REPAYMENT OF FEES

Pub. L. 111–203, title XIII, §1304(d), July 21, 2010, 124 Stat. 2134, provided that: "Any periodic commitment fee or any other fee or assessment paid by the Federal National Mortgage Association or Federal Home Loan Mortgage Corporation to the Secretary of the Treasury as a result of any preferred stock purchase agreement, mortgage-backed security purchase program, or any other program or activity authorized or carried out pursuant to the authorities granted to the Secretary of the Treasury under section 1117 of the Housing and Economic Recovery Act of 2008 (Public Law 110–289; 122 Stat. 2683) [amending this section and sections 1431 and 1719 of this title], including any fee agreed to by contract between the Secretary and the Association or Corporation, shall be deposited in the General Fund of the Treasury where such amounts shall be—

"(1) dedicated for the sole purpose of deficit reduction; and

"(2) prohibited from use as an offset for other spending increases or revenue reductions."

[For definitions of terms used in section 1304(d) of Pub. L. 111–203, set out above, see section 5301 of this title.]

¹ [*See References in Text note below.*](#)

§1456. Immunity of Corporation; audits and reporting requirements; data

collection; Housing Advisory Council

(a) Rights and remedies of Corporation; State qualifications or similar statutes

All rights and remedies of the Corporation, including without limitation on the generality of the foregoing any rights and remedies of the Corporation on, under, or with respect to any mortgage or any obligation secured thereby, shall be immune from impairment, limitation, or restriction by or under (1) any law (except laws enacted by the Congress expressly in limitation of this sentence) which becomes effective after the acquisition by the Corporation of the subject or property on, under, or with respect to which such right or remedy arises or exists or would so arise or exist in the absence of such law, or (2) any administrative or other action which becomes effective after such acquisition. The Corporation is authorized to conduct its business without regard to any qualification or similar statute in any State.

(b) Government audits; procedure; access to records, etc.; reimbursement of costs

(1) The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the Government Accountability Office shall have access to all books, accounts, financial records, reports, files and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians. A report on each such audit shall be made by the Comptroller General to the Congress. The Corporation shall reimburse the Government Accountability Office for the full cost of any such audit as billed therefor by the Comptroller General.

(2) To carry out this subsection, the representatives of the Government Accountability Office shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under subsection (d), to any books, accounts, financial records, reports, files, or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to any papers, records, files, and reports of the auditor used in such an audit.

(c) Financial reports; submission to Director; contents

(1) The Corporation shall submit to the Director of the Federal Housing Finance Agency annual and quarterly reports of the financial condition and operations of the Corporation which shall be in such form, contain such information, and be submitted on such dates as the Director shall require.

(2) Each such annual report shall include—

- (A) financial statements prepared in accordance with generally accepted accounting principles;
- (B) any supplemental information or alternative presentation that the Director may require; and
- (C) an assessment (as of the end of the Corporation's most recent fiscal year), signed by the chief executive officer and chief accounting or financial officer of the Corporation, of—
 - (i) the effectiveness of the internal control structure and procedures of the Corporation; and
 - (ii) the compliance of the Corporation with designated safety and soundness laws.

(3) The Corporation shall also submit to the Director any other reports required by the Director pursuant to section 1314 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4514].

(4) Each report of financial condition shall contain a declaration by the president, vice president, treasurer, or any other officer designated by the Board of Directors of the Corporation to make such declaration, that the report is true and correct to the best of such officer's knowledge and belief.

(d) Independent audits of financial statements

(1) The Corporation shall have an annual independent audit made of its financial statements by an independent public accountant in accordance with generally accepted auditing standards.

(2) In conducting an audit under this subsection, the independent public accountant shall determine and report on whether the financial statements of the Corporation (A) are presented fairly in accordance with generally accepted accounting principles, and (B) to the extent determined

necessary by the Director, comply with any disclosure requirements imposed under subsection (c)(2)(B).

(e) Mortgage data collection and reporting requirements

(1) The Corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of 1 to 4 dwelling units. Such data shall include—

- (A) the income, census tract location, race, and gender of mortgagors under such mortgages;
- (B) the loan-to-value ratios of purchased mortgages at the time of origination;
- (C) whether a particular mortgage purchased is newly originated or seasoned;
- (D) the number of units in the housing subject to the mortgage and whether the units are owner-occupied; and
- (E) any other characteristics that the Secretary considers appropriate, to the extent practicable.

(2) The Corporation shall collect, maintain, and provide to the Director of the Federal Housing Finance Agency, in a form determined by the Director, data relating to its mortgages on housing consisting of more than 4 dwelling units. Such data shall include—

- (A) census tract location of the housing;
- (B) income levels and characteristics of tenants of the housing (to the extent practicable);
- (C) rent levels for units in the housing;
- (D) mortgage characteristics (such as the number of units financed per mortgage and the amount of loans);
- (E) mortgagor characteristics (such as nonprofit, for-profit, limited equity cooperatives);
- (F) use of funds (such as new construction, rehabilitation, refinancing);
- (G) type of originating institution; and
- (H) any other information that the Secretary considers appropriate, to the extent practicable.

(3)(A) Except as provided in subparagraph (B), this subsection shall apply only to mortgages purchased by the Corporation after December 31, 1992.

(B) This subsection shall apply to any mortgage purchased by the Corporation after the date determined under subparagraph (A) if the mortgage was originated before such date, but only to the extent that the data referred in paragraph (1) or (2), as applicable, is available to the Corporation.

(f) Report on housing activities; contents; public disclosure

(1) The Corporation shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives, the Committee on Banking, Housing, and Urban Affairs of the Senate, and the Director of the Federal Housing Finance Agency a report on its activities under subpart B of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4561 et seq.].

(2) The report under this subsection shall—

(A) include, in aggregate form and by appropriate category, statements of the dollar volume and number of mortgages on owner-occupied and rental properties purchased which relate to each of the annual housing goals established under such subpart;

(B) include, in aggregate form and by appropriate category, statements of the number of families served by the Corporation, the income class, race, and gender of homebuyers served, the income class of tenants of rental housing (to the extent such information is available), the characteristics of the census tracts, and the geographic distribution of the housing financed;

(C) include a statement of the extent to which the mortgages purchased by the Corporation have been used in conjunction with public subsidy programs under Federal law;

(D) include statements of the proportion of mortgages on housing consisting of 1 to 4 dwelling units purchased by the Corporation that have been made to first-time homebuyers, as soon as providing such data is practicable, and identifying any special programs (or revisions to conventional practices) facilitating homeownership opportunities for first-time homebuyers;

(E) include, in aggregate form and by appropriate category, the data provided to the Director of

the Federal Housing Finance Agency under subsection (e)(1)(B);

(F) compare the level of securitization versus portfolio activity;

(G) assess underwriting standards, business practices, repurchase requirements, pricing, fees, and procedures, that affect the purchase of mortgages for low- and moderate-income families, or that may yield disparate results based on the race of the borrower, including revisions thereto to promote affordable housing or fair lending;

(H) describe trends in both the primary and secondary multifamily housing mortgage markets, including a description of the progress made, and any factors impeding progress, toward standardization and securitization of mortgage products for multifamily housing;

(I) describe trends in the delinquency and default rates of mortgages secured by housing for low- and moderate-income families that have been purchased by the Corporation, including a comparison of such trends with delinquency and default information for mortgage products serving households with incomes above the median level that have been purchased by the Corporation, and evaluate the impact of such trends on the standards and levels of risk of mortgage products serving low- and moderate-income families;

(J) describe in the aggregate the seller and servicer network of the Corporation, including the volume of mortgages purchased from minority-owned, women-owned, and community-oriented lenders, and any efforts to facilitate relationships with such lenders;

(K) describe the activities undertaken by the Corporation with nonprofit and for-profit organizations and with State and local governments and housing finance agencies, including how the Corporation's activities support the objectives of comprehensive housing affordability strategies under section 12705 of title 42; and

(L) include any other information that the Director of the Federal Housing Finance Agency considers appropriate.

(3)(A) The Corporation shall make each report under this subsection available to the public at the principal and regional offices of the Corporation.

(B) Before making a report under this subsection available to the public, the Corporation may exclude from the report information that the Director of the Federal Housing Finance Agency has determined is proprietary information under section 1326 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4546].

(g) Affordable Housing Advisory Council

(1) Not later than 4 months after October 28, 1992, the Corporation shall appoint an Affordable Housing Advisory Council to advise the Corporation regarding possible methods for promoting affordable housing for low- and moderate-income families.

(2) The Affordable Housing Advisory Council shall consist of 15 individuals, who shall include representatives of community-based and other nonprofit and for-profit organizations and State and local government agencies actively engaged in the promotion, development, or financing of housing for low- and moderate-income families.

(Pub. L. 91–351, title III, §307, July 24, 1970, 84 Stat. 456; Pub. L. 101–73, title VII, §731(j)(1), Aug. 9, 1989, 103 Stat. 435; Pub. L. 102–550, title XIII, §1382(o)–(t), Oct. 28, 1992, 106 Stat. 4005–4008; Pub. L. 108–271, §8(b), July 7, 2004, 118 Stat. 814; Pub. L. 110–289, div. A, title I, §1161(c)(1), (3), July 30, 2008, 122 Stat. 2780.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, referred to in subsec. (f)(1), is title XIII of Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3941. Subpart B of part 2 of subtitle A of the Act is classified generally to subpart 2 (§4561 et seq.) of part B of subchapter I of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note under section 4501 of this title and Tables.

AMENDMENTS

2008—Subsec. (c)(1). Pub. L. 110–289, §1161(c)(1), substituted "Director of the Federal Housing Finance Agency" for "Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development".

Subsec. (e)(1), (2). Pub. L. 110–289, §1161(c)(3)(A), substituted "to the Director of the Federal Housing Finance Agency, in a form determined by the Director" for "to the Secretary, in a form determined by the Secretary" in introductory provisions.

Subsec. (f)(1). Pub. L. 110–289, §1161(c)(3)(B)(i), substituted "and the Director of the Federal Housing Finance Agency" for "and the Secretary".

Subsec. (f)(2)(E), (L). Pub. L. 110–289, §1161(c)(3)(B)(ii), substituted "the Director of the Federal Housing Finance Agency" for "the Secretary".

Subsec. (f)(3)(B). Pub. L. 110–289, §1161(c)(3)(B)(iii), substituted "Director of the Federal Housing Finance Agency" for "Secretary".

2004—Subsec. (b). Pub. L. 108–271 substituted "Government Accountability Office" for "General Accounting Office" wherever appearing.

1992—Subsec. (b). Pub. L. 102–550, §1382(o), designated existing provisions as par. (1), substituted "The programs, activities, receipts, expenditures, and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General." for "The financial transactions of the Corporation shall be subject to audit by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions under such rules and regulations as may be prescribed by the Comptroller General of the United States.", and added par. (2).

Subsecs. (c) to (g). Pub. L. 102–550, §1382(p)–(t), added subsecs. (c) to (g).

1989—Subsec. (a). Pub. L. 101–73 substituted "The Corporation is authorized to conduct its business without regard to any qualification or similar statute in any State." for "The Corporation shall be entitled to all immunities and priorities, including without limitation on the generality of the foregoing all immunities and priorities under any such law or action, to which it would be entitled if it were the United States or if it were an unincorporated agency of the United States."

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–73, title VII, §731(j)(2), Aug. 9, 1989, 103 Stat. 435, provided that: "The amendment made by this subsection [amending this section] shall not apply to any assertion of priority by the Federal Home Loan Mortgage Corporation with respect to any cause of action or claim filed before the date of the enactment of this Act [Aug. 9, 1989]."

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

§1457. Prohibited activities; penalties for violations by organizations, officers and members of organizations, and individuals

Except as expressly authorized by statute of the United States, no individual or organization (except the Corporation) shall use the term "Federal Home Loan Mortgage Corporation", or any

combination of words including the words "Federal", and "Home Loan", and "Mortgage", as a name or part thereof under which any individual or organization does any business, but this sentence shall not make unlawful the use of any name under which business is being done on July 24, 1970. No individual or organization shall use or display (1) any sign, device, or insigne prescribed or approved by the Corporation for use or display by the Corporation or by members of the Federal home loan banks, (2) any copy, reproduction, or colorable imitation of any such sign, device, or insigne, or (3) any sign, device, or insigne reasonably calculated to convey the impression that it is a sign, device, or insigne used by the Corporation or prescribed or approved by the Corporation, contrary to regulations of the Corporation prohibiting, or limiting or restricting, such use or display by such individual or organization. An organization violating this subsection shall for each violation be punished by a fine of not more than \$10,000. An officer or member of an organization participating or knowingly acquiescing in any violation of this subsection shall be punished by a fine of not more than \$5,000 or imprisonment for not more than one year, or both. An individual violating this subsection shall for each violation be punished as set forth in the sentence next preceding this sentence.

(Pub. L. 91-351, title III, §308, July 24, 1970, 84 Stat. 456; Pub. L. 98-479, title II, §204(h), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 101-73, title VII, §731(k), Aug. 9, 1989, 103 Stat. 435.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101-73 struck out subsection (a) designation before "Except as expressly", and struck out subsecs. (b) to (f) relating to applicability of criminal provisions of title 18, and defining terms construing such applicability.

1984—Subsec. (f). Pub. L. 98-479 substituted "United States" for "United States Code" before ", except in a territorial sense".

§1458. Territorial applicability

Notwithstanding any other law, this chapter shall be applicable to the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

(Pub. L. 91-351, title III, §309, July 24, 1970, 84 Stat. 457.)

§1459. Separability

Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of this chapter, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

(Pub. L. 91-351, title III, §310, July 24, 1970, 84 Stat. 457; Pub. L. 101-73, title VII, §731(l), Aug. 9, 1989, 103 Stat. 435.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101-73 amended section catchline and struck out first sentence which read as follows: "Except as otherwise provided in this chapter, or as otherwise provided by the Corporation or by laws hereafter enacted by the Congress expressly in limitation of provisions of this chapter, the powers and functions of the Corporation and of the Board of Directors shall be exercisable, and the provisions of this chapter shall be applicable and effective, without regard to any other law."

CHAPTER 12—SAVINGS ASSOCIATIONS

| | |
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§1461. Short title

This chapter may be cited as the "Home Owners' Loan Act."

(June 13, 1933, ch. 64, §1 (part), 48 Stat. 128; Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 277.)

EDITORIAL NOTES

CODIFICATION

Section is comprised of the first sentence of section 1 of act June 13, 1933. The remainder of section 1 of the Act included a table of contents for the Act.

AMENDMENTS

1989—Pub. L. 101–73 amended section generally, striking out "of 1933" after "Act".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–73, title III, §305(c), Aug. 9, 1989, 103 Stat. 352, provided that: "The amendments made by section 301 [amending this chapter] relating to civil penalties shall apply with respect to violations committed and activities engaged in after the date of the enactment of this Act [Aug. 9, 1989], except that the increased maximum civil penalties of \$5,000 and \$25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities—

"(1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and

"(2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813])

occurring before the date of the enactment of this Act."

SHORT TITLE OF 1998 AMENDMENT

Pub. L. 105–164, §1, Mar. 20, 1998, 112 Stat. 32, provided that: "This Act [enacting section 1786a of this title, amending sections 1464 and 1818 of this title, and enacting provisions set out as a note under section 1811 of this title] may be cited as the 'Examination Parity and Year 2000 Readiness for Financial Institutions Act'."

SHORT TITLE OF 1991 AMENDMENT

Pub. L. 102–242, title IV, §436, Dec. 19, 1991, 105 Stat. 2381, provided that: "This subtitle [subtitle G (§§436–441) of title IV of Pub. L. 102–242, amending sections 1464 and 1467a of this title] may be cited as the 'Qualified Thrift Lender Reform Act of 1991'."

SHORT TITLE OF 1982 AMENDMENT

Pub. L. 97–320, title III, §301, Oct. 15, 1982, 96 Stat. 1496, provided that: "This title [enacting section 1701j–3 of this title, amending sections 1425a, 1426, 1428a, 1430, 1464, 1725, 1730a, 1841, and 3503 of this title, enacting provisions set out as a note under section 3503 of this title, and repealing provisions set out as a note under section 461 of this title] may be cited as the 'Thrift Institutions Restructuring Act'."

§1462. Definitions

For purposes of this chapter—

(1) Corporation

The term "Corporation" means the Federal Deposit Insurance Corporation.

(2) Savings association

The term "savings association" means a savings association, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813], the deposits of which are insured by the Corporation.

(3) Federal savings association

The term "Federal savings association" means a Federal savings association or a Federal savings bank chartered under section 1464 of this title.

(4) National bank

The term "national bank" has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(5) Federal banking agencies

The term "Federal banking agencies" means the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

(6) State

The term "State" has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(7) Affiliate

The term "affiliate" means any person that controls, is controlled by, or is under common control with, a savings association, except as provided in section 1467a of this title.

(8) Board

The term "Board", other than in the context of the Board of Directors of the Corporation, means the Board of Governors of the Federal Reserve System.

(9) Comptroller

The term "Comptroller" means the Comptroller of the Currency.

(10) Appropriate Federal banking agency

The term "appropriate Federal banking agency" has the same meaning as in section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

(11) Functionally regulated subsidiary

The term "functionally regulated subsidiary" has the same meaning as in section 5(c)(5) of the Bank Holding Company Act of 1956 (12 U.S.C. 1844(c)(5)).

(June 13, 1933, ch. 64, §2, 48 Stat. 128; June 27, 1934, ch. 847, title V, §508(a), 48 Stat. 1264; May 28, 1935, ch. 150, §10, 49 Stat. 296; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 11, 1955, ch. 783, title I, §109(a)(3), 69 Stat. 640; Pub. L. 95-630, title XII, §1201, Nov. 10, 1978, 92 Stat. 3710; Pub. L. 97-320, title I, §114(a), Oct. 15, 1982, 96 Stat. 1475; Pub. L. 101-73, title III, §301, Aug. 9, 1989, 103 Stat. 277; Pub. L. 111-203, title III, §369(2), title VI, §604(h)(1), July 21, 2010, 124 Stat. 1557, 1602.)

EDITORIAL NOTES

AMENDMENTS

2010—Pars. (1) to (9). Pub. L. 111-203, §369(2), redesignated pars. (2) and (4) to (9) as (1) and (2) to (7), respectively, added pars. (8) and (9), and struck out former pars. (1) and (3) which read as follows:

"(1) DIRECTOR.—The term 'Director' means the Director of the Office of Thrift Supervision.

"(3) OFFICE.—The term 'Office' means the Office of Thrift Supervision."

Pars. (10), (11). Pub. L. 111-203, §604(h)(1), added pars. (10) and (11).

1989—Pub. L. 101-73 amended section generally, substituting definition of "Director", "Corporation", "Office", "savings association", "Federal savings association", "national bank", "Federal banking agencies", "State", and "affiliate", designated as pars. (1) to (9), for definition of "Board", "Corporation", "home mortgage", "first mortgage", and "association", designated as subsecs. (a) to (d).

1982—Subsec. (d). Pub. L. 97-320 substituted reference to Federal savings bank or Federal savings banks for reference to Federal mutual savings bank wherever appearing.

1978—Subsec. (d). Pub. L. 95-630 included a Federal mutual savings bank chartered by the Board within definition of "association", and inserted provisions that a reference to a Federal savings and loan association shall be deemed also a reference to a Federal mutual savings bank.

1935—Subsec. (c). Act May 28, 1935, inserted "or dwellings" and "in whole or in part" in cl. (2).

1934—Subsec. (c). Act June 27, 1934, substituted "(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" for "under a lease renewable for not less than ninety nine years".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

"Home Loan Bank Board" changed to "Federal Home Loan Bank Board" by act Aug. 11, 1955, ch. 783, §109(a)(3), which was classified to section 1437(b) of this title prior to the repeal of section 1437 by Pub. L. 101-73, title VII, §703(a), Aug. 9, 1989, 103 Stat. 415.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 369(2) of Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

Pub. L. 111-203, title VI, §604(j), July 21, 2010, 124 Stat. 1604, provided that: "The amendments made by this section [amending this section and sections 1467a, 1828, and 1842 to 1844 of this title and repealing section 1848a of this title] shall take effect on the transfer date."

[For definition of "transfer date" as used in section 604(j) of Pub. L. 111-203, set out above, see section 5411 of this title.]

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment effective upon expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95-630 set out as an Effective Date note under section 375b of this title.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1947, set out in the Appendix to Title 5, Government Organization and Employees, abolished Federal Home Loan Bank Board and transferred its functions to Home Loan Bank Board created by the Plan.

§1462a. Administrative provisions

(a) Powers

In accordance with subtitle A of title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the appropriate Federal banking agency shall have all powers which—

(1) were vested in the Federal Home Loan Bank Board (in the Board's capacity as such) or the Chairman of such Board on the day before the date of the enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Aug. 9, 1989]; and

(2) were not—

(A) transferred to the Federal Deposit Insurance Corporation, the Federal Housing Finance Board, the Resolution Trust Corporation, or the Federal Home Loan Mortgage Corporation pursuant to any amendment made by such Act; or

(B) established under any provision of law repealed by such Act.

(b) State homestead provisions

No provision of this chapter or any other provision of law administered by the appropriate Federal banking agency shall be construed as superseding any homestead provision of any State constitution, including any implementing State statute, in effect on September 29, 1994, or any subsequent amendment to such a State constitutional or statutory provision in effect on September 29, 1994, that exempts the homestead of any person from foreclosure, or forced sale, for the payment of all debts, other than a purchase money obligation relating to the homestead, taxes due on the homestead, or an obligation arising from work and material used in constructing improvements on the homestead.

(June 13, 1933, ch. 64, §3, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 278; amended Pub. L. 103–325, title III, §331(c), Sept. 23, 1994, 108 Stat. 2232; Pub. L. 103–328, title I, §102(b)(5), Sept. 29, 1994, 108 Stat. 2352; Pub. L. 109–351, title VII, §712, Oct. 13, 2006, 120 Stat. 1994; Pub. L. 111–203, title III, §369(3), July 21, 2010, 124 Stat. 1558.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Dodd-Frank Wall Street Reform and Consumer Protection Act, referred to in subsec. (a), is Pub. L. 111–203, July 21, 2010, 124 Stat. 1376. Subtitle A (§§311–319) of title III of the Act enacted part A (§5411 et seq.) of subchapter III of chapter 53 and sections 4b and 16 of this title, amended sections 1, 11, 248, 481, 482, 1813, and 1820 of this title and section 3502 of Title 44, Public Printing and Documents, and enacted provisions set out as notes under sections 1 and 16 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsec. (a), is Pub. L. 101–73, Aug. 9, 1989, 103 Stat. 183. For complete classification of this Act to the Code, see Tables.

PRIOR PROVISIONS

A prior section 3 of act June 13, 1933, amended section 1424 of this title prior to the general revision of this chapter by Pub. L. 101–73, §301.

AMENDMENTS

2010—Pub. L. 111–203, §369(3)(A), inserted section catchline and struck out former section catchline "Director of the Office of Thrift Supervision".

Pub. L. 111–203, §369(3)(B), (C), redesignated subsecs. (e) and (f) as (a) and (b), respectively, and struck

out former subsecs. (a) to (d), which related to establishment of the Office of Thrift Supervision, position, appointment and term of Director, and prohibition on financial interests by Director; and subsecs. (g) to (j), which related to annual report requirement, staff, funding through assessments, and GAO audits.

Subsec. (a). Pub. L. 111–203, §369(3)(D), struck out "of the Director" after "Powers" in heading and substituted "In accordance with subtitle A of title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act, the appropriate Federal banking agency" for "The Director" in introductory provisions.

Subsec. (b). Pub. L. 111–203, §369(3)(E), substituted "appropriate Federal banking agency" for "Director".

2006—Subsec. (c)(3). Pub. L. 109–351, §712(b), designated existing provisions as subpar. (A), inserted subpar. heading, and added subpar. (B).

Subsec. (c)(5). Pub. L. 109–351, §712(a), amended heading and text of par. (5) generally. Prior to amendment, text read as follows: "Notwithstanding paragraphs (1) and (2), the Chairman of the Federal Home Loan Bank Board on the date of enactment of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, shall be the Director until the date on which that individual's term as Chairman of the Federal Home Loan Bank Board would have expired."

1994—Subsec. (b)(3). Pub. L. 103–325, §331(c)(1), substituted "(including agency enforcement actions) unless otherwise specifically provided by law" for "unless otherwise provided by law".

Subsec. (b)(4). Pub. L. 103–325, §331(c)(2), added par. (4).

Subsecs. (f) to (j). Pub. L. 103–328 added subsec. (f) and redesignated former subsecs. (f) to (i) as (g) to (j), respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

EXECUTIVE DOCUMENTS

DELEGATION OF AUTHORITY TO RATIFY OFFICE OF THRIFT SUPERVISION ACTIONS

Memorandum of the President of the United States, Apr. 18, 1990, 55 F.R. 15207, provided:

Memorandum for the Director of the Office of Thrift Supervision

By the authority vested in me as President of the United States by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code, I hereby delegate to the Director of the Office of Thrift Supervision my authority to ratify actions taken on behalf of, or in the name of, the Office of Thrift Supervision or its Director before April 9, 1990.

This memorandum shall be published in the Federal Register.

GEORGE BUSH.

§1463. Supervision of savings associations

(a) Savings associations

(1) Examination and safe and sound operation

(A) Federal savings associations

The Comptroller shall provide for the examination and safe and sound operation of Federal savings associations.

(B) State savings associations

The Corporation shall provide for the examination and safe and sound operation of State savings associations.

(2) Regulations for savings associations

The Comptroller may prescribe regulations with respect to savings associations, as the Comptroller determines to be appropriate to carry out the purposes of this chapter.

(3) Safe and sound housing credit to be encouraged

The Comptroller and the Corporation shall exercise all powers granted to the Comptroller and the Corporation under this chapter so as to encourage savings associations to provide credit for housing safely and soundly.

(b) Accounting and disclosure

(1) In general

The Comptroller shall, by regulation, prescribe uniform accounting and disclosure standards for savings associations, to be used in determining savings associations' compliance with all applicable regulations.

(2) Specific requirements for accounting standards

Subject to section 1464(t) of this title, the uniform accounting standards prescribed under paragraph (1) shall—

(A) incorporate generally accepted accounting principles to the same degree that such principles are used to determine compliance with regulations prescribed by the Federal banking agencies; and

(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993.

(3) Authority to prescribe more stringent accounting standards

The Comptroller may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Comptroller determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

(c) Stringency of standards

The regulations of the Comptroller and the policies of the Comptroller and the Corporation governing the safe and sound operation of savings associations, including regulations and policies governing asset classification and appraisals, shall be no less stringent than those established by the Comptroller for national banks.

(d) Investment of certain funds in accounts of savings associations

The savings accounts and share accounts of savings associations insured by the Corporation shall be lawful investments and may be accepted as security for all public funds of the United States, fiduciary and trust funds under the authority or control of the United States or any officer thereof, and for the funds of all corporations organized under the laws of the United States (subject to any regulatory authority otherwise applicable), regardless of any limitation of law upon the investment of any such funds or upon the acceptance of security for the investment or deposit of any of such funds.

(e) Participation by savings associations in lotteries and related activities

(1) Participation prohibited

No savings association may—

(A) deal in lottery tickets;

(B) deal in bets used as a means or substitute for participation in a lottery;

(C) announce, advertise, or publicize the existence of any lottery; or

(D) announce, advertise, or publicize the existence or identity of any participant or winner, as such, in a lottery.

(2) Use of facilities prohibited

No savings association may permit—

(A) the use of any part of any of its own offices by any person for any purpose forbidden to the institution under paragraph (1); or

(B) direct access by the public from any of its own offices to any premises used by any person for any purpose forbidden to the institution under paragraph (1).

(3) Definitions

For purposes of this subsection—

(A) Deal in

The term "deal in" includes making, taking, buying, selling, redeeming, or collecting.

(B) Lottery

The term "lottery" includes any arrangement, other than a savings promotion raffle, under which—

(i) 3 or more persons (hereafter in this subparagraph referred to as the "participants") advance money or credit to another in exchange for the possibility or expectation that 1 or more but not all of the participants (hereafter in this paragraph referred to as the "winners") will receive by reason of those participants' advances more than the amounts those participants have advanced; and

(ii) the identity of the winners is determined by any means which includes—

(I) a random selection;

(II) a game, race, or contest; or

(III) any record or tabulation of the result of 1 or more events in which any participant has no interest except for the bearing that event has on the possibility that the participant may become a winner.

(C) Lottery ticket

The term "lottery ticket" includes any right, privilege, or possibility (and any ticket, receipt, record, or other evidence of any such right, privilege, or possibility) of becoming a winner in a lottery.

(D) Savings promotion raffle

The term "savings promotion raffle" means a contest in which the sole consideration required for a chance of winning designated prizes is obtained by the deposit of a specified amount of money in a savings account or other savings program, where each ticket or entry has an equal chance of being drawn, such contest being subject to regulations that may from time to time be promulgated by the appropriate prudential regulator (as defined in section 5481 of this title).

(4) Exception for State lotteries

Paragraphs (1) and (2) shall not apply with respect to any savings association accepting funds from, or performing any lawful services for, any State operating a lottery, or any officer or employee of such a State who is charged with administering the lottery.

(5) Regulations

The Comptroller shall prescribe such regulations as may be necessary to provide for enforcement of this subsection and to prevent any evasion of any provision of this subsection.

(f) Federally related mortgage loan disclosures

A savings association may not make a federally related mortgage loan to an agent, trustee, nominee, or other person acting in a fiduciary capacity without requiring that the identity of the person receiving the beneficial interest of such loan shall at all times be revealed to the savings association. At the request of the appropriate Federal banking agency, the savings association shall report to the appropriate Federal banking agency the identity of such person and the nature and amount of the loan.

(g) Preemption of State usury laws

(1) Notwithstanding any State law, a savings association may charge interest on any extension of credit at a rate of not more than 1 percent in excess of the discount rate on 90-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district in which such savings association is located or at the rate allowed by the laws of the State in which such savings association is located, whichever is greater.

(2) If the rate prescribed in paragraph (1) exceeds the rate such savings association would be permitted to charge in the absence of this subsection, the receiving or charging a greater rate of

interest than that prescribed by paragraph (1), when knowingly done, shall be deemed a forfeiture of the entire interest which the extension of credit carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than 2 years after the date of such payment, an amount equal to twice the amount of the interest paid from the savings association taking or receiving such interest.

(h) Form and maturity of securities

No savings association shall—

(1) issue securities which guarantee a definite maturity except with the specific approval of the appropriate Federal banking agency, or

(2) issue any securities the form of which has not been approved by the appropriate Federal banking agency.

(June 13, 1933, ch. 64, §4, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 280; amended Pub. L. 111–203, title III, §369(4), July 21, 2010, 124 Stat. 1558; Pub. L. 113–251, §3(d), Dec. 18, 2014, 128 Stat. 2889.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1463, acts June 13, 1933, ch. 64, §4, 48 Stat. 129; Apr. 27, 1934, ch. 168, §§1(a), 2–4, 13, 48 Stat. 643–645, 647; June 27, 1934, ch. 847, title V, §§506, 508(b), 48 Stat. 1263, 1264; May 28, 1935, ch. 150, §§10–17(a), 49 Stat. 296, 297; Aug. 11, 1939, ch. 684, 53 Stat. 1403; Oct. 24, 1942, ch. 621, 56 Stat. 986; June 30, 1947, ch. 166, title II, §206(f), 61 Stat. 206, related to creation of Home Owners' Loan Corporation, for appointment and compensation of its board of directors, for appointment and compensation of its employees, and for other powers, prior to repeal by Pub. L. 89–554, §8(a), Sept. 6, 1966, 80 Stat. 648.

A prior section 1463a, act Apr. 27, 1934, ch. 168, §1(b), 48 Stat. 644, provided that amendments made to subsec. (c) of former section 1463 of this title, except with respect to refunding, by act Apr. 27, 1934, should not apply to any bonds prior to Apr. 27, 1934, issued under subsec. (c), or to any bonds thereafter issued in compliance with commitments of the Corporation outstanding on Apr. 27, 1934.

A prior section 1463b, act Apr. 27, 1934, ch. 168, §9, 48 Stat. 646, related to purchase of obligations of, and loans to, Federal Home Loan Banks, prior to repeal by act May 28, 1935, ch. 150, §17(b), 49 Stat. 297.

AMENDMENTS

2014—Subsec. (e)(3)(B). Pub. L. 113–251, §3(d)(1), inserted ", other than a savings promotion raffle," after "arrangement" in introductory provisions.

Subsec. (e)(3)(D). Pub. L. 113–251, §3(d)(2), added subpar. (D).

2010—Subsec. (a). Pub. L. 111–203, §369(4)(A)(i), struck out "Federal" before "savings" in heading.

Subsec. (a)(1), (2). Pub. L. 111–203, §369(4)(A)(ii), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) IN GENERAL.—The Director shall provide for the examination, safe and sound operation, and regulation of savings associations.

"(2) REGULATIONS.—The Director may issue such regulations as the Director determines to be appropriate to carry out the responsibilities of the Director or the Office."

Subsec. (a)(3). Pub. L. 111–203, §369(4)(A)(iii), substituted "Comptroller and the Corporation" for "Director" in two places.

Subsec. (b). Pub. L. 111–203, §369(4)(B)(ii), substituted "Comptroller" for "Director" wherever appearing.

Subsec. (b)(2). Pub. L. 111–203, §369(4)(B)(i), inserted "and" at end of subpar. (A), substituted a period for "; and" at end of subpar. (B), and struck out subpar. (C) which read as follows: "prior to January 1, 1994, require full compliance by savings associations with accounting standards in effect at any time before such date not later than provided under the schedule in section 563.23–3 of title 12, Code of Federal Regulations (as in effect on May 1, 1989)."

Subsec. (c). Pub. L. 111–203, §369(4)(C), substituted "The regulations of the Comptroller and the policies of the Comptroller and the Corporation" for "All regulations and policies of the Director" and struck out "of the Currency" before "for national".

Subsec. (e)(5). Pub. L. 111–203, §369(4)(D), substituted "Comptroller" for "Director".

Subsecs. (f), (h). Pub. L. 111–203, §369(4)(E), (F), substituted "appropriate Federal banking agency" for "Director" in two places.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS

Pub. L. 101–73, title III, §308, Aug. 9, 1989, 103 Stat. 353, as amended by Pub. L. 111–203, title III, §367(4), July 21, 2010, 124 Stat. 1556, provided that:

"(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Chairman of the National Credit Union Administration, and the Chairperson of the Board of Directors of the Federal Deposit Insurance Corporation on methods for best achieving the following goals:

"(1) Preserving the present number of minority depository institutions.

"(2) Preserving their minority character in cases involving mergers or acquisition of a minority depository institution by using general preference guidelines in the following order:

"(A) Same type of minority depository institution in the same city.

"(B) Same type of minority depository institution in the same State.

"(C) Same type of minority depository institution nationwide.

"(D) Any type of minority depository institution in the same city.

"(E) Any type of minority depository institution in the same State.

"(F) Any type of minority depository institution nationwide.

"(G) Any other bidders.

"(3) Providing technical assistance to prevent insolvency of institutions not now insolvent.

"(4) Promoting and encouraging creation of new minority depository institutions.

"(5) Providing for training, technical assistance, and educational programs.

"(b) DEFINITIONS.—For purposes of this section—

"(1) MINORITY FINANCIAL INSTITUTION.—The term 'minority depository institution' means any depository institution that—

"(A) if a privately owned institution, 51 percent is owned by one or more socially and economically disadvantaged individuals;

"(B) if publicly owned, 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and

"(C) in the case of a mutual institution where the majority of the Board of Directors, account holders, and the community which it services is predominantly minority.

"(2) MINORITY.—The term 'minority' means any black American, Native American, Hispanic American, or Asian American.

"(c) REPORTS.—The Secretary of the Treasury, the Chairman of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Chairman of the National Credit Union Administration, and the Chairperson of Board of Directors of the Federal Deposit Insurance Corporation shall each submit an annual report to the Congress containing a description of actions taken to carry out this section."

ABOLITION OF HOME OWNERS' LOAN CORPORATION

Act June 30, 1953, ch. 170, §21, 67 Stat. 126, provided for dissolution and abolition of Home Owners' Loan Corporation established by former section 1463 of this title.

§1464. Federal savings associations

(a) In general

In order to provide thrift institutions for the deposit of funds and for the extension of credit for homes and other goods and services, the Comptroller of the Currency is authorized, under such regulations as the Comptroller of the Currency may prescribe—

(1) to provide for the organization, incorporation, examination, operation, and regulation of

associations to be known as Federal savings associations (including Federal savings banks), and (2) to issue charters therefor,

giving primary consideration of the best practices of thrift institutions in the United States. The lending and investment powers conferred by this section are intended to encourage such institutions to provide credit for housing safely and soundly.

(b) Deposits and related powers

(1) Deposit accounts

(A) Subject to the terms of its charter and regulations of the Comptroller of the Currency, a Federal savings association may—

- (i) raise funds through such deposit, share, or other accounts, including demand deposit accounts (hereafter in this section referred to as "accounts"); and
- (ii) issue passbooks, certificates, or other evidence of accounts.

(B) A Federal savings association may not permit any overdraft (including an intraday overdraft) on behalf of an affiliate, or incur any such overdraft in such savings association's account at a Federal reserve bank or Federal home loan bank on behalf of an affiliate.

All savings accounts and demand accounts shall have the same priority upon liquidation. Holders of accounts and obligors of a Federal savings association shall, to such extent as may be provided by its charter or by regulations of the Comptroller of the Currency, be members of the savings association, and shall have such voting rights and such other rights as are thereby provided.

(C) A Federal savings association may require not less than 14 days notice prior to payment of savings accounts if the charter of the savings association or the regulations of the Comptroller of the Currency so provide.

(D) If a Federal savings association does not pay all withdrawals in full (subject to the right of the association, where applicable, to require notice), the payment of withdrawals from accounts shall be subject to such rules and procedures as may be prescribed by the savings association's charter or by regulation of the Comptroller of the Currency. Except as authorized in writing by the Comptroller of the Currency, any Federal savings association that fails to make full payment of any withdrawal when due shall be deemed to be in an unsafe or unsound condition.

(E) Accounts may be subject to check or to withdrawal or transfer on negotiable or transferable or other order or authorization to the Federal savings association, as the Comptroller of the Currency may by regulation provide.

(F) A Federal savings association may establish remote service units for the purpose of crediting savings or demand accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions, as provided in regulations prescribed by the Comptroller of the Currency.

(2) Other liabilities

To such extent as the Comptroller of the Currency may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Comptroller of the Currency and may issue such notes, bonds, debentures, or other obligations, or other securities, including capital stock.

(3) Loans from State housing finance agencies

(A) In general

Subject to regulation by the Comptroller of the Currency but without regard to any other provision of this subsection, any Federal savings association that is in compliance with the capital standards in effect under subsection (t) may borrow funds from a State mortgage finance agency of the State in which the head office of such savings association is situated to the same extent as State law authorizes a savings association organized under the laws of such State to borrow from the State mortgage finance agency.

(B) Interest rate

A Federal savings association may not make any loan of funds borrowed under subparagraph (A) at an interest rate which exceeds by more than $1\frac{3}{4}$ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

(4) Mutual capital certificates

In accordance with regulations issued by the Comptroller of the Currency, mutual capital certificates may be issued and sold directly to subscribers or through underwriters. Such certificates may be included in calculating capital for the purpose of subsection (t) to the extent permitted by the Comptroller of the Currency. The issuance of certificates under this paragraph does not constitute a change of control or ownership under this chapter or any other law unless there is in fact a change in control or reorganization. Regulations relating to the issuance and sale of mutual capital certificates shall provide that such certificates—

(A) are subordinate to all savings accounts, savings certificates, and debt obligations;

(B) constitute a claim in liquidation on the general reserves, surplus, and undivided profits of the Federal savings association remaining after the payment in full of all savings accounts, savings certificates, and debt obligations;

(C) are entitled to the payment of dividends; and

(D) may have a fixed or variable dividend rate.

(c) Loans and investments

To the extent specified in regulations of the Comptroller, a Federal savings association may invest in, sell, or otherwise deal in the following loans and other investments:

(1) Loans or investments without percentage of assets limitation

Without limitation as a percentage of assets, the following are permitted:

(A) Account loans

Loans on the security of its savings accounts and loans specifically related to transaction accounts.

(B) Residential real property loans

Loans on the security of liens upon residential real property.

(C) United States Government securities

Investments in obligations of, or fully guaranteed as to principal and interest by, the United States.

(D) Federal home loan bank and Federal National Mortgage Association securities

Investments in the stock or bonds of a Federal home loan bank or in the stock of the Federal National Mortgage Association.

(E) Federal Home Loan Mortgage Corporation instruments

Investments in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act [12 U.S.C. 1454 or 1455].

(F) Other Government securities

Investments in obligations, participations, securities, or other instruments issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association, the Student Loan Marketing Association, the Government National Mortgage Association, or any agency of the United States. A savings association may issue and sell securities which are guaranteed pursuant to section 306(g) of the National Housing Act [12 U.S.C. 1721(g)].

(G) Deposits

Investments in accounts of any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(H) State securities

Investments in obligations issued by any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision). A Federal savings association may not invest more than 10 percent of its capital in obligations of any one issuer, exclusive of investments in general obligations of any issuer.

(I) Purchase of insured loans

Purchase of loans secured by liens on improved real estate which are insured or guaranteed under the National Housing Act [12 U.S.C. 1701 et seq.], the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38.

(J) Home improvement and manufactured home loans

Loans made to repair, equip, alter, or improve any residential real property, and loans made for manufactured home financing.

(K) Insured loans to finance the purchase of fee simple

Loans insured under section 240 of the National Housing Act [12 U.S.C. 1715z-5].

(L) Loans to financial institutions, brokers, and dealers

Loans to—

- (i) financial institutions with respect to which the United States or an agency or instrumentality thereof has any function of examination or supervision, or
- (ii) any broker or dealer registered with the Securities and Exchange Commission,

which are secured by loans, obligations, or investments in which the Federal savings association has the statutory authority to invest directly.

(M) Liquidity investments

Investments (other than equity investments), identified by the Comptroller, for liquidity purposes, including cash, funds on deposit at a Federal reserve bank or a Federal home loan bank, or bankers' acceptances.

(N) Investment in the national housing partnership corporation, partnerships, and joint ventures

Investments in shares of stock issued by a corporation authorized to be created pursuant to title IX of the Housing and Urban Development Act of 1968 [42 U.S.C. 3931 et seq.], and investments in any partnership, limited partnership, or joint venture formed pursuant to section 907(a) or 907(c) of such Act [42 U.S.C. 3937(a) or (c)].

(O) Certain HUD insured or guaranteed investments

Loans that are secured by mortgages—

- (i) insured under title X of the National Housing Act [12 U.S.C. 1749aa et seq.],¹ or
- (ii) guaranteed under title IV of the Housing and Urban Development Act of 1968, under part B of the National Urban Policy and New Community Development Act of 1970 [42 U.S.C. 4511 et seq.], or under section 802 of the Housing and Community Development Act of 1974 [42 U.S.C. 1440].

(P) State housing corporation investments

Obligations of and loans to any State housing corporation, if—

- (i) such obligations or loans are secured directly, or indirectly through an agent or fiduciary, by a first lien on improved real estate which is insured under the provisions of the National Housing Act [12 U.S.C. 1701 et seq.], and
- (ii) in the event of default, the holder of the obligations or loans has the right directly, or indirectly through an agent or fiduciary, to cause to be subject to the satisfaction of such obligations or loans the real estate described in the first lien or the insurance proceeds under the National Housing Act.

(Q) Investment companies

A Federal savings association may invest in, redeem, or hold shares or certificates issued by any open-end management investment company which—

- (i) is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.], and
- (ii) the portfolio of which is restricted by such management company's investment policy (changeable only if authorized by shareholder vote) solely to investments that a Federal savings association by law or regulation may, without limitation as to percentage of assets, invest in, sell, redeem, hold, or otherwise deal in.

(R) Mortgage-backed securities

Investments in securities that—

- (i) are offered and sold pursuant to section 4(5) of the Securities Act of 1933; [1](#) or
- (ii) are mortgage related securities (as defined in section 3(a)(41) of the Securities Exchange Act of 1934) [15 U.S.C. 78c(a)(41)],

subject to such regulations as the Comptroller may prescribe, including regulations prescribing minimum size of the issue (at the time of initial distribution) or minimum aggregate sales price, or both.

(S) Small business related securities

Investments in small business related securities (as defined in section 78c(a)(53) of title 15), subject to such regulations as the Comptroller may prescribe, including regulations concerning the minimum size of the issue (at the time of the initial distribution), the minimum aggregate sales price, or both.

(T) Credit card loans

Loans made through credit cards or credit card accounts.

(U) Educational loans

Loans made for the payment of educational expenses.

(2) Loans or investments limited to a percentage of assets or capital

The following loans or investments are permitted, but only to the extent specified:

(A) Commercial and other loans

Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans made under this subparagraph may not exceed 20 percent of the total assets of the Federal savings association, and amounts in excess of 10 percent of such total assets may be used under this subparagraph only for small business loans, as that term is defined by the Comptroller.

(B) Nonresidential real property loans

(i) In general

Loans on the security of liens upon nonresidential real property. Except as provided in clause (ii), the aggregate amount of such loans shall not exceed 400 percent of the Federal savings association's capital, as determined under subsection (t).

(ii) Exception

The Comptroller may permit a savings association to exceed the limitation set forth in clause (i) if the Comptroller determines that the increased authority—

- (I) poses no significant risk to the safe and sound operation of the association, and
- (II) is consistent with prudent operating practices.

(iii) Monitoring

If the Comptroller permits any increased authority pursuant to clause (ii), the Comptroller

shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations.

(C) Investments in personal property

Investments in tangible personal property, including vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale. Investments under this subparagraph may not exceed 10 percent of the assets of the Federal savings association.

(D) Consumer loans and certain securities

A Federal savings association may make loans for personal, family, or household purposes, including loans reasonably incident to providing such credit, and may invest in, sell, or hold commercial paper and corporate debt securities, as defined and approved by the Comptroller. Loans and other investments under this subparagraph may not exceed 35 percent of the assets of the Federal savings association, except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party.

(3) Loans or investments limited to 5 percent of assets

The following loans or investments are permitted, but not to exceed 5 percent of assets of a Federal savings association for each subparagraph:

(A) Community development investments

Investments in real property and obligations secured by liens on real property located within a geographic area or neighborhood receiving concentrated development assistance by a local government under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.]. No investment under this subparagraph in such real property may exceed an aggregate of 2 percent of the assets of the Federal savings association.

(B) Nonconforming loans

Loans upon the security of or respecting real property or interests therein used for primarily residential or farm purposes that do not comply with the limitations of this subsection.

(C) Construction loans without security

Loans—

(i) the principal purpose of which is to provide financing with respect to what is or is expected to become primarily residential real estate; and

(ii) with respect to which the association—

(I) relies substantially on the borrower's general credit standing and projected future income for repayment, without other security; or

(II) relies on other assurances for repayment, including a guarantee or similar obligation of a third party.

The aggregate amount of such investments shall not exceed the greater of the Federal savings association's capital or 5 percent of its assets.

(4) Other loans and investments

The following additional loans and other investments to the extent authorized below:

(A) Business development credit corporations

A Federal savings association that is in compliance with the capital standards prescribed under subsection (t) may invest in, lend to, or to ² commit itself to lend to, any business development credit corporation incorporated in the State in which the home office of the association is located in the same manner and to the same extent as savings associations chartered by such State are authorized. The aggregate amount of such investments, loans, and

commitments of any such Federal savings association shall not exceed one-half of 1 percent of the association's total outstanding loans or \$250,000, whichever is less.

(B) Service corporations

Investments in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the Federal savings association's home office is located, if such corporation's entire capital stock is available for purchase only by savings associations of such State and by Federal associations having their home offices in such State. No Federal savings association may make any investment under this subparagraph if the association's aggregate outstanding investment under this subparagraph would exceed 3 percent of the association's assets. Not less than one-half of the investment permitted under this subparagraph which exceeds 1 percent of the association's assets shall be used primarily for community, inner-city, and community development purposes.

(C) Foreign assistance investments

Investments in housing project loans having the benefit of any guaranty under section 221 of the Foreign Assistance Act of 1961 [22 U.S.C. 2181] or loans having the benefit of any guarantee under section 224 of such Act [22 U.S.C. 2184],¹ or any commitment or agreement with respect to such loans made pursuant to either of such sections and in the share capital and capital reserve of the Inter-American Savings and Loan Bank. This authority extends to the acquisition, holding, and disposition of loans guaranteed under section 221 or 222 of such Act [22 U.S.C. 2181 or 2182]. Investments under this subparagraph shall not exceed 1 percent of the Federal savings association's assets.

(D) Small business investment companies

A Federal savings association may invest in stock, obligations, or other securities of any small business investment company formed pursuant to section 301(d) of the Small Business Investment Act of 1958 [15 U.S.C. 681(d)]¹ for the purpose of aiding members of a Federal home loan bank. A Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 1 percent of the assets of such savings association.

(E) Bankers' banks

A Federal savings association may purchase for its own account shares of stock of a bankers' bank, described in Paragraph Seventh of section 24 of this title or in section 27(b) of this title, on the same terms and conditions as a national bank may purchase such shares.

(F) New Markets Venture Capital companies

A Federal savings association may invest in stock, obligations, or other securities of any New Markets Venture Capital company as defined in section 689 of title 15, except that a Federal savings association may not make any investment under this subparagraph if its aggregate outstanding investment under this subparagraph would exceed 5 percent of the capital and surplus of such savings association.

(5) Transition rule for savings associations acquiring banks

(A) In general

If, under section 5(d)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3)],¹ a savings association acquires all or substantially all of the assets of a bank, the appropriate Federal banking agency may permit the savings association to retain any such asset during the 2-year period beginning on the date of the acquisition.

(B) Extension

The appropriate Federal banking agency may extend the 2-year period described in subparagraph (A) for not more than 1 year at a time and not more than 2 years in the aggregate, if the appropriate Federal banking agency determines that the extension is consistent with the

purposes of this chapter.

(6) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Residential property

The terms "residential real property" or "residential real estate" mean leaseholds, homes (including condominiums and cooperatives, except that in connection with loans on individual cooperative units, such loans shall be adequately secured as defined by the Comptroller) and, combinations of homes or dwelling units and business property, involving only minor or incidental business use, or property to be improved by construction of such structures.

(B) Loans

The term "loans" includes obligations and extensions or advances of credit; and any reference to a loan or investment includes an interest in such a loan or investment.

(d) Regulatory authority

(1) In general

(A) Enforcement

The appropriate Federal banking agency shall have power to enforce this section, section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and regulations prescribed hereunder. In enforcing any provision of this section, regulations prescribed under this section, or any other law or regulation, or in any other action, suit, or proceeding to which the appropriate Federal banking agency is a party or in which the appropriate Federal banking agency is interested, and in the administration of conservatorships and receiverships, the appropriate Federal banking agency may act in the name of the appropriate Federal banking agency and through the attorneys of the appropriate Federal banking agency. Except as otherwise provided, the Comptroller shall be subject to suit (other than suits on claims for money damages) by any Federal savings association or director or officer thereof with respect to any matter under this section or any other applicable law, or regulation thereunder, in the United States district court for the judicial district in which the savings association's home office is located, or in the United States District Court for the District of Columbia, and the Comptroller may be served with process in the manner prescribed by the Federal Rules of Civil Procedure.

(B) Ancillary provisions

(i) In making examinations of savings associations, examiners appointed by the appropriate Federal banking agency shall have power to make such examinations of the affairs of all affiliates of such savings associations as shall be necessary to disclose fully the relations between such savings associations and their affiliates and the effect of such relations upon such savings associations. For purposes of this subsection, the term "affiliate" has the same meaning as in section 2(b) of the Banking Act of 1933 [12 U.S.C. 221a(b)], except that the term "member bank" in section 2(b) shall be deemed to refer to a savings association.

(ii) In the course of any examination of any savings association, upon request by the appropriate Federal banking agency, prompt and complete access shall be given to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iii) Upon request made in the course of supervision or oversight of any savings association, for the purpose of acting on any application or determining the condition of any savings association, including whether operations are being conducted safely, soundly, or in compliance with charters, laws, regulations, directives, written agreements, or conditions imposed in writing in connection with the granting of an application or other request, the appropriate Federal banking agency shall be given prompt and complete access to all savings association officers, directors, employees, and agents, and to all relevant books, records, or documents of any type.

(iv) If prompt and complete access upon request is not given as required in this subsection,

the appropriate Federal banking agency may apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the institution is located, or in which the person denying such access resides or carries on business, for an order requiring that such information be promptly provided.

(v) In connection with examinations of savings associations and affiliates thereof, the appropriate Federal banking agency may—

(I) administer oaths and affirmations and examine and to ² take and preserve testimony under oath as to any matter in respect of the affairs or ownership of any such savings association or affiliate, and

(II) issue subpoenas and, for the enforcement thereof, apply to the United States district court for the judicial district (or the United States court in any territory) in which the principal office of the savings association or affiliate is located, or in which the witness resides or carries on business.

Such courts shall have jurisdiction and power to order and require compliance with any such subpoena.

(vi) In any proceeding under this section, the appropriate Federal banking agency may administer oaths and affirmations, take depositions, and issue subpoenas. The Comptroller may prescribe regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this subsection may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted.

(vii) Any party to a proceeding under this section may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district (or the United States court in any territory) in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this subsection or section 10(c) of the Federal Deposit Insurance Act [12 U.S.C. 1820(c)], and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States. All expenses of the appropriate Federal banking agency in connection with this section shall be considered as nonadministrative expenses. Any court having jurisdiction of any proceeding instituted under this section by a savings association, or a director or officer thereof, may allow to any such party reasonable expenses and attorneys' fees. Such expenses and fees shall be paid by the savings association.

(2) Conservatorships and receiverships

(A) Grounds for appointing conservator or receiver for insured savings association

The appropriate Federal banking agency may appoint a conservator or receiver for an insured savings association if the appropriate Federal banking agency determines, in the discretion of the appropriate Federal banking agency, that 1 or more of the grounds specified in section 11(c)(5) of the Federal Deposit Insurance Act [12 U.S.C. 1821(c)(5)] exists.

(B) Power of appointment; judicial review

The appropriate Federal banking agency shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the appropriate Federal banking agency, a ground for the appointment of a conservator or receiver for a savings association exists, the appropriate Federal banking agency is authorized to appoint ex parte and without notice a conservator or receiver for the savings association. In the event of such appointment, the association may, within 30 days thereafter, bring an action in the United States district court for the judicial district in which the home office of such association is located, or in the United States District Court for the District of Columbia, for an order requiring the appropriate Federal banking agency to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the appropriate Federal banking agency to remove such conservator or receiver. Upon the commencement of such an action, the

court having jurisdiction of any other action or proceeding authorized under this subsection to which the association is a party shall stay such action or proceeding during the pendency of the action for removal of the conservator or receiver.

(C) Replacement

The appropriate Federal banking agency may, without any prior notice, hearing, or other action, replace a conservator with another conservator or with a receiver, but such replacement shall not affect any right which the association may have to obtain judicial review of the original appointment, except that any removal under this subparagraph shall be removal of the conservator or receiver in office at the time of such removal.

(D) Court action

Except as otherwise provided in this subsection, no court may take any action for or toward the removal of any conservator or receiver or, except at the request of the appropriate Federal banking agency, to restrain or affect the exercise of powers or functions of a conservator or receiver.

(E) Powers

(i) In general

A conservator shall have all the powers of the members, the stockholders, the directors, and the officers of the association and shall be authorized to operate the association in its own name or to conserve its assets in the manner and to the extent authorized by the appropriate Federal banking agency.

(ii) FDIC as conservator or receiver

Except as provided in section 21A ¹ of the Federal Home Loan Bank Act [12 U.S.C. 1441a], the appropriate Federal banking agency, at the Director's ³ discretion, may appoint the Federal Deposit Insurance Corporation as conservator for a savings association. The appropriate Federal banking agency shall appoint only the Federal Deposit Insurance Corporation as receiver for a savings association for the purpose of liquidation or winding up the affairs of such savings association. The conservator or receiver so appointed shall, as such, have power to buy at its own sale. The Federal Deposit Insurance Corporation, as such conservator or receiver, shall have all the powers of a conservator or receiver, as appropriate, granted under the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.], and (when not inconsistent therewith) any other rights, powers, and privileges possessed by conservators or receivers, as appropriate, of savings associations under this chapter and any other provisions of law.

(F) Disclosure requirement for those acting on behalf of conservator

A conservator shall require that any independent contractor, consultant, or counsel employed by the conservator in connection with the conservatorship of a savings association pursuant to this section shall fully disclose to all parties with which such contractor, consultant, or counsel is negotiating, any limitation on the authority of such contractor, consultant, or counsel to make legally binding representations on behalf of the conservator.

(3) Regulations

(A) In general

The Comptroller may prescribe regulations for the reorganization, consolidation, liquidation, and dissolution of savings associations, for the merger of insured savings associations with insured savings associations, for savings associations in conservatorship and receivership, and for the conduct of conservatorships and receiverships. The Comptroller may, by regulation or otherwise, provide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

(B) FDIC as conservator or receiver

In any case where the Federal Deposit Insurance Corporation is the conservator or receiver, any regulations prescribed by the Comptroller shall be consistent with any regulations prescribed by the Federal Deposit Insurance Corporation pursuant to the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(4) Refusal to comply with demand

Whenever a conservator or receiver appointed by the appropriate Federal banking agency demands possession of the property, business, and assets of any savings association, or of any part thereof, the refusal by any director, officer, employee, or agent of such association to comply with the demand shall be punishable by a fine of not more than \$5,000 or imprisonment for not more than one year, or both.

(5) "Savings association" defined

As used in this subsection, the term "savings association" includes any savings association or former savings association that retains deposits insured by the Corporation, notwithstanding termination of its status as an institution insured by the Corporation.

(6) Compliance with monetary transaction recordkeeping and report requirements

(A) Compliance procedures required

The Comptroller shall prescribe regulations requiring savings associations to establish and maintain procedures reasonably designed to assure and monitor the compliance of such associations with the requirements of subchapter II of chapter 53 of title 31.

(B) Examinations of savings associations to include review of compliance procedures

(i) In general

Each examination of a savings association by the appropriate Federal banking agency shall include a review of the procedures required to be established and maintained under subparagraph (A).

(ii) Exam report requirement

The report of examination shall describe any problem with the procedures maintained by the association.

(C) Order to comply with requirements

If the appropriate Federal banking agency determines that a savings association—

- (i) has failed to establish and maintain the procedures described in subparagraph (A); or
- (ii) has failed to correct any problem with the procedures maintained by such association which was previously reported to the association by the appropriate Federal banking agency,

the appropriate Federal banking agency shall issue an order under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] requiring such association to cease and desist from its violation of this paragraph or regulations prescribed under this paragraph.

(7) Regulation and examination of savings association service companies, subsidiaries, and service providers

(A) General examination and regulatory authority

A service company or subsidiary that is owned in whole or in part by a savings association shall be subject to examination and regulation by the appropriate Federal banking agency to the same extent as that savings association.

(B) Examination by other banking agencies

The appropriate Federal banking agency may authorize any other Federal banking agency that supervises any other owner of part of the service company or subsidiary to perform an examination described in subparagraph (A).

(C) Applicability of section 8 of the Federal Deposit Insurance Act

A service company or subsidiary that is owned in whole or in part by a saving association shall be subject to the provisions of section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] as if the service company or subsidiary were an insured depository institution. In any such case, the Federal Deposit Insurance Corporation or the Comptroller, as appropriate, shall be deemed to be the appropriate Federal banking agency, pursuant to section 3(q) of the Federal Deposit Insurance Act [12 U.S.C. 1813(q)].

(D) Service performed by contract or otherwise

Notwithstanding subparagraph (A), if a savings association, a subsidiary thereof, or any savings and loan affiliate or entity, as identified by section 8(b)(9) ¹ of the Federal Deposit Insurance Act [12 U.S.C. 1818(b)(9)], that is regularly examined or subject to examination by the appropriate Federal banking agency, causes to be performed for itself, by contract or otherwise, any service authorized under this chapter or, in the case of a State savings association, any applicable State law, whether on or off its premises—

(i) such performance shall be subject to regulation and examination by the appropriate Federal banking agency to the same extent as if such services were being performed by the savings association on its own premises; and

(ii) the savings association shall notify the appropriate Federal banking agency of the existence of the service relationship not later than 30 days after the earlier of—

(I) the date on which the contract is entered into; or

(II) the date on which the performance of the service is initiated.

(E) Administration by the Comptroller and the Corporation

The Comptroller may issue such regulations, and the appropriate Federal banking agency may issue such orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], as may be necessary to administer and carry out this paragraph and to prevent evasion of this paragraph.

(8) Definitions

For purposes of this section—

(A) the term "service company" means—

(i) any corporation—

(I) that is organized to perform services authorized by this chapter or, in the case of a corporation owned in part by a State savings association, authorized by applicable State law; and

(II) all of the capital stock of which is owned by 1 or more insured savings associations; and

(ii) any limited liability company—

(I) that is organized to perform services authorized by this chapter or, in the case of a company, 1 of the members of which is a State savings association, authorized by applicable State law; and

(II) all of the members of which are 1 or more insured savings associations;

(B) the term "limited liability company" means any company, partnership, trust, or similar business entity organized under the law of a State (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) that provides that a member or manager of such company is not personally liable for a debt, obligation, or liability of the company solely by reason of being, or acting as, a member or manager of such company; and

(C) the terms "State savings association" and "subsidiary" have the same meanings as in section 3 of the Federal Deposit Insurance Act.

(e) Character and responsibility

A charter may be granted only—

(1) to persons of good character and responsibility,

- (2) if in the judgment of the Comptroller a necessity exists for such an institution in the community to be served,
- (3) if there is a reasonable probability of its usefulness and success, and
- (4) if the association can be established without undue injury to properly conducted existing local thrift and home financing institutions.

(f) Federal home loan bank membership

After the end of the 6-month period beginning on November 12, 1999, a Federal savings association may become a member of the Federal Home Loan Bank System, and shall qualify for such membership in the manner provided by the Federal Home Loan Bank Act [12 U.S.C. 1421 et seq.].

(g) Preferred shares

[Repealed.]

(h) Discriminatory State and local taxation prohibited

No State, county, municipal, or local taxing authority may impose any tax on Federal savings associations or their franchise, capital, reserves, surplus, loans, or income greater than that imposed by such authority on other similar local mutual or cooperative thrift and home financing institutions.

(i) Conversions

(1) In general

Any savings association which is, or is eligible to become, a member of a Federal home loan bank may convert into a Federal savings association (and in so doing may change directly from the mutual form to the stock form, or from the stock form to the mutual form). Such conversion shall be subject to such regulations as the Comptroller shall prescribe. Thereafter such Federal savings association shall be entitled to all the benefits of this section and shall be subject to examination and regulation to the same extent as other associations incorporated pursuant to this chapter.

(2) Authority of Comptroller

(A) No savings association may convert from the mutual to the stock form, or from the stock form to the mutual form, except in accordance with the regulations of the Comptroller.

(B) Any aggrieved person may obtain review of a final action of the Comptroller which approves or disapproves a plan of conversion pursuant to this subsection only by complying with the provisions of section 1467a(j) of this title within the time limit and in the manner therein prescribed, which provisions shall apply in all respects as if such final action were an order the review of which is therein provided for, except that such time limit shall commence upon publication of notice of such final action in the Federal Register or upon the giving of such general notice of such final action as is required by or approved under regulations of the Comptroller, whichever is later.

(C) Any Federal savings association may change its designation from a Federal savings association to a Federal savings bank, or the reverse.

(3) Conversion to State association

(A) Any Federal savings association may convert itself into a savings association or savings bank organized pursuant to the laws of the State in which the principal office of such Federal savings association is located if—

(i) the State permits the conversion of any savings association or savings bank of such State into a Federal savings association;

(ii) such conversion of a Federal savings association into such a State savings association is determined—

(I) upon the vote in favor of such conversion cast in person or by proxy at a special meeting of members or stockholders called to consider such action, specified by the law of the State in which the home office of the Federal savings association is located, as required

by such law for a State-chartered institution to convert itself into a Federal savings association, but in no event upon a vote of less than 51 percent of all the votes cast at such meeting, and

(II) upon compliance with other requirements reciprocally equivalent to the requirements of such State law for the conversion of a State-chartered institution into a Federal savings association;

(iii) notice of the meeting to vote on conversion shall be given as herein provided and no other notice thereof shall be necessary; the notice shall expressly state that such meeting is called to vote thereon, as well as the time and place thereof; and such notice shall be mailed, postage prepaid, at least 30 and not more than 60 days prior to the date of the meeting, to the Comptroller and to each member or stockholder of record of the Federal savings association at the member's or stockholder's last address as shown on the books of the Federal savings association;

(iv) when a mutual savings association is dissolved after conversion, the members or shareholders of the savings association will share on a mutual basis in the assets of the association in exact proportion to their relative share or account credits;

(v) when a stock savings association is dissolved after conversion, the stockholders will share on an equitable basis in the assets of the association; and

(vi) such conversion shall be effective upon the date that all the provisions of this chapter shall have been fully complied with and upon the issuance of a new charter by the State wherein the savings association is located.

(B)(i) The act of conversion constitutes consent by the institution to be bound by all the requirements that the Comptroller may impose under this chapter.

(ii) The savings association shall upon conversion and thereafter be authorized to issue securities in any form currently approved at the time of issue by the Comptroller for issuance by similar savings associations in such State.

(iii) If the insurance of accounts is terminated in connection with such conversion, the notice and other action shall be taken as provided by law and regulations for the termination of insurance of accounts.

(4) Savings bank activities

(A) To the extent authorized by the Comptroller, but subject to section 18(m)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1828(m)(3)]—

(i) any Federal savings bank chartered as such prior to October 15, 1982, may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was permitted to do so as a Federal savings bank prior to October 15, 1982; and

(ii) any Federal savings bank in existence on August 9, 1989, and formerly organized as a mutual savings bank under State law may continue to make any investment or engage in any activity not otherwise authorized under this section, to the degree it was authorized to do so as a mutual savings bank under State law.

(B) The authority conferred by this paragraph may be utilized by any Federal savings association that acquires, by merger or consolidation, a Federal savings bank enjoying grandfather rights hereunder.

(5) Conversion to national or State bank

(A) In general

Any Federal savings association chartered and in operation before November 12, 1999, with branches in operation before November 12, 1999, in 1 or more States, may convert, at its option, with the approval of the Comptroller for each national bank, and with the approval of the appropriate State bank supervisor and the appropriate Federal banking agency for each State bank, into 1 or more national or State banks, each of which may encompass 1 or more of the

branches of the Federal savings association in operation before November 12, 1999, in 1 or more States subject to subparagraph (B).

(B) Conditions of conversion

The authority in subparagraph (A) shall apply only if each resulting national or State bank—

(i) will meet all financial, management, and capital requirements applicable to the resulting national or State bank; and

(ii) if more than 1 national or State bank results from a conversion under this subparagraph, has received approval from the Federal Deposit Insurance Corporation under section 5(a) of the Federal Deposit Insurance Act [12 U.S.C. 1815(a)].

(C) No merger application under FDIA required

No application under section 18(c) of the Federal Deposit Insurance Act [12 U.S.C. 1828(c)] shall be required for a conversion under this paragraph.

(D) Definitions

For purposes of this paragraph, the terms "State bank" and "State bank supervisor" have the same meanings as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(6) Limitation on certain conversions by Federal savings associations

A Federal savings association may not convert to a State bank or State savings association during any period in which the Federal savings association is subject to a cease and desist order (or other formal enforcement order) issued by, or a memorandum of understanding entered into with, the Office of Thrift Supervision or the Comptroller of the Currency with respect to a significant supervisory matter.

(j) Subscription for shares

[Repealed.]

(k) Depository of public money

When designated for that purpose by the Secretary of the Treasury, a savings association the deposits of which are insured by the Corporation shall be a depository of public money and may be employed as fiscal agent of the Government under such regulations as may be prescribed by the Secretary and shall perform all such reasonable duties as fiscal agent of the Government as may be required of it. A savings association the deposits of which are insured by the Corporation may act as agent for any other instrumentality of the United States when designated for that purpose by such instrumentality, including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury may deposit public money in any such savings association, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

(l) Retirement accounts

A Federal savings association is authorized to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan which qualifies or qualified for specific tax treatment under section 401(d) of the Internal Revenue Code of 1986 [26 U.S.C. 401(d)] and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code [26 U.S.C. 408] if the funds of such trust or account are invested only in savings accounts or deposits in such Federal savings association or in obligations or securities issued by such Federal savings association. All funds held in such fiduciary capacity by any Federal savings association may be commingled for appropriate purposes of investment, but individual records shall be kept by the fiduciary for each participant and shall show in proper detail all transactions engaged in under this paragraph.

(m) Branching

(1) In general

(A) No savings association incorporated under the laws of the District of Columbia or organized

in the District or doing business in the District shall establish any branch or move its principal office or any branch without the Director's ⁴ prior written approval.

(B) No savings association shall establish any branch in the District of Columbia or move its principal office or any branch in the District without the Director's ⁴ prior written approval.

(2) "Branch" defined

For purposes of this subsection the term "branch" means any office, place of business, or facility, other than the principal office as defined by the Comptroller, of a savings association at which accounts are opened or payments are received or withdrawals are made, or any other office, place of business, or facility of a savings association defined by the Comptroller as a branch within the meaning of such sentence.

(n) Trusts

(1) Permits

The Comptroller may grant by special permit to a Federal savings association applying therefor the right to act as trustee, executor, administrator, guardian, or in any other fiduciary capacity in which State banks, trust companies, or other corporations which compete with Federal savings associations are permitted to act under the laws of the State in which the Federal savings association is located. Subject to the regulations of the Comptroller, service corporations may invest in State or federally chartered corporations which are located in the State in which the home office of the Federal savings association is located and which are engaged in trust activities.

(2) Segregation of assets

A Federal savings association exercising any or all of the powers enumerated in this section shall segregate all assets held in any fiduciary capacity from the general assets of the association and shall keep a separate set of books and records showing in proper detail all transactions engaged in under this subsection. The State banking authority involved may have access to reports of examination made by the Comptroller insofar as such reports relate to the trust department of such association but nothing in this subsection shall be construed as authorizing such State banking authority to examine the books, records, and assets of such associations.

(3) Prohibitions

No Federal savings association shall receive in its trust department deposits of current funds subject to check or the deposit of checks, drafts, bills of exchange, or other items for collection or exchange purposes. Funds deposited or held in trust by the association awaiting investment shall be carried in a separate account and shall not be used by the association in the conduct of its business unless it shall first set aside in the trust department United States bonds or other securities approved by the Comptroller.

(4) Separate lien

In the event of the failure of a Federal savings association, the owners of the funds held in trust for investment shall have a lien on the bonds or other securities so set apart in addition to their claim against the estate of the association.

(5) Deposits

Whenever the laws of a State require corporations acting in a fiduciary capacity to deposit securities with the State authorities for the protection of private or court trusts, Federal savings associations so acting shall be required to make similar deposits. Securities so deposited shall be held for the protection of private or court trusts, as provided by the State law. Federal savings associations in such cases shall not be required to execute the bond usually required of individuals if State corporations under similar circumstances are exempt from this requirement. Federal savings associations shall have power to execute such bond when so required by the laws of the State involved.

(6) Oaths and affidavits

In any case in which the laws of a State require that a corporation acting as trustee, executor, administrator, or in any capacity specified in this section, shall take an oath or make an affidavit, the president, vice president, cashier, or trust officer of such association may take the necessary oath or execute the necessary affidavit.

(7) Certain loans prohibited

It shall be unlawful for any Federal savings association to lend any officer, director, or employee any funds held in trust under the powers conferred by this section. Any officer, director, or employee making such loan, or to whom such loan is made, may be fined not more than \$50,000 or twice the amount of that person's gain from the loan, whichever is greater, or may be imprisoned not more than 5 years, or may be both fined and imprisoned, in the discretion of the court.

(8) Factors to be considered

In reviewing applications for permission to exercise the powers enumerated in this section, the Comptroller may consider—

- (A) the amount of capital of the applying Federal savings association,
- (B) whether or not such capital is sufficient under the circumstances of the case,
- (C) the needs of the community to be served, and
- (D) any other facts and circumstances that seem to it proper.

The Comptroller may grant or refuse the application accordingly, except that no permit shall be issued to any association having capital less than the capital required by State law of State banks, trust companies, and corporations exercising such powers.

(9) Surrender of charter

(A) Any Federal savings association may surrender its right to exercise the powers granted under this subsection, and have returned to it any securities which it may have deposited with the State authorities, by filing with the Comptroller a certified copy of a resolution of its board of directors indicating its intention to surrender its right.

(B) Upon receipt of such resolution, the Comptroller, if satisfied that such Federal savings association has been relieved in accordance with State law of all duties as trustee, executor, administrator, guardian or other fiduciary, may in the Director's ⁴ discretion, issue to such association a certificate that such association is no longer authorized to exercise the powers granted by this subsection.

(C) Upon the issuance of such a certificate by the Comptroller, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Comptroller made pursuant thereto, (ii) shall be entitled to have returned to it any securities which it may have deposited with State authorities, and (iii) shall not exercise thereafter any of the powers granted by this section without first applying for and obtaining a new permit to exercise such powers pursuant to the provisions of this section.

(D) The Comptroller may prescribe regulations necessary to enforce compliance with the provisions of this subsection.

(10) Revocation

(A) In addition to the authority conferred by other law, if, in the opinion of the Comptroller, a Federal savings association is unlawfully or unsoundly exercising, or has unlawfully or unsoundly exercised, or has failed for a period of 5 consecutive years to exercise, the powers granted by this subsection or otherwise fails or has failed to comply with the requirements of this subsection, the Comptroller may issue and serve upon the association a notice of intent to revoke the authority of the association to exercise the powers granted by this subsection. The notice shall contain a statement of the facts constituting the alleged unlawful or unsound exercise of powers, or failure to exercise powers, or failure to comply, and shall fix a time and place at which a hearing will be held to determine whether an order revoking authority to exercise such powers should issue against the association.

(B) Such hearing shall be conducted in accordance with the provisions of subsection (d)(1)(B), and subject to judicial review as therein provided, and shall be fixed for a date not earlier than 30 days and not later than 60 days after service of such notice unless the Comptroller sets an earlier or later date at the request of any Federal savings association so served.

(C) Unless the Federal savings association so served shall appear at the hearing by a duly authorized representative, it shall be deemed to have consented to the issuance of the revocation order. In the event of such consent, or if upon the record made at any such hearing, the Comptroller shall find that any allegation specified in the notice of charges has been established, the Comptroller may issue and serve upon the association an order prohibiting it from accepting any new or additional trust accounts and revoking authority to exercise any and all powers granted by this subsection, except that such order shall permit the association to continue to service all previously accepted trust accounts pending their expeditious divestiture or termination.

(D) A revocation order shall become effective not earlier than the expiration of 30 days after service of such order upon the association so served (except in the case of a revocation order issued upon consent, which shall become effective at the time specified therein), and shall remain effective and enforceable, except to such extent as it is stayed, modified, terminated, or set aside by action of the Comptroller or a reviewing court.

(o) Conversion of State savings banks

(1) Subject to the provisions of this subsection and under regulations of the Comptroller, the Comptroller may authorize the conversion of a State-chartered savings bank into a Federal savings bank, if such conversion is not in contravention of State law, and provide for the organization, incorporation, operation, examination, and regulation of such institution.

(2)(A) Any Federal savings bank chartered pursuant to this subsection shall continue to be insured by the Deposit Insurance Fund.

(B) The Comptroller shall notify the Corporation of any application under this chapter for conversion to a Federal charter by an institution insured by the Corporation, shall consult with the Corporation before disposing of the application, and shall notify the Corporation of the determination of the Comptroller with respect to such application.

(C) Notwithstanding any other provision of law, if the Corporation determines that conversion into a Federal stock savings bank or the chartering of a Federal stock savings bank is necessary to prevent the default of a savings bank it insures or to reopen a savings bank in default that it insured, or if the Corporation determines, with the concurrence of the Comptroller, that severe financial conditions exist that threaten the stability of a savings bank insured by the Corporation and that such a conversion or charter is likely to improve the financial condition of such savings bank, the Corporation shall provide the Comptroller with a certificate of such determination, the reasons therefor in conformance with the requirements of this chapter, and the bank shall be converted or chartered by the Comptroller, pursuant to the regulations thereof, from the time the Corporation issues the certificate.

(D) A bank may be converted under subparagraph (C) only if the board of trustees of the bank—

(i) has specified in writing that the bank is in danger of closing or is closed, or that severe financial conditions exist that threaten the stability of the bank and a conversion is likely to improve the financial condition of the bank; and

(ii) has requested in writing that the Corporation use the authority of subparagraph (C).

(E)(i) Before making a determination under subparagraph (D), the Corporation shall consult the State bank supervisor of the State in which the bank in danger of closing is chartered. The State bank supervisor shall be given a reasonable opportunity, and in no event less than 48 hours, to object to the use of the provisions of subparagraph (D).

(ii) If the State supervisor objects during such period, the Corporation may use the authority of subparagraph (D) only by an affirmative vote of three-fourths of the Board of Directors. The Board of Directors shall provide the State supervisor, as soon as practicable, with a written certification of its determination.

(3) A Federal savings bank chartered under this subsection shall have the same authority with

respect to investments, operations, and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this chapter.

(p) Conversions

(1) Notwithstanding any other provision of law, and consistent with the purposes of this chapter, the Comptroller may authorize (or in the case of a Federal savings association, require) the conversion of any mutual savings association or Federal mutual savings bank that is insured by the Corporation into a Federal stock savings association or Federal stock savings bank, or charter a Federal stock savings association or Federal stock savings bank to acquire the assets of, or merge with such a mutual institution under the regulations of the Comptroller.

(2) Authorizations under this subsection may be made only—

(A) if the Comptroller has determined that severe financial conditions exist which threaten the stability of an association and that such authorization is likely to improve the financial condition of the association,

(B) when the Corporation has contracted to provide assistance to such association under section 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823], or

(C) to assist an institution in receivership.

(3) A Federal savings bank chartered under this subsection shall have the same authority with respect to investments, operations and activities, and shall be subject to the same restrictions, including those applicable to branching and discrimination, as would apply to it if it were chartered as a Federal savings bank under any other provision of this chapter, and may engage in any investment, activity, or operation that the institution it acquired was engaged in if that institution was a Federal savings bank, or would have been authorized to engage in had that institution converted to a Federal charter.

(q) Tying arrangements

(1) A savings association may not in any manner extend credit, lease, or sell property of any kind, or furnish any service, or fix or vary the consideration for any of the foregoing, on the condition or requirement—

(A) that the customer shall obtain additional credit, property, or service from such savings association, or from any service corporation or affiliate of such association, other than a loan, discount, deposit, or trust service;

(B) that the customer provide additional credit, property, or service to such association, or to any service corporation or affiliate of such association, other than those related to and usually provided in connection with a similar loan, discount, deposit, or trust service; and

(C) that the customer shall not obtain some other credit, property, or service from a competitor of such association, or from a competitor of any service corporation or affiliate of such association, other than a condition or requirement that such association shall reasonably impose in connection with credit transactions to assure the soundness of credit.

(2)(A) Any person may sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by reason of a violation of paragraph (1), under the same conditions and principles as injunctive relief against threatened conduct that will cause loss or damage is granted by courts of equity and under the rules governing such proceedings.

(B) Upon the execution of proper bond against damages for an injunction improvidently granted and a showing that the danger of irreparable loss or damage is immediate, a preliminary injunction may issue.

(3) Any person injured by a violation of paragraph (1) may bring an action in any district court of the United States in which the defendant resides or is found or has an agent, without regard to the amount in controversy, or in any other court of competent jurisdiction, and shall be entitled to

recover three times the amount of the damages sustained, and the cost of suit, including a reasonable attorney's fee. Any such action shall be brought within 4 years from the date of the occurrence of the violation.

(4) Nothing contained in this subsection affects in any manner the right of the United States or any other party to bring an action under any other law of the United States or of any State, including any right which may exist in addition to specific statutory authority, challenging the legality of any act or practice which may be proscribed by this subsection. No regulation or order issued by the Board under this subsection shall in any manner constitute a defense to such action.

(5) For purposes of this subsection, the term "loan" includes obligations and extensions or advances of credit.

(6) EXCEPTIONS.—The Board may, by regulation or order, permit such exceptions to the prohibitions of this subsection as the Board in ⁵ consultation with the Comptroller and the Corporation, considers will not be contrary to the purposes of this subsection and which conform to exceptions granted by the Board pursuant to section 1972 of this title.

(r) Out-of-State branches

(1) No Federal savings association may establish, retain, or operate a branch outside the State in which the Federal savings association has its home office, unless the association qualifies as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 [26 U.S.C. 7701(a)(19)] or meets the asset composition test imposed by subparagraph (C) of that section on institutions seeking so to qualify, or qualifies as a qualified thrift lender, as determined under section 1467a(m) of this title. No out-of-State branch so established shall be retained or operated unless the total assets of the Federal savings association attributable to all branches of the Federal savings association in that State would qualify the branches as a whole, were they otherwise eligible, for treatment as a domestic building and loan association under section 7701(a)(19) or as a qualified thrift lender, as determined under section 1467a(m) of this title, as applicable.

(2) The limitations of paragraph (1) shall not apply if—

(A) the branch results from a transaction authorized under section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(B) the branch was authorized for the Federal savings association prior to October 15, 1982;

(C) the law of the State where the branch is located, or is to be located, would permit establishment of the branch if the association was a savings association or savings bank chartered by the State in which its home office is located; or

(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

(3) The Comptroller of the Currency, for good cause shown, may allow Federal savings associations up to 2 years to comply with the requirements of this subsection.

(s) Minimum capital requirements

(1) In general

Consistent with the purposes of section 908 of the International Lending Supervision Act of 1983 [12 U.S.C. 3907] and the capital requirements established pursuant to such section by the appropriate Federal banking agencies (as defined in section 903(1) of such Act [12 U.S.C. 3902(1)]), the Comptroller of the Currency shall require all savings associations to achieve and maintain adequate capital by—

(A) establishing minimum levels of capital for savings associations; and

(B) using such other methods as the Comptroller of the Currency determines to be appropriate.

(2) Minimum capital levels may be determined by Comptroller of the Currency case-by-case

The Comptroller of the Currency may, consistent with subsection (t), establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the

Comptroller of the Currency determines to be necessary or appropriate for such association in light of the particular circumstances of the association.

(3) Unsafe or unsound practice

In the discretion of the appropriate Federal banking agency, the appropriate Federal banking agency,⁶ may treat the failure of any savings association to maintain capital at or above the minimum level required by the Comptroller under this subsection or subsection (t) as an unsafe or unsound practice.

(4) Directive to increase capital

(A) Plan may be required

In addition to any other action authorized by law, including paragraph (3), the appropriate Federal banking agency may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the appropriate Federal banking agency to submit and adhere to a plan for increasing capital which is acceptable to the appropriate Federal banking agency.

(B) Enforcement of plan

Any directive issued and plan approved under subparagraph (A) shall be enforceable under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818] to the same extent and in the same manner as an outstanding order which was issued under section 8 of the Federal Deposit Insurance Act and has become final.

(5) Plan taken into account in other proceedings

The appropriate Federal banking agency may—

(A) consider a savings association's progress in adhering to any plan required under paragraph (4) whenever such association or any affiliate of such association (including any company which controls such association) seeks the approval of the appropriate Federal banking agency for any proposal which would have the effect of diverting earnings, diminishing capital, or otherwise impeding such association's progress in meeting the minimum level of capital required by the appropriate Federal banking agency; and

(B) disapprove any proposal referred to in subparagraph (A) if the appropriate Federal banking agency determines that the proposal would adversely affect the ability of the association to comply with such plan.

(t) Capital standards

(1) In general

(A) Requirement for standards to be prescribed

The appropriate Federal banking agency shall, by regulation, prescribe and maintain uniformly applicable capital standards for savings associations. Those standards shall include—

- (i) a leverage limit;
- (ii) a tangible capital requirement; and
- (iii) a risk-based capital requirement.

(B) Compliance

A savings association is not in compliance with capital standards for purposes of this subsection unless it complies with all capital standards prescribed under this paragraph.

(C) Stringency

The standards prescribed under this paragraph shall be no less stringent than the capital standards applicable to national banks.

(2) Content of standards

(A) Leverage limit

The leverage limit prescribed under paragraph (1) shall require a savings association to

maintain core capital in an amount not less than 3 percent of the savings association's total assets.

(B) Tangible capital requirement

The tangible capital requirement prescribed under paragraph (1) shall require a savings association to maintain tangible capital in an amount not less than 1.5 percent of the savings association's total assets.

(C) Risk-based capital requirement

Notwithstanding paragraph (1)(C), the risk-based capital requirement prescribed under paragraph (1) may deviate from the risk-based capital standards applicable to national banks to reflect interest-rate risk or other risks, but such deviations shall not, in the aggregate, result in materially lower levels of capital being required of savings associations under the risk-based capital requirement than would be required under the risk-based capital standards applicable to national banks.

(3) [Repealed].

(4) [Repealed].

(5) Separate capitalization required for certain subsidiaries

(A) In general

In determining compliance with capital standards prescribed under paragraph (1), all of a savings association's investments in and extensions of credit to any subsidiary engaged in activities not permissible for a national bank shall be deducted from the savings association's capital.

(B) Exception for agency activities

Subparagraph (A) shall not apply with respect to a subsidiary engaged, solely as agent for its customers, in activities not permissible for a national bank unless the appropriate Federal banking agency, in the sole discretion of the appropriate Federal banking agency, determines that, in the interests of safety and soundness, this subparagraph should cease to apply to that subsidiary.

(C) Other exceptions

Subparagraph (A) shall not apply with respect to any of the following:

(i) Mortgage banking subsidiaries

A savings association's investments in and extensions of credit to a subsidiary engaged solely in mortgage-banking activities.

(ii) Subsidiary insured depository institutions

A savings association's investments in and extensions of credit to a subsidiary—

(I) that is itself an insured depository institution or a company the sole investment of which is an insured depository institution, and

(II) that was acquired by the parent insured depository institution prior to May 1, 1989.

(iii) Certain Federal savings banks

Any Federal savings association existing as a Federal savings association on August 9, 1989—

(I) that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law; or

(II) that acquired its principal assets from an association that was chartered prior to October 15, 1982, as a savings bank or a cooperative bank under State law.

(D) Repealed. Pub. L. 111–203, title III, §369(5)(L)(iii)(II), July 21, 2010, 124 Stat. 1562

(E) Consolidation of subsidiaries not separately capitalized

In determining compliance with capital standards prescribed under paragraph (1), the assets and liabilities of each of a savings association's subsidiaries (other than any subsidiary described in subparagraph (C)(ii)) shall be consolidated with the savings association's assets and liabilities, unless all of the savings association's investments in and extensions of credit to the subsidiary are deducted from the savings association's capital pursuant to subparagraph (A).

(6) Consequences of failing to comply with capital standards

(A) [Reserved].

(B) On or after January 1, 1991

On or after January 1, 1991, the appropriate Federal banking agency—

(i) shall prohibit any asset growth by any savings association not in compliance with capital standards, except as provided in subparagraph (C); and

(ii) shall require any savings association not in compliance with capital standards to comply with a capital directive issued by the appropriate Federal banking agency (which may include such restrictions, including restrictions on the payment of dividends and on compensation, as the appropriate Federal banking agency determines to be appropriate).

(C) Limited growth exception

The appropriate Federal banking agency may permit any savings association that is subject to subparagraph (B) to increase its assets in an amount not exceeding the amount of net interest credited to the savings association's deposit liabilities if—

(i) the savings association obtains the prior approval of the appropriate Federal banking agency;

(ii) any increase in assets is accompanied by an increase in tangible capital in an amount not less than 6 percent of the increase in assets (or, in the discretion of the appropriate Federal banking agency if the leverage limit then applicable is less than 6 percent, in an amount equal to the increase in assets multiplied by the percentage amount of the leverage limit);

(iii) any increase in assets is accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable;

(iv) any increase in assets is invested in low-risk assets, such as first mortgage loans secured by 1- to 4-family residences and fully secured consumer loans; and

(v) the savings association's ratio of core capital to total assets is not less than the ratio existing on January 1, 1991.

(D) Additional restrictions in case of excessive risks or rates

The appropriate Federal banking agency may restrict the asset growth of any savings association that the appropriate Federal banking agency determines is taking excessive risks or paying excessive rates for deposits.

(E) Failure to comply with plan, regulation, or order

The appropriate Federal banking agency may treat as an unsafe and unsound practice any material failure by a savings association to comply with any plan, regulation, or order under this paragraph.

(F) Effect on other regulatory authority

This paragraph does not limit any authority of the appropriate Federal banking agency under this chapter or any other provision of law.

(7) Exemption from certain sanctions

(A) Application for exemption

Any savings association not in compliance with the capital standards prescribed under paragraph (1) may apply to the appropriate Federal banking agency for an exemption from any applicable sanction or penalty for noncompliance which the appropriate Federal banking agency

may impose under this chapter.

(B) Effect of grant of exemption

If the appropriate Federal banking agency approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the appropriate Federal banking agency under this chapter for the savings association's failure to comply with the capital standards prescribed under paragraph (1) is the growth limitation contained in paragraph (6)(B) or paragraph (6)(C), whichever is applicable.

(C) Standards for approval or disapproval

(i) Approval

The appropriate Federal banking agency may approve an application for an exemption if the appropriate Federal banking agency determines that—

- (I) such exemption would pose no significant risk to the Deposit Insurance Fund;
- (II) the savings association's management is competent;
- (III) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and
- (IV) the savings association's management has not engaged in insider dealing, speculative practices, or any other activities that have jeopardized the association's safety and soundness or contributed to impairing the association's capital.

(ii) Denial or revocation of approval

The appropriate Federal banking agency shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the appropriate Federal banking agency determines that the association's failure to meet any capital standards prescribed under paragraph (1) is accompanied by—

- (I) a pattern of consistent losses;
- (II) substantial dissipation of assets;
- (III) evidence of imprudent management or business behavior;
- (IV) a material violation of any Federal law, any law of any State to which such association is subject, or any applicable regulation; or
- (V) any other unsafe or unsound condition or activity, other than the failure to meet such capital standards.

(D) Submission of plan required

Any application submitted under subparagraph (A) shall be accompanied by a plan which—

- (i) meets the requirements of paragraph (6)(A)(ii); and
- (ii) is acceptable to the appropriate Federal banking agency.

(E) Failure to comply with plan

The appropriate Federal banking agency shall treat as an unsafe and unsound practice any material failure by any savings association which has been granted an exemption under this paragraph to comply with the provisions of any plan submitted by such association under subparagraph (D).

(F) Exemption not available with respect to unsafe or unsound practices

This paragraph does not limit any authority of the appropriate Federal banking agency under any other provision of law, including section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], to take any appropriate action with respect to any unsafe or unsound practice or condition of any savings association, other than the failure of such savings association to comply with the capital standards prescribed under paragraph (1).

(8) [Repealed].

(9) Definitions

For purposes of this subsection—

(A) Core capital

Unless the Comptroller prescribes a more stringent definition, the term "core capital" means core capital as defined by the Comptroller of the Currency for national banks, less any unidentifiable intangible assets.

(B) Tangible capital

The term "tangible capital" means core capital minus any intangible assets (as intangible assets are defined by the Comptroller for national banks).

(C) Total assets

The term "total assets" means total assets (as total assets are defined by the Comptroller of the Currency for national banks) adjusted in the same manner as total assets would be adjusted in determining compliance with the leverage limit applicable to national banks if the savings association were a national bank.

(10) Use of Comptroller's definitions

(A) In general

The standards prescribed under paragraph (1) shall include all relevant substantive definitions established by the Comptroller of the Currency for national banks.

(B) Special rule

If the Comptroller of the Currency has not made effective regulations defining core capital or establishing a risk-based capital standard, the appropriate Federal banking agency shall use the definition and standard contained in the Comptroller's most recently published final regulations.

(u) Limits on loans to one borrower

(1) In general

Section 5200 of the Revised Statutes [12 U.S.C. 84] shall apply to savings associations in the same manner and to the same extent as it applies to national banks.

(2) Special rules

(A) Notwithstanding paragraph (1), a savings association may make loans to one borrower under one of the following clauses:

- (i) For any purpose, not to exceed \$500,000.
- (ii) To develop domestic residential housing units, not to exceed the lesser of \$30,000,000 or 30 percent of the savings association's unimpaired capital and unimpaired surplus, if—
 - (I) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t);
 - (II) the appropriate Federal banking agency, by order, permits the savings association to avail itself of the higher limit provided by this clause;
 - (III) loans made under this clause to all borrowers do not, in aggregate, exceed 150 percent of the savings association's unimpaired capital and unimpaired surplus; and
 - (IV) such loans comply with all applicable loan-to-value requirements.

(B) A savings association's loans to one borrower to finance the sale of real property acquired in satisfaction of debts previously contracted in good faith shall not exceed 50 percent of the savings association's unimpaired capital and unimpaired surplus.

(3) Authority to impose more stringent restrictions

The appropriate Federal banking agency may impose more stringent restrictions on a savings association's loans to one borrower if the appropriate Federal banking agency determines that such restrictions are necessary to protect the safety and soundness of the savings association.

(v) Reports of condition

(1) In general

Each association shall make reports of conditions to the appropriate Federal banking agency which shall be in a form prescribed by the appropriate Federal banking agency and shall contain—

- (A) information sufficient to allow the identification of potential interest rate and credit risk;
- (B) a description of any assistance being received by the association, including the type and monetary value of such assistance;
- (C) the identity of all subsidiaries and affiliates of the association;
- (D) the identity, value, type, and sector of investment of all equity investments of the associations and subsidiaries; and
- (E) other information that the appropriate Federal banking agency may prescribe.

(2) Public disclosure

(A) Reports required under paragraph (1) and all information contained therein shall be available to the public upon request, unless the appropriate Federal banking agency determines—

- (i) that a particular item or classification of information should not be made public in order to protect the safety or soundness of the institution concerned or institutions concerned, or the Deposit Insurance Fund; or
- (ii) that public disclosure would not otherwise be in the public interest.

(B) Any determination made by the appropriate Federal banking agency under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the appropriate Federal banking agency restricts any item of information for savings institutions generally, the appropriate Federal banking agency shall disclose the reason in detail in the Federal Register.

(C) The determinations of the appropriate Federal banking agency under subparagraph (A) shall not be subject to judicial review.

(3) Access by certain parties

(A) Notwithstanding paragraph (2), the persons described in subparagraph (B) shall not be denied access to any information contained in a report of condition, subject to reasonable requirements of confidentiality. Those requirements shall not prevent such information from being transmitted to the Comptroller General of the United States for analysis.

(B) The following persons are described in this subparagraph for purposes of subparagraph (A):

- (i) the Chairman and ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and their designees; and
- (ii) the Chairman and ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives and their designees.

(4) First tier penalties

Any savings association which—

(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

- (i) fails to submit or publish any report or information required by the appropriate Federal banking agency under paragraph (1) or (2), within the period of time specified by the appropriate Federal banking agency; or
- (ii) submits or publishes any false or misleading report or information; or

(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. The savings association shall have the burden of proving by a preponderance ⁷ of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

(5) Second tier penalties

Any savings association which—

(A) fails to submit or publish any report or information required by the appropriate Federal banking agency under paragraph (1) or (2), within the period of time specified by the appropriate Federal banking agency; or

(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (4) shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(6) Third tier penalties

If any savings association knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (5) submits or publishes any false or misleading report or information, the appropriate Federal banking agency may assess a penalty of not more than \$1,000,000 or 1 percent of total assets, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(7) Assessment

Any penalty imposed under paragraph (4), (5), or (6) shall be assessed and collected by the appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)(E), (F), (G), (I)] (for penalties imposed under such section), and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

(8) Hearing

Any savings association against which any penalty is assessed under this subsection shall be afforded a hearing if such savings association submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 8(h) of the Federal Deposit Insurance Act [12 U.S.C. 1818(h)] shall apply to any proceeding under this subsection.

(w) Forfeiture of franchise for money laundering or cash transaction reporting offenses

(1) In general

(A) Conviction of title 18 offense

(I) Duty to notify

If a Federal savings association has been convicted of any criminal offense under section 1956 or 1957 of title 18, the Attorney General shall provide to the Comptroller a written notification of the conviction and shall include a certified copy of the order of conviction from the court rendering the decision.

(II) Notice of termination; pretermination hearing

After receiving written notification from the Attorney General of such a conviction, the Comptroller shall issue to the savings association a notice of the intention of the Comptroller to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(B) Conviction of title 31 offenses

If a Federal savings association is convicted of any criminal offense under section 5322 or 5324 of title 31 after receiving written notification from the Attorney General, the Comptroller may issue to the savings association a notice of the intention of the Comptroller to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(C) Judicial review

Subsection (d)(1)(B)(vii) shall apply to any proceeding under this subsection.

(2) Factors to be considered

In determining whether a franchise shall be forfeited under paragraph (1), the Comptroller shall take into account the following factors:

(A) The extent to which directors or senior executive officers of the savings association knew of, were ⁸ involved in, the commission of the money laundering offense of which the association was found guilty.

(B) The extent to which the offense occurred despite the existence of policies and procedures within the savings association which were designed to prevent the occurrence of any such offense.

(C) The extent to which the savings association has fully cooperated with law enforcement authorities with respect to the investigation of the money laundering offense of which the association was found guilty.

(D) The extent to which the savings association has implemented additional internal controls (since the commission of the offense of which the savings association was found guilty) to prevent the occurrence of any other money laundering offense.

(E) The extent to which the interest of the local community in having adequate deposit and credit services available would be threatened by the forfeiture of the franchise.

(3) Successor liability

This subsection shall not apply to a successor to the interests of, or a person who acquires, a savings association that violated a provision of law described in paragraph (1), if the successor succeeds to the interests of the violator, or the acquisition is made, in good faith and not for purposes of evading this subsection or regulations prescribed under this subsection.

(4) "Senior executive officer" defined

The term "senior executive officer" has the same meaning as in regulations prescribed under section 32(f) of the Federal Deposit Insurance Act [12 U.S.C. 1831i(f)].

(x) Home State citizenship

In determining whether a Federal court has diversity jurisdiction over a case in which a Federal savings association is a party, the Federal savings association shall be considered to be a citizen only of the State in which such savings association has its home office.

(June 13, 1933, ch. 64, §5, 48 Stat. 132; Apr. 27, 1934, ch. 168, §§5, 6, 48 Stat. 645, 646; May 28, 1935, ch. 150, §18, 49 Stat. 297; Aug. 10, 1939, ch. 666, title IX, §909, 53 Stat. 1402; Aug. 6, 1947, ch. 503, 61 Stat. 786; July 3, 1948, ch. 825, §1, 62 Stat. 1239; Oct. 20, 1951, ch. 521, title III, §313(d), 65 Stat. 490; July 14, 1952, ch. 723, §12, 66 Stat. 604; Aug. 2, 1954, ch. 649, title II, §204(b), title V, §503, 68 Stat. 622, 634; Aug. 11, 1955, ch. 783, title I, §110, 69 Stat. 641; Aug. 7, 1956, ch. 1029, title VI, §604, 70 Stat. 1114; Pub. L. 85-857, §13(f), Sept. 2, 1958, 72 Stat. 1264; Pub. L. 86-372, title VIII, §805, Sept. 23, 1959, 73 Stat. 687; Pub. L. 86-507, §1(11), June 11, 1960, 74 Stat. 200; Pub. L. 87-70, title IX, §901, June 30, 1961, 75 Stat. 189; Pub. L. 87-779, §1, Oct. 9, 1962, 76 Stat. 778; Pub. L. 87-834, §6(e)(1), Oct. 16, 1962, 76 Stat. 984; Pub. L. 88-560, title IX, §§901(a), 902-905, 907, 908, 910, Sept. 2, 1964, 78 Stat. 804-806; Pub. L. 89-117, title II, §201(b)(3), title XI, §1110(a)-(c), Aug. 10, 1965, 79 Stat. 465, 507; Pub. L. 89-695, title I, §101(a), Oct. 16, 1966, 80 Stat. 1028; Pub. L. 90-448, title III, §304(b), title IV, §416(c), title VIII, §§804(e), 807(m), title XVII, §1716, Aug. 1, 1968, 82 Stat. 508, 518, 543, 545, 608; Pub. L. 90-505, §5, Sept. 21, 1968, 82 Stat. 858; Pub. L. 90-575, title I, §118(b), Oct. 16, 1968, 82 Stat. 1026; Pub. L. 91-152, title IV, §416(b), Dec. 24, 1969, 83 Stat. 401; Pub. L. 91-351, title VII, §§706, 708, 709, July 24, 1970, 84 Stat. 462, 463; Pub. L. 91-609, title VII, §727(d), title IX, §907(b), (c), Dec. 31, 1970, 84 Stat. 1803, 1811; Pub. L. 92-318, title I, §133(c)(3), June 23, 1972, 86 Stat. 270; Pub. L. 93-100, §5(b), Aug. 16, 1973, 87 Stat. 343; Pub. L. 93-383, title VII, §§702-706, title VIII, §§802(i)(2), 805(c)(4), Aug. 22, 1974, 88 Stat. 715, 716, 725, 727; Pub. L. 93-449, §4(d), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 93-495, title I, §101(e), Oct. 28, 1974, 88 Stat. 1502; Pub. L. 94-60, July 25, 1975, 89 Stat. 301; Pub. L. 94-375, §22, Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95-128, title IV, §§401-405, Oct. 12, 1977, 91 Stat. 1136, 1137; Pub. L. 95-147, §2(a), Oct. 28, 1977, 91 Stat. 1227; Pub. L. 95-630, title I, §§107(a)(3), (c)(3), (d)(3), (e)(3), 111(c), title II, §208(b), title XII, §§1202, 1204,

title XVII, §1701, Nov. 10, 1978, 92 Stat. 3651, 3655, 3659, 3662, 3668, 3675, 3710, 3711, 3714; Pub. L. 96–153, title III, §§325, 326, Dec. 21, 1979, 93 Stat. 1121; Pub. L. 96–161, title I, §102, Dec. 28, 1979, 93 Stat. 1233; Pub. L. 96–221, title III, §§304, 307, title IV, §§401–404, 407(a), 408, Mar. 31, 1980, 94 Stat. 146, 147, 151, 155, 156, 158–160; Pub. L. 97–320, title I, §§112, 114(b), (c), 121, 141(a)(2), (5), title II, §202(b), title III, §§311–313, 321–325, 328–331, 334, 351, title IV, §§424(a), (d)(8), (e), 427(a), Oct. 15, 1982, 96 Stat. 1471, 1475, 1479, 1489, 1492, 1496, 1497, 1499–1504, 1507, 1522–1524; Pub. L. 97–457, §§2, 12, 14(a)(1), (b), Jan. 12, 1983, 96 Stat. 2507, 2508; Pub. L. 98–440, title I, §105(a), Oct. 3, 1984, 98 Stat. 1691; Pub. L. 98–620, title IV, §402(9), Nov. 8, 1984, 98 Stat. 3357; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 99–570, title I, §1359(b), Oct. 27, 1986, 100 Stat. 3207–27; Pub. L. 100–86, title IV, §§406(a), 413(a), title V, §509(a), Aug. 10, 1987, 101 Stat. 614, 621, 635; Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 282; Pub. L. 102–242, title I, §§131(d), 133(d), title IV, §441, title V, §501(c), Dec. 19, 1991, 105 Stat. 2267, 2271, 2381, 2391; Pub. L. 102–310, July 1, 1992, 106 Stat. 276; Pub. L. 102–550, title IX, §953, title XV, §1502(b), title XVI, §§1603(d)(8), 1606(f)(1)–(3), Oct. 28, 1992, 106 Stat. 3893, 4046, 4080, 4088; Pub. L. 103–325, title II, §206(a), title III, §322(b), title IV, §411(c)(2)(D), Sept. 23, 1994, 108 Stat. 2199, 2227, 2253; Pub. L. 104–208, div. A, title II, §§2216(b), 2303(a)–(d), (f), 2704(d)(12)(A), Sept. 30, 1996, 110 Stat. 3009–413, 3009–424, 3009–490; Pub. L. 105–164, §3(a)(1), Mar. 20, 1998, 112 Stat. 33; Pub. L. 106–102, title VI, §603, title VII, §739, Nov. 12, 1999, 113 Stat. 1450, 1480; Pub. L. 106–554, §1(a)(8) [§1(f)], Dec. 21, 2000, 114 Stat. 2763, 2763A–665; Pub. L. 106–569, title XII, §1201(b)(1), Dec. 27, 2000, 114 Stat. 3032; Pub. L. 109–171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, §9(e)(1), Feb. 15, 2006, 119 Stat. 3617; Pub. L. 109–351, title IV, §§402–404, title VI, §608(a), Oct. 13, 2006, 120 Stat. 1974, 1983; Pub. L. 111–203, title III, §369(5), title VI, §§610(b), 612(c), 627(a)(2), July 21, 2010, 124 Stat. 1559, 1612, 1613, 1640.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (c)(1)(I), (O)(i), (P), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to chapter 13 (§1701 et seq.) of this title. Title X of the National Housing Act is title X of act June 27, 1934, ch. 847, as added by act Aug. 10, 1965, Pub. L. 89–117, title II, §201(a), 79 Stat. 461, which was classified generally to subchapter IX–A (§1749aa et seq.) of chapter 13 of this title, and was repealed by Pub. L. 101–235, title I, §133(a), Dec. 15, 1989, 103 Stat. 2027. 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. (c)(1)(I), 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 which 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.

The Housing and Urban Development Act of 1968, referred to in subsec. (c)(1)(N), (O)(ii), is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476. Title IX of the Act is classified principally to chapter 49 (§3931 et seq.) of Title 42, The Public Health and Welfare. Title IV of the Housing and Urban Development Act, which was classified to chapter 48 (§3901 et seq.) of Title 42, was repealed, with certain exceptions which were omitted from the Code, by Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

The National Urban Policy and New Community Development Act of 1970, referred to in subsec. (c)(1)(O)(ii), is title VII of Pub. L. 91–609, Dec. 31, 1970, 84 Stat. 1791. Part B of the Act is classified generally to part B (§4511 et seq.) of chapter 59 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4501 of Title 42 and Tables.

Section 802 of the Housing and Community Development Act of 1974, referred to in subsec. (c)(1)(O)(ii), enacted section 1440 of Title 42, and amended sections 371 and 1464 of this title.

The Investment Company Act of 1940, referred to in subsec. (c)(1)(Q)(i), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, which is classified generally to subchapter I (§80a–1 et seq.) of chapter 2D of Title 15,

Commerce and Trade. For complete classification of this Act to the Code, see section 80a–51 of Title 15 and Tables.

Section 4 of the Securities Act of 1933, referred to in subsec. (c)(1)(R)(i), was amended by section 201(b), (c) of Pub. L. 112–106, and the provisions which formerly appeared in section 4 of the Act now appear in section 4(a) of the Act.

The Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(A), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Act is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

Section 224 of such Act [22 U.S.C. 2184], referred to in subsec. (c)(4)(C), means section 224 of the Foreign Assistance Act of 1961, which related to housing projects in Latin American countries and was eliminated in the general amendment made by section 105 of the Foreign Assistance Act of 1969 (Pub. L. 91–175). See section 222 of such Act [22 U.S.C. 2182].

Section 301(d) of the Small Business Investment Act of 1958, referred to in subsec. (c)(4)(D), which was classified to section 681(d) of Title 15, Commerce and Trade, was repealed by Pub. L. 104–208, div. D, title II, §208(b)(3)(A), Sept. 30, 1996, 110 Stat. 3009–742.

Section 5(d)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3)], referred to in subsec. (c)(5)(A), which related to optional conversions by insured depository institutions subject to special rules on deposit insurance payments, was repealed and section 5(d)(1)(C) was redesignated section 5(d)(3) by Pub. L. 109–173, §8(a)(4), (5)(D), Feb. 15, 2006, 119 Stat. 3610, 3611.

The Federal Rules of Civil Procedure, referred to in subsec. (d)(1)(A), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

The Federal Deposit Insurance Act, referred to in subsec. (d)(2)(E)(ii), (3)(B), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

Section 8(b)(9) of the Federal Deposit Insurance Act, referred to in subsec. (d)(7)(D), was repealed by Pub. L. 111–203, title III, §363(3)(C), July 21, 2010, 124 Stat. 1551.

The Federal Home Loan Bank Act, referred to in subsec. (f), is act July 22, 1932, ch. 522, 47 Stat. 725, which is classified generally to chapter 11 (§1421 et seq.) of this title. Section 21A of the Act was classified to section 1441a of this title prior to repeal by Pub. L. 111–203, title III, §364(b), July 21, 2010, 124 Stat. 1555. For complete classification of this Act to the Code, see section 1421 of this title and Tables.

AMENDMENTS

2010—Subsecs. (a), (b). Pub. L. 111–203, §369(5)(A), (B), substituted "Comptroller of the Currency" for "Director" wherever appearing.

Subsec. (b)(1)(B). Pub. L. 111–203, §627(a)(2), substituted "savings association may not permit any" for "savings association may not—", struck out cl. (ii) designation before "permit any overdraft", and struck out cl. (i) which read as follows: "pay interest on a demand account; or".

Subsec. (c). Pub. L. 111–203, §369(5)(P), substituted "Comptroller" for "Director" in introductory provisions.

Subsec. (c)(1), (2). Pub. L. 111–203, §369(5)(P), substituted "Comptroller" for "Director" wherever appearing.

Subsec. (c)(5)(A). Pub. L. 111–203, §369(5)(C)(i)(I), substituted "appropriate Federal banking agency" for "Director".

Subsec. (c)(5)(B). Pub. L. 111–203, §369(5)(C)(i)(II), substituted "The appropriate Federal banking agency" for "The Director" and "the appropriate Federal banking agency" for "the Director".

Subsec. (c)(6)(A). Pub. L. 111–203, §369(5)(P), substituted "Comptroller" for "Director".

Subsec. (d)(1)(A). Pub. L. 111–203, §369(5)(D)(i)(I), in first sentence, substituted "appropriate Federal banking agency" for "Director", in second sentence, substituted "the appropriate Federal banking agency is a party or in which the appropriate Federal banking agency is interested, and in the administration of conservatorships and receiverships, the appropriate Federal banking agency may act in the name of the appropriate Federal banking agency and through the attorneys of the appropriate Federal banking agency" for "the Director is a party or in which the Director is interested, and in the administration of conservatorships and receiverships, the Director may act in the Director's own name and through the Director's own attorneys", and, in third sentence, substituted "Comptroller" for "Director" in two places.

Subsec. (d)(1)(B)(i) to (iv). Pub. L. 111–203, §369(5)(D)(i)(II), substituted "appropriate Federal banking agency" for "Director".

Subsec. (d)(1)(B)(v). Pub. L. 111–203, §369(5)(D)(i)(III)(aa), (cc), which directed amendment of cl. (v) of

par. (1) of subsec. (d) by substituting "appropriate Federal banking agency" for "Director" in introductory provisions and "subpoena" for "subpena" in concluding provisions, was executed to subsec. (d)(1)(B)(v), to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(v)(II). Pub. L. 111-203, §369(5)(D)(i)(III)(bb), which directed amendment of cl. (v)(II) of par. (1) of subsec. (d) by substituting "subpoenas" for "subpenas", was executed to subsec. (d)(1)(B)(v)(II), to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(vi). Pub. L. 111-203, §369(5)(D)(i)(IV), which directed amendment of cl. (vi) of par. (1) of subsec. (d) by substituting "appropriate Federal banking agency" for "Director" in first sentence and "Comptroller" for "Director" in second sentence, was executed to subsec. (d)(1)(B)(vi), to reflect the probable intent of Congress.

Subsec. (d)(1)(B)(vii). Pub. L. 111-203, §369(5)(D)(i)(V), which directed amendment of cl. (vii) of par. (1) of subsec. (d) by substituting "subpoena" for "subpena" in first sentence, "subpoenaed" for "subpenaed" in second sentence, and "appropriate Federal banking agency" for "Director" in third sentence, was executed to subsec. (d)(1)(B)(vii), to reflect the probable intent of Congress.

Subsec. (d)(2)(A). Pub. L. 111-203, §369(5)(D)(ii)(I), substituted "The appropriate Federal banking agency" for "The Director of the Office of Thrift Supervision", "an insured savings association" for "any insured savings association", and "appropriate Federal banking agency determines, in the discretion of the appropriate Federal banking agency" for "Director determines, in the Director's discretion".

Subsec. (d)(2)(B) to (E). Pub. L. 111-203, §369(5)(D)(ii)(II), (III), (IV)(bb), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (d)(2)(E)(ii). Pub. L. 111-203, §369(5)(D)(ii)(IV)(aa), struck out "or RTC" after "FDIC" in heading and "or the Resolution Trust Corporation, as appropriate," after "the Federal Deposit Insurance Corporation" in two places in text.

Subsec. (d)(3)(A). Pub. L. 111-203, §369(5)(D)(iii)(I), substituted "Comptroller" for "Director" in two places.

Subsec. (d)(3)(B). Pub. L. 111-203, §369(5)(D)(iii)(II), in heading, struck out "or RTC" after "FDIC" and, in text, struck out "Corporation or the Resolution Trust" after "where the Federal Deposit Insurance" and substituted "Comptroller" for "Director".

Subsec. (d)(4). Pub. L. 111-203, §369(5)(D)(iv), substituted "appropriate Federal banking agency" for "Director".

Subsec. (d)(6)(A). Pub. L. 111-203, §369(5)(D)(v)(I), substituted "Comptroller" for "Director".

Subsec. (d)(6)(B)(i), (C), (7)(A), (B). Pub. L. 111-203, §369(5)(D)(v)(II), (vi)(I), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (d)(7)(C). Pub. L. 111-203, §369(5)(D)(vi)(II), substituted "Federal Deposit Insurance Corporation or the Comptroller, as appropriate," for "Director".

Subsec. (d)(7)(D). Pub. L. 111-203, §369(5)(D)(vi)(I), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (d)(7)(E). Pub. L. 111-203, §369(5)(D)(vi)(III), added subpar. (E) and struck out former subpar. (E). Prior to amendment, text read as follows: "The Director may issue such regulations and orders, including those issued pursuant to section 8 of the Federal Deposit Insurance Act, as may be necessary to enable the Director to administer and carry out this paragraph and to prevent evasion of this paragraph."

Subsec. (e)(2). Pub. L. 111-203, §369(5)(E), substituted "Comptroller" for "Director".

Subsec. (i). Pub. L. 111-203, §369(5)(F)(iv), which directed substitution of "Comptroller" for "Director" wherever appearing "except as provided in clauses (i) through (iii)" of Pub. L. 111-203, §369(5)(F), could not be executed because "Director" did not appear subsequent to amendment by Pub. L. 111-203, §369(5)(F)(i)-(iii). See notes below.

Subsec. (i)(1). Pub. L. 111-203, §369(5)(F)(i), substituted "Comptroller" for "Director".

Subsec. (i)(2). Pub. L. 111-203, §369(5)(F)(i), (ii), substituted "Comptroller" for "Director" wherever appearing in heading and text.

Subsec. (i)(3)(A)(iii), (B)(i), (ii), (4)(A). Pub. L. 111-203, §369(5)(F)(i), substituted "Comptroller" for "Director".

Subsec. (i)(5)(A). Pub. L. 111-203, §369(5)(F)(iii), struck out "of the Currency" after "Comptroller".

Subsec. (i)(6). Pub. L. 111-203, §612(c), added par. (6).

Subsecs. (m) to (o). Pub. L. 111-203, §369(5)(H), substituted "Comptroller" for "Director" wherever appearing.

Subsec. (o)(1). Pub. L. 111-203, §369(5)(G)(i), which directed substitution of "Comptroller" for "Director", was executed by making the substitution for "Director" both places it appeared, to reflect the probable intent of Congress.

Subsec. (o)(2)(B). Pub. L. 111-203, §369(5)(G)(ii), substituted "determination of the Comptroller" for "Director's determination".

Subsec. (p). Pub. L. 111-203, §369(5)(H), substituted "Comptroller" for "Director" wherever appearing.

Subsec. (q)(4). Pub. L. 111-203, §369(5)(I)(ii), substituted "Board" for "Director".

Subsec. (q)(6). Pub. L. 111-203, §369(5)(I), substituted "The Board may" for "The Director may" and "the Board in consultation with the Comptroller and the Corporation, considers" for "the Director considers" and struck out "of Governors of the Federal Reserve System" before "pursuant to section 1972".

Subsec. (r)(3). Pub. L. 111-203, §369(5)(J), substituted "Comptroller of the Currency" for "Director".

Subsec. (s)(1), (2). Pub. L. 111-203, §369(5)(K)(i), (ii), which directed substitution of "Comptroller of the Currency" for "Director", was executed by making the substitution for "Director" wherever appearing, to reflect the probable intent of Congress.

Subsec. (s)(3). Pub. L. 111-203, §369(5)(P), substituted "by the Comptroller" for "by the Director".

Pub. L. 111-203, §369(5)(K)(iii), substituted "discretion of the appropriate Federal banking agency, the appropriate Federal banking agency," for "Director's discretion, the Director".

Subsec. (s)(4)(A). Pub. L. 111-203, §369(5)(K)(iv), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (s)(5). Pub. L. 111-203, §369(5)(K)(v)(I), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (s)(5)(A). Pub. L. 111-203, §369(5)(K)(v)(II), substituted "approval of the appropriate Federal banking agency" for "Director's approval".

Subsec. (t)(1)(A). Pub. L. 111-203, §369(5)(L)(viii), substituted "appropriate Federal banking agency" for "Director" in introductory provisions.

Subsec. (t)(1)(D). Pub. L. 111-203, §369(5)(L)(i), struck out subpar. (D). Text read as follows: "The Director shall promulgate final regulations under this paragraph not later than 90 days after August 9, 1989, and those regulations shall become effective not later than 120 days after August 9, 1989."

Subsec. (t)(3). Pub. L. 111-203, §369(5)(L)(ii), substituted "[Repealed]." for provisions relating to transition rule.

Subsec. (t)(5)(B). Pub. L. 111-203, §369(5)(L)(iii)(I), substituted "appropriate Federal banking agency, in the sole discretion of the appropriate Federal banking agency" for "Corporation, in its sole discretion".

Subsec. (t)(5)(D). Pub. L. 111-203, §369(5)(L)(iii)(II), struck out subpar. (D) which related to transition rule.

Subsec. (t)(6)(A). Pub. L. 111-203, §369(5)(L)(iv)(I), substituted "[Reserved]." for provisions relating to consequences of failing to comply with capital standards prior to Jan. 1, 1991.

Subsec. (t)(6)(B). Pub. L. 111-203, §369(5)(L)(iv)(II), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (t)(6)(C). Pub. L. 111-203, §369(5)(L)(iv)(III)(cc), substituted "appropriate Federal banking agency" for "Director" in introductory provisions.

Subsec. (t)(6)(C)(i). Pub. L. 111-203, §369(5)(L)(iv)(III)(aa), substituted "prior approval of the appropriate Federal banking agency" for "Director's prior approval".

Subsec. (t)(6)(C)(ii). Pub. L. 111-203, §369(5)(L)(iv)(III)(bb), substituted "discretion of the appropriate Federal banking agency" for "Director's discretion".

Subsec. (t)(6)(D). Pub. L. 111-203, §369(5)(L)(viii), substituted "appropriate Federal banking agency" for "Director" in two places.

Subsec. (t)(6)(E). Pub. L. 111-203, §369(5)(L)(iv)(IV), substituted "appropriate Federal banking agency may" for "Director shall".

Subsec. (t)(6)(F). Pub. L. 111-203, §369(5)(L)(iv)(V), substituted "appropriate Federal banking agency under this chapter or any other provision of law." for "Director under other provisions of law."

Subsec. (t)(7). Pub. L. 111-203, §369(5)(L)(v), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (t)(8). Pub. L. 111-203, §369(5)(L)(vi), substituted "[Repealed]." for provisions relating to temporary authority to make exceptions for eligible savings associations.

Subsec. (t)(9)(A). Pub. L. 111-203, §369(5)(L)(vii)(I), substituted "Comptroller prescribes" for "Director prescribes".

Subsec. (t)(9)(B). Pub. L. 111-203, §369(5)(L)(vii)(III), redesignated subpar. (C) as (B) and struck out former subpar. (B). Prior to amendment, text of subpar. (B) read as follows: "The term 'qualifying supervisory goodwill' means supervisory goodwill existing on April 12, 1989, amortized on a straightline basis over the shorter of—

"(i) 20 years, or

"(ii) the remaining period for amortization in effect on April 12, 1989."

Subsec. (t)(9)(C). Pub. L. 111-203, §369(5)(L)(vii)(III), redesignated subpar. (D) as (C). Former subpar. (C) redesignated (B).

Pub. L. 111-203, §369(5)(L)(vii)(II), struck out "of the Currency" after "Comptroller".

Subsec. (t)(9)(D). Pub. L. 111-203, §369(5)(L)(vii)(III), redesignated subpar. (D) as (C).

Subsec. (t)(10)(B). Pub. L. 111-203, §369(5)(L)(viii), substituted "appropriate Federal banking agency" for "Director".

Subsec. (u)(2)(A)(ii)(II). Pub. L. 111-203, §369(5)(M), substituted "appropriate Federal banking agency" for "Director".

Subsec. (u)(3). Pub. L. 111-203, §610(b), which directed substitution of "Comptroller of the Currency" for "Director" wherever appearing, could not be executed because the word "Director" did not appear subsequent to amendment by Pub. L. 111-203, §369(5)(M). See below.

Pub. L. 111-203, §369(5)(M), substituted "appropriate Federal banking agency" for "Director" in two places.

Subsec. (v). Pub. L. 111-203, §369(5)(N)(ii), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (v)(2)(C). Pub. L. 111-203, §369(5)(N)(i), substituted "determinations of the appropriate Federal banking agency" for "Director's determinations".

Subsec. (w)(1)(A)(I). Pub. L. 111-203, §369(5)(P), substituted "Comptroller" for "Director".

Subsec. (w)(1)(A)(II). Pub. L. 111-203, §369(5)(P), substituted "Comptroller shall" for "Director shall".

Pub. L. 111-203, §369(5)(O)(i), substituted "intention of the Comptroller" for "Director's intention".

Subsec. (w)(1)(B). Pub. L. 111-203, §369(5)(P), substituted "Comptroller may" for "Director may".

Pub. L. 111-203, §369(5)(O)(ii), substituted "intention of the Comptroller" for "Director's intention".

Subsec. (w)(2). Pub. L. 111-203, §369(5)(P), substituted "Comptroller" for "Director" in introductory provisions.

2006—Subsec. (c)(5)(A). Pub. L. 109-173, §9(e)(1)(A), struck out "that is a member of the Bank Insurance Fund" after "assets of a bank".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(i). See 1996 Amendment note below.

Subsec. (c)(6). Pub. L. 109-173, §9(e)(1)(B), substituted "For purposes of this subsection, the following definitions shall apply:" for "As used in this subsection—" in introductory provisions.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(ii). See 1996 Amendment note below.

Subsec. (i)(5). Pub. L. 109-351, §608(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

"(A) IN GENERAL.—Any Federal savings association chartered and in operation before November 12, 1999, with branches in operation before November 12, 1999, in 1 or more States, may convert, at its option, with the approval of the Comptroller of the Currency or the appropriate State bank supervisor, into 1 or more national or State banks, each of which may encompass 1 or more of the branches of the Federal savings association in operation before November 12, 1999, in 1 or more States, but only if each resulting national or State bank will meet all financial, management, and capital requirements applicable to the resulting national or State bank.

"(B) DEFINITIONS.—For purposes of this paragraph, the terms 'State bank' and 'State bank supervisor' have the meanings given those terms in section 3 of the Federal Deposit Insurance Act."

Subsec. (o)(1). Pub. L. 109-173, §9(e)(1)(C), struck out "that is a Bank Insurance Fund member" after "State-chartered savings bank".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(iii). See 1996 Amendment note below.

Subsec. (o)(2)(A). Pub. L. 109-173, §9(e)(1)(D), substituted "insured by the Deposit Insurance Fund" for "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(iv). See 1996 Amendment note below.

Subsec. (t)(4). Pub. L. 109-351, §402(1), substituted "(4) [Repealed]." for provisions relating to special rules for purchased mortgage servicing rights.

Subsec. (t)(5)(D)(iii)(II), (7)(C)(i)(I). Pub. L. 109-173, §9(e)(1)(E), (F), substituted "Deposit Insurance Fund" for "affected deposit insurance fund".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(v), (vi). See 1996 Amendment note below.

Subsec. (t)(9)(A). Pub. L. 109-351, §402(2), substituted "intangible assets." for "intangible assets, plus any purchased mortgage servicing rights excluded from the Comptroller's definition of capital but included in calculating the core capital of savings associations pursuant to paragraph (4)."

Subsec. (u)(2)(A)(i). Pub. L. 109-351, §404(1), substituted "For any" for "for any" and a period for "; or" at

end.

Subsec. (u)(2)(A)(ii). Pub. L. 109-351, §404(2), substituted "To develop domestic" for "to develop domestic" in introductory provisions, redesignated subcls. (II) to (V) as (I) to (IV), respectively, and struck out former subcl. (I) which read as follows: "the purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed \$500,000;".

Subsec. (v)(2)(A)(i). Pub. L. 109-173, §9(e)(1)(G), substituted "or the Deposit Insurance Fund" for "the Savings Association Insurance Fund".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(A)(vii). See 1996 Amendment note below.

Subsec. (x). Pub. L. 109-351, §403, added subsec. (x).

2000—Subsec. (c)(1)(M). Pub. L. 106-569 amended heading and text generally. Prior to amendment, text read as follows: "Investments which, when made, are of a type that may be used to satisfy any liquidity requirement imposed by the Director pursuant to section 1465 of this title."

Subsec. (c)(4)(F). Pub. L. 106-554 added subpar. (F).

1999—Subsec. (f). Pub. L. 106-102, §603, amended heading and text of subsec. (f) generally. Prior to amendment, text read as follows: "Each Federal savings association, upon receiving its charter, shall become automatically a member of the Federal home loan bank of the district in which it is located, or if convenience requires and the Director approves, shall become a member of a Federal home loan bank of an adjoining district. Such associations shall qualify for such membership in the manner provided in the Federal Home Loan Bank Act with respect to other members."

Subsec. (i)(5). Pub. L. 106-102, §739, added par. (5).

1998—Subsec. (d)(7), (8). Pub. L. 105-164 added pars. (7) and (8).

1996—Subsec. (b)(4), (5). Pub. L. 104-208, §2303(a), redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: "Subject to regulations of the Director, a Federal savings association may issue credit cards, extend credit in connection therewith, and otherwise engage in or participate in credit card operations."

Subsec. (c)(1)(T), (U). Pub. L. 104-208, §2303(b), added subpars. (T) and (U).

Subsec. (c)(2)(A). Pub. L. 104-208, §2303(c), amended heading and text of subpar. (A) generally. Prior to amendment, text read as follows: "Secured or unsecured loans for commercial, corporate, business, or agricultural purposes. The aggregate amount of loans under this paragraph shall not exceed 10 percent of the assets of the Federal savings association."

Subsec. (c)(3). Pub. L. 104-208, §2303(d), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out heading and text of former subpar. (A). Text read as follows: "Loans made for the payment of educational expenses."

Subsec. (c)(5)(A). Pub. L. 104-208, §2704(d)(12)(A)(i), which directed the amendment of subpar. (A) by striking "that is a member of the Bank Insurance Fund", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (c)(6). Pub. L. 104-208, §2704(d)(12)(A)(ii), which directed the amendment of par. (6) by substituting "For purposes of this subsection, the following definitions shall apply:" for "As used in this subsection—", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (o)(1). Pub. L. 104-208, §2704(d)(12)(A)(iii), which directed the amendment of par. (1) by striking "that is a Bank Insurance Fund member", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (o)(2)(A). Pub. L. 104-208, §2704(d)(12)(A)(iv), which directed the amendment of subpar. (A) by substituting "insured by the Deposit Insurance Fund" for "a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (q)(6). Pub. L. 104-208, §2216(b), added par. (6).

Subsec. (r)(1). Pub. L. 104-208, §2303(f)(1), in first sentence, substituted "subparagraph (C) of that section" for "subparagraph (c) of that section" and inserted before period at end ", or qualifies as a qualified thrift lender, as determined under section 1467a(m) of this title" and, in second sentence, inserted before period at end "or as a qualified thrift lender, as determined under section 1467a(m) of this title, as applicable".

Subsec. (r)(2)(C). Pub. L. 104-208, §2303(f)(2), added subpar. (C) and struck out former subpar. (C) which read as follows: "the law of the State where the branch would be located would permit the branch to be established if the branch were a Federal savings association chartered by the State in which its home office is located; or".

Subsec. (t)(5)(D)(iii)(II), (7)(C)(i)(I). Pub. L. 104-208, §2704(d)(12)(A)(v), (vi), which directed the substitution of "Deposit Insurance Fund" for "affected deposit insurance fund", was repealed by Pub. L.

109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (v)(2)(A)(i). Pub. L. 104–208, §2704(d)(12)(A)(vii), which directed the amendment of cl. (i) by substituting "or the Deposit Insurance Fund" for ", the Savings Association Insurance Fund", was repealed by Pub. L. 109–171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

1994—Subsec. (c)(1)(S). Pub. L. 103–325, §206(a), added subpar. (S).

Subsec. (c)(4)(E). Pub. L. 103–325, §322(b), added subpar. (E).

Subsec. (w)(1)(B). Pub. L. 103–325, §411(c)(2)(D), substituted "section 5322 or 5324 of title 31" for "section 5322 of title 31".

1992—Subsec. (c)(2)(B)(iii). Pub. L. 102–550, §1606(f)(1), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: "If the Director permits any increased authority pursuant to clause (ii), the Director shall closely monitor the Federal savings association's condition and lending activities to ensure that the savings association carries out all authority under this paragraph in a safe and sound manner and complies with this subparagraph and all relevant laws and regulations".

Subsec. (c)(2)(C). Pub. L. 102–550, §1606(f)(2), struck out comma after "including".

Subsec. (c)(2)(D). Pub. L. 102–550, §1606(f)(3), inserted before period at end of last sentence ", except that amounts in excess of 30 percent of the assets may be invested only in loans which are made by the association directly to the original obligor and with respect to which the association does not pay any finder, referral, or other fee, directly or indirectly, to any third party".

Subsec. (d)(2)(A). Pub. L. 102–550, §1603(d)(8), inserted period at end.

Subsec. (t)(5)(D)(ii). Pub. L. 102–310 substituted "October 31, 1992" for "June 30, 1992" and "November 1, 1992" for "July 1, 1992".

Subsec. (t)(5)(D)(iii) to (ix). Pub. L. 102–550, §953, added cls. (iii) to (viii), redesignated former cl. (iii) as (ix), and inserted "or prescribed under clause (iii)" after "clause (ii)".

Subsec. (w). Pub. L. 102–550, §1502(b), added subsec. (w).

1991—Subsec. (c)(2)(B). Pub. L. 102–242, §441(b), which directed amendment of subpar. (B) by inserting before period at end the following: ", provided however, that no amount in excess of 30 percent of the assets may be invested in loans made directly by the association to the original obligor, and the association does not pay finder, referral, or other fees, directly or indirectly, to a third party.", could not be executed because subpar. (B) did not contain a period at end thereof. The new language probably was intended to be inserted before period at end of subpar. (D).

Subsec. (c)(2)(D). Pub. L. 102–242, §441(a), substituted "35 percent" for "30 percent".

Subsec. (c)(5), (6). Pub. L. 102–242, §501(c), added par. (5) and redesignated former par. (5) as (6).

Subsec. (d)(2). Pub. L. 102–242, §133(d), added subpar. (A), redesignated subpars. (E) to (I) as (B) to (F), respectively, and struck out former subpars. (A) to (D) which related to grounds for appointment of conservator or receiver for Federal savings associations, additional grounds for appointment of such conservator or receiver, grounds for appointment of conservator or receiver for State savings associations, and approval of State officials, respectively.

Subsec. (t)(7)(A), (B). Pub. L. 102–242, §131(d), inserted "under this chapter" before period at end of subpar. (A) and after "imposed by the Director" in subpar. (B).

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (f), (h), (i), and (k) to (v) relating to Federal savings associations for former subsecs. (a) to (s) relating to thrift institutions, and repealing subsecs. (g) and (j).

1987—Pub. L. 100–86, §509(a), repealed Pub. L. 97–320, §141. See 1982 Amendment note below.

Subsec. (d)(6)(E). Pub. L. 100–86, §413(a), added subpar. (E).

Subsec. (s). Pub. L. 100–86, §406(a), added subsec. (s).

1986—Subsec. (d)(8)(B)(i). Pub. L. 99–570, §1359(b)(2), inserted reference to par. (16) of this subsection.

Subsec. (d)(16). Pub. L. 99–570, §1359(b)(1), added par. (16).

Subsecs. (l), (r)(1). Pub. L. 99–514 substituted "Internal Revenue Code of 1986" for "Internal Revenue Code of 1954".

1984—Subsec. (c)(1)(S). Pub. L. 98–440 added subpar. (S).

Subsec. (d)(6)(A). Pub. L. 98–620 struck out provision that such proceedings had to be given precedence over other cases pending in such courts, and had to be in every way expedited.

1983—Subsec. (b)(1)(B). Pub. L. 97–457, §12, inserted "may accept a demand account from itself and" after "An association".

Subsec. (c)(3)(D). Pub. L. 97–457, §14(a)(1), added subpar. (D).

Subsec. (o)(1). Pub. L. 97–457, §2, inserted "examination," after "operation,".

Subsec. (r)(2)(B). Pub. L. 97–457, §14(b), substituted "prior to the enactment of the Garn-St Germain Depository Institutions Act" for "prior to the enactment of the Depository Institutions Amendments". Because

the phrase had been translated as "prior to October 15, 1982" the amendment resulted in no change in text.

1982—Subsec. (a). Pub. L. 97-320, §311, substituted provisions that in order to provide thrift institutions for the deposit or investment of funds and for the extension of credit for homes and other goods and services, the Board is authorized, under such rules and regulations as it may prescribe, to provide for the organization, incorporation, examination, operation, and regulation of associations to be known as Federal savings and loan associations, or Federal savings banks, and to issue charters therefor, giving primary consideration to the best practices of thrift institutions in the United States and that the lending and investment authorities are conferred by this section to provide such institutions the flexibility necessary to maintain their role of providing credit for housing for provisions which authorized the Board to provide for organization, etc. of Federal Savings and Loan Associations or Federal Mutual Savings Banks, and detailed the requirements as to associations which were State mutual savings banks or other associations which were formerly organized as savings banks under State law.

Subsec. (b)(1)(A). Pub. L. 97-320, §312, designated existing first sentence as subpar. (A), struck out from parenthetical phrase "and all of which shall have the same priority upon liquidation" after "savings accounts", authorized the raising of capital in the form of demand accounts of persons or organizations that have a business, corporate, commercial, or agricultural relationship with the association, and substituted "evidence of accounts" for "evidence of savings accounts".

Subsec. (b)(1)(B). Pub. L. 97-320, §312, designated existing second sentence as subpar. (B); authorized an association to accept demand accounts from a commercial, corporate, business, or agricultural entity for the sole purpose of effectuating payments thereto by a nonbusiness customer; barred an association from payment of interest on a demand account; inserted requirement that "All savings accounts and demand accounts shall have the same priority upon liquidation", incorporating such requirement for savings accounts from existing first sentence; and substituted "Holder of accounts" for "Holder of savings accounts".

Subsec. (b)(1)(C). Pub. L. 97-320, §312, designated existing third sentence as subpar. (C) and substituted "an association's charter" for "the association's charter" and "fourteen" days for "thirty" days in two places.

Subsec. (b)(1)(D). Pub. L. 97-320, §312, designated existing fourth sentence as subpar. (D), substituted "accounts" for "savings accounts", and inserted in parenthetical phrase ", where applicable,".

Subsec. (b)(1)(E). Pub. L. 97-320, §312, designated existing fifth sentence as subpar. (E) and substituted "Accounts may be subject" for "Savings accounts shall not be subject" and "transferable or other order or authorization to the association, as the Board may by regulation provide" for "transferable order or authorization to the association, but the Board may by regulation provide for withdrawal or transfer of savings accounts upon nontransferable order or authorization".

Subsec. (b)(1)(F). Pub. L. 97-320, §312, designated existing sixth sentence as subpar. (F) and substituted "Notwithstanding any limitation of this section, associations may establish remote service units" for "This section does not prohibit the establishment of remote service units by associations" and "crediting savings or demand accounts" for "crediting existing savings accounts".

Subsec. (b)(2). Pub. L. 97-320, §312, substituted ", including capital stock," for "(except capital stock)".

Subsec. (b)(5)(B). Pub. L. 97-320, §202(b)(1), added subpar. (B). Provisions of former subpar. (B) were moved to subpar. (C) and amended.

Subsec. (b)(5)(C). Pub. L. 97-320, §202(b)(2), added subpar. (C) which consisted of the provisions of former subpar. (B) but with the addition of a reference to net worth certificates issued pursuant to section 1729(f) of this title.

Subsec. (c)(1)(A). Pub. L. 97-320, §321, substituted "transaction accounts" for "negotiable order-of-withdrawal accounts".

Subsec. (c)(1)(B). Pub. L. 97-320, §322, substituted "Loans on the security of liens upon residential or nonresidential real property, except that the loans and investments of an association on nonresidential real property may not exceed 40 per centum of its assets" for "Loans on the security of liens upon residential real property in an amount which, when added to the amount unpaid upon prior mortgages, liens or encumbrances, if any, upon such real estate does not exceed the appraised value thereof, except that the amount of any such loan hereafter made shall not exceed 662/3 per centum of the appraised value if such real estate is unimproved, 75 per centum of the appraised value if such real estate is improved by offsite improvements such as street, water, sewers, or other utilities, 75 per centum of the appraised value if such real estate is in the process of being improved by a building or buildings to be constructed or in the process of construction, or 90 per centum of the appraised value if such real estate is improved by a building or buildings. Notwithstanding the above loan-to-value ratios, the Board may permit a loan-to-value ratio in excess of 90 per centum if such real estate is improved by a building or buildings and that portion of the unpaid balance of such loan which is

in excess of an amount equal to 90 per centum of such value is guaranteed or insured by a public or private mortgage insurer or in the case of any loan for the purpose of providing housing for persons of low income, as described in regulations of the Board.

Subsec. (c)(1)(G). Pub. L. 97-320, §323, inserted ", or in the savings accounts, certificates, or other accounts of any institution the accounts of which are insured by the Federal Savings and Loan Insurance Corporation" after "Federal Deposit Insurance Corporation".

Subsec. (c)(1)(H). Pub. L. 97-320, §324, substituted "Investments in obligations of, or issued by, any State or political subdivision thereof (including any agency, corporation, or instrumentality of a State or political subdivision), except that an association may not invest more than 10 per centum of its capital and surplus in obligations of any one issuer, exclusive of investments in general obligations of any issuer" for "Investments in general obligations of any State or any political subdivision thereof".

Subsec. (c)(1)(O). Pub. L. 97-320, §328, inserted reference to loans secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance.

Subsec. (c)(1)(R). Pub. L. 97-320, §325, added subpar. (R).

Subsec. (c)(2). Pub. L. 97-320, §330(1), substituted "the following percentages" for "20 per centum" in provisions preceding subpar. (A).

Subsec. (c)(2)(A). Pub. L. 97-320, §330(3), substituted "Investments in tangible personal property, including, without limitation, vehicles, manufactured homes, machinery, equipment, or furniture, for rental or sale, but such investment may not exceed 10 per centum of the assets of the association" for "Loans on security of first liens upon other improved real estate".

Subsec. (c)(2)(B). Pub. L. 97-320, §329, inserted ", including loans reasonably incident to the provision of such credit," after "household purposes" and ", except that loans of an association under this subparagraph may not exceed 30 per centum of the assets of the association" after "as defined and approved by the Board".

Subsec. (c)(3)(A). Pub. L. 97-320, §330(4)(B), substituted "educational expenses" for "expenses of college, university, or vocational education".

Subsec. (c)(3)(D). Pub. L. 97-320, §330(4)(A), struck out subpar. (D). See 1983 Amendment note reenacting subpar. (D).

Subsec. (c)(4)(C). Pub. L. 97-320, §330(5)(A), struck out cl. (i) which permitted loans secured by mortgages as to which the association had the benefit of insurance under title X of the National Housing Act [12 U.S.C. 1749aa et seq.] or of a commitment or agreement for such insurance, struck out designations of former cls. (ii) and (iii), substituted "guarantee" for "guaranty" in first sentence, inserted "as hereafter amended or extended" after "section 221 or 222 of such Act [22 U.S.C. 2181 or 2182]", and struck out "Investments under clause (i) of this subparagraph shall not be included in any percentage of assets or other percentage referred to in this subsection."

Subsec. (c)(4)(D). Pub. L. 97-320, §330(5)(B), substituted provisions authorizing investments in small business investment companies for provisions that authorized investments in State and local government obligations.

Subsec. (c)(5), (6). Pub. L. 97-320, §330(2), redesignated par. (6) as (5).

Subsec. (d)(4)(C). Pub. L. 97-320, §427(a)(1), added subpar. (C). Former subpar. (C) redesignated (D).

Subsec. (d)(4)(D). Pub. L. 97-320, §427(a)(1)-(3), redesignated former subpar. (C) as (D), and in subpar. (D) as so redesignated, substituted "(A), (B), or (C)" for "(A) or (B)" wherever appearing, and "subparagraph (F)" for "subparagraph (E)". Former subpar. (D) redesignated (E).

Subsec. (d)(4)(E). Pub. L. 97-320, §427(a)(1), redesignated former subpar. (D) as (E). Former subpar. (E) redesignated (F).

Subsec. (d)(4)(F). Pub. L. 97-320, §427(a)(1), (2), (4), redesignated former subpar. (E) as (F), and in subpar. (F) as so redesignated, substituted "(A), (B), or (C)" for "(A) or (B)", and "subparagraph (D)" for "subparagraph (C)".

Subsec. (d)(5)(A). Pub. L. 97-320, §427(a)(5), substituted "(C), or (D)" for "or (C)".

Subsec. (d)(6)(B). Pub. L. 97-320, §114(b)(1), inserted "or the Federal Deposit Insurance Corporation" after "Federal Savings and Loan Corporation".

Subsec. (d)(6)(D). Pub. L. 97-320, §114(b)(2), inserted ", except as hereafter provided," after "shall appoint".

Pub. L. 97-320, §114(b)(3), inserted provision relating to appointment as receiver and powers of Federal Deposit Insurance Corporation in the case of a Federal savings bank chartered pursuant to subsec. (o) of this section.

Subsec. (d)(8)(A). Pub. L. 97-320, §351, inserted in last sentence ", which prevails," after "party".

Subsec. (d)(8)(B)(i). Pub. L. 97-320, §424(a), (d)(8), inserted proviso giving Board discretionary authority

to compromise, etc., any civil money penalty imposed under this subsection, and substituted "may be assessed" for "shall be assessed".

Subsec. (d)(8)(B)(iv). Pub. L. 97-320, §424(e), substituted "twenty days from the service" for "ten days from the date".

Subsec. (d)(11). Pub. L. 97-320, §114(c), substituted "with associations or any" for "with other" after "merger of associations".

Subsec. (d)(12)(A). Pub. L. 97-320, §427(a)(6), substituted "(4)(D), (4)(E)" for "(4)(C), (4)(D)".

Subsec. (i). Pub. L. 97-320, §313, amended subsec. (i) generally, substituting expanded provisions relating to conversions by banks to Federal charters, for provisions relating to conversion of member of Federal Home Loan Bank into Federal Savings and Loan Association, conversion of State stock savings and loan type institution charters into Federal stock charters, and conversion of Federal Savings and Loan Associations into State-chartered institutions.

Subsec. (o). Pub. L. 97-320, §112, added subsec. (o).

Subsec. (o)(2)(F), (G). Pub. L. 97-320, §141(a)(2), which directed the repeal of subpars. (F) and (G) effective Oct. 13, 1986, was repealed by Pub. L. 100-86, §509(a). See Effective and Termination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97-320 note set out below.

Subsec. (p). Pub. L. 97-320, §141(a)(5), which directed the repeal of subsec. (p) effective Oct. 13, 1986, was repealed by Pub. L. 100-86, §509(a). See Effective and Termination Dates of 1982 Amendment note and Extension of Emergency Acquisition and Net Worth Guarantee Provisions of Pub. L. 97-320 note set out below.

Pub. L. 97-320, §121, added subsec. (p).

Subsecs. (q), (r). Pub. L. 97-320, §§331, 334, added subsecs. (q) and (r).

1980—Subsec. (a). Pub. L. 96-221, §408, redesignated existing provisions as par. (1), denominated cls. (1) and (2) as (A) and (B), respectively, wherever appearing, and added pars. (2) and (3).

Subsec. (b)(1). Pub. L. 96-221, §§304, 307, inserted provision identical to provision added by Pub. L. 96-161 relating to establishment of remote service units, and repealed the amendment made by Pub. L. 96-161. See Repeals and Effective Date of 1980 Amendment notes below.

Subsec. (b)(4). Pub. L. 96-221, §402, added par. (4).

Subsec. (b)(5). Pub. L. 96-221, §407(a), added par. (5).

Subsec. (c). Pub. L. 96-221, §401, generally revised investment authority of an association, with emphasis on provisions respecting loans or investments without percentage of assets limitations, loans or investments limited to 20 per centum of assets, and loans or investments limited to 5 per centum of assets.

Subsec. (i). Pub. L. 96-221, §404, inserted provisions relating to conversion of State stock savings and loan type charter into Federal stock charter.

Subsec. (n). Pub. L. 96-221, §403, added subsec. (n).

1979—Subsec. (b)(1). Pub. L. 96-161 provided that this section does not prohibit the establishment of remote service units by associations for the purpose of crediting existing savings accounts, debiting such accounts, crediting payments on loans, and the disposition of related financial transactions as provided in regulations prescribed by the Board.

Subsec. (c)(1)(B). Pub. L. 96-153, §326, substituted "\$75,000" for "\$60,000".

Subsec. (c)(4)(E). Pub. L. 96-153, §325, added subpar. (E).

1978—Subsec. (a). Pub. L. 95-630, §1202, inserted provisions relating to the authority of the Federal Home Loan Bank Board to allow a State-chartered mutual savings bank to convert to a Federal charter and be known as a Federal mutual savings bank.

Subsec. (b)(3). Pub. L. 95-630, §1701(b), redesignated as subpar. (3), provisions which were formerly contained in undesignated par. 23 of subsec. (c).

Subsec. (c). Pub. L. 95-630, §1701, simplified the investment authority for Federal savings and loan associations and provided such associations with more authority to invest in urban areas and transferred provisions of formerly undesignated paragraphs 15, 17, and 23 of this section to subsecs. (m), (l), and (b)(3) of this section, respectively.

Subsec. (d)(2). Pub. L. 95-630, §107(a)(3), in subpar. (A) extended coverage of provisions to include directors, officers, employees, agents, or other persons participating in the conduct of the affairs of any association and added subpar. (C).

Subsec. (d)(3). Pub. L. 95-630, §107(c)(3), in subpars. (A) and (B) inserted references to any director, officer, employee, agent, or other person participating in the conduct of the affairs of the association and in subpar. (A) inserted "prior to the completion of the proceedings conducted pursuant to paragraph (2)(A) of this sub-subsection" after "savings account holders" and "and to take affirmative action to prevent such

insolvency, dissipation, condition or prejudice pending completion of such proceedings" after "violation or practice".

Subsec. (d)(4)(A). Pub. L. 95-630, §107(d)(3), inserted "or that the director or officer has received financial gain by reason of such violation or practice or breach of fiduciary duty" before ", and that such violation", ", or a willful or continuing disregard for the safety or soundness of the association" after "the part of such director or officer", and "or to prohibit his further participation in any manner in the conduct of the affairs of the association" after "remove him from office".

Subsec. (d)(4)(B). Pub. L. 95-630, §107(d)(3), inserted references to a willful or continuing disregard for its safety and soundness in two places.

Subsec. (d)(5). Pub. L. 95-630, §111(c)(1), among other changes, in subpar. (A) substituted "crime" for "felony" in two places and "subparagraph (A), (B), or (C)" for "subparagraph (A) or (B)", inserted "which is punishable by imprisonment for a term exceeding one year under State or Federal law" after "or breach of trust" and ", if continued service or participation by the individual may pose a threat to the interests of the association's depositors or may threaten to impair public confidence in the association" after "the Board may" in two places, and inserted provision that any notice of suspension or order of removal issued under this subparagraph remain effective and outstanding until the completion of any hearing or appeal authorized under subparagraph (C) hereof unless terminated by the Board, and added subpar. (C).

Subsec. (d)(7)(A). Pub. L. 95-630, §111(c)(2), inserted "(other than the hearing provided for in paragraph (5)(C) of this subsection" after "provided for in this subsection (d)".

Subsec. (d)(8). Pub. L. 95-630, §107(e)(3), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (d)(12)(A). Pub. L. 95-630, §111(c)(3), substituted "(5)(A), or (5)(C)" for "or (5)(A)".

Subsec. (d)(13)(A)(1). Pub. L. 95-630, §111(c)(4), inserted "or (C)" after "paragraph (5)(A)".

Subsec. (d)(15). Pub. L. 95-630, §208(b), added par. (15).

Subsec. (i). Pub. L. 95-630, §1204, inserted "(including a savings bank)" after "member of a Federal Home Loan Bank" in first par.

Subsec. (l). Pub. L. 95-630, §1701(b), redesignated as subsec. (l) the provisions which were formerly contained in undesignated par. 17 of subsec. (c).

Subsec. (m). Pub. L. 95-630, §1701(b), redesignated as subsec. (m) provisions which were formerly contained in undesignated par. 15 of subsec. (c).

1977—Subsec. (c), first par. Pub. L. 95-128, §§402, 405, in first proviso, increased limitation on loans for single family dwellings to \$60,000 from \$55,000 and inserted "but of said 20 per centum the amount deemed to be loaned in transactions which, except for excess in amount, would be eligible for such association under provisions of this sentence (other than this exception) or under the next following sentence shall be only the outstanding amount of such excess," after "improved real estate without regard to the foregoing limitations,"; and struck out ", and the Board shall by regulation limit to not more than 20 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association under the foregoing provisions of this sentence on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property" before "; except".

Subsec. (c), second and third pars. Pub. L. 95-128, §404, increased limitation on loans to \$15,000 from \$10,000.

Subsec. (c), twenty-first par. Pub. L. 95-128, §401, increased the rate to 5 from 3 per centum.

Subsec. (c), twenty-second par. Pub. L. 95-128, §403, authorized use of real property or interests for farm purposes.

Subsec. (k). Pub. L. 95-147 inserted "shall be a depository of public money and" after "Federal Home Loan Bank" and ", including services in connection with the collection of taxes and other obligations owed the United States, and the Secretary of the Treasury is hereby authorized to deposit public money in any such Federal savings and loan association or member of a Federal home loan bank, and shall prescribe such regulations as may be necessary to carry out the purposes of this subsection" after "instrumentality of the United States".

1976—Subsec. (c). Pub. L. 94-375 inserted, in cl. (2) of twelfth par., "and in the share capital and capital reserve of the Inter-American Savings and Loan Bank" after "made pursuant to either of such sections".

1975—Subsec. (c). Pub. L. 94-60 in seventeenth par. struck out "or section 408(a)" after "under section 401(d)", and inserted "and to act as trustee or custodian of an individual retirement account within the meaning of section 408 of such Code" after "Code of 1954", and "or account" after "funds of such trust".

1974—Subsec. (b)(2). Pub. L. 93-495 inserted "may be surety as defined by the Board" after "security",.

Subsec. (c). Pub. L. 93-383, §§703, 805(c)(4), in first par. increased limitation from \$45,000 for each

single-family dwelling to \$55,000, except that with respect to Alaska, Guam, and Hawaii the limitation may be increased by not more than 50 per centum by regulation of the Board, and inserted reference to mortgages, obligations, or other securities sold by the Federal Home Loan Mortgage Corporation pursuant to section 305 or 306 of the Federal Home Loan Mortgage Corporation Act.

Pub. L. 93-383, §705, in second and third pars. substituted "\$10,000" for "\$5,000".

Pub. L. 93-383, §802(i)(2), in twelfth par. inserted reference to section 802 of the Housing and Community Development Act of 1974.

Pub. L. 93-449 in seventeenth par. inserted reference to section 408(a) of title 26. As enacted section 4(d) of Pub. L. 93-449 amended nineteenth par.; however the amendment was executed to seventeenth par. editorially since this would appear to be the probable intent of Congress.

Pub. L. 93-383, §702, added par. authorizing associations to invest an amount not exceeding the greater of (A) the sum of its surplus, undivided profits, and reserves or (B) 3 per centum of its assets, in loans or in interests therein.

Pub. L. 93-383, §704, added par. authorizing associations to invest in loans and advances of credit and interests therein upon the security of or respecting real property or interests therein.

Pub. L. 93-383, §706, added par. authorizing association to borrow funds from a State mortgage finance agency of the State in which the head office of such association is situated.

1973—Subsec. (c). Pub. L. 93-100 added par. authorizing associations with general reserves, surplus, and undivided profits aggregating in excess of 5% of their withdrawable accounts to invest in, to lend to, or to commit themselves to lend to State housing corporations incorporated in the state in which the head office of the association is located with certain limitations.

1972—Subsec. (c). Pub. L. 92-318 authorized in second proviso investments in obligations or other instruments or securities of the Student Loan Marketing Association.

1970—Subsec. (c), first par. Pub. L. 91-609, §907(c), increased aggregate amount of authorized investments from 15 to 20 per centum of assets of the association.

Pub. L. 91-351, §§706, 709, in first par., inserted "or within the State in which such home office is located" after "their home office", and substituted "\$45,000" for "\$40,000" in first proviso, and "section" for "proviso" in second proviso.

Pub. L. 91-351, §708, added par. authorizing any association to act as trustee of any trust created or organized in the United States and forming part of a stock bonus, pension, or profit-sharing plan qualifying for specific tax treatment under section 401(d) of title 26.

Pub. L. 91-609, §§727(d), 907(b), in twelfth par., authorized associations to invest in loans or obligations guaranteed under part B of the Urban Growth and New Community Development Act of 1970, and extended authority to make certain investments to acquisition, holding, and disposition of loans, or interests therein, having benefit of any guaranty under section 2181 or 2182 of title 22 or such sections as hereafter amended or extended, or of any commitment or agreement for any such guaranty, respectively.

1969—Subsec. (c). Pub. L. 91-152 inserted provision authorizing any association to invest in stock issued by a corporation created pursuant to title IX of the Housing and Urban Development Act of 1968, and to invest in any partnership, etc., formed pursuant to section 907(a) or 907(c) of the Housing and Urban Development Act of 1968.

1968—Subsec. (b). Pub. L. 90-448, §1716(a), struck out provisions which permitted associations to raise their capital only in the form of payments on shares and which prohibited acceptance of deposits or issuance of certificates of indebtedness except for borrowed money, and inserted provisions permitting an association to raise capital in the form of savings deposits, shares, or other accounts and to issue passbooks, time certificates of deposit, or other evidence of savings accounts, requiring holders of savings accounts and obligors to be members of the association, providing for notice for payment of any savings account, and for payment of withdrawals, prohibiting negotiable or transferable orders or authorization for checks or withdrawals or transfers, and empowering the associations to borrow, give security, and issue such notes, bonds, debentures, or other obligations or other securities (except capital stock) as the Board may authorize.

Subsec. (c). Pub. L. 90-505 allowed an association to invest in any investment which, at the time of the making of the investment, was an asset eligible for inclusion toward satisfaction of any liquidity requirement imposed on the association by section 1425a of this title but only to the extent that the investment was permitted to be so included under regulations issued by the Board or otherwise authorized.

Pub. L. 90-575 amended third par. (as designated prior to amendment by Pub. L. 90-448) to add vocational education expenses to the list of expenses for the payment of which associations are authorized to invest in loan, obligations and advances of credit.

Pub. L. 90-448, §304(b), inserted paragraph permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of insurance under section 1715z-5 of this title, or

of a commitment or agreement therefor.

Pub. L. 90-448, §416(c), inserted sentence permitting an association to invest in loans or obligations, or interests therein, as to which the association has the benefit of any guaranty under title IV of the Housing and Urban Development Act of 1968, as now or hereafter in effect, or of a commitment or agreement therefor.

Pub. L. 90-448, §804(e), inserted paragraph authorizing any such association to issue and sell securities which are guaranteed pursuant to section 1721(g) of this title.

Pub. L. 90-448, §807(m), amended first par. to authorize investments in obligations, participations, or other instruments of or issued by, or guaranteed as to principal and interest by, the Government National Mortgage Association, and in stock of the Federal National Mortgage Association.

Pub. L. 90-448, §1716(b), in first par., substituted "security of their savings accounts" for "security of their shares", and inserted provisions authorizing investment in time deposits, certificates, or accounts of any bank the deposits of which are insured by the Federal Deposit Insurance Corporation.

Pub. L. 90-448, §1716(c), inserted provisions in second par. permitting loans for the construction of new structures related to residential use of the property.

Pub. L. 90-448, §1716(d), inserted third par. authorizing loans, or investment in loans, not exceeding \$5,000 for repair, equipping, alteration, or improvement of real property, or for mobile home financing.

Pub. L. 90-448, §1716(e), amended par. relating to loans secured by mortgages insured under Title X of the National Housing Act, to permit an association to acquire and hold investments in housing project loans, or interests therein, having the benefit of any guaranty under section 2181 of title 22, to include commitments or agreements with respect to loans, or interests therein, made pursuant to either section 2181 or 2184 of title 22, and to eliminate provisions which stated that investments in loans secured by mortgages insured under Title X of the National Housing Act shall not be included in any percentage of assets or other percentage referred to in this subsection, and that investments in loans guaranteed under section 2184 of title 22 shall not be more than 1 per centum of the assets of the association.

Pub. L. 90-448, §1716(f), inserted par. permitting an association to invest in loans, or interests in loans, to financial institutions with respect to which the United States or any agency or instrumentality thereof has any function of examination or supervision, or to any broker or dealer registered with the Securities and Exchange Commission, secured by loans, obligations, or investments in which it has any statutory authority to invest directly.

1966—Subsec. (d). Pub. L. 89-695 amended provisions generally, substituting pars. (1) to (14) for former pars. (1) (consisting of thirteen sentences) and (2) (consisting of eleven sentences), such pars. (2) to (5), (7) to (10), (12)(A)(B), (13), and (14) being new provisions.

1965—Subsec. (c). Pub. L. 89-117 added par. which permitted an association to invest in loans (1) secured by mortgages as to which the association has the benefit of insurance under title X of the National Housing Act or of a commitment or agreement for such insurance, or (2) guaranteed by the President under section 2184 of title 22, and prohibited investments under cl. (2) to exceed 1 per centum of the assets of such association, provided that, for purposes of this subsection, "other dwelling units" would include living accommodations for students, employees, or staff members of a college, or university, or hospital, reduced from 15 to 10 years the time by which a lease period must extend beyond the maturity date of the debt in order that a leasehold interest qualify as "real property" or "real estate" within this section, and added par. which prohibited any District of Columbia building and loan associations from establishing a branch or moving its principal office without the prior written approval of the Federal Home Loan Bank Board and forbade any other building and loan associations from establishing a branch office in the District or moving its principal office in the District without such approval.

1964—Subsec. (c). Pub. L. 88-560, §§901(a), 902-905, 907, 908, 910, amended provisions as follows:

Section 901(a) substituted "one hundred miles" for "fifty miles" in first sentence.

Section 902 substituted "\$40,000" for "\$35,000" in first proviso of first par. and deleted from end of such first proviso ", except that the aggregate sums invested pursuant to the two exceptions in this proviso shall not exceed 30 per centum of the assets of such association".

Section 903 substituted provisions which authorized the association to invest not more than 5 per centum of its assets in, or in interests in, real property located within urban renewal areas and obligations secured by first liens on real property so located but limited the aggregate of such investments to 2 per centum of the assets of the association for former provisions which authorized the association to invest not more than 5 per centum of its assets in certificates of beneficial interest issued by any urban renewal investment trust, defined an "urban renewal investment trust", and provided for rules and regulations to be prescribed by the Federal Home Loan Bank Board for the establishment, operation, etc. of such urban renewal investment trusts.

Section 904 added par. which defined "real property" and "real estate".

Section 905 added par. which authorized an association to invest its assets in a corporation organized in the

State where the association's home office is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations chartered in that State and Federal associations having their home offices therein but limited the aggregate of such investments to 1 per centum of its assets.

Section 907 inserted in second proviso of first par. ", or fully guaranteed as to principal and interest by," authorized an association to invest in participations or other instruments of or issued by, or fully guaranteed as to principal and interest by, the Federal National Mortgage Association or any other agency of the United States, and defined term "State".

Section 908 substituted in first sentence of second par. "20 per centum" and "\$5,000" for "15 per centum" and "\$3,500", respectively.

Section 910 inserted after second par. the paragraph which authorized the association to invest in loans, obligations, and advances of credit made for the payment of expenses of college or university education but limited such investments to 5 per centum of the assets of the association.

1962—Subsec. (c). Pub. L. 87-779, in first par., substituted provisions authorizing loans on the security of first liens upon real property within fifty miles of their home office which constitute first liens upon homes, combinations of homes and business property, other dwelling units, or combinations of dwelling units, including homes, and business property involving only minor or incidental business use, for provisions which permitted loans on the security of first liens upon homes or combination of homes and business property within fifty miles of their home office, and provisions limiting the amount of loan on the security of first liens to not more than \$35,000 for each single-family dwelling, and not more than such amount per room as the Board may determine within the limits allowable in section 1713(c)(3) of this title for any other dwelling unit, for provisions which limited the amount of the loan to not more than \$35,000 on the security of a first lien upon a home or combination of home and business property, inserted provisions requiring the Board to limit by regulation to not more than 15 per centum of the assets of the association the aggregate amount or amounts of the investments which may be made by an association on the security of property which comprises or includes more than four dwelling units or does not constitute homes or combinations of homes and business property, changed provisions which permitted use of additional sums not exceeding 20 per centum of the assets of the association without regard to area restriction for the making or purchase of participating interests in first liens on one- to four-family homes to permit use of such sums for the making or purchase of participating interests in real property of the type described in the opening provisions of this subsection, and substituted "dollar amount limitation" for "\$35,000 limitation" in fourth par.

Subsec. (h). Pub. L. 87-834 struck out provisions which exempted such associations, including their franchises, capital, reserves, and surplus, and their loans and income, and all shares of such associations both as to their value and the income therefrom, from all taxation imposed by the United States.

1961—Pub. L. 87-70 inserted provisions in second par. authorizing investments in home improvement loans insured under subchapter II of chapter 13 of this title, and added former fourth, fifth, sixth and seventh par. (now sixth, seventh, eighth, and ninth) authorizing investments in non-amortized loans which are made on the security of first liens upon homes or combinations of homes and business property, in amortized loans or participating interests therein which are secured by first liens upon improved real estate used to provide housing facilities for the aging, in certificates of beneficial interest issued by any urban renewal investment trust, and permitting associations to invest in, to lend to, or to commit themselves to lend to any business development credit corporation incorporated in the State in which the head office of the association is situated.

1960—Subsec. (d)(1). Pub. L. 86-507 inserted "or by certified mail," after "registered mail,".

1959—Subsec. (c). Pub. L. 86-372 permitted the use of additional sums not exceeding 20 per centum of the assets of an association without regard to the area restriction for the making or purchase of participating interests in first liens on one- to four-family homes, limited the aggregate sums invested pursuant to the two exceptions to not more than 30 per centum of the assets of the association, provided that participating interests in loans secured by mortgages which have the benefit of insurance or guaranty (or a commitment therefor) under the National Housing Act, the Servicemen's Readjustment Act of 1944, or chapter 37 of title 38, shall not be taken into account in determining the amount of loans which an association may make within any of the percentage limitations contained in the first proviso, and authorized any association whose general reserves, surplus, and undivided profits aggregate a sum in excess of 5 per centum of its withdrawable accounts to invest an amount not exceeding at any one time 5 per centum of such withdrawable accounts in loans to finance the acquisition and development of land for primarily residential usage.

1958—Subsec. (c). Pub. L. 85-857 inserted ", or chapter 37 of Title 38" after "Servicemen's Readjustment Act of 1944, as amended" in two places.

1956—Subsec. (c). Act Aug. 7, 1956, substituted "20 per centum" for "15 per centum" in first sentence, and "\$3,500" for "\$2,500" in proviso at end of second par.

1955—Subsec. (c). Act Aug. 11, 1955, removed the limitation of \$2,500 from insured or guaranteed loans.

1954—Subsec. (c). Act Aug. 2, 1954, §§204(b), 503(1), (3), amended provisions as follows: section 204(b) inserted the reference to obligations of the Federal National Mortgage Association in second proviso of first par.; section 503(1), (3), substituted "\$35,000" for "\$20,000" in two places in first par. and increased from \$1,500 to \$2,500 the maximum amount of an unsecured loan in which a Federal savings and loan association may invest in second par.

Subsec. (d). Act Aug. 2, 1954, §503(2), amended provisions generally to provide a means by administrative and court proceedings whereby the Board may enforce compliance with law and regulations by Federal savings and loan associations in cases where the Board felt that the appointment of a conservator or receiver was not necessary or desirable; and to set out the grounds, and provide the procedure, for the appointment of conservators, receivers, and supervisory representatives.

1952—Subsec. (c). Act July 14, 1952, inserted penultimate sentence to first par.

1951—Subsec. (h). Act Oct. 20, 1951, inserted "date, and except, in the case of taxable years beginning after December 31, 1951, income, war-profits, and excess-profits taxes".

1948—Subsec. (i). Act July 3, 1948, permitted any Federal savings and loan association to convert into a savings and loan type of organization or a mutual savings bank pursuant to the law of the State in which the principal office of the association is located.

1947—Subsec. (c). Act Aug. 6, 1947, liberalized provisions with respect to loans made by Federal savings and loan associations.

1939—Subsec. (h). Act Aug. 10, 1939, inserted exception contained within first parenthetical.

1935—Subsec. (c). Act May 28, 1935, inserted last proviso.

1934—Subsecs. (i) to (k). Act Apr. 27, 1934, amended subsec. (i) and added subsecs. (j) and (k).

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 369(5) of Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 610(b) of Pub. L. 111–203 effective 1 year after the transfer date, see section 610(c) of Pub. L. 111–203, set out as a note under section 84 of this title.

Amendment by section 612(c) Pub. L. 111–203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as an Effective Date note under section 5301 of this title.

Amendment by section 627(a)(2) of Pub. L. 111–203 effective 1 year after July 21, 2010, see section 627(b) of Pub. L. 111–203, set out as an Effective Date of Repeal note under section 371a of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109–173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109–173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109–171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109–171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(12)(A) of Pub. L. 104–208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104–208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102–550, title XVI, §1603(d)(8), Oct. 28, 1992, 106 Stat. 4080, provided that the amendment made by that section is effective on the effective date of the amendment made by section 133(d)(1) of Pub. L.

102-242. See Effective Date of 1991 Amendment note below.

Amendment by section 1606(f) of Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, except that where amendment is to any provision of law added or amended by Pub. L. 102-242 effective after Dec. 19, 1992, then amendment by Pub. L. 102-550 effective on effective date of amendment by Pub. L. 102-242, see section 1609 of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1991 AMENDMENT

Pub. L. 102-242, title I, §131(f), Dec. 19, 1991, 105 Stat. 2267, provided that: "The amendments made by this section [enacting section 1831o of this title and amending this section and sections 1813 and 1818 of this title] shall become effective 1 year after the date of enactment of this Act [Dec. 19, 1991]."

Amendment by section 133(d) of Pub. L. 102-242 effective 1 year after Dec. 19, 1991, see section 133(g) of Pub. L. 102-242, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 97-457, §14(a)(2), Jan. 12, 1983, 96 Stat. 2508, provided that: "The amendment made by paragraph (1) [amending this section] shall be deemed to have taken effect upon the enactment of Public Law 97-320 [Oct. 15, 1982]."

EFFECTIVE AND TERMINATION DATES OF 1982 AMENDMENT

Prior to its repeal by section 509(a) of Pub. L. 100-86, Pub. L. 97-320, title I, §141, Oct. 15, 1982, 96 Stat. 1488, as amended by Pub. L. 99-120, §6(a), Oct. 8, 1985, 99 Stat. 504; Pub. L. 99-278, §1(a), Apr. 24, 1986, 100 Stat. 397; Pub. L. 99-400, §1(a), Aug. 27, 1986, 100 Stat. 902; Pub. L. 99-452, §1(a), Oct. 8, 1986, 100 Stat. 1140, provided that:

"(a) Effective on October 13, 1986—

"(1) section 13(c)(5) of the Federal Deposit Insurance Act [section 1823(c)(5) of this title], as added by section 111 of this Act, shall be repealed;

"(2) subparagraphs (F) and (G) of section 5(o)(2) of the Home Owners' Loan Act of 1933 [section 1464(o)(2) of this title], as added by section 112 of this Act, shall be repealed;

"(3) the provision of law amended by section 116 of this Act [section 1823(f) of this title] shall be amended to read as it would without such amendment;

"(4) the provisions of law amended by subsections (a) [section 1843(c)(8) of this title] and (c) [section 1842(d) of this title] of section 118 shall be amended to read as they would without such amendments;

"(5) the provision of law amended by section 121 of this Act [section 1464(p) of this title] shall be amended to read as it would without such amendment;

"(6) the provisions of law amended by subsections (d) through (g) of section 122 of this Act [section 1729(c), (d) of this title] shall be amended to read as they would without such amendments;

"(7) the provisions of law amended by section 123 of this Act [section 1730a(e)(2), (m) of this title] shall be amended to read as they would without such amendments; and

"(8) the provisions of law amended by sections 131 [section 1785(h), (i) of this title] and 132 [section 1786(b)(2), (h)-(p) of this title] shall be amended to read as they would without such amendments.

"(b) The repeal or termination by subsection (a) of any amendment made by this Act shall have no effect on any action taken or authorized while such amendment was in effect."

EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-221, title III, §306, Mar. 31, 1980, 94 Stat. 147, provided that: "The amendments made by sections 302, 304, and 305 of this title [amending this section and sections 371a, 1752, 1757, 1763, 1785, and 1828 of this title] shall take effect at the close of March 31, 1980, and the amendments made by section 303 of this title [amending section 1832 of this title] shall take effect on December 31, 1980."

EFFECTIVE AND TERMINATION DATES OF 1979 AMENDMENT

Amendment by Pub. L. 96-161 effective Dec. 31, 1979, with that amendment to remain in effect until close of Mar. 31, 1980, see section 104 of Pub. L. 96-161, formerly set out as a note under section 371a of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 107(e)(3) of Pub. L. 95–630, relating to imposition of civil penalties, applicable to violations occurring or continuing after Nov. 10, 1978, see section 109 of Pub. L. 95–630, set out as a note under section 93 of this title.

Amendment by section 1701 of Pub. L. 95–630 effective Nov. 10, 1978, see section 1703 of Pub. L. 95–630, set out as a note under section 1451 of this title.

Amendment by Pub. L. 95–630 effective, except as otherwise provided, on expiration of 120 days after Nov. 10, 1978, see section 2101 of Pub. L. 95–630 set out as an Effective Date note under section 375b of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–495 effective on thirtieth day beginning after Oct. 28, 1974, see section 101(g) of Pub. L. 93–495, set out as a note under section 1813 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–100 effective Aug. 16, 1973, see section 8 of Pub. L. 93–100, set out as an Effective Date note under section 1469 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by title VIII of Pub. L. 90–448, see section 808 of Pub. L. 90–448, set out as an Effective Date note under section 1716b of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Pub. L. 89–695, title I, §101(b), Oct. 16, 1966, 80 Stat. 1036, provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective only with respect to proceedings commenced on or after the date of enactment of this Act [Oct. 16, 1966]. Section 5(d) of the Home Owners' Loan Act of 1933 [this section] as in effect immediately prior to the date of enactment of this Act shall continue in effect with respect to any proceedings commenced prior to such date."

EXPIRATION OF 1966 AMENDMENT

Pub. L. 91–609, title IX, §908, Dec. 31, 1970, 84 Stat. 1811, repealed Pub. L. 89–695, title IV, §401, Oct. 16, 1966, 80 Stat. 1056, which had provided that: "The provisions of titles I and II of this Act [amending this section and sections 1730, 1813, 1817 to 1820 of this title, repealing section 77 of this title, and enacting provisions set out as notes under this section and sections 1730 and 1813 of this title] and any provisions of law enacted by said titles shall be effective only during the period ending at the close of June 30, 1972. Effective upon the expiration of such period, each provision of law amended by either of such titles is further amended to read as it did immediately prior to the enactment of this Act [Oct. 16, 1966] and each provision of law repealed by either of such titles is reenacted."

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87–834, §6(g)(4), Oct. 16, 1962, 76 Stat. 985, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"Subsection (e) of this section [amending this section and section 4382 of Title 26, Internal Revenue Code] shall become effective on January 1, 1963, except that—

"(A) in the case of the tax imposed by section 4251 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, section 4251 of title 26], such subsection shall apply only with respect to amounts paid pursuant to bills rendered after December 31, 1962; and

"(B) in the case of the tax imposed by section 4261 of such Code [section 4261 of title 26], such subsection shall apply only with respect to transportation beginning after December 31, 1962."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as an Effective Date note preceding Part 1 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1951 AMENDMENT

Amendment by act Oct. 20, 1951, applicable only with respect to taxable years beginning after Dec. 31, 1951, see act Oct. 20, 1951, ch. 521, title III, §313(j), 65 Stat. 491.

Act Oct. 20, 1951, title VI, §615, 65 Stat. 569, provided that: "No amendment made by this Act [see Tables for classification] shall apply in any case where its application would be contrary to any treaty obligation of the United States."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–383, title VII, §701, Aug. 22, 1974, 88 Stat. 714, provided that: "This title [amending this section and sections 371, 1757, 1759, 1761b, 1761d, 1763, 1772, 1782, 1786, and 1788 of this title] may be cited as the 'Consumer Home Mortgage Assistance Act of 1974'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89–695, §1, Oct. 16, 1966, 80 Stat. 1028, provided: "That this Act [amending this section and sections 1724, 1728, 1730, 1730a, 1813, and 1817 to 1821 of this title, repealing section 77 of this title, and enacting provisions set out as notes under this section and sections 1724, 1730, and 1813 of this title] may be cited as the 'Financial Institutions Supervisory Act of 1966'."

EFFECTIVE DATE OF REGULATIONS PRESCRIBED UNDER 1986 AMENDMENT

Pub. L. 99–570, title I, §1364(e), Oct. 27, 1986, 100 Stat. 3207–34, provided that: "The regulations required to be prescribed under the amendments made by section 1359 [amending this section and sections 1730, 1786, and 1818 of this title] shall take effect at the end of the 3-month period beginning on the date of the enactment of this Act [Oct. 27, 1986]."

REPEALS

Amendment of this section by section 102 of Pub. L. 96–161, cited as a credit to this section, was repealed at the close of Mar. 31, 1980, by section 307 of Pub. L. 96–221, and substantially identical provisions were enacted by section 304 of Pub. L. 96–221, such amendments to take effect at the close of Mar. 31, 1980.

TRANSITIONAL RULES REGARDING CERTAIN LOANS

Pub. L. 101–73, title III, §305(a), (b), Aug. 9, 1989, 103 Stat. 351, as amended by Pub. L. 111–203, title III, §367(3), July 21, 2010, 124 Stat. 1556, provided that:

"(a) **DIVESTITURE OF CERTAIN LOANS AND INVESTMENTS NOT REQUIRED.**—The limitations on loans and investments contained in section 5(c) of the Home Owners' Loan Act [12 U.S.C. 1464(c)], as amended by section 301, do not require the divestiture of any loan or investment that was lawful when made under the provisions of such section as those provisions were in effect at the time such loan or investment was made.

"(b) [Repealed. Pub. L. 111–203, title III, §367(3), July 21, 2010, 124 Stat. 1556.]"

EXTENSION OF EMERGENCY ACQUISITION AND NET WORTH GUARANTEE PROVISIONS OF PUB. L. 97–320

Pub. L. 100–86, title V, §509(c), Aug. 10, 1987, 101 Stat. 635, provided that: "No amendment made by part D [section 141, formerly set out as an Effective and Termination Dates of 1982 Amendment note above] of title I or section 206 [set out as an Effective and Termination Dates of 1982 Amendment note under section 1729 of this title] of the Garn-St Germain Depository Institutions Act of 1982 [Pub. L. 97–320], as in effect before the date of the enactment of this Act [Aug. 10, 1987], to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act and any such provision of law shall be in effect as if no such amendment had been made before such date of enactment."

Pub. L. 99–452, §1(c), Oct. 8, 1986, 100 Stat. 1140, provided that: "No amendment made by section 141(a) or section 206(a) of the Garn-St Germain Depository Institutions Act of 1982 [set out as Effective and Termination Dates of 1982 Amendment notes under sections 1464 and 1729 of this title], as in effect on the day before the date of the enactment of this Act [Oct. 8, 1986], to any other provision of law shall be deemed to have taken effect before such date of enactment and any such provision of law shall be in effect as if no such amendment had taken effect before such date of enactment."

Pub. L. 99–400, §1(c), Aug. 27, 1986, 100 Stat. 902, provided that: "Sections 141(a) and 206(a) of the Garn-St Germain Depository Institutions Act of 1982 [set out as Effective and Termination Dates of 1982 Amendment notes under sections 1464 and 1729 of this title], as such sections are in effect on the day after the date of enactment of this Act [Aug. 27, 1986], shall apply as if such sections had been included in the Garn-St Germain Depository Institutions Act of 1982 on the date of the enactment of such Act [Oct. 15, 1982], no amendment made by any such section to any other provision of law shall be deemed to have taken effect before the date of the enactment of this Act, and any such provision of law shall be in effect as if no such amendment had taken effect before the date of the enactment of this Act."

¹ [*See References in Text note below.*](#)

² So in original.

³ So in original. Probably should be "appropriate Federal banking agency's".

⁴ So in original. Probably should be "Comptroller's".

⁵ So in original. Probably should be preceded by a comma.

⁶ So in original. The comma probably should not appear.

⁷ So in original. Probably should be "preponderance".

⁸ So in original. Probably should be "or were".

§1464a. Election to operate as a covered savings association

(a) Definition

In this section, the term "covered savings association" means a Federal savings association that makes an election that is approved under subsection (b).

(b) Election

(1) In general

In accordance with the rules issued under subsection (f), a Federal savings association with total consolidated assets equal to or less than \$20,000,000,000, as reported by the association to the Comptroller as of December 31, 2017, may elect to operate as a covered savings association by submitting a notice to the Comptroller of that election.

(2) Approval

A Federal savings association shall be deemed to be approved to operate as a covered savings association beginning on the date that is 60 days after the date on which the Comptroller receives the notice submitted under paragraph (1), unless the Comptroller notifies the Federal savings association that the Federal savings association is not eligible.

(c) Rights and duties

Notwithstanding any other provision of law, and except as otherwise provided in this section, a covered savings association shall—

(1) have the same rights and privileges as a national bank that has the main office of the national bank situated in the same location as the home office of the covered savings association; and

(2) be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that would apply to a national bank described in paragraph (1).

(d) Treatment of covered savings associations

A covered savings association shall be treated as a Federal savings association for the purposes—

(1) of governance of the covered savings association, including incorporation, bylaws, boards of directors, shareholders, and distribution of dividends;

(2) of consolidation, merger, dissolution, conversion (including conversion to a stock bank or to another charter), conservatorship, and receivership; and

(3) determined by regulation of the Comptroller.

(e) Existing branches

A covered savings association may continue to operate any branch or agency that the covered savings association operated on the date on which an election under subsection (b) is approved.

(f) Rule making

The Comptroller shall issue rules to carry out this section—

- (1) that establish streamlined standards and procedures that clearly identify required documentation and timelines for an election under subsection (b);
- (2) that require a Federal savings association that makes an election under subsection (b) to identify specific assets and subsidiaries that—
 - (A) do not conform to the requirements for assets and subsidiaries of a national bank; and
 - (B) are held by the Federal savings association on the date on which the Federal savings association submits a notice of the election;
- (3) that establish—
 - (A) a transition process for bringing the assets and subsidiaries described in paragraph (2) into conformance with the requirements for a national bank; and
 - (B) procedures for allowing the Federal savings association to submit to the Comptroller an application to continue to hold assets and subsidiaries described in paragraph (2) after electing to operate as a covered savings association;
- (4) that establish standards and procedures to allow a covered savings association to—
 - (A) terminate an election under subsection (b) after an appropriate period of time; and
 - (B) make a subsequent election under subsection (b) after terminating an election under subparagraph (A);
- (5) that clarify requirements for the treatment of covered savings associations, including the provisions of law that apply to covered savings associations; and
- (6) as the Comptroller determines necessary in the interests of safety and soundness.

(g) Grandfathered covered savings associations

Subject to the rules issued under subsection (f), a covered savings association may continue to operate as a covered savings association if, after the date on which the election is made under subsection (b), the covered savings association has total consolidated assets greater than \$20,000,000,000.

(June 13, 1933, ch. 64, §5A, as added Pub. L. 115–174, title II, §206, May 24, 2018, 132 Stat. 1310.)

§1465. State law preemption standards for Federal savings associations clarified

(a) In general

Any determination by a court or by the Director or any successor officer or agency regarding the relation of State law to a provision of this chapter or any regulation or order prescribed under this chapter shall be made in accordance with the laws and legal standards applicable to national banks regarding the preemption of State law.

(b) Principles of conflict preemption applicable

Notwithstanding the authorities granted under sections 1463 and 1464 of this title, this chapter does not occupy the field in any area of State law.

(c) Visitorial powers

The provisions of sections ¹ 25b(i) of this title shall apply to Federal savings associations, and any subsidiary thereof, to the same extent and in the same manner as if such savings associations, or subsidiaries thereof, were national banks or subsidiaries of national banks, respectively.

(d) Enforcement actions

The ability of the Comptroller of the Currency to bring an enforcement action under this chapter or section 45 of title 15 does not preclude any private party from enforcing rights granted under

Federal or State law in the courts.

(June 13, 1933, ch. 64, §6, as added and amended Pub. L. 111–203, title X, §§1046(a), 1047(b), July 21, 2010, 124 Stat. 2017, 2018.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1465, acts June 13, 1933, ch. 64, §6, 48 Stat. 134; Apr. 27, 1934, ch. 168, §11, 48 Stat. 647; May 28, 1935, ch. 150, §19, 49 Stat. 297; Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 313, which related to liquid asset requirements, was repealed by Pub. L. 106–569, title XII, §1201(a), Dec. 27, 2000, 114 Stat. 3032.

AMENDMENTS

2010—Subsecs. (c), (d). Pub. L. 111–203, §1047(b), added subsecs. (c) and (d).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Enactment and amendment of section by Pub. L. 111–203 effective on the designated transfer date, see section 1048 of Pub. L. 111–203, set out as a note under section 5551 of this title.

¹ So in original. Probably should be "section".

§1466. Applicability

The provisions of this chapter shall apply to the United States and to Puerto Rico, Guam, and the Virgin Islands.

(June 13, 1933, ch. 64, §7, 48 Stat. 134; July 14, 1952, ch. 723, §10(b), 66 Stat. 604; Pub. L. 86–70, §9(b), June 25, 1959, 73 Stat. 142; Pub. L. 86–624, §5(b), July 12, 1960, 74 Stat. 411; Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 315.)

EDITORIAL NOTES

AMENDMENTS

1989—Pub. L. 101–73 amended section generally. Prior to amendment, section read as follows: "The provisions of this chapter shall apply to the continental United States (including Alaska), to the State of Hawaii, and to Puerto Rico, Guam and the Virgin Islands."

1960—Pub. L. 86–624 substituted "State of Hawaii" for "Territory of Hawaii".

1959—Pub. L. 86–70 substituted "continental United States (including Alaska), to the Territory of Hawaii" for "continental United States, to the Territories of Alaska and Hawaii".

1952—Act July 14, 1952, inserted "Guam".

§1466a. District associations

(a) In general

The Comptroller shall, with respect to all incorporated or unincorporated building, building or loan, building and loan, or homestead associations, and similar institutions, of or transacting or doing business in the District of Columbia, or maintaining any office in the District of Columbia (other than Federal savings associations), have the same powers and functions as to examination, operation, and regulation as the Comptroller has with respect to Federal savings associations.

(b) Additional powers

Any such association or institution incorporated under the laws of, or organized in, the District of Columbia shall have in addition to any existing statutory authority such statutory authority as is vested in Federal savings associations.

(c) Charter amendments

Charters, certificates of incorporation, articles of incorporation, constitutions, bylaws, or other organic documents of associations or institutions referred to in subsection (b) of this section may, without regard to anything contained therein or otherwise, be amended in such manner and to such extent and upon such votes if any as the Comptroller may by regulation or otherwise provide.

(d) Limitation

Nothing in this section shall cause, or permit the Comptroller to cause, District of Columbia associations to be or become Federal savings associations, or require the Comptroller to impose on District of Columbia associations the same regulations as are imposed on Federal savings associations.

(June 13, 1933, ch. 64, §8, as added Pub. L. 91–609, title IX, §913, Dec. 31, 1970, 84 Stat. 1815; amended Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 315; Pub. L. 111–203, title III, §369(6), July 21, 2010, 124 Stat. 1563.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 8 of act June 13, 1933, ch. 64, 48 Stat. 134, was classified to section 1467 of this title, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948.

AMENDMENTS

2010—Pub. L. 111–203 substituted "Comptroller" for "Director" wherever appearing.

1989—Pub. L. 101–73 amended section generally, substituting provisions relating to Director and Federal savings associations for former provisions relating to Federal Home Loan Bank Board and Federal savings and loan associations.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

§1467. Examination fees

(a) Examination of savings associations

The cost of conducting examinations of savings associations pursuant to section 1464(d) of this title shall be assessed by—

- (1) the Comptroller, against each such Federal savings association, as the Comptroller deems necessary or appropriate; and
- (2) the Corporation, against each such State savings association, as the Corporation deems necessary or appropriate.

(b) Examination of affiliates

The cost of conducting examinations of affiliates of savings associations pursuant to this chapter may be assessed by the Comptroller or Corporation, as appropriate ¹ against each affiliate that is examined as the Comptroller or Corporation, as appropriate ¹ deems necessary or appropriate.

(c) Assessment against association in case of affiliate's refusal to pay

(1) In general

Subject to paragraph (2), if any affiliate of any savings association—

(A) refuses to pay any assessment under subsection (b); or

(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the appropriate Federal banking agency may assess such cost against, and collect such cost from, such savings association.

(2) Affiliate of more than 1 savings association

If any affiliate referred to in paragraph (1) is an affiliate of more than 1 savings association, the assessment with respect to the affiliate against, and collected from, any affiliated savings association in such proportions as the appropriate Federal banking agency may prescribe.

(d) Civil money penalty for affiliate's refusal to cooperate

(1) Penalty imposed

If any affiliate of any savings association—

(A) refuses to permit any examiner appointed by the appropriate Federal banking agency to make an examination; or

(B) refuses to provide any information required to be disclosed in the course of any examination,

the savings association shall forfeit and pay a civil penalty of not more than \$5,000 for each day that any such refusal continues.

(2) Assessment and collection

Any penalty imposed under paragraph (1) shall be assessed and collected by the appropriate Federal banking agency, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)].

(e) Regulations

The Comptroller may prescribe regulations with respect to—

(1) the computation of, and the assessment for, the cost of conducting examinations pursuant to this section; and

(2) the collection and use of such assessments and any fees under this section.

Such regulations may establish formulas to determine a fee or schedule of fees to cover the costs of examinations and also to cover the cost of processing applications, filings, notices, and requests for approvals by the appropriate Federal banking agency or the designee of the Comptroller.

(f) [Reserved].

(g) Costs of other examinations

(1) Examination of fiduciary activities

In addition to any assessment imposed pursuant to subsection (a), the cost of conducting examinations of fiduciary activities of savings associations which exercise fiduciary powers (including savings associations or similar institutions in the District of Columbia) shall be assessed by the appropriate Federal banking agency against such savings associations (or similar institutions).

(2) Examinations in excess of 2 per calendar year

If any savings association or affiliate of a savings association is examined by the appropriate Federal banking agency for the savings association more than 2 times in any calendar year, the cost of conducting such additional examinations shall be assessed, in addition to any assessment imposed pursuant to subsection (a), by the appropriate Federal banking agency or the Corporation, as the case may be, against such savings association or affiliate.

(h) Additional information

Any savings association and any affiliate of any savings association shall provide the appropriate Federal banking agency with access to any information or report with respect to any examination made by any public regulatory authority and furnish any additional information with respect thereto as the appropriate Federal banking agency may require.

(i) Treatment of examination assessments

(1) Deposits

Amounts received by the appropriate Federal banking agency from assessments under this section (other than an assessment under subsection (d)(2)) or section 1467a(b)(4) of this title may be deposited in the manner provided in section 5234 of the Revised Statutes [12 U.S.C. 192] with respect to assessments by the Comptroller of the Currency.

(2) Assessments are not Government funds

The amounts received by the appropriate Federal banking agency from any assessment under this section shall not be construed to be Government or public funds or appropriated money.

(3) Assessments are not subject to apportionment of funds

Notwithstanding any other provision of law, the amounts received by the appropriate Federal banking agency from any assessment under this section shall not be subject to apportionment for the purpose of chapter 15 of title 31 or under any other authority.

(j) Processing fee

The appropriate Federal banking agency may, in the sole discretion of the appropriate Federal banking agency, assess against any person that submits to the appropriate Federal banking agency an application, filing, notice, or request a fee to cover the cost of processing such submission.

(k) Fees for examinations and supervisory activities

The appropriate Federal banking agency may assess against an institution fees to fund the direct and indirect expenses of the Office as the appropriate Federal banking agency deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the appropriate Federal banking agency.

(l) Working capital

The appropriate Federal banking agency is authorized to impose fees and assessments pursuant to subsections (a), (b), (e), and (k) of this section, in excess of actual expenses for any given year, to permit the appropriate Federal banking agency to maintain a working capital fund. The appropriate Federal banking agency shall remit to the payors of such fees and assessments any funds collected in excess of what he deems necessary to maintain such working capital fund.

(m) Use of funds

The appropriate Federal banking agency is authorized to use the combined resources retained through fees and assessments imposed pursuant to this section to pay all direct and indirect salary and administrative expenses of the Office, including contracts and purchases of property and services, and the direct and indirect expenses of the examinations and supervisory activities of the Office.

(June 13, 1933, ch. 64, §9, as added Pub. L. 100–86, title IV, §402(a), Aug. 10, 1987, 101 Stat. 605; amended Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 316; Pub. L. 102–242, title I, §114(c), Dec. 19, 1991, 105 Stat. 2248; Pub. L. 111–203, title III, §369(7), July 21, 2010, 124 Stat. 1563.)

EDITORIAL NOTES

PRIOR PROVISIONS

A prior section 1467, acts June 13, 1933, ch. 64, §8, 48 Stat. 134; Apr. 27, 1934, ch. 168, §12, 48 Stat. 647;

May 28, 1935, ch. 150, §§20, 21, 49 Stat. 298, related to penalties, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See sections 223, 433, 493, 657, 1006, and 1014 of Title 18, Crimes and Criminal Procedure.

A prior section 9 of act June 13, 1933, was renumbered section 11 and is classified to section 1468 of this title.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111–203, §369(7)(A), substituted "assessed by—" for "assessed by the Director against each such savings association as the Director deems necessary or appropriate." and added pars. (1) and (2).

Subsec. (b). Pub. L. 111–203, §369(7)(B), substituted "Comptroller or Corporation, as appropriate" for "Director" in two places.

Subsecs. (c), (d). Pub. L. 111–203, §369(7)(I), substituted "appropriate Federal banking agency" for "Director" in two places.

Subsec. (e). Pub. L. 111–203, §369(7)(I), substituted "appropriate Federal banking agency" for "Director" in concluding provisions.

Pub. L. 111–203, §369(7)(C), substituted "The Comptroller" for "Only the Director" in introductory provisions and "designee of the Comptroller" for "Director's designee" in concluding provisions.

Subsec. (f). Pub. L. 111–203, §369(7)(D), substituted "[Reserved]." for text which read as follows: "The Corporation or the Federal home loan banks shall, upon request of and by agreement with the Director, collect fees and assessments on behalf of the Director and be reimbursed for the actual cost of collection."

Subsec. (g)(1). Pub. L. 111–203, §369(7)(E)(i), substituted "appropriate Federal banking agency" for "Director".

Subsec. (g)(2). Pub. L. 111–203, §369(7)(I), substituted "appropriate Federal banking agency or the Corporation" for "Director or the Corporation".

Pub. L. 111–203, §369(7)(E)(ii), substituted "appropriate Federal banking agency for the savings association" for "Director, or the Corporation, as the case may be,".

Subsec. (h). Pub. L. 111–203, §369(7)(I), substituted "appropriate Federal banking agency" for "Director" in two places.

Subsec. (i). Pub. L. 111–203, §369(7)(F), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (j). Pub. L. 111–203, §369(7)(I), substituted "The appropriate Federal banking agency" for "The Director" and "submits to the appropriate Federal banking agency" for "submits to the Director".

Pub. L. 111–203, §369(7)(G), substituted "sole discretion of the appropriate Federal banking agency" for "Director's sole discretion".

Subsec. (k). Pub. L. 111–203, §369(7)(I), substituted "appropriate Federal banking agency deems" for "Director deems" and "discretion of the appropriate Federal banking agency" for "discretion of the Director".

Pub. L. 111–203, §369(7)(H), substituted "appropriate Federal banking agency may assess against an institution" for "Director may assess against institutions for which the Director is the appropriate Federal banking agency, as defined in section 3 of the Federal Deposit Insurance Act,".

Subsecs. (l), (m). Pub. L. 111–203, §369(7)(I), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

1991—Subsec. (a). Pub. L. 102–242, §114(c)(1), added subsec. (a) and struck out former subsec. (a) which read as follows: "The cost of conducting examinations of savings associations pursuant to section 1464(d) of this title shall be assessed by the Director against each such savings association in proportion to the assets or resources of the savings association."

Subsec. (b). Pub. L. 102–242, §114(c)(1), added subsec. (b) and struck out former subsec. (b) which read as follows: "The cost of conducting examinations of affiliates of savings associations pursuant to this chapter may be assessed by the Director against each affiliate which is examined in proportion to the assets or resources held by the affiliate on the date of any such examination."

Subsec. (k). Pub. L. 102–242, §114(c)(2), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: "The Director may assess against institutions for which the Director is the appropriate Federal banking agency, within the meaning of section 3 of the Federal Deposit Insurance Act, fees to fund the direct and indirect expenses of the Office. Such fees shall be imposed in proportion of the assets or resources of the institutions. The fees may be imposed more frequently than annually at the discretion of the Director. The annual rate of such fees shall be the same for all institutions subject to such fees."

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (m) relating to examination fees for former subsecs. (a) to (f) relating to accounting principles and other standards and requirements.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–73 relating to civil penalties applicable with respect to violations committed and activities engaged in after Aug. 9, 1989, except that the increased maximum civil penalties of \$5,000 and \$25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities (1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and (2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 1813 of this title) occurring before Aug. 9, 1989, see section 305(c) of Pub. L. 101–73, set out as a note under section 1461 of this title.

SUBMISSION OF PROPOSED REGULATIONS TO CONGRESS

Pub. L. 100–86, title IV, §402(c), Aug. 10, 1987, 101 Stat. 608, provided that: "Not later than the end of the 90-day period beginning on the date of the enactment of this Act [Aug. 10, 1987]—

"(1) the Federal Home Loan Bank Board shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (a) [enacting this section] to the Congress; and

"(2) the Federal Savings and Loan Insurance Corporation shall submit a copy of the proposed regulations required to be prescribed under the amendment made by subsection (b) [enacting section 1730h of this title] to the Congress."

EFFECTIVE DATE OF REGULATIONS

Pub. L. 100–86, title IV, §402(d), Aug. 10, 1987, 101 Stat. 608, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), any regulation required to be prescribed under the amendment made by subsections (a) and (b) [enacting sections 1467 and 1730h of this title] shall be implemented not later than the end of the 150-day period beginning on the date of the enactment of this Act [Aug. 10, 1987].

"(2) UNIFORM GAAP ACCOUNTING STANDARDS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the regulations required to be prescribed pursuant to subsection (b) of the amendments made by subsections (a) and (b) of this section shall take effect on December 31, 1987.

"(B) COMPLIANCE AT A LATER DATE.—If any association or insured institution demonstrates to the satisfaction of the Home Loan Bank Board or the Federal Savings and Loan Insurance Corporation, as the case may be, that it is not feasible for such association or institution to achieve compliance with the regulations referred to in subparagraph (A) by the date contained in such subparagraph, the Board or Corporation may approve a plan submitted by an association or insured institution which allows such association or institution to comply with such regulations at a later date to the extent such later date is the earlier of—

"(i) the date by which, in the determination of the Board or Corporation, it is feasible for such association or insured institution to achieve compliance with such regulations; or

"(ii) December 31, 1993."

SUNSET AND SAVINGS PROVISION

Subsec. (a)(2), (3), (5) ceases to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register [Mar. 30, 1992, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law, see section 416 of Pub. L. 100–86, set out as a note under section 1441 of this title.

¹ *So in original. Probably should be followed by a comma.*

§1467a. Regulation of holding companies

(a) Definitions

(1) In general

As used in this section, unless the context otherwise requires—

(A) Savings association

The term "savings association" includes a savings bank or cooperative bank which is deemed by the appropriate Federal banking agency to be a savings association under subsection (l).

(B) Uninsured institution

The term "uninsured institution" means any depository institution the deposits of which are not insured by the Federal Deposit Insurance Corporation.

(C) Company

The term "company" means any corporation, partnership, trust, joint-stock company, or similar organization, but does not include the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, any Federal home loan bank, or any company the majority of the shares of which is owned by the United States or any State, or by an instrumentality of the United States or any State.

(D) Savings and loan holding company

(i) In general

Except as provided in clause (ii), the term "savings and loan holding company" means any company that directly or indirectly controls a savings association or that controls any other company that is a savings and loan holding company.

(ii) Exclusion

The term "savings and loan holding company" does not include—

(I) a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956 (12 U.S.C. 1841 et seq.), or to any company directly or indirectly controlled by such company (other than a savings association);

(II) a company that controls a savings association that functions solely in a trust or fiduciary capacity as described in section 2(c)(2)(D) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(c)(2)(D)); or

(III) a company described in subsection (c)(9)(C) solely by virtue of such company's control of an intermediate holding company established pursuant to section 1467b of this title.

(E) Multiple savings and loan holding company

The term "multiple savings and loan holding company" means any savings and loan holding company which directly or indirectly controls 2 or more savings associations.

(F) Diversified savings and loan holding company

The term "diversified savings and loan holding company" means any savings and loan holding company whose subsidiary savings association and related activities as permitted under paragraph (2) of subsection (c) of this section represented, on either an actual or a pro forma basis, less than 50 percent of its consolidated net worth at the close of its preceding fiscal year and of its consolidated net earnings for such fiscal year, as determined in accordance with regulations issued by the appropriate Federal banking agency.

(G) Subsidiary

The term "subsidiary" has the same meaning as in section 1813 of this title.

(H) Affiliate

The term "affiliate" of a savings association means any person which controls, is controlled

by, or is under common control with, such savings association.

(I) Bank holding company

The terms "bank holding company" and "bank" have the meanings given to such terms in section 2 of the Bank Holding Company Act of 1956 [12 U.S.C. 1841].

(J) Acquire

The term "acquire" has the meaning given to such term in section 1823(f)(8) of this title.

(2) Control

For purposes of this section, a person shall be deemed to have control of—

(A) a savings association if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares of such savings association, or controls in any manner the election of a majority of the directors of such association;

(B) any other company if the person directly or indirectly or acting in concert with one or more other persons, or through one or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 25 percent of the voting shares or rights of such other company, or controls in any manner the election or appointment of a majority of the directors or trustees of such other company, or is a general partner in or has contributed more than 25 percent of the capital of such other company;

(C) a trust if the person is a trustee thereof; or

(D) a savings association or any other company if the Board determines, after reasonable notice and opportunity for hearing, that such person directly or indirectly exercises a controlling influence over the management or policies of such association or other company.

(3) Exclusions

Notwithstanding any other provision of this subsection, the term "savings and loan holding company" does not include—

(A) any company by virtue of its ownership or control of voting shares of a savings association or a savings and loan holding company acquired in connection with the underwriting of securities if such shares are held only for such period of time (not exceeding 120 days unless extended by the Board) as will permit the sale thereof on a reasonable basis; and

(B) any trust (other than a pension, profit-sharing, shareholders', voting, or business trust) which controls a savings association or a savings and loan holding company if such trust by its terms must terminate within 25 years or not later than 21 years and 10 months after the death of individuals living on the effective date of the trust, and is (i) in existence on June 26, 1967, or (ii) a testamentary trust created on or after June 26, 1967.

(4) Special rule relating to qualified stock issuance

No savings and loan holding company shall be deemed to control a savings association solely by reason of the purchase by such savings and loan holding company of shares issued by such savings association, or issued by any savings and loan holding company (other than a bank holding company) which controls such savings association, in connection with a qualified stock issuance if such purchase is approved by the Board under subsection (q)(1)(D), unless the acquiring savings and loan holding company, directly or indirectly, or acting in concert with 1 or more other persons, or through 1 or more subsidiaries, owns, controls, or holds with power to vote, or holds proxies representing, more than 15 percent of the voting shares of such savings association or holding company.

(b) Registration and examination

(1) In general

Within 90 days after becoming a savings and loan holding company, each savings and loan

holding company shall register with the Board on forms prescribed by the Board, which shall include such information, under oath or otherwise, with respect to the financial condition, ownership, operations, management, and intercompany relationships of such holding company and its subsidiaries, and related matters, as the Board may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Board may extend the time within which a savings and loan holding company shall register and file the requisite information.

(2) Reports

(A) In general

Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file with the Board, such reports as may be required by the Board. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Board may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Board may require.

(B) Use of existing reports and other supervisory information

The Board shall, to the fullest extent possible, use—

- (i) reports and other supervisory information that the savings and loan holding company or any subsidiary thereof has been required to provide to other Federal or State regulatory agencies;
- (ii) externally audited financial statements of the savings and loan holding company or subsidiary;
- (iii) information that is otherwise available from Federal or State regulatory agencies; and
- (iv) information that is otherwise required to be reported publicly.

(C) Availability

Upon the request of the Board, a savings and loan holding company or a subsidiary of a savings and loan holding company shall promptly provide to the Board any information described in clauses (i) through (iii) of subparagraph (B).

(3) Books and records

Each savings and loan holding company shall maintain such books and records as may be prescribed by the Board.

(4) Examinations

(A) In general

Subject to subtitle B of the Consumer Financial Protection Act of 2010 [12 U.S.C. 5511 et seq.], the Board may make examinations of a savings and loan holding company and each subsidiary of a savings and loan holding company system, in order to—

(i) inform the Board of—

(I) the nature of the operations and financial condition of the savings and loan holding company and the subsidiary;

(II) the financial, operational, and other risks within the savings and loan holding company system that may pose a threat to—

- (aa) the safety and soundness of the savings and loan holding company or of any depository institution subsidiary of the savings and loan holding company; or
- (bb) the stability of the financial system of the United States; and

(III) the systems of the savings and loan holding company for monitoring and controlling the risks described in subclause (II); and

(ii) monitor the compliance of the savings and loan holding company and the subsidiary with—

- (I) this chapter;

(II) Federal laws that the Board has specific jurisdiction to enforce against the company or subsidiary; and

(III) other than in the case of an insured depository institution or functionally regulated subsidiary, any other applicable provisions of Federal law.

(B) Use of reports to reduce examinations

For purposes of this subsection, the Board shall, to the fullest extent possible, rely on—

(i) the examination reports made by other Federal or State regulatory agencies relating to a savings and loan holding company and any subsidiary; and

(ii) the reports and other information required under paragraph (2).

(C) Coordination with other regulators

The Board shall—

(i) provide reasonable notice to, and consult with, the appropriate Federal banking agency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, or State regulatory agency, as appropriate, for a subsidiary that is a depository institution or a functionally regulated subsidiary of a savings and loan holding company before commencing an examination of the subsidiary under this section; and

(ii) to the fullest extent possible, avoid duplication of examination activities, reporting requirements, and requests for information.

(5) Agent for service of process

The Board may require any savings and loan holding company, or persons connected therewith if it is not a corporation, to execute and file a prescribed form of irrevocable appointment of agent for service of process.

(6) Release from registration

The Board may at any time, upon the motion or application of the Board, release a registered savings and loan holding company from any registration theretofore made by such company, if the Board determines that such company no longer has control of any savings association.

(c) Holding company activities

(1) Prohibited activities

Except as otherwise provided in this subsection, no savings and loan holding company and no subsidiary which is not a savings association shall—

(A) engage in any activity or render any service for or on behalf of a savings association subsidiary for the purpose or with the effect of evading any law or regulation applicable to such savings association;

(B) commence any business activity, other than the activities described in paragraph (2); or

(C) continue any business activity, other than the activities described in paragraph (2), after the end of the 2-year period beginning on the date on which such company received approval under subsection (e) of this section to become a savings and loan holding company subject to the limitations contained in this subparagraph.

(2) Exempt activities

The prohibitions of subparagraphs (B) and (C) of paragraph (1) shall not apply to the following business activities of any savings and loan holding company or any subsidiary (of such company) which is not a savings association:

(A) Furnishing or performing management services for a savings association subsidiary of such company.

(B) Conducting an insurance agency or escrow business.

(C) Holding, managing, or liquidating assets owned or acquired from a savings association subsidiary of such company.

(D) Holding or managing properties used or occupied by a savings association subsidiary of such company.

(E) Acting as trustee under deed of trust.

(F) Any other activity—

(i) which the Board, by regulation, has determined to be permissible for bank holding companies under section 4(c) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(c)], unless the Board, by regulation, prohibits or limits any such activity for savings and loan holding companies; or

(ii) in which multiple savings and loan holding companies were authorized (by regulation) to directly engage on March 5, 1987.

(G) In the case of a savings and loan holding company, purchasing, holding, or disposing of stock acquired in connection with a qualified stock issuance if the purchase of such stock by such savings and loan holding company is approved by the Board pursuant to subsection (q)(1)(D).

(H) Any activity that is permissible for a financial holding company (as such term is defined under section 2(p) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(p)) ¹ to conduct under section 4(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(k)] if—

(i) the savings and loan holding company meets all of the criteria to qualify as a financial holding company, and complies with all of the requirements applicable to a financial holding company, under sections 4(l) and 4(m) of the Bank Holding Company Act ² [12 U.S.C. 1843(l), (m)] and section 2903(c) of this title as if the savings and loan holding company was a bank holding company; and

(ii) the savings and loan holding company conducts the activity in accordance with the same terms, conditions, and requirements that apply to the conduct of such activity by a bank holding company under the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.] and the Board's regulations and interpretations under such Act.

(3) Certain limitations on activities not applicable to certain holding companies

Notwithstanding paragraphs (4) and (6) of this subsection, the limitations contained in subparagraphs (B) and (C) of paragraph (1) shall not apply to any savings and loan holding company (or any subsidiary of such company) which controls—

(A) only 1 savings association, if the savings association subsidiary of such company is a qualified thrift lender (as determined under subsection (m)); or

(B) more than 1 savings association, if—

(i) all, or all but 1, of the savings association subsidiaries of such company were initially acquired by the company or by an individual who would be deemed to control such company if such individual were a company—

(I) pursuant to an acquisition under section 1823(c) or 1823(k) of this title or section 408(m) ³ of the National Housing Act [12 U.S.C. 1730a(m)]; or

(II) pursuant to an acquisition in which assistance was continued to a savings association under section 1823(i) of this title; and

(ii) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under subsection (m)).

(4) Prior approval of certain new activities required

(A) In general

No savings and loan holding company and no subsidiary which is not a savings association shall commence, either de novo or by an acquisition (in whole or in part) of a going concern, any activity described in paragraph (2)(F)(i) of this subsection without the prior approval of the Board.

(B) Factors to be considered

In considering any application under subparagraph (A) by any savings and loan holding

company or any subsidiary of any such company which is not a savings association, the Board shall consider—

- (i) whether the performance of the activity described in such application by the company or the subsidiary can reasonably be expected to produce benefits to the public (such as greater convenience, increased competition, or gains in efficiency) that outweigh possible adverse effects of such activity (such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound financial practices);
- (ii) the managerial resources of the companies involved; and
- (iii) the adequacy of the financial resources, including capital, of the companies involved.

(C) Board may differentiate between new and ongoing activities

In prescribing any regulation or considering any application under this paragraph, the Board may differentiate between activities commenced de novo and activities commenced by the acquisition, in whole or in part, of a going concern.

(D) Approval or disapproval by order

The approval or disapproval of any application under this paragraph by the Board shall be made in an order issued by the Board containing the reasons for such approval or disapproval.

(5) Grace period to achieve compliance

If any savings association referred to in paragraph (3) fails to maintain the status of such association as a qualified thrift lender, the Board may allow, for good cause shown, any company that controls such association (or any subsidiary of such company which is not a savings association) up to 3 years to comply with the limitations contained in paragraph (1)(C).

(6) Special provisions relating to certain companies affected by 1987 amendments

(A) Exception to 2-year grace period for achieving compliance

Notwithstanding paragraph (1)(C), any company which received approval under subsection (e) of this section to acquire control of a savings association between March 5, 1987, and August 10, 1987, shall not continue any business activity other than an activity described in paragraph (2) after August 10, 1987.

(B) Exemption for activities lawfully engaged in before March 5, 1987

Notwithstanding paragraph (1)(C) and subject to subparagraphs (C) and (D), any savings and loan holding company which received approval, before March 5, 1987, under subsection (e) of this section to acquire control of a savings association may engage, directly or through any subsidiary (other than a savings association subsidiary of such company), in any activity in which such company or such subsidiary was lawfully engaged on such date.

(C) Termination of subparagraph (B) exemption

The exemption provided under subparagraph (B) for activities engaged in by any savings and loan holding company or a subsidiary of such company (which is not a savings association) which would otherwise be prohibited under paragraph (1)(C) shall terminate with respect to such activities of such company or subsidiary upon the occurrence (after August 10, 1987) of any of the following:

- (i) The savings and loan holding company acquires control of a bank or an additional savings association (other than a savings association acquired pursuant to section 1823(c) or 1823(k) of this title or section 406(f) or 408(m) ³ of the National Housing Act [12 U.S.C. 1729(f) or 1730a(m)]).
- (ii) Any savings association subsidiary of the savings and loan holding company fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1986 [26 U.S.C. 7701(a)(19)].
- (iii) The savings and loan holding company engages in any business activity—
 - (I) which is not described in paragraph (2); and
 - (II) in which it was not engaged on March 5, 1987.

(iv) Any savings association subsidiary of the savings and loan holding company increases the number of locations from which such savings association conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under section 1823(c) or (k) of this title or section 408(m) ³ of the National Housing Act.

(v) Any savings association subsidiary of the savings and loan holding company permits any overdraft (including an intraday overdraft), or incurs any such overdraft in its account at a Federal Reserve bank, on behalf of an affiliate, unless such overdraft is the result of an inadvertent computer or accounting error that is beyond the control of both the savings association subsidiary and the affiliate.

(D) Order to terminate subparagraph (B) activity

Any activity described in subparagraph (B) may also be terminated by the Board, after opportunity for hearing, if the Board determines, having due regard for the purposes of this chapter, that such action is necessary to prevent conflicts of interest or unsound practices or is in the public interest.

(7) Foreign savings and loan holding company

Notwithstanding any other provision of this section, any savings and loan holding company organized under the laws of a foreign country as of June 1, 1984 (including any subsidiary thereof which is not a savings association), which controls a single savings association on August 10, 1987, shall not be subject to this subsection with respect to any activities of such holding company which are conducted exclusively in a foreign country.

(8) Exemption for bank holding companies

Except for paragraph (1)(A), this subsection shall not apply to any company that is treated as a bank holding company for purposes of section 4 of the Bank Holding Company Act of 1956 [12 U.S.C. 1843], or any of its subsidiaries.

(9) Prevention of new affiliations between S&L holding companies and commercial firms

(A) In general

Notwithstanding paragraph (3), no company may directly or indirectly, including through any merger, consolidation, or other type of business combination, acquire control of a savings association after May 4, 1999, unless the company is engaged, directly or indirectly (including through a subsidiary other than a savings association), only in activities that are permitted—

- (i) under paragraph (1)(C) or (2) of this subsection; or
- (ii) for financial holding companies under section 4(k) of the Bank Holding Company Act of 1956 [12 U.S.C. 1843(k)].

(B) Prevention of new commercial affiliations

Notwithstanding paragraph (3), no savings and loan holding company may engage directly or indirectly (including through a subsidiary other than a savings association) in any activity other than as described in clauses (i) and (ii) of subparagraph (A).

(C) Preservation of authority of existing unitary S&L holding companies

Subparagraphs (A) and (B) do not apply with respect to any company that was a savings and loan holding company on May 4, 1999, or that becomes a savings and loan holding company pursuant to an application pending before the Office on or before that date, and that—

- (i) meets and continues to meet the requirements of paragraph (3); and
- (ii) continues to control not fewer than 1 savings association that it controlled on May 4, 1999, or that it acquired pursuant to an application pending before the Office on or before that date, or the successor to such savings association.

(D) Corporate reorganizations permitted

This paragraph does not prevent a transaction that—

(i) involves solely a company under common control with a savings and loan holding company from acquiring, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company; or

(ii) involves solely a merger, consolidation, or other type of business combination as a result of which a company under common control with the savings and loan holding company acquires, directly or indirectly, control of the savings and loan holding company or any savings association that is already a subsidiary of the savings and loan holding company.

(E) Authority to prevent evasions

The Board may issue interpretations, regulations, or orders that the Board determines necessary to administer and carry out the purpose and prevent evasions of this paragraph, including a determination (in consultation with the appropriate Federal banking agency) that, notwithstanding the form of a transaction, the transaction would in substance result in a company acquiring control of a savings association.

(F) Preservation of authority for family trusts

Subparagraphs (A) and (B) do not apply with respect to any trust that becomes a savings and loan holding company with respect to a savings association, if—

(i) not less than 85 percent of the beneficial ownership interests in the trust are continuously owned, directly or indirectly, by or for the benefit of members of the same family, or their spouses, who are lineal descendants of common ancestors who controlled, directly or indirectly, such savings association on May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999; and

(ii) at the time at which such trust becomes a savings and loan holding company, such ancestors or lineal descendants, or spouses of such descendants, have directly or indirectly controlled the savings association continuously since May 4, 1999, or a subsequent date, pursuant to an application pending before the Office on or before May 4, 1999.

(d) Transactions with affiliates

Transactions between any subsidiary savings association of a savings and loan holding company and any affiliate (of such savings association subsidiary) shall be subject to the limitations and prohibitions specified in section 1468 of this title.

(e) Acquisitions

(1) In general

It shall be unlawful for—

(A) any savings and loan holding company directly or indirectly, or through one or more subsidiaries or through one or more transactions—

(i) to acquire, except with the prior written approval of the Board, the control of a savings association or a savings and loan holding company, or to retain the control of such an association or holding company acquired or retained in violation of this section as heretofore or hereafter in effect;

(ii) to acquire, except with the prior written approval of the Board, by the process of merger, consolidation, or purchase of assets, another savings association or a savings and loan holding company, or all or substantially all of the assets of any such association or holding company;

(iii) to acquire, by purchase or otherwise, or to retain, except with the prior written approval of the Board, more than 5 percent of the voting shares of a savings association not a subsidiary, or of a savings and loan holding company not a subsidiary, or in the case of a multiple savings and loan holding company (other than a company described in subsection (c)(8)), to acquire or retain, and the Board may not authorize acquisition or retention of, more

than 5 percent of the voting shares of any company not a subsidiary which is engaged in any business activity other than the activities specified in subsection (c)(2). This clause shall not apply to shares of a savings association or of a savings and loan holding company—

(I) held as a bona fide fiduciary (whether with or without the sole discretion to vote such shares);

(II) held temporarily pursuant to an underwriting commitment in the normal course of an underwriting business;

(III) held in an account solely for trading purposes;

(IV) over which no control is held other than control of voting rights acquired in the normal course of a proxy solicitation;

(V) acquired in securing or collecting a debt previously contracted in good faith, during the 2-year period beginning on the date of such acquisition or for such additional time (not exceeding 3 years) as the Board may permit if the Board determines that such an extension will not be detrimental to the public interest;

(VI) acquired under section 408(m) ³ of the National Housing Act [12 U.S.C. 1730a(m)] or section 1823(k) of this title;

(VII) held by any insurance company, as defined in section 2(a)(17) of the Investment Company Act of 1940 [15 U.S.C. 80a-2(a)(17)], except as provided in paragraph (6); or

(VIII) acquired pursuant to a qualified stock issuance if such purchase is approved by the Board under subsection (q)(1)(D);

except that the aggregate amount of shares held under this clause (other than under subclauses (I), (II), (III), (IV), and (VI)) may not exceed 15 percent of all outstanding shares or of the voting power of a savings association or savings and loan holding company; or

(iv) to acquire the control of an uninsured institution, or to retain for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Board may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Board finds such extension is warranted and is not detrimental to the public interest; and

(B) any other company, without the prior written approval of the Board, directly or indirectly, or through one or more subsidiaries or through one or more transactions, to acquire the control of one or more savings associations, except that such approval shall not be required in connection with the control of a savings association, (i) acquired by devise under the terms of a will creating a trust which is excluded from the definition of "savings and loan holding company" under subsection (a) of this section, (ii) acquired in connection with a reorganization in which a person or group of persons, having had control of a savings association for more than 3 years, vests control of that association in a newly formed holding company subject to the control of the same person or group of persons, or (iii) acquired by a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], or any company controlled by such bank holding company. The Board shall approve an acquisition of a savings association under this subparagraph unless the Board finds the financial and managerial resources and future prospects of the company and association involved to be such that the acquisition would be detrimental to the association or the insurance risk of the Deposit Insurance Fund, and shall render a decision within 90 days after submission to the Board of the complete record on the application.

Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association.

(2) Factors to be considered

The Board shall not approve any acquisition under subparagraph (A)(i) or (A)(ii), or of more

than one savings association under subparagraph (B) of paragraph (1) of this subsection, any acquisition of stock in connection with a qualified stock issuance, any acquisition under paragraph (4)(A), or any transaction under section 1823(k) of this title, except in accordance with this paragraph. In every case, the Board shall take into consideration the financial and managerial resources and future prospects of the company and association involved, the effect of the acquisition on the association, the insurance risk to the Deposit Insurance Fund, and the convenience and needs of the community to be served, and shall render a decision within 90 days after submission to the Board of the complete record on the application. Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association. Before approving any such acquisition, except a transaction under section 1823(k) of this title, the Board shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Board shall not approve any proposed acquisition—

(A) which would result in a monopoly, or which would be in furtherance of any combination or conspiracy to monopolize or to attempt to monopolize the savings and loan business in any part of the United States,

(B) the effect of which in any section of the country may be substantially to lessen competition, or tend to create a monopoly, or which in any other manner would be in restraint of trade, unless it finds that the anticompetitive effects of the proposed acquisition are clearly outweighed in the public interest by the probable effect of the acquisition in meeting the convenience and needs of the community to be served,

(C) if the company fails to provide adequate assurances to the Board that the company will make available to the Board such information on the operations or activities of the company, and any affiliate of the company, as the Board determines to be appropriate to determine and enforce compliance with this chapter,

(D) in the case of an application involving a foreign bank, if the foreign bank is not subject to comprehensive supervision or regulation on a consolidated basis by the appropriate authorities in the bank's home country, or

(E) in the case of an application by a savings and loan holding company to acquire an insured depository institution, if—

(i) the home State of the insured depository institution is a State other than the home State of the savings and loan holding company;

(ii) the applicant (including all insured depository institutions which are affiliates of the applicant) controls, or upon consummation of the transaction would control, more than 10 percent of the total amount of deposits of insured depository institutions in the United States; and

(iii) the acquisition does not involve an insured depository institution in default or in danger of default, or with respect to which the Federal Deposit Insurance Corporation provides assistance under section 1823 of this title.

(3) Interstate acquisitions

No acquisition shall be approved by the Board under this subsection which will result in the formation by any company, through one or more subsidiaries or through one or more transactions, of a multiple savings and loan holding company controlling savings associations in more than one State, unless—

(A) such company, or a savings association subsidiary of such company, is authorized to acquire control of a savings association subsidiary, or to operate a home or branch office, in the additional State or States pursuant to section 1823(k) of this title;

(B) such company controls a savings association subsidiary which operated a home or branch office in the additional State or States as of March 5, 1987; or

(C) the statutes of the State in which the savings association to be acquired is located permit a savings association chartered by such State to be acquired by a savings association chartered by the State where the acquiring savings association or savings and loan holding company is

located or by a holding company that controls such a State chartered savings association, and such statutes specifically authorize such an acquisition by language to that effect and not merely by implication.

(4) Acquisitions by certain individuals

(A) In general

Notwithstanding subsection (h)(2), any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, may acquire control of any savings association not a subsidiary of such savings and loan holding company with the prior written approval of the Board.

(B) Treatment of certain holding companies

If any individual referred to in subparagraph (A) controls more than 1 savings and loan holding company or more than 1 savings association, any savings and loan holding company controlled by such individual shall be subject to the activities limitations contained in subsection (c) to the same extent such limitations apply to multiple savings and loan holding companies, unless all or all but 1 of the savings associations (including any institution deemed to be a savings association under subsection (l) of this section) controlled directly or indirectly by such individual was acquired pursuant to an acquisition described in subclause (I) or (II) of subsection (c)(3)(B)(i).

(5) Acquisitions pursuant to certain security interests

This subsection and subsection (c)(2) of this section do not apply to any savings and loan holding company which acquired the control of a savings association or of a savings and loan holding company pursuant to a pledge or hypothecation to secure a loan, or in connection with the liquidation of a loan, made in the ordinary course of business. It shall be unlawful for any such company to retain such control for more than one year after February 14, 1968, or from the date on which such control was acquired, whichever is later, except that the Board may upon application by such company extend such one-year period from year to year, for an additional period not exceeding 3 years, if the Board finds such extension is warranted and would not be detrimental to the public interest.

(6) Shares held by insurance affiliates

Shares described in clause (iii)(VII) of paragraph (1)(A) shall not be excluded for purposes of clause (iii) of such paragraph if—

(A) all shares held under such clause (iii)(VII) by all insurance company affiliates of such savings association or savings and loan holding company in the aggregate exceed 5 percent of all outstanding shares or of the voting power of the savings association or savings and loan holding company; or

(B) such shares are acquired or retained with a view to acquiring, exercising, or transferring control of the savings association or savings and loan holding company.

(7) Definitions

For purposes of paragraph (2)(E)—

(A) the terms "default", "in danger of default", and "insured depository institution" have the same meanings as in section 1813 of this title; and

(B) the term "home State" means—

(i) with respect to a national bank, the State in which the main office of the bank is located;

(ii) with respect to a State bank or State savings association, the State by which the savings association is chartered;

(iii) with respect to a Federal savings association, the State in which the home office (as defined by the regulations of the Board ⁴ of the Office of Thrift Supervision, or, on and after the transfer date, ³ the Comptroller of the Currency) of the Federal savings association is

located; and

(iv) with respect to a savings and loan holding company, the State in which the amount of total deposits of all insured depository institution subsidiaries of such company was the greatest on the date on which the company became a savings and loan holding company.

(f) Declaration of dividend

Every subsidiary savings association of a savings and loan holding company shall give the Board not less than 30 days' advance notice of the proposed declaration by its directors of any dividend on its guaranty, permanent, or other nonwithdrawable stock. Such notice period shall commence to run from the date of receipt of such notice by the Board. Any such dividend declared within such period, or without the giving of such notice to the Board, shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

(g) Administration and enforcement

(1) In general

The Board is authorized to issue such regulations and orders, including regulations and orders relating to capital requirements for savings and loan holding companies, as the Board deems necessary or appropriate to enable the Board to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof. In establishing capital regulations pursuant to this subsection, the appropriate Federal banking agency shall seek to make such requirements countercyclical so that the amount of capital required to be maintained by a company increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the company.

(2) Investigations

The Board may make such investigations as the Board deems necessary or appropriate to determine whether the provisions of this section, and regulations and orders thereunder, are being and have been complied with by savings and loan holding companies and subsidiaries and affiliates thereof. For the purpose of any investigation under this section, the Board may administer oaths and affirmations, issue subpoenas, take evidence, and require the production of any books, papers, correspondence, memorandums, or other records which may be relevant or material to the inquiry. The attendance of witnesses and the production of any such records may be required from any place in any State. The Board may apply to the United States district court for the judicial district (or the United States court in any territory) in which any witness or company subpoenaed resides or carries on business, for enforcement of any subpoena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance.

(3) Proceedings

(A) In any proceeding under subsection (a)(2)(D) or under paragraph (5) of this subsection, the Board may administer oaths and affirmations, take or cause to be taken depositions, and issue subpoenas. The Board may make regulations with respect to any such proceedings. The attendance of witnesses and the production of documents provided for in this paragraph may be required from any place in any State or in any territory at any designated place where such proceeding is being conducted. Any party to such proceedings may apply to the United States District Court for the District of Columbia, or the United States district court for the judicial district or the United States court in any territory in which such proceeding is being conducted, or where the witness resides or carries on business, for enforcement of any subpoena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpoenaed under this section shall be paid the same fees and mileage that are paid witnesses in the district courts of the United States.

(B) Any hearing provided for in subsection (a)(2)(D) or under paragraph (5) of this section ⁵ shall be held in the Federal judicial district or in the territory in which the principal office of the association or other company is located unless the party afforded the hearing consents to another

place, and shall be conducted in accordance with the provisions of chapter 5 of title 5.

(4) Injunctions

Whenever it appears to the Board that any person is engaged or has engaged or is about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this section or of any regulation or order thereunder, the Board may bring an action in the proper United States district court, or the United States court of any territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, to enforce compliance with this section or any regulation or order, or to require the divestiture of any acquisition in violation of this section, or for any combination of the foregoing, and such courts shall have jurisdiction of such actions. Upon a proper showing an injunction, decree, restraining order, order of divestiture, or other appropriate order shall be granted without bond.

(5) Cease and desist orders

(A) Notwithstanding any other provision of this section, the Board may, whenever the Board has reasonable cause to believe that the continuation by a savings and loan holding company of any activity or of ownership or control of any of its noninsured subsidiaries constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association and is inconsistent with the sound operation of a savings association or with the purposes of this section or section 1818 of this title, order the savings and loan holding company or any of its subsidiaries, after due notice and opportunity for hearing, to terminate such activities or to terminate (within 120 days or such longer period as the Board directs in unusual circumstances) its ownership or control of any such noninsured subsidiary either by sale or by distribution of the shares of the subsidiary to the shareholders of the savings and loan holding company. Such distribution shall be pro rata with respect to all of the shareholders of the distributing savings and loan holding company, and the holding company shall not make any charge to its shareholders arising out of such a distribution.

(B) The Board may in the discretion of the Board apply to the United States district court within the jurisdiction of which the principal office of the company is located, for the enforcement of any effective and outstanding order issued under this section, and such court shall have jurisdiction and power to order and require compliance therewith. Except as provided in subsection (j), no court shall have jurisdiction to affect by injunction or otherwise the issuance or enforcement of any notice or order under this section, or to review, modify, suspend, terminate, or set aside any such notice or order.

(h) Prohibited acts

It shall be unlawful for—

(1) any savings and loan holding company or subsidiary thereof, or any director, officer, employee, or person owning, controlling, or holding with power to vote, or holding proxies representing, more than 25 percent of the voting shares, of such holding company or subsidiary, to hold, solicit, or exercise any proxies in respect of any voting rights in a savings association which is a mutual association;

(2) any director or officer of a savings and loan holding company, or any individual who owns, controls, or holds with power to vote (or holds proxies representing) more than 25 percent of the voting shares of such holding company, to acquire control of any savings association not a subsidiary of such savings and loan holding company, unless such acquisition is approved by the Board pursuant to subsection (e)(4); or

(3) any individual, except with the prior approval of the Board, to serve or act as a director, officer, or trustee of, or become a partner in, any savings and loan holding company after having been convicted of any criminal offense involving dishonesty or breach of trust.

(i) Penalties

(1) Criminal penalty

(A) Whoever knowingly violates any provision of this section or being a company, violates any

regulation or order issued by the Board under this section, shall be imprisoned not more than 1 year, fined not more than \$100,000 per day for each day during which the violation continues, or both.

(B) Whoever, with the intent to deceive, defraud, or profit significantly, knowingly violates any provision of this section shall be fined not more than \$1,000,000 per day for each day during which the violation continues, imprisoned not more than 5 years, or both.

(2) 6 Civil money penalty

(A) Penalty

Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation continues.

(B) Assessment

Any penalty imposed under subparagraph (A) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(C) Hearing

The company or other person against whom any civil penalty is assessed under this paragraph shall be afforded a hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this paragraph.

(D) Disbursement

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

(E) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(F) Regulations

The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

(3) 6 Civil money penalty

(A) Penalty

Any company which violates, and any person who participates in a violation of, any provision of this section, or any regulation or order issued pursuant thereto, shall forfeit and pay a civil penalty of not more than \$25,000 for each day during which such violation continues.

(B) Assessment; etc.

Any penalty imposed under subparagraph (A) may be assessed and collected by the Board in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title for penalties imposed (under such section) and any such assessment shall be subject to the provisions of such section.

(C) Hearing

The company or other person against whom any penalty is assessed under this paragraph shall be afforded an agency hearing if such company or person submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this paragraph.

(D) Disbursement

All penalties collected under authority of this paragraph shall be deposited into the Treasury.

(E) "Violate" defined

For purposes of this section, the term "violate" includes any action (alone or with another or others) for or toward causing, bringing about, participating in, counseling, or aiding or abetting a violation.

(F) Regulations

The Board shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

(4) Notice under this section after separation from service

The resignation, termination of employment or participation, or separation of an institution-affiliated party (within the meaning of section 1813(u) of this title) with respect to a savings and loan holding company or subsidiary thereof (including a separation caused by the deregistration of such a company or such a subsidiary) shall not affect the jurisdiction and authority of the Board to issue any notice and proceed under this section against any such party, if such notice is served before the end of the 6-year period beginning on the date such party ceased to be such a party with respect to such holding company or its subsidiary (whether such date occurs before, on, or after August 9, 1989).

(j) Judicial review

Any party aggrieved by an order of the Board under this section may obtain a review of such order by filing in the court of appeals of the United States for the circuit in which the principal office of such party is located, or in the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the date of service of such order, a written petition praying that the order of the Board be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Board, and thereupon the Board shall file in the court the record in the proceeding, as provided in section 2112 of title 28. Upon the filing of such petition, such court shall have jurisdiction, which upon the filing of the record shall be exclusive, to affirm, modify, terminate, or set aside, in whole or in part, the order of the Board. Review of such proceedings shall be had as provided in chapter 7 of title 5. The judgment and decree of the court shall be final, except that the same shall be subject to review by the Supreme Court upon certiorari as provided in section 1254 of title 28.

(k) Savings clause

Nothing contained in this section, other than any transaction approved under subsection (e)(2) of this section or section 1823 of this title, shall be interpreted or construed as approving any act, action, or conduct which is or has been or may be in violation of existing law, nor shall anything herein contained constitute a defense to any action, suit, or proceeding pending or hereafter instituted on account of any act, action, or conduct in violation of the antitrust laws.

(l) Treatment of FDIC insured State savings banks and cooperative banks as savings associations

(1) In general

Notwithstanding any other provision of law, a savings bank (as defined in section 1813(g) of this title) and a cooperative bank that is an insured bank (as defined in section 1813(h) of this title) upon application shall be deemed to be a savings association for the purpose of this section, if the appropriate Federal banking agency determines that such bank is a qualified thrift lender (as determined under subsection (m)).

(2) Failure to maintain qualified thrift lender status

If any savings bank which is deemed to be a savings association under paragraph (1) subsequently fails to maintain its status as a qualified thrift lender, as determined by the appropriate Federal banking agency, such bank may not thereafter be a qualified thrift lender for a period of 5 years.

(m) Qualified thrift lender test

(1) In general

Except as provided in paragraphs (2) and (7), any savings association is a qualified thrift lender if—

(A) the savings association qualifies as a domestic building and loan association, as such term is defined in section 7701(a)(19) of title 26; or

(B)(i) the savings association's qualified thrift investments equal or exceed 65 percent of the savings association's portfolio assets; and

(ii) the savings association's qualified thrift investments continue to equal or exceed 65 percent of the savings association's portfolio assets on a monthly average basis in 9 out of every 12 months.

(2) Exceptions granted by appropriate Federal banking agency

Notwithstanding paragraph (1), the appropriate Federal banking agency may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the appropriate Federal banking agency deems necessary if—

(A) the appropriate Federal banking agency determines that extraordinary circumstances exist, such as when the effects of high interest rates reduce mortgage demand to such a degree that an insufficient opportunity exists for a savings association to meet such investment requirements; or

(B) the appropriate Federal banking agency determines that—

(i) the grant of any such exception will significantly facilitate an acquisition under section 1823(c) or 1823(k) of this title;

(ii) the acquired association will comply with the transition requirements of paragraph (7)(B), as if the date of the exemption were the starting date for the transition period described in that paragraph; and

(iii) the appropriate Federal banking agency determines that ⁷ the exemption will not have an undue adverse effect on competing savings associations in the relevant market and will further the purposes of this subsection.

(3) Failure to become and remain a qualified thrift lender

(A) In general

A savings association that fails to become or remain a qualified thrift lender shall immediately be subject to the restrictions under subparagraph (B).

(B) Restrictions applicable to savings associations that are not qualified thrift lenders

(i) Restrictions effective immediately

The following restrictions shall apply to a savings association beginning on the date on which the savings association should have become or ceases to be a qualified thrift lender:

(I) Activities

The savings association shall not make any new investment (including an investment in a subsidiary) or engage, directly or indirectly, in any other new activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

(II) Branching

The savings association shall not establish any new branch office at any location at which a national bank located in the savings association's home State may not establish a branch office. For purposes of this subclause, a savings association's home State is the State in which the savings association's total deposits were largest on the date on which the savings association should have become or ceased to be a qualified thrift lender.

(III) Dividends

The savings association may not pay dividends, except for dividends that—

- (aa) would be permissible for a national bank;
- (bb) are necessary to meet obligations of a company that controls such savings association; and
- (cc) are specifically approved by the Comptroller of the Currency and the Board after a written request submitted to the Comptroller of the Currency and the Board by the savings association not later than 30 days before the date of the proposed payment.

(IV) Regulatory authority

A savings association that fails to become or remain a qualified thrift lender shall be deemed to have violated section 1464 of this title and subject to actions authorized by section 1464(d) of this title.

(ii) Additional restrictions effective after 3 years

Beginning 3 years after the date on which a savings association should have become a qualified thrift lender, or the date on which the savings association ceases to be a qualified thrift lender, as applicable, the savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity, unless that investment or activity—

- (I) would be permissible for the savings association if it were a national bank; and
- (II) is permissible for the savings association as a savings association.

(C) Holding company regulation

Any company that controls a savings association that is subject to any provision of subparagraph (B) shall, within one year after the date on which the savings association should have become or ceases to be a qualified thrift lender, register as and be deemed to be a bank holding company subject to all of the provisions of the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], section 1818 of this title, and other statutes applicable to bank holding companies, in the same manner and to the same extent as if the company were a bank holding company and the savings association were a bank, as those terms are defined in the Bank Holding Company Act of 1956.

(D) Requalification

A savings association that should have become or ceases to be a qualified thrift lender shall not be subject to subparagraph (B) or (C) if the savings association becomes a qualified thrift lender by meeting the qualified thrift lender requirement in paragraph (1) on a monthly average basis in 9 out of the preceding 12 months and remains a qualified thrift lender. If the savings association (or any savings association that acquired all or substantially all of its assets from that savings association) at any time thereafter ceases to be a qualified thrift lender, it shall immediately be subject to all provisions of subparagraphs (B) and (C) as if all the periods described in subparagraphs (B)(ii) and (C) had expired.

(E) Exemption for specialized savings associations serving certain military personnel

Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former members in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such members.

(F) Exemption for certain Federal savings associations

This paragraph shall not apply to any Federal savings association in existence as a Federal savings association on August 9, 1989—

- (i) that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law; or
- (ii) that acquired its principal assets from an association that was chartered before October

15, 1982, as a savings bank or a cooperative bank under State law.

(G) No circumvention of exit moratorium

Subparagraph (A) of this paragraph shall not be construed as permitting any insured depository institution to engage in any conversion transaction prohibited under section 1815(d) [3](#) of this title.

(4) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Actual thrift investment percentage

The term "actual thrift investment percentage" means the percentage determined by dividing—

- (i) the amount of a savings association's qualified thrift investments, by
- (ii) the amount of the savings association's portfolio assets.

(B) Portfolio assets

The term "portfolio assets" means, with respect to any savings association, the total assets of the savings association, minus the sum of—

- (i) goodwill and other intangible assets;
- (ii) the value of property used by the savings association to conduct its business; and
- (iii) liquid assets of the type required to be maintained under section 1465 of this title, as in effect on the day before December 27, 2000, in an amount not exceeding the amount equal to 20 percent of the savings association's total assets.

(C) Qualified thrift investments

(i) In general

The term "qualified thrift investments" means, with respect to any savings association, the assets of the savings association that are described in clauses (ii) and (iii).

(ii) Assets includible without limit

The following assets are described in this clause for purposes of clause (i):

(I) The aggregate amount of loans held by the savings association that were made to purchase, refinance, construct, improve, or repair domestic residential housing or manufactured housing.

(II) Home-equity loans.

(III) Securities backed by or representing an interest in mortgages on domestic residential housing or manufactured housing.

(IV) Existing obligations of deposit insurance agencies.—Direct or indirect obligations of the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation issued in accordance with the terms of agreements entered into prior to July 1, 1989, for the 10-year period beginning on the date of issuance of such obligations.

(V) New obligations of deposit insurance agencies.—Obligations of the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, the FSLIC Resolution Fund, and the Resolution Trust Corporation issued in accordance with the terms of agreements entered into on or after July 1, 1989, for the 5-year period beginning on the date of issuance of such obligations.

(VI) Shares of stock issued by any Federal home loan bank.

(VII) Loans for educational purposes, loans to small businesses, and loans made through credit cards or credit card accounts.

(iii) Assets includible subject to percentage restriction

The following assets are described in this clause for purposes of clause (i):

(I) 50 percent of the dollar amount of the residential mortgage loans originated by such savings association and sold within 90 days of origination.

(II) Investments in the capital stock or obligations of, and any other security issued by, any service corporation if such service corporation derives at least 80 percent of its annual gross revenues from activities directly related to purchasing, refinancing, constructing, improving, or repairing domestic residential real estate or manufactured housing.

(III) 200 percent of the dollar amount of loans and investments made to acquire, develop, and construct 1- to 4-family residences the purchase price of which is or is guaranteed to be not greater than 60 percent of the median value of comparable newly constructed 1- to 4-family residences within the local community in which such real estate is located, except that not more than 25 percent of the amount included under this subclause may consist of commercial properties related to the development if those properties are directly related to providing services to residents of the development.

(IV) 200 percent of the dollar amount of loans for the acquisition or improvement of residential real property, churches, schools, and nursing homes located within, and loans for any other purpose to any small businesses located within any area which has been identified by the appropriate Federal banking agency, in connection with any review or examination of community reinvestment practices, as a geographic area or neighborhood in which the credit needs of the low- and moderate-income residents of such area or neighborhood are not being adequately met.

(V) Loans for the purchase or construction of churches, schools, nursing homes, and hospitals, other than those qualifying under clause (IV), and loans for the improvement and upkeep of such properties.

(VI) Loans for personal, family, or household purposes (other than loans for personal, family, or household purposes described in clause (ii)(VII)).

(VII) Shares of stock issued by the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association.

(iv) Percentage restriction applicable to certain assets

The aggregate amount of the assets described in clause (iii) which may be taken into account in determining the amount of the qualified thrift investments of any savings association shall not exceed the amount which is equal to 20 percent of a savings association's portfolio assets.

(v) Qualified thrift investments

The term "qualified thrift investments" excludes—

(I) except for home equity loans, that portion of any loan or investment that is used for any purpose other than those expressly qualifying under any subparagraph of clause (ii) or (iii); or

(II) goodwill or any other intangible asset.

(D) Credit card

The appropriate Federal banking agency shall issue such regulations as may be necessary to define the term "credit card".

(E) Small business

The appropriate Federal banking agency shall issue such regulations as may be necessary to define the term "small business".

(5) Consistent accounting required

(A) In determining the amount of a savings association's portfolio assets, the assets of any subsidiary of the savings association shall be consolidated with the assets of the savings association if—

(i) Assets of the subsidiary are consolidated with the assets of the savings association in determining the savings association's qualified thrift investments; or

(ii) Residential mortgage loans originated by the subsidiary are included pursuant to paragraph (4)(C)(iii)(I) in determining the savings association's qualified thrift investments.

(B) In determining the amount of a savings association's portfolio assets and qualified thrift investments, consistent accounting principles shall be applied.

(6) Special rules for Puerto Rico and Virgin Islands savings associations

(A) Puerto Rico savings associations

With respect to any savings association headquartered and operating primarily in Puerto Rico—

(i) the term "qualified thrift investments" includes, in addition to the items specified in paragraph (4)—

(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Commonwealth of Puerto Rico; and

(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Commonwealth of Puerto Rico; and

(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

(I) which is located within the Commonwealth of Puerto Rico; and

(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Commonwealth of Puerto Rico, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

(B) Virgin Islands savings associations

With respect to any savings association headquartered and operating primarily in the Virgin Islands—

(i) the term "qualified thrift investments" includes, in addition to the items specified in paragraph (4)—

(I) the aggregate amount of loans for personal, family, educational, or household purposes made to persons residing or domiciled in the Virgin Islands; and

(II) the aggregate amount of loans for the acquisition or improvement of churches, schools, or nursing homes, and of loans to small businesses, located within the Virgin Islands; and

(ii) the aggregate amount of loans related to the purchase, acquisition, development and construction of 1- to 4-family residential real estate—

(I) which is located within the Virgin Islands; and

(II) the value of which (at the time of acquisition or upon completion of the development and construction) is below the median value of newly constructed 1- to 4-family residences in the Virgin Islands, which may be taken into account in determining the amount of the qualified thrift investments and of such savings association shall be doubled.

(7) Transitional rule for certain savings associations

(A) In general

If any Federal savings association in existence as a Federal savings association on August 9, 1989—

(i) that was chartered as a savings bank or a cooperative bank under State law before October 15, 1982; or

(ii) that acquired its principal assets from an association that was chartered before October 15, 1982, as a savings bank or a cooperative bank under State law,

meets the requirements of subparagraph (B), such savings association shall be treated as a qualified thrift lender during the period ending on September 30, 1995.

(B) Subparagraph (B) requirements

A savings association meets the requirements of this subparagraph if, in the determination of the appropriate Federal banking agency—

(i) the actual thrift investment percentage of such association does not, after August 9, 1989, decrease below the actual thrift investment percentage of such association on July 15, 1989; and

(ii) the amount by which—

(I) the actual thrift investment percentage of such association at the end of each period described in the following table, exceeds

(II) the actual thrift investment percentage of such association on July 15, 1989,

is equal to or greater than the applicable percentage (as determined under the following table) of the amount by which 70 percent exceeds the actual thrift investment percentage of such association on August 9, 1989:

| For the following period: | The applicable percentage is: |
|----------------------------------|--------------------------------------|
| July 1, 1991–September 30, 1992 | 25 percent |
| October 1, 1992–March 31, 1994 | 50 percent |
| April 1, 1994–September 30, 1995 | 75 percent |
| Thereafter | 100 percent |

(C) Actual thrift investment percentage

For purposes of this paragraph, the actual thrift investment percentage of an association on July 15, 1989, shall be determined by applying the definition of "actual thrift investment percentage" that takes effect on July 1, 1991.

(n) Tying restrictions

A savings and loan holding company and any of its affiliates shall be subject to section 1464(q) of this title and regulations prescribed under such section, in connection with transactions involving the products or services of such company or affiliate and those of an affiliated savings association as if such company or affiliate were a savings association.

(o) Mutual holding companies

(1) In general

A savings association operating in mutual form may reorganize so as to become a holding company by—

(A) chartering an interim savings association, the stock of which is to be wholly owned, except as otherwise provided in this section, by the mutual association; and

(B) transferring the substantial part of its assets and liabilities, including all of its insured liabilities, to the interim savings association.

(2) Directors and certain account holders' approval of plan required

A reorganization is not authorized under this subsection unless—

(A) a plan providing for such reorganization has been approved by a majority of the board of directors of the mutual savings association; and

(B) in the case of an association in which holders of accounts and obligors exercise voting rights, such plan has been submitted to and approved by a majority of such individuals at a meeting held at the call of the directors in accordance with the procedures prescribed by the association's charter and bylaws.

(3) Notice to the Board; disapproval period

(A) Notice required

At least 60 days prior to taking any action described in paragraph (1), a savings association seeking to establish a mutual holding company shall provide written notice to the Board. The notice shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

(B) Transaction allowed if not disapproved

Unless the Board within such 60-day notice period disapproves the proposed holding company formation, or extends for another 30 days the period during which such disapproval may be issued, the savings association providing such notice may proceed with the transaction, if the requirements of paragraph (2) have been met.

(C) Grounds for disapproval

The Board may disapprove any proposed holding company formation only if—

- (i) such disapproval is necessary to prevent unsafe or unsound practices;
- (ii) the financial or management resources of the savings association involved warrant disapproval;
- (iii) the savings association fails to furnish the information required under subparagraph (A); or
- (iv) the savings association fails to comply with the requirement of paragraph (2).

(D) Retention of capital assets

In connection with the transaction described in paragraph (1), a savings association may, subject to the approval of the Board, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Board pursuant to subsections (s) and (t) of section 1464 of this title.

(4) Ownership

(A) In general

Persons having ownership rights in the mutual association pursuant to section 1464(b)(1)(B) of this title or State law shall have the same ownership rights with respect to the mutual holding company.

(B) Holders of certain accounts

Holders of savings, demand or other accounts of—

- (i) a savings association chartered as part of a transaction described in paragraph (1); or
- (ii) a mutual savings association acquired pursuant to paragraph (5)(B),

shall have the same ownership rights with respect to the mutual holding company as persons described in subparagraph (A) of this paragraph.

(5) Permitted activities

A mutual holding company may engage only in the following activities:

- (A) Investing in the stock of a savings association.
- (B) Acquiring a mutual association through the merger of such association into a savings association subsidiary of such holding company or an interim savings association subsidiary of such holding company.
- (C) Subject to paragraph (6), merging with or acquiring another holding company, one of whose subsidiaries is a savings association.
- (D) Investing in a corporation the capital stock of which is available for purchase by a savings association under Federal law or under the law of any State where the subsidiary savings association or associations have their home offices.
- (E) Engaging in the activities described in subsection (c)(2) or (c)(9)(A)(ii).

(6) Limitations on certain activities of acquired holding companies

(A) New activities

If a mutual holding company acquires or merges with another holding company under paragraph (5)(C), the holding company acquired or the holding company resulting from such merger or acquisition may only invest in assets and engage in activities which are authorized under paragraph (5).

(B) Grace period for divesting prohibited assets or discontinuing prohibited activities

Not later than 2 years following a merger or acquisition described in paragraph (5)(C), the acquired holding company or the holding company resulting from such merger or acquisition shall—

- (i) dispose of any asset which is an asset in which a mutual holding company may not invest under paragraph (5); and
- (ii) cease any activity which is an activity in which a mutual holding company may not engage under paragraph (5).

(7) Regulation

A mutual holding company shall be chartered by the Board and shall be subject to such regulations as the Board may prescribe. Unless the context otherwise requires, a mutual holding company shall be subject to the other requirements of this section regarding regulation of holding companies.

(8) Capital improvement

(A) Pledge of stock of savings association subsidiary

This section shall not prohibit a mutual holding company from pledging all or a portion of the stock of a savings association chartered as part of a transaction described in paragraph (1) to raise capital for such savings association.

(B) Issuance of nonvoting shares

This section shall not prohibit a savings association chartered as part of a transaction described in paragraph (1) from issuing any nonvoting shares or less than 50 percent of the voting shares of such association to any person other than the mutual holding company.

(9) Insolvency and liquidation

(A) In general

Notwithstanding any provision of law, upon—

- (i) the default of any savings association—
 - (I) the stock of which is owned by any mutual holding company; and
 - (II) which was chartered in a transaction described in paragraph (1);
- (ii) the default of a mutual holding company; or
- (iii) a foreclosure on a pledge by a mutual holding company described in paragraph (8)(A),

a trustee shall be appointed receiver of such mutual holding company and such trustee shall have the authority to liquidate the assets of, and satisfy the liabilities of, such mutual holding company pursuant to title 11.

(B) Distribution of net proceeds

Except as provided in subparagraph (C), the net proceeds of any liquidation of any mutual holding company pursuant to subparagraph (A) shall be transferred to persons who hold ownership interests in such mutual holding company.

(C) Recovery by Corporation

If the Corporation incurs a loss as a result of the default of any savings association subsidiary of a mutual holding company which is liquidated pursuant to subparagraph (A), the Corporation shall succeed to the ownership interests of the depositors of such savings association in the

mutual holding company, to the extent of the Corporation's loss.

(10) Definitions

For purposes of this subsection—

(A) Mutual holding company

The term "mutual holding company" means a corporation organized as a holding company under this subsection.

(B) Mutual association

The term "mutual association" means a savings association which is operating in mutual form.

(C) Default

The term "default" means an adjudication or other official determination of a court of competent jurisdiction or other public authority pursuant to which a conservator, receiver, or other legal custodian is appointed.

(11) Dividends

(A) Declaration of dividends

(i) Advance notice required

Each subsidiary of a mutual holding company that is a savings association shall give the appropriate Federal banking agency and the Board notice not later than 30 days before the date of a proposed declaration by the board of directors of the savings association of any dividend on the guaranty, permanent, or other nonwithdrawable stock of the savings association.

(ii) Invalid dividends

Any dividend described in clause (i) that is declared without giving notice to the appropriate Federal banking agency and the Board under clause (i), or that is declared during the 30-day period preceding the date of a proposed declaration for which notice is given to the appropriate Federal banking agency and the Board under clause (i), shall be invalid and shall confer no rights or benefits upon the holder of any such stock.

(B) Waiver of dividends

A mutual holding company may waive the right to receive any dividend declared by a subsidiary of the mutual holding company, if—

(i) no insider of the mutual holding company, associate of an insider, or tax-qualified or non-tax-qualified employee stock benefit plan of the mutual holding company holds any share of the stock in the class of stock to which the waiver would apply; or

(ii) the mutual holding company gives written notice to the Board of the intent of the mutual holding company to waive the right to receive dividends, not later than 30 days before the date of the proposed date of payment of the dividend, and the Board does not object to the waiver.

(C) Resolution included in waiver notice

A notice of a waiver under subparagraph (B) shall include a copy of the resolution of the board of directors of the mutual holding company, in such form and substance as the Board may determine, together with any supporting materials relied upon by the board of directors of the mutual holding company, concluding that the proposed dividend waiver is consistent with the fiduciary duties of the board of directors to the mutual members of the mutual holding company.

(D) Standards for waiver of dividend

The Board may not object to a waiver of dividends under subparagraph (B) if—

(i) the waiver would not be detrimental to the safe and sound operation of the savings

association;

(ii) the board of directors of the mutual holding company expressly determines that a waiver of the dividend by the mutual holding company is consistent with the fiduciary duties of the board of directors to the mutual members of the mutual holding company; and

(iii) the mutual holding company has, prior to December 1, 2009—

(I) reorganized into a mutual holding company under this subsection;

(II) issued minority stock either from its mid-tier stock holding company or its subsidiary stock savings association; and

(III) waived dividends it had a right to receive from the subsidiary stock savings association.

(E) Valuation

(i) In general

The appropriate Federal banking agency shall consider waived dividends in determining an appropriate exchange ratio in the event of a full conversion to stock form.

(ii) Exception

In the case of a savings association that has reorganized into a mutual holding company, has issued minority stock from a mid-tier stock holding company or a subsidiary stock savings association of the mutual holding company, and has waived dividends it had a right to receive from a subsidiary savings association before December 1, 2009, the appropriate Federal banking agency shall not consider waived dividends in determining an appropriate exchange ratio in the event of a full conversion to stock form.

(p) Holding company activities constituting serious risk to subsidiary savings association

(1) Determination and imposition of restrictions

If the Board or the appropriate Federal banking agency for the savings association determines that there is reasonable cause to believe that the continuation by a savings and loan holding company of any activity constitutes a serious risk to the financial safety, soundness, or stability of a savings and loan holding company's subsidiary savings association, the Board may impose such restrictions as the Board, in consultation with the appropriate Federal banking agency for the savings association determines to be necessary to address such risk. Such restrictions shall be issued in the form of a directive to the holding company and any of its subsidiaries, limiting—

(A) the payment of dividends by the savings association;

(B) transactions between the savings association, the holding company, and the subsidiaries or affiliates of either; and

(C) any activities of the savings association that might create a serious risk that the liabilities of the holding company and its other affiliates may be imposed on the savings association.

Such directive shall be effective as a cease and desist order that has become final.

(2) Review of directive

(A) Administrative review

After a directive referred to in paragraph (1) is issued, the savings and loan holding company, or any subsidiary of such holding company subject to the directive, may object and present in writing its reasons why the directive should be modified or rescinded. Unless within 10 days after receipt of such response the Board affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

(B) Judicial review

If the Board affirms or modifies a directive pursuant to subparagraph (A), any affected party may immediately thereafter petition the United States district court for the district in which the savings and loan holding company has its main office or in the United States District Court for the District of Columbia to stay, modify, terminate or set aside the directive. Upon a showing of

extraordinary cause, the savings and loan holding company, or any subsidiary of such holding company subject to a directive, may petition a United States district court for relief without first pursuing or exhausting the administrative remedies set forth in this paragraph.

(q) Qualified stock issuance by undercapitalized savings associations or holding companies

(1) In general

For purposes of this section, any issue of shares of stock shall be treated as a qualified stock issuance if the following conditions are met:

(A) The shares of stock are issued by—

- (i) an undercapitalized savings association; or
- (ii) a savings and loan holding company which is not a bank holding company but which controls an undercapitalized savings association if, at the time of issuance, the savings and loan holding company is legally obligated to contribute the net proceeds from the issuance of such stock to the capital of an undercapitalized savings association subsidiary of such holding company.

(B) All shares of stock issued consist of previously unissued stock or treasury shares.

(C) All shares of stock issued are purchased by a savings and loan holding company that is registered, as of the date of purchase, with the Board in accordance with the provisions of subsection (b)(1) of this section.

(D) Subject to paragraph (2), the Board approved the purchase of the shares of stock by the acquiring savings and loan holding company.

(E) The entire consideration for the stock issued is paid in cash by the acquiring savings and loan holding company.

(F) At the time of the stock issuance, each savings association subsidiary of the acquiring savings and loan holding company (other than an association acquired in a transaction pursuant to subsection (c) or (k) of section 1823 of this title or section 408(m) ³ of the National Housing Act [12 U.S.C. 1730a(m)]) has capital (after deducting any subordinated debt, intangible assets, and deferred, unamortized gains or losses) of not less than 6½ percent of the total assets of such savings association.

(G) Immediately after the stock issuance, the acquiring savings and loan holding company holds not more than 15 percent of the outstanding voting stock of the issuing undercapitalized savings association or savings and loan holding company.

(H) Not more than one of the directors of the issuing association or company is an officer, director, employee, or other representative of the acquiring company or any of its affiliates.

(I) Transactions between the savings association or savings and loan holding company that issues the shares pursuant to this section and the acquiring company and any of its affiliates shall be subject to the provisions of section 1468 of this title.

(2) Approval of acquisitions

(A) Additional capital commitments not required

The Board shall not disapprove any application for the purchase of stock in connection with a qualified stock issuance on the grounds that the acquiring savings and loan holding company has failed to undertake to make subsequent additional capital contributions to maintain the capital of the undercapitalized savings association at or above the minimum level required by the Board or any other Federal agency having jurisdiction.

(B) Other conditions

Notwithstanding subsection (a)(4), the Board may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Board determines to be appropriate, including—

- (i) a requirement that any savings association subsidiary of the acquiring savings and loan holding company limit dividends paid to such holding company for such period of time as the

Board may require; and

(ii) such other conditions as the Board deems necessary or appropriate to prevent evasions of this section.

(C) Application deemed approved if not disapproved within 90 days

An application for approval of a purchase of stock in connection with a qualified stock issuance shall be deemed to have been approved by the Board if such application has not been disapproved by the Board before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Board.

(3) No limitation on class of stock issued

The shares of stock issued in connection with a qualified stock issuance may be shares of any class.

(4) "Undercapitalized savings association" defined

For purposes of this subsection, the term "undercapitalized savings association" means any savings association—

(A) the assets of which exceed the liabilities of such association; and

(B) which does not comply with one or more of the capital standards in effect under section 1464(t) of this title.

(r) Penalty for failure to provide timely and accurate reports

(1) First tier

Any savings and loan holding company, and any subsidiary of such holding company, which—

(A) maintains procedures reasonably adapted to avoid any inadvertent and unintentional error and, as a result of such an error—

(i) fails to submit or publish any report or information required under this section or regulations prescribed by the Board or appropriate Federal banking agency, within the period of time specified by the Board or appropriate Federal banking agency; or

(ii) submits or publishes any false or misleading report or information; or

(B) inadvertently transmits or publishes any report which is minimally late,

shall be subject to a penalty of not more than \$2,000 for each day during which such failure continues or such false or misleading information is not corrected. Such holding company or subsidiary shall have the burden of proving by a preponderance ⁸ of the evidence that an error was inadvertent and unintentional and that a report was inadvertently transmitted or published late.

(2) Second tier

Any savings and loan holding company, and any subsidiary of such holding company, which—

(A) fails to submit or publish any report or information required under this section or under regulations prescribed by the Board or appropriate Federal banking agency, within the period of time specified by the Board or appropriate Federal banking agency; or

(B) submits or publishes any false or misleading report or information,

in a manner not described in paragraph (1) shall be subject to a penalty of not more than \$20,000 for each day during which such failure continues or such false or misleading information is not corrected.

(3) Third tier

If any savings and loan holding company or any subsidiary of such a holding company knowingly or with reckless disregard for the accuracy of any information or report described in paragraph (2) submits or publishes any false or misleading report or information, the Board or

appropriate Federal banking agency may assess a penalty of not more than \$1,000,000 or 1 percent of total assets of such company or subsidiary, whichever is less, per day for each day during which such failure continues or such false or misleading information is not corrected.

(4) Assessment

Any penalty imposed under paragraph (1), (2), or (3) shall be assessed and collected by the Board or appropriate Federal banking agency in the manner provided in subparagraphs (E), (F), (G), and (I) of section 1818(i)(2) of this title (for penalties imposed under such section) and any such assessment (including the determination of the amount of the penalty) shall be subject to the provisions of such subsection.

(5) Hearing

Any savings and loan holding company or any subsidiary of such a holding company against which any penalty is assessed under this subsection shall be afforded a hearing if such savings and loan holding company or such subsidiary, as the case may be, submits a request for such hearing within 20 days after the issuance of the notice of assessment. Section 1818(h) of this title shall apply to any proceeding under this subsection.

(s) Mergers, consolidations, and other acquisitions authorized

(1) In general

Subject to sections 1815(d)(3) ³ and 1828(c) of this title and all other applicable laws, any Federal savings association may acquire or be acquired by any insured depository institution.

(2) Expedited approval of acquisitions

(A) In general

Any application by a savings association to acquire or be acquired by another insured depository institution which is required to be filed with the appropriate Federal banking agency for the savings association under any applicable law or regulation shall be approved or disapproved in writing by the appropriate Federal banking agency for the savings association before the end of the 60-day period beginning on the date such application is filed with the agency.

(B) Extension of period

The period for approval or disapproval referred to in subparagraph (A) may be extended for an additional 30-day period if the appropriate Federal banking agency for the savings association determines that—

- (i) an applicant has not furnished all of the information required to be submitted; or
- (ii) in the judgment of the appropriate Federal banking agency for the savings association, any material information submitted is substantially inaccurate or incomplete.

(3) "Acquire" defined

For purposes of this subsection, the term "acquire" means to acquire, directly or indirectly, ownership or control through a merger or consolidation or an acquisition of assets or assumption of liabilities, provided that following such merger, consolidation, or acquisition, an acquiring insured depository institution may not own the shares of the acquired insured depository institution.

(4) Regulations

(A) Required

The Comptroller shall prescribe such regulations as may be necessary to carry out paragraph (1).

(B) Effective date

The regulations required under subparagraph (A) shall—

- (i) be prescribed in final form before the end of the 90-day period beginning on December

19, 1991; and

(ii) take effect before the end of the 120-day period beginning on December 19, 1991.

(5) Limitation

No provision of this section shall be construed to authorize a national bank or any subsidiary thereof to engage in any activity not otherwise authorized under the National Bank Act [12 U.S.C. 21 et seq.] or any other law governing the powers of a national bank.

(t) Exemption for bank holding companies

This section shall not apply to a bank holding company that is subject to the Bank Holding Company Act of 1956 [12 U.S.C. 1841 et seq.], or any company controlled by such bank holding company.

(u) Data standards

(1) Requirement

The Board shall adopt data standards for all information that, through a collection of information, is regularly filed with or submitted to the Board by any savings and loan holding company, or subsidiary of a savings and loan holding company, other than a depository institution, under this section.

(2) Consistency

The data standards required under paragraph (1) shall incorporate, and ensure compatibility with (to the extent feasible), all applicable data standards established in the rules promulgated under section 5334 of this title, including, to the extent practicable, by having the characteristics described in clauses (i) through (vi) of subsection (c)(1)(B) of such section 5334.

(June 13, 1933, ch. 64, §10, as added Pub. L. 100–86, title IV, §404(a), Aug. 10, 1987, 101 Stat. 609; amended Pub. L. 101–73, title III, §§301, 303(a), title IX, §§905(j), 907(k), Aug. 9, 1989, 103 Stat. 318, 343, 462, 475; Pub. L. 102–242, title II, §211, title IV, §§437–440, title V, §502(a), Dec. 19, 1991, 105 Stat. 2298, 2381, 2392; Pub. L. 102–550, title XVI, §§1606(f)(4), 1607(b), Oct. 28, 1992, 106 Stat. 4088, 4089; Pub. L. 104–201, div. A, title X, §1077, Sept. 23, 1996, 110 Stat. 2664; Pub. L. 104–208, div. A, title II, §§2201(b)(2), 2203(a)–(c), 2303(e), (g), 2704(d)(12)(B), Sept. 30, 1996, 110 Stat. 3009–403, 3009–404, 3009–424, 3009–425, 3009–490; Pub. L. 106–102, title IV, §401(a), (b), title VI, §604(d), Nov. 12, 1999, 113 Stat. 1434, 1436, 1452; Pub. L. 106–569, title XII, §§1201(b)(2), 1202, Dec. 27, 2000, 114 Stat. 3032; Pub. L. 109–171, title II, §2102(b), Feb. 8, 2006, 120 Stat. 9; Pub. L. 109–173, §9(e)(2), Feb. 15, 2006, 119 Stat. 3617; Pub. L. 111–203, title III, §369(8), title VI, §§604(g), (h)(2), (i), 606(b), 616(b), 623(c)–625(a), July 21, 2010, 124 Stat. 1564, 1602–1604, 1607, 1615, 1635, 1636; Pub. L. 117–263, div. E, title LVIII, §5861(b), Dec. 23, 2022, 136 Stat. 3434.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Bank Holding Company Act of 1956, referred to in subsecs. (a)(1)(D)(ii)(I), (c)(2)(H)(ii), (e)(1)(B)(iii), (m)(3)(C), and (t), is act May 9, 1956, ch. 240, 70 Stat. 133, which is classified principally to chapter 17 (§1841 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1841 of this title and Tables.

The Consumer Financial Protection Act of 2010, referred to in subsec. (b)(4)(A), is title X of Pub. L. 111–203, July 21, 2010, 124 Stat. 1955. Subtitle B of the Act is classified generally to part B (§5511 et seq.) of subchapter V of chapter 53 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

Sections 406 and 408 of the National Housing Act, referred to in subsecs. (c)(3)(B)(i)(I), (6)(C)(i), (iv), (e)(1)(A)(iii)(VI), and (q)(1)(F), which were classified to sections 1729 and 1730a of this title, respectively, were repealed by Pub. L. 101–73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

The transfer date, referred to in subsec. (e)(7)(B)(iii), probably means the transfer date defined in section 5301 of this title.

Section 1815(d) of this title, referred to in subsecs. (m)(3)(G) and (s)(1), was amended by Pub. L. 109–173, §8(a)(4), (5)(D), Feb. 15, 2006, 119 Stat. 3610, 3611, and no longer contains provisions relating to conversion transactions. Section 1815(d)(3), which related to optional conversions by insured depository institutions, was struck out and section 1815(d)(1)(C) was redesignated section 1815(d)(3).

Section 1465 of this title, referred to in subsec. (m)(4)(B)(iii), was repealed by Pub. L. 106–569, title XII, §1201(a), Dec. 27, 2000, 114 Stat. 3032.

The National Bank Act, referred to in subsec. (s)(5), is act June 3, 1864, ch. 106, 13 Stat. 99, which is classified principally to chapter 2 (§21 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 38 of this title.

CODIFICATION

The directory language of sections 905(j) and 907(k) of Pub. L. 101–73 amending subsec. (i) of this section resulted in the enactment of two virtually identical pars. (2) and (3) both relating to civil money penalties and a par. (5) identical to former par. (4). See 1989 Amendment notes below.

AMENDMENTS

2022—Subsec. (u). Pub. L. 117–263 added subsec. (u).

2010—Subsec. (a)(1)(A). Pub. L. 111–203, §369(8)(A), substituted "appropriate Federal banking agency" for "Director".

Subsec. (a)(1)(D)(ii). Pub. L. 111–203, §604(i), amended cl. (ii) generally. Prior to amendment, text read as follows: "The term 'savings and loan holding company' does not include a bank holding company that is registered under, and subject to, the Bank Holding Company Act of 1956, or to any company directly or indirectly controlled by such company (other than a savings association)."

Subsec. (a)(1)(F). Pub. L. 111–203, §369(8)(A), substituted "appropriate Federal banking agency" for "Director".

Subsec. (a)(2)(D), (3)(A), (4). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director".

Subsec. (b)(1). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (b)(2). Pub. L. 111–203, §604(g), designated existing provisions as subpar. (A), inserted heading, and added subpars. (B) and (C).

Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Pub. L. 111–203, §369(8)(B)(i), struck out "and the regional office of the Director of the district in which its principal office is located," before "such reports as may be required".

Subsec. (b)(3). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director".

Subsec. (b)(4). Pub. L. 111–203, §604(h)(2), added par. (4) and struck out former par. (4). Prior to amendment, text read as follows: "Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Board may prescribe. The cost of such examinations shall be assessed against and paid by such holding company. Examination and other reports may be furnished by the Board to the appropriate State supervisory authority. The Board shall, to the extent deemed feasible, use for the purposes of this subsection reports filed with or examinations made by other Federal agencies or the appropriate State supervisory authority."

Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (b)(5). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director".

Subsec. (b)(6). Pub. L. 111–203, §369(8)(K), substituted "The Board" for "The Director" and "if the Board" for "if the Director".

Pub. L. 111–203, §369(8)(B)(ii), which directed substitution of "motion or application of the Board" for "Director's own motion or application", was executed by making the substitution for "Director's own motion or upon application", to reflect the probable intent of Congress.

Subsec. (c)(2)(F)(i). Pub. L. 111–203, §369(8)(K), substituted "unless the Board" for "unless the Director".

Pub. L. 111–203, §369(8)(C)(i), struck out "of Governors of the Federal Reserve System" after "which the Board".

Subsec. (c)(2)(G). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director".

Subsec. (c)(2)(H). Pub. L. 111–203, §606(b), added subpar. (H).

Subsec. (c)(4). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (c)(4)(B). Pub. L. 111–203, §369(8)(C)(ii), struck out "by Director" at end of heading.

Subsec. (c)(5), (6). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (c)(6)(D). Pub. L. 111–203, §369(8)(C)(iii), which directed striking out "by director" in heading, was executed by striking out "by Director" after "Order" in heading, to reflect the probable intent of Congress.

Subsec. (c)(9)(E). Pub. L. 111–203, §369(8)(K), substituted "Board" for "Director" in two places.

Pub. L. 111-203, §369(8)(C)(iv), inserted "(in consultation with the appropriate Federal banking agency)" after "including a determination".

Subsec. (e). Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (e)(2)(E). Pub. L. 111-203, §623(c)(1), added subpar. (E).

Subsec. (e)(7). Pub. L. 111-203, §623(c)(2), added par. (7).

Subsec. (f). Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (g)(1). Pub. L. 111-203, §616(b), inserted ", including regulations and orders relating to capital requirements for savings and loan holding companies," after "issue such regulations and orders" and "In establishing capital regulations pursuant to this subsection, the appropriate Federal banking agency shall seek to make such requirements countercyclical so that the amount of capital required to be maintained by a company increases in times of economic expansion and decreases in times of economic contraction, consistent with the safety and soundness of the company." at end.

Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (g)(2), (3)(A), (4), (5)(A). Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (g)(5)(B). Pub. L. 111-203, §369(8)(K), substituted "The Board" for "The Director".

Pub. L. 111-203, §369(8)(D), substituted "the discretion of the Board" for "the Director's discretion".

Subsecs. (h) to (j). Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (l). Pub. L. 111-203, §369(8)(E), substituted "appropriate Federal banking agency" for "Director" in pars. (1) and (2).

Subsec. (m). Pub. L. 111-203, §369(8)(F), which directed substitution of "appropriate Federal banking agency" for "Director", was executed by making the substitution wherever appearing, to reflect the probable intent of Congress.

Subsec. (m)(3)(A). Pub. L. 111-203, §624(1), added subpar. (A) and struck out former subpar. (A). Prior to amendment, text read as follows: "A savings association that fails to become or remain a qualified thrift lender shall either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D)."

Subsec. (m)(3)(B)(i)(III), (IV). Pub. L. 111-203, §624(2), added subcls. (III) and (IV) and struck out former subcl. (III). Prior to amendment, text of subcl. (III) read as follows: "The savings association shall be subject to all statutes and regulations governing the payment of dividends by a national bank in the same manner and to the same extent as if the savings association were a national bank."

Subsec. (o)(3). Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" wherever appearing.

Subsec. (o)(7). Pub. L. 111-203, §369(8)(K), substituted "Board" for "Director" in two places.

Subsec. (o)(11). Pub. L. 111-203, §625(a), added par. (11).

Subsec. (p)(1). Pub. L. 111-203, §369(8)(G)(i), in introductory provisions, substituted "If the Board or the appropriate Federal banking agency for the savings association determines" for "If the Director determines", "Board may" for "Director may", and "as the Board, in consultation with the appropriate Federal banking agency for the savings association determines" for "as the Director determines".

Subsec. (p)(2). Pub. L. 111-203, §369(8)(G)(ii), substituted "Board" for "Director" in subpars. (A) and (B).

Subsec. (q). Pub. L. 111-203, §369(8)(H), substituted "Board" for "Director" wherever appearing.

Subsec. (r). Pub. L. 111-203, §369(8)(I), substituted "Board or appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (s)(2). Pub. L. 111-203, §369(8)(J)(i)(II), substituted "appropriate Federal banking agency for the savings association" for "Director" wherever appearing.

Subsec. (s)(2)(B)(ii). Pub. L. 111-203, §369(8)(J)(i)(I), substituted "judgment of the appropriate Federal banking agency for the savings association" for "Director's judgment".

Subsec. (s)(4)(A). Pub. L. 111-203, §369(8)(J)(ii), substituted "Comptroller" for "Director".

2006—Subsec. (c)(6)(D). Pub. L. 109-173, §9(e)(2)(A), substituted "this chapter" for "this title".

Subsec. (e)(1)(A)(iii)(VII). Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(B)(i). See 1996 Amendment note below.

Subsec. (e)(1)(A)(iv). Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(B)(ii). See 1996 Amendment note below.

Subsec. (e)(1)(B). Pub. L. 109-173, §9(e)(2)(B), substituted "Deposit Insurance Fund" for "Savings Association Insurance Fund or Bank Insurance Fund".

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(B)(iii). See 1996 Amendment note below.

Subsec. (e)(2). Pub. L. 109-173, §9(e)(2)(C), substituted "Deposit Insurance Fund" for "Savings Association Insurance Fund or the Bank Insurance Fund" in introductory provisions.

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(B)(iv). See 1996 Amendment note below.

Subsec. (e)(4)(B). Pub. L. 109-173, §9(e)(2)(D), substituted "subsection (I)" for "subsection (1)".

Subsec. (g)(3)(A). Pub. L. 109-173, §9(e)(2)(E), substituted "(5) of this subsection" for "(5) of this section".

Subsec. (i)(4), (5). Pub. L. 109-173, §9(e)(2)(F), redesignated par. (5) as (4).

Subsec. (m)(3)(E) to (H). Pub. L. 109-173, §9(e)(2)(G), redesignated subpars. (F) to (H) as (E) to (G), respectively, and struck out heading and text of former subpar. (E). Text read as follows: "Any bank chartered as a result of the requirements of this section shall be obligated until December 31, 1993, to pay to the Savings Association Insurance Fund the assessments assessed on savings associations under the Federal Deposit Insurance Act. Such association shall also be assessed, on the date of its change of status from a Savings Association Insurance Fund member, the exit fee and entrance fee provided in section 5(d) of the Federal Deposit Insurance Act. Such institution shall not be obligated to pay the assessments assessed on banks under the Federal Deposit Insurance Act until—

"(i) December 31, 1993, or

"(ii) the institution's change of status from a Savings Association Insurance Fund member to a Bank Insurance Fund member, whichever is later."

Pub. L. 109-171 repealed Pub. L. 104-208, §2704(d)(12)(B)(v). See 1996 Amendment notes below.

Subsec. (m)(7)(A). Pub. L. 109-173, §9(e)(2)(H), substituted "during the period" for "during period" in concluding provisions.

Subsec. (o)(3)(D). Pub. L. 109-173, §9(e)(2)(I), substituted "subsections (s) and (t) of section 1464 of this title" for "sections 1464(s) and (t) of this title".

2000—Subsec. (e)(1)(A)(iii). Pub. L. 106-569, §1202, in introductory provisions, inserted ", except with the prior written approval of the Director," after "to acquire, by purchase or otherwise, or to retain" and substituted "acquire or retain, and the Director may not authorize acquisition or retention of," for "so acquire or retain".

Subsec. (m)(4)(B)(iii). Pub. L. 106-569, §1201(b)(2), inserted "as in effect on the day before December 27, 2000," after "section 1465 of this title,".

1999—Subsec. (c)(9). Pub. L. 106-102, §401(a), added par. (9).

Subsec. (m)(3)(B)(i)(III), (IV). Pub. L. 106-102, §604(d)(1), redesignated subcl. (IV) as (III) and struck out heading and text of former subcl. (III). Text read as follows: "The savings association shall not be eligible to obtain new advances from any Federal home loan bank."

Subsec. (m)(3)(B)(ii). Pub. L. 106-102, §604(d)(2), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: "The following additional restrictions shall apply to a savings association beginning 3 years after the date on which the savings association should have become or ceases to be a qualified thrift lender:

"(I) **ACTIVITIES**.—The savings association shall not retain any investment (including an investment in any subsidiary) or engage, directly or indirectly, in any activity unless that investment or activity would be permissible for the savings association if it were a national bank, and is also permissible for the savings association as a savings association.

"(II) **ADVANCES**.—The savings association shall repay any outstanding advances from any Federal home loan bank as promptly as can be prudently done consistent with the safe and sound operation of the savings association."

Subsec. (o)(5)(E). Pub. L. 106-102, §401(b), substituted "subsection (c)(2) or (c)(9)(A)(ii) of this section" for "subsection (c)(2) of this section, except subparagraph (B)".

1996—Subsec. (a)(1)(D). Pub. L. 104-208, §2203(b), amended heading and text of subpar. (D) generally. Prior to amendment, text read as follows: "The term 'savings and loan holding company' means any company which directly or indirectly controls a savings association or controls any other company which is a savings and loan holding company."

Subsec. (e)(1)(A)(iii)(VII). Pub. L. 104-208, §2704(d)(12)(B)(i), which directed insertion of "or" at end, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below.

Pub. L. 104-208, §2203(c)(1), inserted "or" at end.

Subsec. (e)(1)(A)(iv). Pub. L. 104-208, §2704(d)(12)(B)(ii), which directed insertion of "and" at end, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below.

Pub. L. 104-208, §2203(c)(2), inserted "and" at end.

Subsec. (e)(1)(B). Pub. L. 104-208, §2704(d)(12)(B)(iii), which directed substitution of "Deposit Insurance Fund" for "Savings Association Insurance Fund or Bank Insurance Fund", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (e)(1)(B)(iii). Pub. L. 104-208, §2203(c)(3), added cl. (iii).

Subsec. (e)(2). Pub. L. 104-208, §2704(d)(12)(B)(iv), which directed substitution of "Deposit Insurance Fund" for "Savings Association Insurance Fund or the Bank Insurance Fund", was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (m)(1). Pub. L. 104-208, §2203(e)(3), added subpar. (A), redesignated existing provisions as subpar. (B), and redesignated former subpars. (A) and (B) as cls. (i) and (ii), respectively, of subpar. (B).

Subsec. (m)(3)(E). Pub. L. 104-208, §2704(d)(12)(B)(v), which directed the amendment of par. (3) by striking subpar. (E) and redesignating subpar. (F) as (E), was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (m)(3)(F). Pub. L. 104-208, §2704(d)(12)(B)(v), which directed the amendment of par. (3) by redesignating subpar. (F) as (E), was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Pub. L. 104-201 substituted "associations serving certain" for "association serving transient" in heading, substituted "company if" for "company if—" and cl. (i), struck out cl. (ii) designation before "at least 90", and substituted "members" for "officers" in two places. Prior to amendment, cl. (i) read as follows: "the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and".

Subsec. (m)(3)(G), (H). Pub. L. 104-208, §2704(d)(12)(B)(v), which directed the amendment of par. (3) by redesignating subpars. (G) and (H) as (F) and (G), respectively, was repealed by Pub. L. 109-171. See Effective Date of 1996 Amendment note below and 2006 Amendment note above.

Subsec. (m)(4). Pub. L. 104-208, §2303(g)(1), substituted "subsection, the following definitions apply:" for "subsection—" in introductory provisions.

Subsec. (m)(4)(C)(ii)(VII). Pub. L. 104-208, §2303(g)(2)(A), added subcl. (VII).

Subsec. (m)(4)(C)(iii)(VI). Pub. L. 104-208, §2303(g)(2)(B), added cl. (VI) and struck out former cl. (VI) which read as follows: "Loans for personal, family, household, or educational purposes, but the dollar amount treated as qualified thrift investments under this subclause may not exceed the amount which is equal to 10 percent of the savings association's portfolio assets."

Subsec. (m)(4)(D), (E). Pub. L. 104-208, §2303(g)(3), added subpars. (D) and (E).

Subsec. (s)(2)(A). Pub. L. 104-208, §2201(b)(2), substituted "under any" for "under section 5(d)(3) of the Federal Deposit Insurance Act or any other".

Subsec. (t). Pub. L. 104-208, §2203(a), added subsec. (t).

1992—Subsec. (m)(1), (3)(D). Pub. L. 102-550, §1606(f)(4), amended Pub. L. 102-242, §437. See 1991 Amendment note below.

Subsecs. (s), (t). Pub. L. 102-550, §1607(b), redesignated subsec. (t) as (s).

1991—Subsec. (e)(1). Pub. L. 102-242, §211(1), inserted after subpar. (B) "Consideration of the managerial resources of a company or savings association under subparagraph (B) shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association."

Subsec. (e)(2). Pub. L. 102-242, §211(2)(A), inserted after second sentence "Consideration of the managerial resources of a company or savings association shall include consideration of the competence, experience, and integrity of the officers, directors, and principal shareholders of the company or association."

Subsec. (e)(2)(C), (D). Pub. L. 102-242, §211(2)(B)–(D), added subpars. (C) and (D).

Subsec. (m)(1)(A). Pub. L. 102-242, §437(b)(1), as added by Pub. L. 102-550, §1606(f)(4)(B), substituted "65 percent" for "70 percent".

Subsec. (m)(1)(B). Pub. L. 102-242, §437(a), as amended by Pub. L. 102-550, §1606(f)(4)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the savings association's qualified thrift investments continue to equal or exceed 70 percent of the savings association's portfolio assets, as measured by a daily or weekly average of such qualified thrift investments and such portfolio assets, for the 2-year period beginning on July 1, 1991, and for each 2-year period thereafter."

Subsec. (m)(3)(D). Pub. L. 102-242, §437(b)(2), as added by Pub. L. 102-550, §1606(f)(4)(B), substituted "on a monthly average basis in 9 out of the preceding 12 months" for "for the preceding 2-year period".

Subsec. (m)(4)(B)(iii). Pub. L. 102-242, §438, substituted "20 percent" for "10 percent".

Subsec. (m)(4)(C)(ii). Pub. L. 102-242, §439(1), added subcl. (VI).

Subsec. (m)(4)(C)(iii)(VI). Pub. L. 102-242, §440(a), substituted "10 percent" for "5 percent".

Subsec. (m)(4)(C)(iii)(VII). Pub. L. 102-242, §439(2), added subcl. (VII).

Subsec. (m)(4)(C)(iv). Pub. L. 102-242, §440(b), substituted "20 percent" for "15 percent".

Subsec. (t). Pub. L. 102-242, §502(a), added subsec. (t).

1989—Pub. L. 101-73, §301, amended section generally, substituting subsecs. (a) to (r) relating to regulation of holding companies for former subsecs. (a) to (d) relating to thrift industry recovery regulations.

Subsec. (i)(1). Pub. L. 101-73, §907(k)(1), added par. (1) and struck out former par. (1) which related to criminal penalties.

Subsec. (i)(2). Pub. L. 101-73, §907(k)(1), (2), redesignated par. (3) as (2) and struck out former par. (2) which related to penalties for making false entries.

Subsec. (i)(3), (4). Pub. L. 101-73, §907(k)(2), (3), redesignated par. (4), relating to notice after separation from service, as (3) and amended par. (3) generally, substituting provisions relating to and penalties for provisions relating to notice after separation from service. Former par. (3) redesignated (2). See Codification note above.

Subsec. (i)(5). Pub. L. 101-73, §905(j), added par. (5).

Subsec. (m). Pub. L. 101-73, §303(a), amended subsec. (m) generally, revising and restating as pars. (1) to (7) provisions of former pars. (1) to (6).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 369(8) of Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 604(g), (h)(2), (i) of Pub. L. 111-203 effective on the transfer date, see section 604(j) of Pub. L. 111-203, set out as a note under section 1462 of this title.

Pub. L. 111-203, title VI, §606(c), July 21, 2010, 124 Stat. 1607, provided that: "The amendments made by this section [amending this section and section 1843 of this title] shall take effect on the transfer date."

[For definition of "transfer date" as used in section 606(c) of Pub. L. 111-203, set out above, see section 5301 of this title.]

Pub. L. 111-203, title VI, §616(e), July 21, 2010, 124 Stat. 1616, provided that: "The amendments made by this section [enacting section 1831o-1 of this title and amending this section and sections 1844 and 3907 of this title] shall take effect on the transfer date."

[For definition of "transfer date" as used in section 616(e) of Pub. L. 111-203, set out above, see section 5301 of this title.]

Amendment by sections 623(c), 624 of Pub. L. 111-203 effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111-203, set out as an Effective Date note under section 5301 of this title.

Pub. L. 111-203, title VI, §625(b), July 21, 2010, 124 Stat. 1638, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on the transfer date."

[For definition of "transfer date" as used in section 625(b) of Pub. L. 111-203, set out above, see section 5301 of this title.]

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-173 effective Mar. 31, 2006, see section 9(j) of Pub. L. 109-173, set out as a note under section 24 of this title.

Amendment by Pub. L. 109-171 effective no later than the first day of the first calendar quarter that begins after the end of the 90-day period beginning Feb. 8, 2006, see section 2102(c) of Pub. L. 109-171, set out as a Merger of BIF and SAIF note under section 1821 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 2704(d)(12)(B) of Pub. L. 104-208 effective Jan. 1, 1999, if no insured depository institution is a savings association on that date, see section 2704(c) of Pub. L. 104-208, formerly set out as a note under section 1821 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-550 effective as if included in the Federal Deposit Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-73, title III, §303(b), Aug. 9, 1989, 103 Stat. 350, provided that: "The amendment made by subsection (a) [amending this section] shall take effect on July 1, 1991."

Amendment by section 301 of Pub. L. 101-73 relating to civil penalties applicable with respect to violations committed and activities engaged in after Aug. 9, 1989, except that the increased maximum civil

penalties of \$5,000 and \$25,000 per violation or per day may apply to such violations or activities committed or engaged in before such date with respect to an institution if such violations or activities (1) are not already subject to a notice issued by the appropriate Federal banking agency or the Board (initiating an administrative proceeding); and (2) occurred after the completion of the last report of examination of the institution by the appropriate Federal banking agency (as defined in section 1813 of this title) occurring before Aug. 9, 1989, see section 305(c) of Pub. L. 101-73, set out as a note under section 1461 of this title.

Amendment by section 907(k) of Pub. L. 101-73 applicable to conduct engaged in after Aug. 9, 1989, except that increased maximum penalties of \$5,000 and \$25,000 may apply to conduct engaged in before such date if such conduct is not already subject to a notice issued by the appropriate agency and occurred after completion of the last report of the examination of the institution by the appropriate agency occurring before Aug. 9, 1989, see section 907(l) of Pub. L. 101-73, set out as a note under section 93 of this title.

SAVINGS PROVISION

Pub. L. 101-73, title III, §302, Aug. 9, 1989, 103 Stat. 343, as amended by Pub. L. 111-203, title III, §367(2), July 21, 2010, 124 Stat. 1556, provided that: "Notwithstanding the amendment made by this title to section 10 of the Home Owners' Loan Act [12 U.S.C. 1467a] and the repeal of section 416 of the National Housing Act [12 U.S.C. 1730i]—

"(1) any plan approved by the Federal Home Loan Bank Board under such section 10 for any Federal savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Comptroller of the Currency regular and complete reports on the association's progress in meeting the association's goals under the plan; and

"(2) any plan approved by the Federal Savings and Loan Insurance Corporation under such section 416 for any State savings association shall continue in effect as long as such association adheres to the plan and continues to submit to the Federal Deposit Insurance Corporation regular and complete reports on the association's progress in meeting the savings association's goals under the plan."

RULE OF CONSTRUCTION REGARDING NO NEW DISCLOSURE REQUIREMENTS

Amendment by Pub. L. 117-263 not to be construed to require certain additional information to be collected or disclosed, see section 5864 of Pub. L. 117-263, set out as a note under section 253 of this title.

RULE OF CONSTRUCTION FOR CERTAIN APPLICATIONS

Pub. L. 106-102, title IV, §401(c), Nov. 12, 1999, 113 Stat. 1436, provided that:

"(1) IN GENERAL.—In the case of a company that—

"(A) submits an application with the Director of the Office of Thrift Supervision before the date of the enactment of this Act [Nov. 12, 1999] to convert a State-chartered trust company controlled by such company on May 4, 1999, to a savings association; and

"(B) controlled a subsidiary on May 4, 1999, that had submitted an application to the Director on September 2, 1998;

the company (including any subsidiary controlled by such company as of such date of enactment [Nov. 12, 1999]) shall be treated as having filed such conversion application with the Director before May 4, 1999, for purposes of section 10(c)(9)(C) of the Home Owners' Loan Act [12 U.S.C. 1467a(c)(9)(C)] (as added by subsection (a)).

"(2) DEFINITIONS.—For purposes of paragraph (1), the terms 'company', 'control', 'savings association', and 'subsidiary' have the meanings given those terms in section 10 of the Home Owners' Loan Act."

ASSOCIATIONS THAT HAVE PREVIOUSLY FAILED TO REMAIN QUALIFIED THRIFT LENDERS

Pub. L. 101-73, title III, §303(c), Aug. 9, 1989, 103 Stat. 351, provided that: "If, as of June 30, 1991, any savings association is subject to any provision of section 10(m)(3) of the Home Owners' Loan Act [12 U.S.C. 1467a(m)(3)] as in effect on that date, the amendment to this subsection made by section 303 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 [Pub. L. 101-73], shall not be construed as reducing the period specified in section 10(m)(3) of such Act."

CAPITAL RECOVERY; SUBMISSION OF PROPOSED REGULATIONS TO CONGRESS; EFFECTIVE DATE; STUDY, REPORT, AND CONGRESSIONAL REVIEW

Pub. L. 100-86, title IV, §404(c)-(e), Aug. 10, 1987, 101 Stat. 612, required the Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation to each submit a report to Congress containing the proposed regulations required to be prescribed under 12 U.S.C. 1467a and 1730i of this title not later than the end of the 90-day period beginning on Aug. 10, 1987; required the regulations to be

implemented not later than the end of the 150-day period beginning on Aug. 10, 1987; and required, not later than Jan. 31, 1989, a detailed evaluation of, and report the effectiveness of, the regulations in achieving an increased level of capitalization for thrift institutions.

SUNSET AND SAVINGS PROVISION

Section ceases to be effective on date that notice of completion of all net new borrowing by Financing Corporation is published in Federal Register [Mar. 30, 1992, 57 F.R. 10763], with such termination not to be construed to affect or limit any authority of Federal Home Loan Bank Board or Federal Savings and Loan Insurance Corporation to prescribe any regulation or engage in any activity with respect to any association or insured institution under any other provision of law, see section 416 of Pub. L. 100-86, set out as a note under section 1441 of this title.

¹ *So in original. Probably should be followed by another closing parenthesis.*

² *So in original. Probably should be followed by "of 1956".*

³ *See References in Text note below.*

⁴ *So in original. Probably should be "Director".*

⁵ *So in original. Probably should be "subsection".*

⁶ *See Codification note below.*

⁷ *So in original. The words "the appropriate Federal banking agency determines that" probably should not appear.*

⁸ *So in original. Probably should be "preponderance".*

§1467b. Intermediate holding companies

(a) Definition

For purposes of this section:

(1) Financial activities

The term "financial activities" means activities described in clauses (i) and (ii) of section 1467a(c)(9)(A) of this title.

(2) Grandfathered unitary savings and loan holding company

The term "grandfathered unitary savings and loan holding company" means a company described in section 1467a(c)(9)(C) of this title.

(3) Internal financial activities

The term "internal financial activities" includes—

(A) internal financial activities conducted by a grandfathered savings and loan holding company or any affiliate; and

(B) internal treasury, investment, and employee benefit functions.

(b) Requirement

(1) In general

(A) Activities other than financial activities

If a grandfathered unitary savings and loan holding company conducts activities other than financial activities, the Board may require such company to establish and conduct all or a

portion of such financial activities in or through an intermediate holding company, which shall be a savings and loan holding company, established pursuant to regulations of the Board, not later than 90 days (or such longer period as the Board may deem appropriate) after the transfer date.¹

(B) Other activities

Notwithstanding subparagraph (A), the Board shall require a grandfathered unitary savings and loan holding company to establish an intermediate holding company if the Board makes a determination that the establishment of such intermediate holding company is necessary—

- (i) to appropriately supervise activities that are determined to be financial activities; or
- (ii) to ensure that supervision by the Board does not extend to the activities of such company that are not financial activities.

(2) Internal financial activities

(A) Treatment of internal financial activities

For purposes of this subsection, the internal financial activities of a grandfathered unitary savings and loan holding company shall not be required to be placed in an intermediate holding company.

(B) Grandfathered activities

A grandfathered unitary savings and loan holding company may continue to engage in an internal financial activity, subject to review by the Board to determine whether engaging in such activity presents undue risk to the grandfathered unitary savings and loan holding company or to the financial stability of the United States, if—

- (i) the grandfathered unitary savings and loan holding company engaged in the activity during the year before July 21, 2010; and
- (ii) at least 2/3 of the assets or 2/3 of the revenues generated from the activity are from or attributable to the grandfathered unitary savings and loan holding company.

(3) Source of strength

A grandfathered unitary savings and loan holding company that directly or indirectly controls an intermediate holding company established under this section shall serve as a source of strength to its subsidiary intermediate holding company.

(4) Parent company reports

The Board, may from time to time, examine and require reports under oath from a grandfathered unitary savings and loan holding company that controls an intermediate holding company, and from the appropriate officers or directors of such company, solely for purposes of ensuring compliance with the provisions of this section, including assessing the ability of the company to serve as a source of strength to its subsidiary intermediate holding company as required under paragraph (3) and enforcing compliance with such requirement.

(5) Limited parent company enforcement

(A) In general

In addition to any other authority of the Board, the Board may enforce compliance with the provisions of this subsection that are applicable to any company described in paragraph (1)(A) that controls an intermediate holding company under section 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], and a company described in paragraph (1)(A) shall be subject to such section (solely for purposes of this subparagraph) in the same manner and to the same extent as if the company described in paragraph (1)(A) were a savings and loan holding company.

(B) Application of other Act

Any violation of this subsection by a grandfathered unitary savings and loan holding company that controls an intermediate holding company may also be treated as a violation of the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.] for purposes of subparagraph (A).

(C) No effect on other authority

No provision of this paragraph shall be construed as limiting any authority of the Board or any other Federal agency under any other provision of law.

(c) Regulations

The Board—

(1) shall promulgate regulations to establish the criteria for determining whether to require a grandfathered unitary savings and loan holding company to establish an intermediate holding company under subsection (b); and

(2) may promulgate regulations to establish any restrictions or limitations on transactions between an intermediate holding company or a parent of such company and its affiliates, as necessary to prevent unsafe and unsound practices in connection with transactions between the intermediate holding company, or any subsidiary thereof, and its parent company or affiliates that are not subsidiaries of the intermediate holding company, except that such regulations shall not restrict or limit any transaction in connection with the bona fide acquisition or lease by an unaffiliated person of assets, goods, or services.

(d) Rules of construction

(1) Activities

Nothing in this section shall be construed to require a grandfathered unitary savings and loan holding company to conform its activities to permissible activities.

(2) Permissible corporate reorganization

The formation of an intermediate holding company as required in subsection (b) shall be presumed to be a permissible corporate reorganization as described in section 1467a(c)(9)(D) of this title.

(June 13, 1933, ch. 64, §10A, as added Pub. L. 111–203, title VI, §626, July 21, 2010, 124 Stat. 1638.)

EDITORIAL NOTES

REFERENCES IN TEXT

The transfer date, referred to in subsec. (b)(1)(A), probably means the transfer date defined in section 5301 of this title.

The Federal Deposit Insurance Act, referred to in subsec. (b)(5)(B), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective 1 day after July 21, 2010, except as otherwise provided, see section 4 of Pub. L. 111–203, set out as a note under section 5301 of this title.

¹ [*See References in Text note below.*](#)

§1468. Transactions with affiliates; extensions of credit to executive officers, directors, and principal shareholders

(a) Affiliate transactions

(1) In general

Sections 23A and 23B of the Federal Reserve Act [12 U.S.C. 371c and 371c–1] shall apply to

every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act [12 U.S.C. 221 et seq.]), except that—

(A) no loan or other extension of credit may be made to any affiliate unless that affiliate is engaged only in activities described in section 1467a(c)(2)(F)(i) of this title; and

(B) no savings association may enter into any transaction described in section 23A(b)(7)(B) of the Federal Reserve Act with any affiliate other than with respect to shares of a subsidiary.

(2) Sister bank exemption made available to savings associations

(A) Savings associations controlled by bank holding companies

Every savings association more than 80 percent of the voting stock of which is owned by a company described in section 1467a(c)(8) of this title shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act, if every savings association and bank controlled by such company complies with all applicable capital requirements on a fully phased-in basis and without reliance on goodwill.

(B) Savings associations generally

Effective on and after January 1, 1995, every savings association shall be treated as a bank for purposes of section 23A(d)(1) and section 23B of the Federal Reserve Act.

(3) Affiliates described

Any company that would be an affiliate (as defined in sections 23A and 23B of the Federal Reserve Act) of any savings association if such savings association were a member bank (as such term is defined in such Act) shall be deemed to be an affiliate of such savings association for purposes of paragraph (1).

(4) Additional restrictions authorized

The appropriate Federal banking agency may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the appropriate Federal banking agency determines to be necessary to protect the safety and soundness of the savings association.

(b) Extensions of credit to executive officers, directors, and principal shareholders

(1) In general

Subsections (g) and (h) of section 22 of the Federal Reserve Act [12 U.S.C. 375a, 375b] shall apply to every savings association in the same manner and to the same extent as if the savings association were a member bank (as defined in such Act).

(2) Additional restrictions authorized

The appropriate Federal banking agency may impose such additional restrictions on loans or extensions of credit to any appropriate Federal banking agency or executive officer of any savings association, or any person who directly or indirectly owns, controls, or has the power to vote more than 10 percent of any class of voting securities of a savings association, as the appropriate Federal banking agency determines to be necessary to protect the safety and soundness of the savings association.

(c) Administrative enforcement

The appropriate Federal banking agency may take enforcement action with respect to violations of this section pursuant to section 8 or 18(j) of the Federal Deposit Insurance Act [12 U.S.C. 1818 or 1828(j)], as appropriate.

(d) Exemptions

(1) Federal savings associations

The Comptroller of the Currency may, by order, exempt a transaction of a Federal savings association from the requirements of this section if—

(A) the Board and the Office of the Comptroller of the Currency jointly find the exemption to

be in the public interest and consistent with the purposes of this section and notify the Federal Deposit Insurance Corporation of such finding; and

(B) before the end of the 60-day period beginning on the date on which the Federal Deposit Insurance Corporation receives notice of the finding under subparagraph (A), the Federal Deposit Insurance Corporation does not object, in writing, to the finding, based on a determination that the exemption presents an unacceptable risk to the Deposit Insurance Fund.

(2) State savings association

The Federal Deposit Insurance Corporation may, by order, exempt a transaction of a State savings association from the requirements of this section if the Board and the Federal Deposit Insurance Corporation jointly find that—

(A) the exemption is in the public interest and consistent with the purposes of this section; and

(B) the exemption does not present an unacceptable risk to the Deposit Insurance Fund.

(June 13, 1933, ch. 64, §11, formerly §9, 48 Stat. 135; Apr. 27, 1934, ch. 168, §15, 48 Stat. 647; renumbered §11, Pub. L. 100–86, title IV, §402(a), Aug. 10, 1987, 101 Stat. 605; Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 342; Pub. L. 102–242, title III, §306(i), Dec. 19, 1991, 105 Stat. 2359; Pub. L. 103–325, title III, §316, Sept. 23, 1994, 108 Stat. 2223; Pub. L. 111–203, title III, §369(9), title VI, §608(c), July 21, 2010, 124 Stat. 1565, 1610.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Reserve Act, referred to in subsecs. (a)(1), (3) and (b)(1), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

AMENDMENTS

2010—Pub. L. 111–203, §369(9), substituted "appropriate Federal banking agency" for "Director" wherever appearing.

Subsec. (d). Pub. L. 111–203, §608(c), added subsec. (d).

1994—Subsec. (a)(2)(C). Pub. L. 103–325, §316(b), struck out heading and text of subpar. (C) which read as follows:

"(C) TRANSITION RULE FOR WELL CAPITALIZED SAVINGS ASSOCIATIONS.—

"(i) IN GENERAL.—A savings association that is well capitalized (as defined in section 1831o of this title), as determined without including goodwill in calculating core capital, shall be treated as a bank for purposes of section 371c(d)(1) of this title and section 371c–1 of this title.

"(ii) LIABILITY OF COMMONLY CONTROLLED DEPOSITORY INSTITUTIONS.—Any savings association that engages under clause (i) in a transaction that would not otherwise be permissible under this subsection, and any affiliated insured bank that is commonly controlled (as defined in section 1815(e)(9) of this title), shall be subject to subsection (e) of section 1815 of this title as if paragraph (6) of that subsection did not apply."

Pub. L. 103–325, §316(a), added subpar. (C).

1991—Subsec. (b)(1). Pub. L. 102–242 substituted "Subsections (g) and (h) of section 22" for "Section 22(h)".

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (c) relating to affiliate transactions, extensions of credit, and administrative enforcement, for former undesignated paragraph relating to separability of provisions.

1934—Act Apr. 27, 1934, reenacted section without change.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 369(9) of Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

Amendment by section 608(c) of Pub. L. 111–203 effective 1 year after the transfer date, see section 608(d) of Pub. L. 111–203, set out as a note under section 371c of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103–325, title III, §316(b), Sept. 23, 1994, 108 Stat. 2223, provided that amendment made by that section is effective Jan. 1, 1995.

EFFECTIVE DATE OF 1991 AMENDMENT

Amendment by Pub. L. 102–242 effective upon the earlier of the date on which final regulations under section 306(m)(1) of Pub. L. 102–242 become effective or 150 days after Dec. 19, 1991, see section 306(l) of Pub. L. 102–242, set out as a note under section 375b of this title.

TRANSITIONAL RULE FOR CERTAIN TRANSACTIONS WITH AFFILIATES

Pub. L. 101–73, title III, §304, Aug. 9, 1989, 103 Stat. 351, provided that:

"(a) **CONSISTENCY OF CERTAIN REGULATIONS WITH SECTION 23A OF THE FEDERAL RESERVE ACT** [12 U.S.C. 371c].—Not later than 6 months after the date of enactment of this Act [Aug. 9, 1989], the Director of the Office of Thrift Supervision shall revise the Director's conflicts regulations so as not to prohibit a thrift institution from purchasing mortgages from a mortgage-banking affiliate to the same extent as a member bank may do so under section 250.250 of title 12, Code of Federal Regulations.

"(b) **TRANSITIONAL PERIOD**.—Notwithstanding section 11(a) of the Home Owners' Loan Act [12 U.S.C. 1468(a)] (as added by section 301 of this Act), a thrift institution that, before May 1, 1989, had received approval from the Federal Savings and Loan Insurance Corporation pursuant to section 408(d)(6) of the National Housing Act [former 12 U.S.C. 1730a(d)(6)] as then in effect to purchase mortgages from a mortgage-banking affiliate may, during the 6-month period following the date on which final regulations are prescribed pursuant to subsection (a), continue to engage in transactions for which it had received such approval. Any savings association that engages in such transactions pursuant to this subsection shall comply with the standards that were applicable under section 408(d)(6) as in effect on May 1, 1989.

"(c) **AUTHORITY TO EXTEND REGULATORY APPROVALS THAT WOULD OTHERWISE LAPSE DURING THE TRANSITIONAL PERIOD**.—The Director of the Office of Thrift Supervision may extend until the expiration of the 6-month period described in subsection (b) any approval granted by the Federal Savings and Loan Insurance Corporation that expires or would expire before the expiration of that 6-month period. In determining whether to grant such exemptions, the Director shall apply the standards that were applicable under section 408(d)(6) of the National Housing Act [former 12 U.S.C. 1730a(d)(6)] as in effect on May 1, 1989."

§1468a. Advertising

No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by a Federal banking agency.

(June 13, 1933, ch. 64, §12, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 343; amended Pub. L. 111–203, title III, §369(10), July 21, 2010, 124 Stat. 1565.)

EDITORIAL NOTES

AMENDMENTS

2010—Pub. L. 111–203 substituted "a Federal banking agency" for "the Director".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

§1468b. Powers of examiners

For the purposes of this chapter, examiners appointed by the a ¹ Federal banking agency shall—

(1) be subject to the same requirements, responsibilities, and penalties as are applicable to examiners under the Federal Reserve Act [12 U.S.C. 221 et seq.] and title LXII of the Revised Statutes; and

(2) have, in the exercise of functions under this chapter, the same powers and privileges as are vested in such examiners by law.

(June 13, 1933, ch. 64, §13, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 343; amended Pub. L. 111–203, title III, §369(11), July 21, 2010, 124 Stat. 1565.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Reserve Act, referred to in par. (1), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, which is classified principally to chapter 3 (§221 et seq.) of this title. For complete classification of this Act to the Code, see References in Text note set out under section 226 of this title and Tables.

Title LXII of the Revised Statutes, referred to in par. (1), consists of R.S. §§5133 to 5244, which are classified to sections 16, 21, 22 to 24a, 25a, 25b, 26, 27, 29, 35 to 37, 39, 43, 52, 53, 55 to 57, 59 to 62, 66, 71, 72 to 76, 81, 83 to 86, 90, 91, 93, 93a, 94, 141 to 144, 161, 164, 181, 182, 192 to 194, 196, 215c, 481 to 485, 501, 541, 548, and 582 of this title. See, also, sections 8, 333, 334, 475, 656, 709, 1004, and 1005 of Title 18, Crimes and Criminal Procedure. For complete classification of R.S. §§5133 to 5244 to the Code, see Tables.

AMENDMENTS

2010—Pub. L. 111–203 substituted "a Federal banking agency" for "Director" in introductory provisions.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

¹ *So in original.*

§1468c. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(June 13, 1933, ch. 64, §14, as added Pub. L. 101–73, title III, §301, Aug. 9, 1989, 103 Stat. 343.)

§1469. Authority to invest in State housing corporations

The Congress finds that Federal savings and loan associations and national banks should have the authority to assist in financing the organization and operation of any State housing corporation established under the laws of the State in which the corporation will carry on its operation. It is the purpose of this section to provide a means whereby private financial institutions can assist in providing housing, particularly for families of low- or moderate-income, by purchasing stock of and investing in loans to any such State housing corporation situated in the particular State in which the Federal savings and loan association or national bank involved is located.

(Pub. L. 93–100, §5(a), Aug. 16, 1973, 87 Stat. 343.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in text, means section 5 of Pub. L. 93–100, which enacted this section and section 1470 of this title and amended sections 24 and 1464 of this title.

CODIFICATION

Section was not enacted as part of the Home Owners' Loan Act of 1933 which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 93–100, §8, Aug. 16, 1973, 87 Stat. 348, provided that: "The provisions of this Act [enacting this section and sections 1470 and 1832 of this title, amending sections 24, 461 note, 1464, 1725, 1727 and 1828 of this title, and enacting provisions set out as notes under section 548 of this title] shall take effect on the thirtieth day after the date of its enactment [Aug. 16, 1973], except that the amendments made by sections 1 and 5 [enacting this section and section 1470 of this title and amending sections 24, 461 note, and 1464 of this title] shall take effect on the date of enactment of this Act [Aug. 16, 1973]."

§1470. Federal supervision of insured institutions, State member and nonmember banks; access to information; definitions

(a)(1) The appropriate Federal banking agency, with respect to the institutions subject to the jurisdiction of each such agency, shall by appropriate rule, regulation, order, or otherwise regulate investment in State housing corporations.

(2) A State housing corporation in which financial institutions invest under the authority of this section shall make available to the appropriate Federal banking agency referred to in paragraph (1) such information as may be necessary to insure that investments are properly made in accordance with this section.

(b) For the purposes of this section and any Act amended by this section—

(1) The term "insured institution" has the same meaning as in section 401(a) of the National Housing Act [12 U.S.C. 1724(a)].¹

(2) The terms "State member insured banks" and "State nonmember insured banks" have the same meaning as when used in the Federal Deposit Insurance Act [12 U.S.C. 1811 et seq.].

(3) The term "State housing corporation" means a corporation established by a State for the limited purpose of providing housing and incidental services, particularly for families of low or moderate income.

(4) The term "State" means any State, the District of Columbia, Guam, the Commonwealth of Puerto Rico, and the Virgin Islands.

(Pub. L. 93–100, §5(d), (e), Aug. 16, 1973, 87 Stat. 344; Pub. L. 111–203, title III, §375, July 21, 2010, 124 Stat. 1566.)

EDITORIAL NOTES

REFERENCES IN TEXT

This section, referred to in subsec. (a)(2), refers to section 5 of Pub. L. 93–100, which enacted this section and section 1469 of this title and amended sections 24 and 1464 of this title.

This section and any Act amended by this section, referred to in subsec. (b), are this section and sections 24 par. Seventh, 1464(c), and 1469 of this title.

Section 401(a) of the National Housing Act, referred to in subsec. (b)(1), which was classified to section 1724 of this title, was repealed by Pub. L. 101–73, title IV, §407, Aug. 9, 1989, 103 Stat. 363.

The Federal Deposit Insurance Act, referred to in subsec. (b)(2), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, which is classified generally to chapter 16 (§1811 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1811 of this title and Tables.

CODIFICATION

Section was not enacted as part of the Home Owners' Loan Act of 1933, which comprises this chapter.

Subsecs. (d) and (e) of section 5 of Pub. L. 93–100 have been designated subsecs. (a) and (b) for purposes of codification.

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111–203, §375(1), substituted "appropriate Federal banking agency, with respect to the institutions subject to the jurisdiction of each such agency," for "Federal Savings and Loan Insurance Corporation with respect to insured institutions, the Board of Governors of the Federal Reserve System with respect to State member insured banks, and the Federal Deposit Insurance Corporation with respect to State nonmember insured banks".

Subsec. (a)(2). Pub. L. 111–203, §375(2), substituted "banking" for "supervisory".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

EFFECTIVE DATE

Section effective Aug. 16, 1973, see section 8 of Pub. L. 93–100, set out as a note under section 1469 of this title.

¹ [*See References in Text note below.*](#)

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- 1701. Short title.
- 1701a. Short title of amendment of 1938.
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- 1701c–1 to 1701d–3. Omitted or Repealed.
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- 1701k. Right to redeem property on which United States has lien.
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- 1701l–1. Mortgage proceeds fraudulently misappropriated by mortgagor; recovery of deficiency after foreclosure.
- 1701m. Credit and cancellation of notes transferred from Reconstruction Finance Corporation; net loss computation.
- 1701n. Reduction of vulnerability of congested urban areas to enemy attack.

- 1701o. Annual report of Secretary.
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- 1701p-1. Periodic report on residential mortgage delinquencies and foreclosures.
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- 1701y. National Homeownership Foundation.
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- 1701z-5. Demonstrations of heating or cooling residential housing utilizing solar energy.
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- 1701z-7. Studies to determine extent of need for counseling to mortgagors; report to Congress.
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- 1715z–1a. Assistance for troubled multifamily housing projects.
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- 1715z-2. Repealed.
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- 1717. Federal National Mortgage Association and Government National Mortgage Association.
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SUBCHAPTER VII—INSURANCE FOR INVESTMENTS IN RENTAL HOUSING FOR FAMILIES OF MODERATE INCOME

- 1747. Purpose of subchapter; authorization; terms and conditions; expiration of insurance contract.
- 1747a. Eligibility for insurance.
- 1747b. Premium charges; fees for examination and inspection.
- 1747c. Rent schedules.
- 1747d. Excess earnings used for amortization of original investment.
- 1747e. Financial statements by Secretary.
- 1747f. Payment of claims; assignment of benefits by investors.
- 1747g. Debentures.
- 1747h. Termination of insurance contract by investor.
- 1747i. Repealed.
- 1747j. Taxation of real property.
- 1747k. Rules and regulations.
- 1747l. Definitions.

SUBCHAPTER VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

- 1748. Definitions.
- 1748a. Repealed.
- 1748b. Insurance of mortgages.
- 1748c. Repealed.
- 1748d. Lease of property; terms and conditions.
- 1748e. Mortgages on property in Alaska.
- 1748f. Rules and regulations.
- 1748g. Cost certification.
- 1748g–1, 1748h. Omitted.
- 1748h–1. Civilian employees of Armed Forces.
- 1748h–2. Insurance of mortgages for defense housing for impacted areas.
- 1748h–3. Payments in lieu of taxes; limitations; exemption from taxation.
- 1748i. Omitted.

SUBCHAPTER IX—HOUSING FOR EDUCATIONAL INSTITUTIONS

- 1749 to 1749c. Repealed.

1749d. Cost of inspections and of providing representatives.

SUBCHAPTER IX—A—MORTGAGE INSURANCE FOR LAND DEVELOPMENT AND NEW COMMUNITIES

1749aa to 1749ll. Repealed.

SUBCHAPTER IX—B—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES AND MEDICAL PRACTICE FACILITIES

1749aaa. Insurance of mortgages.

1749aaa-1. Premiums and other charges.

1749aaa-2. Payment of insurance benefits.

1749aaa-3. Regulations.

1749aaa-4. Administration.

1749aaa-5. Definitions.

SUBCHAPTER IX—C—NATIONAL INSURANCE DEVELOPMENT PROGRAM

1749bbb to 1749bbb-2. Omitted.

PART A—STATEWIDE PLANS TO ASSURE FAIR ACCESS TO INSURANCE REQUIREMENTS

1749bbb-3 to 1749bbb-6a. Omitted.

PART B—REINSURANCE COVERAGE

1749bbb-7 to 1749bbb-10. Omitted.

PART C—FEDERAL INSURANCE AGAINST BURGLARY AND THEFT

1749bbb-10a to 1749bbb-10d. Omitted.

PART D—GENERAL PROVISIONS

1749bbb-11 to 1749bbb-21. Omitted.

SUBCHAPTER X—NATIONAL DEFENSE HOUSING INSURANCE

1750. Definitions.

1750a. Repealed or Omitted.

1750a-1.

1750b. Insurance in critical areas.

1750c. Mortgage insurance benefits.

1750d. Repealed.

1750e. Taxation.

1750f. Rules and regulations.

1750g. Insurance of additional mortgages.

SUBCHAPTER XI—VOLUNTARY HOME MORTGAGE CREDIT

1750aa to 1750jj. Omitted.

§1701. Short title

This chapter may be cited as the "National Housing Act."

(June 27, 1934, ch. 847, 48 Stat. 1246.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, 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.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SHORT TITLE OF 2019 AMENDMENT

Pub. L. 116–33, §1, July 25, 2019, 133 Stat. 1038, provided that: "This Act [amending section 1721 of this title and section 3709 of Title 38, Veterans' Benefits, and enacting provisions set out as a note under section 1721 of this title] may be cited as the 'Protecting Affordable Mortgages for Veterans Act of 2019'."

SHORT TITLE OF 2013 AMENDMENT

Pub. L. 113–29, §1, Aug. 9, 2013, 127 Stat. 509, provided that: "This Act [amending section 1715z–20 of this title] may be cited as the 'Reverse Mortgage Stabilization Act of 2013'."

SHORT TITLE OF 2011 AMENDMENT

Pub. L. 111–372, §1(a), Jan. 4, 2011, 124 Stat. 4077, provided that: "This Act [amending sections 1701q and 1701q–2 of this title and section 1437f of Title 42, The Public Health and Welfare, and amending provisions set out as notes under section 1701q of this title] may be cited as the 'Section 202 Supportive Housing for the Elderly Act of 2010'."

SHORT TITLE OF 2010 AMENDMENT

Pub. L. 111–203, title XIV, §1441, July 21, 2010, 124 Stat. 2163, provided that: "This subtitle [subtitle D (§§1441–1452) of title XIV of Pub. L. 111–203, enacting sections 1701p–2 and 1701x–1 of this title and section 8108 of Title 42, The Public Health and Welfare, and amending sections 1701x and 2604 of this title and section 3533 of Title 42] may be cited as the 'Expand and Preserve Home Ownership Through Counseling Act'."

SHORT TITLE OF 2008 AMENDMENT

Pub. L. 110–289, div. A, title IV, §1401, July 30, 2008, 122 Stat. 2800, provided that: "This title [enacting section 1715z–23 of this title and section 1639a of Title 15, Commerce and Trade, and amending section 1708 of this title] may be cited as the 'HOPE for Homeowners Act of 2008'."

Pub. L. 110–289, div. B, §2001, July 30, 2008, 122 Stat. 2830, provided that: "This division [see Tables for classification] may be cited as the 'Foreclosure Prevention Act of 2008'."

Pub. L. 110–289, div. B, title I, §2101, July 30, 2008, 122 Stat. 2830, provided that: "This title [enacting sections 1706f and 1715z–24 of this title, amending sections 1701x, 1703, 1707 to 1709, 1711, 1715y, 1715z–12, 1715z–13, 1715z–20, and 1735c of this title and section 1014 of Title 18, Crimes and Criminal Procedure, repealing sections 1715m, 1715z–2, and 1715z–10 of this title, enacting provisions set out as notes under this section and sections 1701x, 1703, 1709, and 1710 of this title, and amending provisions set out as a note under section 12712 of Title 42, The Public Health and Welfare] may be cited as the 'FHA Modernization Act of 2008'."

Pub. L. 110–289, div. B, title I, §2111, July 30, 2008, 122 Stat. 2830, provided that: "This subtitle [subtitle A (§§2111–2133) of title I of div. B of Pub. L. 110–289, enacting section 1715z–24 of this title, amending sections 1701x, 1707 to 1709, 1711, 1715y, 1715z–12, 1715z–13, 1715z–20, and 1735c of this title and section 1014 of Title 18, Crimes and Criminal Procedure, repealing sections 1715m, 1715z–2, and 1715z–10 of this title, enacting provisions set out as notes under this section and sections 1701x, 1709, and 1710 of this title, and amending provisions set out as a note under section 12712 of Title 42, The Public Health and Welfare] may be cited as the 'Building American Homeownership Act of 2008'."

Pub. L. 110–289, div. B, title I, §2141, July 30, 2008, 122 Stat. 2844, provided that: "This subtitle [subtitle B (§§2141–2150) of title I of div. B of Pub. L. 110–289, enacting section 1706f of this title, amending section 1703 of this title, and enacting provisions set out as notes under section 1703 of this title] may be cited as the 'FHA Manufactured Housing Loan Modernization Act of 2008'."

Pub. L. 110–289, div. B, title VIII, §2831, July 30, 2008, 122 Stat. 2867, provided that: "This subtitle [subtitle B (§§2831–2835) of title VIII of div. B of Pub. L. 110–289, enacting section 1715s of this title and sections 1437z–8 and 11403f–1 of Title 42, The Public Health and Welfare, amending sections 1701q and 1715r of this title and sections 1437f, 1485, 3545, 11403g, 11403h, 11404, 11405, 11405b, 11406, 11407, and 11407b of Title 42, and enacting provisions set out as a note under section 1715s of this title] may be cited as the 'Housing Tax Credit Coordination Act of 2008'."

SHORT TITLE OF 2007 AMENDMENT

Pub. L. 110–37, §1, June 18, 2007, 121 Stat. 229, provided that: "This Act [amending section 1715z–13a of this title] may be cited as the 'Native American Home Ownership Opportunity Act of 2007'."

SHORT TITLE OF 2006 AMENDMENT

Pub. L. 109–240, §1, July 10, 2006, 120 Stat. 515, provided that: "This Act [amending section 1715z–7 of this title] may be cited as the 'Rural Health Care Capital Access Act of 2006'."

SHORT TITLE OF 2004 AMENDMENT

Pub. L. 108–213, §1, Apr. 1, 2004, 118 Stat. 571, provided that: "This Act [amending section 1715k of this title] may be cited as the 'Energy Efficient Housing Technical Correction Act'."

SHORT TITLE OF 2003 AMENDMENTS

Pub. L. 108–186, title III, §302(a), Dec. 16, 2003, 117 Stat. 2692, provided that: "This section [amending sections 1713, 1715e, 1715k, 1715l, 1715v, and 1715y of this title] may be cited as the 'FHA Multifamily Loan Limit Adjustment Act of 2003'."

Pub. L. 108–91, §1, Oct. 3, 2003, 117 Stat. 1158, provided that: "This Act [amending section 1715z–7 of this title and enacting provisions set out as a note under section 1715z–7 of this title] may be cited as the 'Hospital Mortgage Insurance Act of 2003'."

SHORT TITLE OF 2002 AMENDMENT

Pub. L. 107–326, §1, Dec. 4, 2002, 116 Stat. 2792, provided that: "This Act [enacting section 1712a of this title, amending sections 1709, 1713, 1715e, 1715k, 1715l, 1715v, 1715y, 1715z–10, and 1721 of this title, and repealing provisions set out as a note under section 1721 of this title] may be cited as the 'FHA Downpayment Simplification Act of 2002'."

SHORT TITLE OF 2000 AMENDMENTS

Pub. L. 106–569, §1(a), Dec. 27, 2000, 114 Stat. 2944, provided that: "This Act [see Tables for classification] may be cited as the 'American Homeownership and Economic Opportunity Act of 2000'."

Pub. L. 106–569, title VIII, §801, Dec. 27, 2000, 114 Stat. 3018, provided that: "This title [amending sections 1701q and 1715z–1 of this title and sections 8013, 13631, and 13632 of Title 42, The Public Health and Welfare, and enacting provisions set out as notes under this section and sections 1701q and 1715z–1 of this title] may be cited as the 'Affordable Housing for Seniors and Families Act'."

Pub. L. 106–281, §1, Oct. 6, 2000, 114 Stat. 865, provided that: "This Act [amending section 1709 of this title] may be cited as the 'FHA Downpayment Simplification Extension Act of 2000'."

SHORT TITLE OF 1999 AMENDMENT

Pub. L. 106–74, title V, §501(a), Oct. 20, 1999, 113 Stat. 1100, provided that: "This title [enacting section 1701q–2 of this title, amending sections 1701q, 1701q–2, 1715z–1, 1715z–1a, 1715z–11a, and 4113 of this title and sections 1437f and 8013 of Title 42, The Public Health and Welfare, enacting provisions set out as notes in sections 1701q and 1715z–1 of this title and section 12701 of Title 42, and amending provisions set out as a note under section 1437f of Title 42] may be cited as the 'Preserving Affordable Housing for Senior Citizens and Families into the 21st Century Act'."

SHORT TITLE OF 1997 AMENDMENT

Pub. L. 105–65, title V, §510, Oct. 27, 1997, 111 Stat. 1385, provided that: "This title [enacting section 1437z–1 of Title 42, The Public Health and Welfare, amending sections 1708, 1715z–1, 1715z–4a, 1715z–19, 1735f–14, 1735f–15, 1735f–19, and 4565 of this title, section 1516 of Title 18, Crimes and Criminal Procedure, section 6103 of Title 26, Internal Revenue Code, and sections 503, 1437f, and 1437z of Title 42, enacting provisions set out as notes under sections 1735f–14 and 1735f–15 of this title and sections 503, 1437f, and 1437z–1 of Title 42, and amending provisions set out as notes under section 1437f of Title 42] may be cited as the 'Multifamily Assisted Housing Reform and Affordability Act of 1997'."

SHORT TITLE OF 1996 AMENDMENT

Pub. L. 104–120, §1, Mar. 28, 1996, 110 Stat. 834, provided that: "This Act [enacting section 1490p–2 of Title 42, The Public Health and Welfare, amending sections 1715z–20, 1715z–22, and 1721 of this title and sections 1437d, 1437e, 1437n, 1479, 1485, 1490p–2, and 5308 of Title 42, and enacting provisions set out as notes under section 4101 of this title and sections 1437d, 1437f, 5305, and 12805 of Title 42] may be cited as the 'Housing Opportunity Program Extension Act of 1996'."

SHORT TITLE OF 1994 AMENDMENT

Pub. L. 103–233, §1(a), Apr. 11, 1994, 108 Stat. 342, provided that: "This Act [enacting sections 1735f–19 and 1735f–20 of this title and sections 1437x, 3547, 5321, and 12840 of Title 42, The Public Health and Welfare, amending sections 1701z–11, 1713, 1715e, 1715k, 1715y, 1715z–1a, 1715z–3, and 1735c of this title

and sections 1437a, 1437d, 1437f, 1437g, 1437i, 3535, 4852, 5301, 5304, 5305, 5308, 5318, 12704, 12744, 12745, 12750, 12833, 12838, and 12893 of Title 42, enacting provisions set out as notes under sections 1701z-11, 1715n, and 1715z-1a of this title and sections 5301 and 5318 of Title 42, amending provisions set out as notes under sections 1707 and 1715z-1a of this title and section 3545 of Title 42, and repealing provisions set out as a note under section 1701z-11 of this title] may be cited as the 'Multifamily Housing Property Disposition Reform Act of 1994'."

SHORT TITLE OF 1992 AMENDMENT

Pub. L. 102-550, title V, §541, Oct. 28, 1992, 106 Stat. 3794, provided that: "This subtitle [subtitle C (§§541-544) of title V of Pub. L. 102-550, enacting sections 1715z-22 and 1715z-22a of this title] may be cited as the 'Multifamily Housing Finance Improvement Act'."

SHORT TITLE OF 1984 AMENDMENT

Pub. L. 98-440, §1, Oct. 3, 1984, 98 Stat. 1689, provided: "That this Act [enacting section 77r-1 of Title 15, Commerce and Trade, and amending sections 24, 1451, 1454, 1455, 1464, 1717, 1723, 1723a, 1723c, and 1757 of this title and sections 78c, 78g, 78h, and 78k of Title 15] may be cited as the 'Secondary Mortgage Market Enhancement Act of 1984'."

SHORT TITLE OF 1983 AMENDMENT

Pub. L. 98-181, title I, §1(a), Nov. 30, 1983, 97 Stat. 1155, provided that: "Titles I through XI of this Act [enacting sections 635i-1, 635i-2, 635o to 635t, 1701g-5b, 1701p-1, 1701r-1, 1701z-10a, 1715z-12 to 1715z-18, and 3901 to 3912 of this title, section 1671g of Title 19, Customs Duties, sections 276c-3, 283z-3, 285x, 285y, 286b-2, 286e-1i, 286y, 286z, 286aa to 286gg, and 290g-12 of Title 22, Foreign Relations and Intercourse, and sections 1437o to 1437q, 1490k to 1490o, and 3542 of Title 42, The Public Health and Welfare, amending sections 635, 635a, 635a-2, 635a-3, 635a-4, 635b, 635e, 635f, 635g, 1437, 1701j-2, 1701j-3, 1701q, 1701s, 1701x, 1701z-1, 1703, 1706d, 1706e, 1707, 1709, 1710, 1713, 1715e, 1715h, 1715k, 1715l, 1715n, 1715u, 1715v, 1715w, 1715y, 1715z, 1715z-1, 1715z-1a, 1715z-5, 1715z-6, 1715z-7, 1715z-9, 1715z-10, 1721, 1735, 1735b, 1735c, 1735f-4, 1735f-8, 1735f-9, 1748h-1, 1748h-2, 1749bb, 1749aaa, 1749bbb to 1749bbb-2, 1749bbb-5 to 1749bbb-20, 1812, 2602, 2607, 2614, 2617, 2803, 2807, 2809, 2810, 3202, 3602, 3606, 3609, 3612, 3618, 3620, 3703, and 3804 of this title, sections 1671a and 1671b of Title 19, sections 262d, 286b, 286c, 286e-2, and 286q of Title 22, sections 1437a, 1437c, 1437d, 1437f, 1437g, 1437n, 1437l, 1439, 1452, 1452b, 1456, 1471, 1472, 1474, 1476, 1479 to 1481, 1483 to 1487, 1490, 1490a, 1490c, 1490e, 1490f, 1490j, 1500c-2, 2414, 3103, 3936, 4003, 4011 to 4020, 4022 to 4025, 4026, 4027, 4041, 4051 to 4054, 4055, 4056, 4071, 4072, 4081 to 4084, 4101 to 4107, 4121 to 4123, 4127, 4128, 5301, 5302 to 5308, 5312, 5316, 5318, 6872, 8007, 8010, and 8107 of Title 42, and section 2166 of the Appendix to Title 50, War and National Defense, repealing sections 1709-1, 1720, and 1723e of this title, section 484b of former Title 40, Public Buildings, Property, and Works, and sections 1482, 1490g, 1490i, 1500c, 3901, 3902 to 3906, 3908, 3909, 3911, 3914, 4511 to 4524, and 4528 to 4532 of Title 42, enacting provisions set out as notes under sections 635, 635a, 635o, 1701q, 1701z-6, 1709, 1713, 1715z-14, 1720, 2602, 3620, and 3901 of this title, section 484b of former Title 40, and sections 602, 1436a, 1437a, 1437f, 1441, 1472, 1490a, 3901, 4015, 4122, 4518, 5316, and 5318 of Title 42, amending provisions set out as notes under section 5301 of Title 42, and repealing provisions set out as notes under sections 1709-1 and 1723 of this title and sections 1437a and 3901 of Title 42] may be cited as the 'Domestic Housing and International Recovery and Financial Stability Act'."

Pub. L. 98-181, title I, §1(b), Nov. 30, 1983, 97 Stat. 1155, provided that: "Titles I through V of this Act [enacting sections 1701g-5b, 1701p-1, 1701r-1, 1701z-10a, and 1715z-12 to 1715z-18 of this title and sections 1437o to 1437q, 1490k to 1490o, and 3542 of Title 42, The Public Health and Welfare, amending sections 1701j-2, 1701j-3, 1701q, 1701s, 1701x, 1701z-1, 1703, 1706d, 1706e, 1707, 1709, 1710, 1713, 1715e, 1715h, 1715k, 1715l, 1715n, 1715u, 1715v, 1715w, 1715y, 1715z, 1715z-1, 1715z-1a, 1715z-5, 1715z-6, 1715z-7, 1715z-9, 1715z-10, 1721, 1735, 1735b, 1735c, 1735f-4, 1735f-8, 1735f-9, 1748h-1, 1748h-2, 1749bb, 1749aaa, 1749bbb to 1749bbb-2, 1749bbb-5 to 1749bbb-20, 2602, 2607, 2614, 2617, 3602, 3606, 3609, 3612, 3618, 3620, 3703, and 3804 of this title, and sections 1437a, 1437c, 1437d, 1437f, 1437g, 1437n, 1437l, 1439, 1452, 1452b, 1456, 1471, 1472, 1474, 1476, 1479 to 1481, 1483 to 1487, 1490, 1490a, 1490c, 1490e, 1490f, 1490j, 1500c-2, 2414, 3103, 3936, 4003, 4011 to 4020, 4022 to 4025, 4026, 4027, 4041, 4051 to 4054, 4055, 4056, 4071, 4072, 4081 to 4084, 4101 to 4107, 4121 to 4123, 4127, 4128, 5301, 5302 to 5308, 5312, 5316, 5318, 6872, 8007, 8010, and 8107 of Title 42, repealing sections 1709-1, 1720, and 1723e of this title, section 484b of former Title 40, Public Buildings, Property, and Works, and sections 1482, 1490g, 1490i, 1500c, 3901, 3902 to 3906, 3908, 3909, 3911, 3914, 4511 to 4524, and 4528 to 4532 of Title 42, enacting provisions set out as notes under sections 1701q, 1701z-6, 1709, 1713, 1715z-14,

1720, 2602, and 3620 of this title, section 484b of former Title 40, and sections 602, 1436a, 1437a, 1437f, 1441, 1472, 1490a, 3901, 4015, 4122, 4518, 5316, and 5318 of Title 42, amending provisions set out as notes under section 5301 of Title 42, and repealing provisions set out as notes under sections 1709–1 and 1723 of this title and sections 1437a and 3901 of Title 42] may be cited as the 'Housing and Urban-Rural Recovery Act of 1983'."

SHORT TITLE OF 1979 AMENDMENT

Pub. L. 96–153, title III, §311(a), Dec. 21, 1979, 93 Stat. 1115, provided that: "This section [amending section 1715z–10 of this title] may be cited as the 'Homeownership Opportunity Act of 1979'."

SHORT TITLE OF 1978 AMENDMENT

Pub. L. 95–630, title VII, §701, Nov. 10, 1978, 92 Stat. 3687, provided that: "This title [amending section 1730 of this title] may be cited as the 'Change in Savings and Loan Control Act of 1978'."

SHORT TITLE OF 1977 AMENDMENT

Pub. L. 95–24, §1, Apr. 30, 1977, 91 Stat. 55, provided: "That this Act [amending sections 1706e, 1715k, 1715l, 1735c, 1749bbb, and 1749bbb–8 of this title and sections 1437c, 1437f, 1437g, and 1451 of Title 42, The Public Health and Welfare, and enacting provisions set out as a note under section 1441 of Title 42] may be cited as the 'Supplemental Housing Authorization Act of 1977'."

SHORT TITLE OF 1976 AMENDMENT

Pub. L. 94–375, §1, Aug. 3, 1976, 90 Stat. 1067, provided that: "This Act [enacting section 1701z–7 of this title, amending sections 1464, 1701j–2, 1701q, 1701z–1 to 1701z–3, 1706e, 1713, 1715e, 1715k, 1715l, 1715v, 1715y, 1715z, 1715z–1, 1715z–6, 1715z–9, 1715z–10, 1723, 1723a, 1723e, 1735b, 1735c, 2708, 2709, and 2710 of this title, section 5315 of Title 5, Government Organization and Employees, section 461 of former Title 40, Public Buildings, Property, and Works, sections 1437a, 1437c, 1437f, 1437g, 1452b, 1480, 1490, 1490a, 3535, 4056, 4106, 4127, 4521, 5303, 5305, 5307, and 5316 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1437c and 1723e of this title, section 461 of former Title 40, and section 1382 of Title 42, and amending provisions set out as notes under sections 1715e and 1723e of this title] may be cited as the 'Housing Authorization Act of 1976'."

SHORT TITLE OF 1975 AMENDMENT

Pub. L. 94–13, prec. §1, Apr. 8, 1975, 89 Stat. 68, provided: "That this Act [amending section 1749bbb of this title and enacting provisions set out as a note under section 1749bbb of this title] may be cited as the 'National Insurance Development Act of 1975'."

SHORT TITLE OF 1974 AMENDMENT

Pub. L. 93–449, §1, Oct. 18, 1974, 88 Stat. 1364, provided that: "This Act [enacting section 1723e of this title, amending sections 347b, 1430, 1464, 1703, and 1709 of this title, enacting provisions set out as notes under section 1723e of this title, and amending provisions set out as a note under section 1904 of this title] may be cited as the 'Emergency Home Purchase Assistance Act of 1974'."

SHORT TITLE OF 1970 AMENDMENTS

Pub. L. 91–609, §1, Dec. 31, 1970, 84 Stat. 1770, provided: "That this Act [enacting sections 1466a, 1701z–1 to 1701z–4, 1709–2, 1735f–2, 1749bbb–6a, and 1749bbb–10a to 1749bbb–10d of this title; sections 694a and 694b of Title 15, Commerce and Trade; and chapter 59 (§§4501 et seq. and 4511 et seq.) of Title 42, The Public Health and Welfare; amending sections 371, 1431, 1432, 1464, 1701s, 1701x, 1703, 1712, 1715c, 1715e, 1715h, 1715l, 1715z, 1715z–1, 1715z–3, 1715z–6, 1715z–7, 1717, 1718, 1730a, 1735b to 1735d, 1748h–1, 1748h–2, 1749, 1749bb, 1749cc, 1749aaa, 1749bbb, 1749bbb–2, 1749bbb–7, 1749bbb–8, 1749bbb–11 to 1749bbb–15, 1813, and 1817 of this title; sections 692 to 694 and 1705 of title 15; section 617 of Title 16, Conservation; section 1014 of Title 18, Crimes and Criminal Procedure; section 803 of Title 20, Education; sections 461 and 484b of former Title 40, Public Buildings, Property, and Works; and sections 1401, 1402, 1410, 1415, 1421b, 1453, 1456, 1458, 1460, 1465, 1471, 1474, 1478, 1484 to 1487, 1490, 1492, 1500 to 1500d–1, 3108, 3311, 3356, 3533, 3535, 3906, 3907, and 3911 of Title 42; repealing sections 1701d–3 1701e, and 1701f of this title and sections 1436, 1452a, 3372, and 3373 of Title 42; enacting provisions set out as notes under section 694a of Title 15, and sections 1402, 1415, 1436, 1453, 1500 and 4501 of Title 42; amending provisions set out as notes under sections 1701c, 1716b, and 1749bbb of this title; and repealing provisions set out as notes under sections 1464 and 1701e of this title and section 1456 of Title 42] may be cited as the 'Housing and Urban Development Act of 1970'."

Pub. L. 91-351, §1, July 24, 1970, 84 Stat. 450, provided: "That this Act [enacting sections 1451 to 1459 and 1715z-8 of this title, and section 3941 of Title 42, The Public Health and Welfare, amending sections 82, 371, 1464, 1709-1, 1715z-3, 1717, 1719, 1720, 1726, 1730a, and 1749 of this title, and section 3906 of Title 42, and enacting provisions set out as notes under sections 1430, 1451, 1710, and 1715z-8 of this title, and section 1452 of Title 42] may be cited as the 'Emergency Home Finance Act of 1970'."

SHORT TITLE OF 1969 AMENDMENT

Pub. L. 91-152, §1, Dec. 24, 1969, 83 Stat. 379, provided: "That this Act [enacting sections 806 and 807 of Title 20, Education, section 484b of former Title 40, Public Buildings, Property, and Works, and sections 1490d and 4056 of Title 42, The Public Health and Welfare, amending sections 1425, 1464, 1701q, 1701s, 1701u, 1703, 1706d, 1707, 1709, 1709-1, 1713, 1715d, 1715e, 1715h, 1715k, 1715l, 1715m, 1715n, 1715v, 1715w, 1715y, 1715z, 1715z-1, 1715z-2, 1715z-3, 1717, 1720, 1727, 1748h-1, 1748h-2, 1749, 1749bb, 1749aaa, 1749bbb-8, 1749bbb-9, and 1749bbb-15 of this title, section 1702 of Title 15, Commerce and Trade, sections 801 to 805, and 811 of Title 20, section 461 of former Title 40, sections 1402, 1409, 1410, 1414, 1415, 1421b, 1441c, 1451, 1452, 1452b, 1453, 1455, 1460, 1463, 1466, 1467, 1468, 1468a, 1469b, 1483, 1485, 1487, 1489, 1496, 1500a, 3102, 3108, 3311, 3356, 3371, 3372, 3911, 4001, 4012, 4022, 4102, and 4121, of Title 42, and sections 1603 and 1604 of Title 49, Transportation, repealing section 1488 of Title 42, and enacting provisions set out as notes under section 1727 of this title, and section 1402 of Title 42] may be cited as the 'Housing and Urban Development Act of 1969'."

SHORT TITLE OF 1968 AMENDMENTS

Pub. L. 90-448, §1, Aug. 1, 1968, 82 Stat. 476, provided: "That this Act [enacting sections 1701t to 1701z, 1715z to 1715z-7, 1716b and 1749bbb to 1749bbb-21 of this title, sections 1701 to 1720 of Title 15, Commerce and Trade, and sections 1417a, 1441a to 1441c, 1468a, 1469 to 1469c, 1490a to 1490c, 3533a, 3901 to 3914, 3931 to 3940, 4001, 4011 to 4027, 4041, 4051 to 4055, 4071, 4072, 4081 to 4084, 4101 to 4103, and 4121 to 4127 of Title 42, The Public Health and Welfare, amending sections 24, 371, 378, 1431, 1432, 1436, 1464, 1701d-4, 1701q, 1701s, 1703, 1709, 1709-1, 1715c, 1715e, 1715k to 1715o, 1715q, 1715r, 1715w to 1715y, 1716, 1717 to 1723a, 1723c, 1735c, 1735d, 1748h-2, 1749, 1749b, 1749c, 1749aaa and 1757 of this title, sections 5315 of Title 5, Government Organization and Employees, sections 633 and 636 of Title 15, section 709 of Title 18, Crimes and Criminal Procedure, sections 801, 802 and 805 of Title 20, Education, section 846 of former Title 31, Money and Finance, section 1820 [now 3720] of Title 38, Veterans' Benefits, sections 461, 462 and 612 of former Title 40, Public Buildings, Property and Works, section 207 of former Title 40, Appendix, sections 1401, 1402, 1403, 1410, 1415, 1420, 1421b, 1436, 1451, 1452 to 1453, 1455, 1456, 1457, 1460, 1462, 1465 to 1468, 1483, 1484, 1492, 1500a, 1500d, 2414, 3101, 3102, 3104, 3108, 3311, 3331, 3332, 3335, 3336, 3338, 3356, 3372, 3534 and 3535 of Title 42, and sections 1603 to 1605 and 1608 of Title 49, Transportation, repealing sections 1417, 2401 to 2413 and 2415 to 2421 of Title 42, and note set out under section 2401 of Title 42, and enacting provisions set out as notes under this section and sections 1701c, 1709, 1709-1, 1715z, 1715z-1, 1716b, 1717, 1721 and 1749bbb of this title, section 7313 of Title 5, section 1701 of Title 15, and sections 1417, 1436, 1452, 1469, 3901 and 4001 of Title 42] may be cited as the 'Housing and Urban Development Act of 1968'."

Pub. L. 90-448, title XI, §1101, Aug. 1, 1968, 82 Stat. 555, provided that: "This title [enacting subchapter IX-C of chapter 13 of this title and section 3533a of Title 42, The Public Health and Welfare, amending sections 1701s(c)(2)(E), 1709(h) and 1735d(b) of this title, section 5315 of Title 5, Government Organization and Employees, section 636 of Title 15, and section 1462 of Title 42, and enacting provisions set out as a note under section 7313 of Title 5] may be cited as the 'Urban Property Protection and Reinsurance Act of 1968'."

Pub. L. 90-255, §1, Feb. 14, 1968, 82 Stat. 5, provided: "That this Act [amending section 1730a of this title] may be cited as the 'Savings and Loan Holding Company Amendments of 1967'."

SHORT TITLE OF 1966 AMENDMENT

Pub. L. 89-429, §1, May 24, 1966, 80 Stat. 164, provided: "That this act [enacting section 745 of Title 20, Education, amending sections 1717, 1720(c), 1749(d), and 1757(7) of this title, section 1988(c) of Title 7, Agriculture, and section 743(c) of Title 20, and enacting provisions set out as a note under section 1717 of this title and section 262 of former Title 5, Executive Departments and Government Officers and Employees] may be cited as the 'Participation Sales Act of 1966'."

SHORT TITLE OF 1965 AMENDMENT

Pub. L. 89-117, §1, Aug. 10, 1965, 79 Stat. 451, provided: "That this Act [enacting sections 1701s and 1735c to 1735h, and subchapter IX-A of chapter 13 of this title, subchapter IV-A of chapter 14B of Title 15, Commerce and Trade, and sections 1421b, 1466 to 1468, 1500c-1, 1500c-2, 1500c-3, and 1487 to 1490, and

chapters 36 and 37 of Title 42, The Public Health and Welfare, and provisions set out as notes under sections 1701d-3, 1701q, and 1749 of this title, section 462 of former Title 40, Public Buildings, Property, and Works, and sections 1451, 1453, 1455, 1460, 1465, 1466, and 3074 of Title 42, amending sections 371, 1464, 1701q, 1701o, 1701h, 1702, 1703, 1706c, 1709, 1710, 1713, 1715, 1715c, 1715e, 1715h, 1715k, 1715l, 1715m, 1715n, 1715t, 1715v, 1715w, 1715x, 1715y, 1717, 1718, 1720, 1721, 1727, 1739, 1743, 1744, 1747f, 1747g, 1748b, 1748h, 1748h-1, 1748h-2, 1749, 1749c, 1750, 1750c, and 1750g of this title, sections 633 and 671 of Title 15, sections 802 and 803 of Title 20, Education, sections 1804 [now 3704] and 1816 [now 3732] of Title 38, Veterans' Benefits, sections 461 and 462 of former Title 40, sections 1402, 1410, 1412, 1415, 1421a, 1422, 1451, 1452, 1452b, 1453, 1455, 1456, 1460, 1463, 1465, 1471, 1472, 1476, 1481, 1482, 1483, 1485, 1492, 1500, 1500a, 1500b, 1500c, 1500d, and 1500e of Title 42, and sections 1605 and 1608 of Title 49, Transportation, and repealing sections 1715j, 1737, 1740, 1747i, 1748a, 1748c, 1750a and 1750d of this title] may be cited as the 'Housing and Urban Development Act of 1965'."

SHORT TITLE OF 1964 AMENDMENT

Pub. L. 88-560, §1, Sept. 2, 1964, 78 Stat. 769, provided: "That this act [enacting sections 1730b, 1735a, and 1735b of this title, sections 801 to 805 and 811 of Title 20, Education, and sections 1452b, 1465, and 1486 of Title 42, The Public Health and Welfare, amending sections 24, 371, 1430, 1431, 1436, 1464, 1701q, 1703, 1709, 1710, 1713, 1715c, 1715e, 1715k to 1715n, 1715r, 1715u to 1715y, 1717, 1719 to 1721, 1723b, 1723c, 1726, 1739, 1748h-2, 1749c, and 1750c of this title, sections 636 and 637 of Title 15, Commerce and Trade, sections 1820 and 1823 of Title 38, Veterans' Benefits, sections 461 and 462 of former Title 40, Public Buildings, Property and Works, and sections 1402, 1410, 1415, 1436, 1451, 1452, 1452a, 1453, 1455, 1456, 1457, 1460, 1476, 1481 to 1483, 1485, 1492, 1500a, and 1504a of Title 42, and enacting provisions set out as notes under section 1713 of this title, section 461 of former Title 40, and sections 1415, 1451, 1455, 1460, and 1465 of Title 42] may be cited as the 'Housing Act of 1964'."

SHORT TITLE OF 1962 AMENDMENT

Pub. L. 87-723, §1, Sept. 28, 1962, 76 Stat. 670, provided: "That this Act [enacting section 1701r of this title and section 1485 of Title 42, The Public Health and Welfare, and amending sections 84 and 1701q of this title and sections 1471, 1472, 1474, 1476 and 1481 of Title 42] may be cited as the 'Senior Citizens Housing Act of 1962.'"

SHORT TITLE OF 1961 AMENDMENT

Pub. L. 87-70, §1, June 30, 1961, 75 Stat. 149, provided: "That this Act [enacting sections 1715x and 1715y of this title and sections 1436, 1484, 1497 and 1500 to 1500e of Title 42, The Public Health and Welfare, amending sections 371, 1464, 1701c, 1701q, 1703, 1709, 1710, 1713, 1715, 1715c, 1715e, 1715h, 1715j, 1715k, 1715l, 1715n, 1715o, 1715q, 1715r, 1715t, 1715v, 1715w, 1717, 1718, 1719, 1720, 1721, 1723a, 1723b, 1748b, 1748h-2, 1749, 1749b, 1749c, and 1750jj of this title, section 631, 633 and 636 of Title 15, Commerce and Trade, sections 461 and 462 of former Title 40, Public Buildings, Property, and Works, and sections 1402, 1410, 1415, 1421, 1421a, 1434, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1460, 1463, 1471, 1472, 1476, 1477, 1478, 1481, 1482, 1483, 1491, 1492, 1493, and 1594i of Title 42, and amending provisions set out as a note under section 1592c of Title 42] may be cited as the 'Housing Act of 1961'."

SHORT TITLE OF 1959 AMENDMENT

Pub. L. 86-372, §1, Sept. 23, 1959, 73 Stat. 654, provided: "That this Act [enacting sections 1701q, 1715t to 1715w, and 1748-2 of this title, and section 1463 of Title 42, The Public Health and Welfare, amending sections 24, 1464, 1703, 1706c, 1709, 1710, 1713, 1715c to 1715e, 1715h, 1715k-1715m, 1715r, 1717, 1719 to 1721, 1723b, 1731a, 1747, 1748b, 1748g, 1748h-1, 1749, 1749a, 1749c, and 1750jj of this title, sections 461 and 462 of former Title 40, Public Buildings, Property and Works, and sections 1401, 1402, 1410, 1415, 1450, 1451, 1452, 1453, 1455, 1456, 1457, 1460, 1586, 1594a and 1594j of Title 42, repealing section 1715i of this title, and enacting provisions set out as notes under sections 1720 and 1721 of this title and under sections 1456, 1460, 1476 and 1592c of Title 42] may be cited as the 'Housing Act of 1959'."

SHORT TITLE OF 1956 AMENDMENT

Act Aug. 7, 1956, ch. 1029, §1, 70 Stat. 1091, provided: "That this Act [enacting sections 1701d-3 and 1701h-1, of this title and sections 1462, 1496, 1589d, and 1594f of Title 42, The Public Health and Welfare; amending sections 1464, 1703, 1709, 1713, 1715e, 1715h, 1715k, 1715l, 1715r, 1717 to 1721, 1748, 1748b and 1749 of this title; section 694l of former Title 38, Pensions, Bonuses, and Veterans' Relief; section 461 of former Title 40, Public Buildings, Property, and Works; and sections 1402, 1410, 1412, 1415, 1421, 1451, 1452, 1454, 1455, 1456, 1460, 1481 to 1483, 1594, 1594a, 1594b, 1594c of Title 42; repealing section 1411b

of Title 42; and enacting provisions set out as notes under section 1703 of this title and under sections 1481, 1592c and 1594 of Title 42] may be cited as the 'Housing Act of 1956'."

SHORT TITLE OF 1955 AMENDMENT

Act Aug. 11, 1955, ch. 783, §1, 69 Stat. 635, provided: "That this Act [enacting section 1701d-2 of this title and sections 1491 to 1495 and 1594 to 1594e of Title 42, The Public Health and Welfare; amending sections 1426, 1427, 1437, 1464, 1703, 1710, 1713, 1715e, 1715h, 1715k, 1715l, 1715n, 1715r, 1720, 1726, 1729, 1739, 1748 to 1748g, 1749, 1749c of this title; section 462 of former Title 40, Public Buildings, Property, and Works; sections 1410, 1451, 1453, 1456, 1460, 1481 to 1483, 1585 and 1591c of Title 42; and sections 480, 480a, 721, 721a, 910, 910a, 1408, 1408b, and 1408c of Title 48, Territories and Insular Possessions; repealing sections 1748g-1 and 1748h of this title; and enacting provisions set out as notes under sections 1426, 1715e, and 1749 of this title; section 1594 of Title 42; and under sections 480 and 1408 of Title 48] may be cited as the 'Housing Amendments of 1955'."

Act Aug. 11, 1955, ch. 783, title III, §304, 69 Stat. 646, provided that the amendments to sections 1749 and 1749c of this title by act Aug. 11, 1955, may be cited as the "College Housing Amendments of 1955".

SHORT TITLE OF 1954 AMENDMENT

Act Aug. 2, 1954, ch. 649, §1, 68 Stat. 590, provided: "That this Act [enacting sections 1701j-1, 1701n to 1701p, 1702a, 1715k to 1715s, 1722 to 1723d, 1731a, 1731b, 1746a and 1750aa to 1750jj of this title; sections 460 to 462 of former Title 40, Public Buildings, Property, and Works; and sections 1411d, 1434, 1435, 1446, 1450, 1452a, 1455a, and 1589c of Title 42, The Public Health and Welfare; amending sections 24, 1430, 1431, 1436, 1464, 1701, 1703, 1706c, 1709, 1710, 1711, 1713, 1715c, 1715e, 1715h, 1715j, 1716, 1717 to 1721, 1725, 1728, 1729, 1730, 1748b, 1749, 1750b, 1750c and 1750g of this title; section 709 of Title 18, Crimes and Criminal Procedure; section 272 of Title 20, Education; section 694a of former Title 38, Pensions, Bonuses, and Veterans' Relief; section 459 of former Title 40; and sections 1407, 1410, 1415, 1416, 1451, 1452, 1453, 1454, 1455, 1456, 1457, 1459, 1460, 1481 to 1483, 1585, 1587, 1591c and 1592a of Title 42; repealing sections 1701j, 1706, 1716-1 and 1716a of this title; section 456 of former Title 40; sections 1451a, 1461 and 1551 of Title 42; and sections 484e, 724, and 1426 of Title 48, Territories and Insular Possessions; and enacting provisions set out as notes under sections 1703, 1710, 1715n, 1715s, and 1716 of this title; section 846 of former Title 31, Money and Finance; and under sections 1434, 1446, and 1450 of Title 42] may be cited as the 'Housing Act of 1954'."

Act June 27, 1934, title III, §312, as added Aug. 2, 1954, ch. 649, §201, 68 Stat. 622, provided that: "This title III [enacting sections 1722 to 1723c of this title and amending sections 1716 to 1721 of this title] may be referred to as the 'Federal National Mortgage Association Charter Act'."

SHORT TITLE OF 1953 AMENDMENT

Act June 30, 1953, ch. 170, §1, 67 Stat. 121, provided: "This Act [enacting sections 1715j and 1735 of this title, and sections 723 and 1425 of Title 48, Territories and Insular Possessions; amending sections 1701j, 1706c(b), 1709, 1711(c)(i), 1715d, 1715e(d), 1715h, 1716(a), 1716-1, 1717, 1748b(a), (b), 1749(a), 1750b(a), and 1750g(b) of this title, sections 1402(10), 1456(e), 1460(g), 1591(a), 1591c, 1592d(c), and 1592n(e) of Title 42, The Public Health and Welfare, and section 2166(c) of the Appendix to Title 50, War and National Defense; and enacting provisions set out as a note under section 1463 of this title, relating to dissolution and abolishment of the Home Owners' Loan Corporation] may be cited as the 'Housing Amendments of 1953'."

SHORT TITLE OF 1952 AMENDMENT

Act July 14, 1952, ch. 723, §1, 66 Stat. 601, provided that: "This Act [enacting sections 1701m, 1706d, and 1715i of this title and amending sections 1422, 1423, 1464, 1466, 1701g-2, 1707, 1713, 1715d, 1715h, 1716, 1717, 1726, 1736, 1745, 1747l, 1748, and 1750b of this title; sections 1481 to 1483, 1589a, 1592a, 1592l, and 1593 of Title 42, The Public Health and Welfare; and sections 484 and 484d of Title 48, Territories and Insular Possessions] may be cited as the 'Housing Act of 1952'."

SHORT TITLE OF 1950 AMENDMENT

Act Apr. 20, 1950, ch. 94, §1, 64 Stat. 48, provided that "This Act [enacting sections 1701j to 1701l, 1715e, 1715f, and 1749 to 1749c of this title and sections 1581 to 1589 and 1590 of Title 42, The Public Health and Welfare; amending sections 371, 1430, 1701c, 1703, 1705, 1706, 1706b, 1706c, 1707 to 1709, 1710 to 1715, 1715b, 1715c, 1716, 1717, 1720, 1721, 1736 to 1746, 1747 to 1747c, and 1747e to 1747l of this title, section 1017 of Title 7, Agriculture, section 604 of Title 15, Commerce and Trade, and sections 1412, 1521 to 1524,

1532, 1533, 1542 to 1548, 1552, 1553, 1561, 1571, 1572, and 1575 of Title 42; and enacting provisions set out as notes under sections 1701, 1701k, 1703, and 1709 of this title, section 1017 of Title 7, and section 1412 of Title 42] may be cited as the 'Housing Act of 1950'."

SHORT TITLE OF 1948 AMENDMENT

Act Aug. 10, 1948, ch. 832, §1, 62 Stat. 1268, provided that: "This Act [enacting sections 1701c, 1701e to 1701g-3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746, and 1747 to 1747l of this title; section 846 of former Title 31, Money and Finance; section 694 of former Title 38, Pensions, Bonuses, and Veterans' Relief; and section 1404a of Title 42, The Public Health and Welfare] may be cited as the 'Housing Act of 1948'."

REGULATIONS

Pub. L. 106-569, title VIII, §802, Dec. 27, 2000, 114 Stat. 3018, provided that: "The Secretary of Housing and Urban Development (referred to in this title as the 'Secretary') shall issue any regulations to carry out this title [see section 801 of Pub. L. 106-569, set out as a Short Title of 2000 Amendment note above] and the amendments made by this title that the Secretary determines may or will affect tenants of federally assisted housing only after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Notice of such proposed rulemaking shall be provided by publication in the Federal Register. In issuing such regulations, the Secretary shall take such actions as may be necessary to ensure that such tenants are notified of, and provided an opportunity to participate in, the rulemaking, as required by such section 553."

SAVINGS PROVISION

Pub. L. 110-289, div. B, title I, §2131, July 30, 2008, 122 Stat. 2843, provided that: "Any mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] before the date of enactment of this subtitle [July 30, 2008] shall continue to be governed by the laws, regulations, orders, and terms and conditions to which it was subject on the day before the date of the enactment of this subtitle."

IMPLEMENTATION

Pub. L. 110-289, div. B, title I, §2132, July 30, 2008, 122 Stat. 2843, provided that: "The Secretary of Housing and Urban Development shall by notice establish any additional requirements that may be necessary to immediately carry out the provisions of this subtitle [subtitle A (§§2111-2133) of title I of div. B of Pub. L. 110-289, see Short Title of 2008 Amendment note above]. The notice shall take effect upon issuance."

PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS UNDER HUD PROGRAMS

Secretary of Housing and Urban Development to provide a preference to native Hawaiians for housing assistance programs under this chapter for housing located on Hawaiian home lands, see section 958 of Pub. L. 101-625, set out as a note under section 1437f of Title 42, The Public Health and Welfare.

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

§1701a. Short title of amendment of 1938

The Act of February 3, 1938, ch. 13, 52 Stat. 8, may be cited as the "National Housing Act Amendments of 1938."

(Feb. 3, 1938, ch. 13, §1, 52 Stat. 8.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act Amendments of 1938, referred to in text, enacted sections 1715a, 1715b, and 1733 of this title and amended sections 24, 1703, 1707 to 1709, 1710 to 1715, 1716, 1717, 1718, and section 1731 [see sections 433, 493, 657, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure] of this title.

CODIFICATION

Section was enacted as part of the National Housing Act Amendments of 1938, and not as part of the National Housing Act which comprises this chapter.

§1701b. Short title of amendment of 1942

The Act of May 26, 1942, ch. 319, 56 Stat. 301, may be cited as the "National Housing Act Amendments of 1942".

(May 26, 1942, ch. 319, §15, 56 Stat. 305.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act Amendments of 1942, referred to in text, enacted section 1743 of this title, amended heading of subchapter VI of this chapter [preceding section 1736 of this title], amended sections 1703, 1715c, 1737, 1738, 1739, and 1740 of this title, and enacted provisions set out as a note under section 1743 of this title.

CODIFICATION

Section was enacted as part of the National Housing Act Amendments of 1942, and not as part of the National Housing Act which comprises this chapter.

§1701c. Secretary of Housing and Urban Development

In carrying out his functions, powers, and duties—

(a) Employment of personnel; delegation of functions

The Secretary of Housing and Urban Development may appoint such officers and employees as he may find necessary, which appointments shall be subject to the civil-service laws and chapter 51 and subchapter III of chapter 53 of title 5. The Secretary may make such expenditures as may be necessary to carry out his functions, powers, and duties, and there are authorized to be appropriated to the Secretary, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary to carry out such functions, powers, and duties and for administrative expenses in connection therewith. The Secretary, without in any way relieving himself from final responsibility, may delegate any of his functions and powers to such officers, agents, or employees as he may designate, may authorize such successive redelegations of such functions and powers, as he may deem desirable, and may make such rules and regulations as may be necessary to carry out his functions, powers, and duties.

(b) Omitted

(c) Additional powers and duties of Secretary and Federal Home Loan Bank Board

The Secretary of Housing and Urban Development, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, respectively, may, in addition to and not in derogation of any powers and authorities conferred elsewhere in this Act—

(1) with the consent of the agency or organization concerned, accept and utilize equipment, facilities, or the services of employees of any Federal, State, or local public agency or instrumentality, educational institution, or nonprofit agency or organization and, in connection with the utilization of such services, may make payments for transportation while away from their

homes or regular places of business and per diem in lieu of subsistence en route and at place of such service, in accordance with the provisions of section 5703 of title 5;

(2) utilize, contract with and act through, without regard to section 6101 of title 41, any Federal, State, or local public agency or instrumentality, educational institution, or non-profit agency or organization with the consent of the agency or organization concerned, and any funds available to said officers for carrying out their respective functions, powers, and duties shall be available to reimburse or pay any such agency or organization; and, whenever in the judgment of any such officer necessary, he may make advance, progress, or other payments with respect to such contracts without regard to the provisions of subsections (a) and (b) of section 3324 of title 31; and

(3) make expenditures for all necessary expenses, including preparation, mounting, shipping, and installation of exhibits; purchase and exchange of technical apparatus; and such other expenses as may, from time to time, be found necessary in carrying out their respective functions, powers, and duties: *Provided*, That funds made available for administrative expenses in carrying out the functions, powers, and duties imposed upon the Secretary of Housing and Urban

Development and the Federal Home Loan Bank Agency,¹ respectively, by or pursuant to law may at their option be consolidated into a single administrative expense fund accounts of such officer or agency for expenditure by them, respectively, in accordance with the provisions hereof.

(d) Use of funds for library memberships

The Secretary of Housing and Urban Development may utilize funds made available to him for salaries and expenses for payment in advance for dues or fees for library memberships in organizations (or for membership of the individual librarians in organizations which will not accept library membership) whose publications are available to members only, or to members at a price lower than to the general public, and for payment in advance for publications available only upon that basis or available at a reduced price on prepublication order.

(Aug. 10, 1948, ch. 832, title V, §502, 62 Stat. 1283; Oct. 28, 1949, ch. 782, title XI, §1106(a), 63 Stat. 972; Apr. 20, 1950, ch. 94, title V, §503, 64 Stat. 80; Pub. L. 87-70, title IX, §909, June 30, 1961, 75 Stat. 192; Pub. L. 90-19, §5(d)(1)-(3), (8)-(13), May 25, 1967, 81 Stat. 21; Pub. L. 98-479, title II, §§202(b), 203(c), Oct. 17, 1984, 98 Stat. 2228, 2229; Pub. L. 100-242, title V, §570(a)(1), (3), Feb. 5, 1988, 101 Stat. 1949, 1950; Pub. L. 101-73, title III, §306, Aug. 9, 1989, 103 Stat. 352; Pub. L. 111-203, title III, §370, July 21, 2010, 124 Stat. 1565.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (c), is act Aug. 10, 1948, ch. 832, 62 Stat. 1268, known as the Housing Act of 1948. For complete classification of this Act to the Code, see Short Title of 1948 Amendments note set out under section 1701 of this title and Tables.

CODIFICATION

In subsec. (c)(2), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Subsec. (b) of section 502 of act Aug. 10, 1948, is set out as section 1404a of Title 42, The Public Health and Welfare.

Section was enacted as part of the Housing Act of 1948, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-203, §370(1), substituted ", the Comptroller of the Currency, and the Federal Deposit Insurance Corporation" for "and the Director of the Office of Thrift Supervision" in introductory provisions.

Subsec. (c)(3). Pub. L. 111-203, §370(2), substituted "Agency" for "Board".

1989—Subsec. (c). Pub. L. 101-73, §306(a), which directed the substitution of "Director of the Office of Thrift Supervision" for "Federal Home Loan Bank Board (which term as used in this section shall also include

and refer to the Federal Savings and Loan Insurance Corporation, the Home Owners Loan Corporation, and the Chairman of the Federal Home Loan Bank Board)", was executed as directed, except that "Home Owners' " rather than "Home Owners" appeared in the original in the language struck out.

Subsec. (c)(1). Pub. L. 101-73, §306(b), substituted "of any Federal, State, or local" for "of any State or local".

1988—Subsec. (a). Pub. L. 100-242, §570(a)(1), struck out "The Secretary of Commerce or his designee shall hereafter be included in the membership of the National Housing Council."

Subsec. (c)(2). Pub. L. 100-242, §570(a)(3), inserted "and" at end.

1984—Subsec. (a). Pub. L. 98-479, §202(b)(1), substituted "chapter 51 and subchapter III of chapter 53 of title 5" for "the Classification Act of 1949, as amended".

Subsec. (c)(1). Pub. L. 98-479, §202(b)(2), substituted "section 5703 of title 5" for "5 U.S.C. 73b-2".

Subsec. (c)(2). Pub. L. 98-479, §203(c), substituted "subsections (a) and (b) of section 3324 of title 31" for "section 3648 of the Revised Statutes [31 U.S.C. 529]".

1967—Subsec. (a). Pub. L. 90-19, §5(d)(1)-(3), substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Secretary" for "Administrator" wherever appearing, and struck out provision for preparation of official seal and judicial notice thereof.

Subsec. (c). Pub. L. 90-19, §5(d)(8), (9), substituted "Secretary of Housing and Urban Development and the Federal Home Loan Bank Board" for "Housing and Home Finance Administrator, the Home Loan Bank Board" where it first appears and "Federal Home Loan Bank Board" for "Home Loan Bank Board, the Federal Housing Commissioner, and the Public Housing Commissioner".

Subsec. (c)(3). Pub. L. 90-19, §5(d)(10), (11), substituted "Secretary of Housing and Urban Development and the Federal Home Loan Bank Board" and "such officer or agency" for "Housing and Home Finance Administrator, the Home Loan Bank Board, the Federal Housing Commissioner, and the Public Housing Commissioner" and "said officers or agencies".

Subsec. (d). Pub. L. 90-19, §5(d)(12), (13), substituted "Secretary of Housing and Urban Development may utilize funds made available to him" for "Housing and Home Finance Administrator, the Federal Housing Commissioner and the Public Housing Commissioner, respectively, may utilize funds made available to them" and struck out "of the respective agencies" after "librarians".

1961—Subsec. (c)(3). Pub. L. 87-70, §909(1), struck out provisions which made section 5 of title 41 inapplicable to any purchase or contract by officers (or their agencies) for services or supplies if the amount thereof does not exceed \$300.

Subsec. (d). Pub. L. 87-70, §909(2), added subsec. (d).

1950—Act Apr. 20, 1950, amended third sentence of subsec. (a) to authorize the Administrator to permit redelegation of functions and powers which he had delegated previously to officers, agents, and employees but this does not relieve him of any final responsibility, and inserted "or pay" after "reimburse" in subsec. (c)(2).

1949—Subsec. (a). Act Oct. 28, 1949, substituted "Classification Act of 1949" for "Classification Act of 1923".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

REPEALS

Act Oct. 28, 1949, ch. 782, cited as a credit to this section, was repealed (subject to a savings clause) by Pub. L. 89-554, Sept. 6, 1966, §8, 80 Stat. 632, 655.

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

ANNUAL REPORT ON AREAS OF PROGRAM ADMINISTRATION AND MANAGEMENT WHICH REQUIRE IMPROVEMENT

Pub. L. 90-448, §5, Aug. 1, 1968, 82 Stat. 477, as amended by Pub. L. 91-609, title IX, §918, Dec. 31, 1970, 84 Stat. 1816, directed Secretary to report annually to Committees on Banking and Currency of House and Senate, identifying specific areas of program administration and management which require improvement,

describing actions taken and proposed, and recommendations for legislation, prior to repeal by Pub. L. 93-608, §1(9), Jan. 2, 1975, 88 Stat. 1968.

EXECUTIVE DOCUMENTS

EXECUTIVE ORDER NO. 11196

Ex. Ord. No. 11196, Feb. 2, 1965, 30 F.R. 1171, which delegated functions to Housing and Home Finance Administrator, was revoked by Ex. Ord. No. 12553, Feb. 25, 1986, 51 F.R. 7237.

EMERGENCY PREPAREDNESS FUNCTIONS

For assignment of certain emergency preparedness functions to Secretary of Housing and Urban Development, see Parts 1, 2, and 9 of Ex. Ord. No. 12656, Nov. 18, 1988, 53 F.R. 47491, set out as a note under section 5195 of Title 42, The Public Health and Welfare.

¹ *So in original. Probably should refer to the Federal Housing Finance Agency.*

§1701c-1. Omitted

EDITORIAL NOTES

CODIFICATION

Section, act June 24, 1954, ch. 359, title I, §101, 68 Stat. 283, provided for promotion of economy, efficiency and fidelity in operations of Housing and Home Finance Agency by its Administrator, on and after June 24, 1954, under Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, through assignment and reassignment of functions, reorganizations, and reallocation and transfers of administrative expense funds and authority. Functions, powers, and duties of such agency, its head and other officers were transferred to and vested in the Secretary of Housing and Urban Development by Pub. L. 89-174, §5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of Title 42, The Public Health and Welfare.

§1701d. Repealed. Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 655

Section, acts Aug. 10, 1948, ch. 832, title V, §501(a), 62 Stat. 1283; Oct. 15, 1949, ch. 695, §3, 63 Stat. 880, provided for compensation of Housing and Home Finance Administrator.

§§1701d-1, 1701d-2. Repealed. Pub. L. 90-19, §§6(i), 12(a), May 25, 1967, 81 Stat. 22, 23

Section 1701d-1, act July 15, 1949, ch. 338, title VI, §605, 63 Stat. 440, provided for appointment and duties of a Deputy Housing and Home Finance Administrator, including status of acting Administrator during absence, disability, or vacancy in office.

Section 1701d-2, act Aug. 11, 1955, ch. 783, title I, §113, 69 Stat. 642, prescribed compensation of Community Facilities Commissioner at same rate established for heads of constituent agencies of the Housing and Home Finance Agency. See section 5315 of Title 5, Government Organization and Employees. Section was previously repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 658.

§1701d-3. Repealed. Pub. L. 91-609, title V, §503(3), Dec. 31, 1970, 84 Stat. 1785

Section, acts Aug. 7, 1956, ch. 1029, title VI, §602, 70 Stat. 1113; May 25, 1967, Pub. L. 90-19, §13(b), 81 Stat. 24; Aug. 12, 1970, Pub. L. 91-375, §6(e), 84 Stat. 776, related to research and provided for:

authorization for specific programs; contracts and working agreements, amount of authorization, appropriations, duration of contract, and unexpended balances of appropriations; dissemination of data; acquisition and use of data; and authority of Secretary. See sections 1701z-1 to 1701z-4 of this title.

§1701d-4. Exchange and assembly of housing and urban planning and development data; payment of expenses; acceptance of funds, services, facilities, materials, and other donations; approval of Secretary of State for international programs and activities

(a) The Secretary of Housing and Urban Development may exchange data relating to housing and urban planning and development with other nations and assemble such data from other nations, through participation in international conferences and other means, where such exchange or assembly is deemed by him to be beneficial in carrying out his responsibilities under the Department of Housing and Urban Development Act [42 U.S.C. 3531 et seq.] or other legislation. In carrying out his responsibilities under this subsection the Secretary may—

(1) pay the expenses of participation in activities conducted under authority of this section including, but not limited to, the compensation, travel expenses, and per diem in lieu of subsistence of persons serving in an advisory capacity while away from their homes or regular places of business in connection with attendance at international meetings and conferences, or other travel for the purpose of exchange or assembly of data relating to housing and urban planning and development; but such travel expenses shall not exceed those authorized for regular officers and employees traveling in connection with said activities; and

(2) accept from international organizations, foreign countries, and private nonprofit foundations, funds, services, facilities, materials, and other donations to be utilized jointly in carrying out activities under this section.

(b) International programs and activities carried out by the Secretary under the authority provided in subsection (a) shall be subject to the approval of the Secretary of State for the purpose of assuring that such authority shall be exercised in a manner consistent with the foreign policy of the United States.

(Pub. L. 85-104, title VI, §604, July 12, 1957, 71 Stat. 305; Pub. L. 90-19, §14(b), May 25, 1967, 81 Stat. 24; Pub. L. 90-448, title XVII, §1709, Aug. 1, 1968, 82 Stat. 606.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Department of Housing and Urban Development Act, referred to in subsec. (a), is Pub. L. 89-174, Sept. 9, 1965, 79 Stat. 667, which is classified principally to chapter 44 (§3531 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3531 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing Act of 1957, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1968—Pub. L. 90-448 designated existing provisions as subsec. (a), inserted reference to assembly of data from other nations, and authorized payment of expenses of participation in activities conducted under authority of this section, and acceptance from international organizations, foreign countries, and private nonprofit foundations of funds, services, facilities, materials and other donations to be utilized jointly, and added subsec. (b).

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

§§1701e, 1701f. Repealed. Pub. L. 91–609, title V, §503(1), Dec. 31, 1970, 84 Stat. 1785

Section 1701e, acts Aug. 10, 1948, ch. 832, title III, §301, 62 Stat. 1276; July 15, 1949, ch. 338, title IV, §401, 63 Stat. 431; May 25, 1967, Pub. L. 90–19, §5(a), 81 Stat. 20; Aug. 12, 1970, Pub. L. 91–375, §6(f), 84 Stat. 776, related to development and promotion by Secretary of new housing construction techniques, materials, and methods, and provided for: improvement and standardization of building codes, contracts for research and studies, publications, and consolidation of functions and activities; reports to President and Congress on urban and rural nonfarm needs; and surveys and plans by local communities and cooperation by Federal agencies. See sections 1701z–1 to 1701z–4 of this title.

Section 1701f, acts Aug. 10, 1948, ch. 832, title III, §302, 62 Stat. 1276; July 15, 1949, ch. 338, title IV, §401, 63 Stat. 431; May 25, 1967, Pub. L. 90–19, §5(b), 81 Stat. 21, provided for utilization of other Federal agencies; cooperative studies with industry, labor, etc.; and exercise of powers by Secretary. See sections 1701z–1 to 1701z–4 of this title.

§1701f–1. Repealed. Pub. L. 90–19, §5(c), May 25, 1967, 81 Stat. 21

Section, act Aug. 10, 1948, ch. 832, title III, §304, as added July 15, 1949, ch. 338, title IV, §401, 63 Stat. 431, provided for appointment, powers, and compensation of a Director. Section was previously repealed by Pub. L. 89–534, §8(a), Sept. 6, 1966, 80 Stat. 655.

§§1701g to 1701g–3. Omitted

EDITORIAL NOTES

CODIFICATION

Sections 1701g to 1701g–3 were from sections 102 to 102c of the Housing Act of 1948, and provided for loans to aid production and distribution of prefabricated housing; provided for loans to assure maintenance of industrial capacity for production of such homes for national defense; provided for the powers of the Housing and Home Finance Administrator; and included mobile or portable houses within the term "prefabricated houses". Authority for issuance of section 1701g obligations under section 1(4) of Reorg. Plan No. 23 of 1950 as terminating June 30, 1954, see section 1701g–5 of this title. Authority to make or purchase section 1701g–1 loans or obligations as terminating July 31, 1954, see section 1591c of Title 42, The Public Health and Welfare.

Section 1701g, act Aug. 10, 1948, ch. 832, title I, §102, 62 Stat. 1275, amended Sept. 1, 1951, ch. 378, title V, §501, 65 Stat. 311.

Section 1701g–1, act Aug. 10, 1948, ch. 832, title I, §102a, added Sept. 1, 1951, ch. 378, title V, §502, 65 Stat. 312.

Section 1701g–2, act Aug. 10, 1948, ch. 832, title I, §102b, added Sept. 1, 1951, ch. 378, title V, §502, 65 Stat. 312; amended July 14, 1952, ch. 723, §10(e), 66 Stat. 604.

Section 1701g–3, act Aug. 10, 1948, ch. 832, title I, §102c, added Sept. 1, 1951, ch. 378, title V, §502, 65 Stat. 312.

§1701g–4. Omitted

EDITORIAL NOTES

CODIFICATION

Section, which placed restrictions on loans, was from the Independent Offices Appropriation Act, 1953, act July 5, 1952, ch. 578, title III, §301, 66 Stat. 415, and was not repeated in subsequent appropriation acts.

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in Aug. 31, 1951, ch. 376, title IV, §401, 65 Stat. 287.

§1701g–5. Revolving fund in connection with liquidating programs

There is established as of June 30, 1954, a revolving fund, and the Secretary of Housing and Urban Development is authorized to credit said fund with all moneys hereafter obtained or now held by him or by any constituent agency of the Department of Housing and Urban Development or any other official thereof, and to account under said fund for all assets and liabilities, in connection with (1) community facilities provided or assisted under title II of the Lanham Act, as amended [42 U.S.C. 1531 et seq.], or under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended [42 U.S.C. 1592 et seq.]; (2) loans or advances made pursuant to title V of the War Mobilization and Reconversion Act of 1944 (58 Stat. 791), or the Act of October 13, 1949; (3) functions transferred under Reorganization Plan No. 23 of 1950, or authorized under sections 102, 102a, 102b, and 102c of the Housing Act of 1948, as amended [12 U.S.C. 1701g to 1701g–3]; (4) notes or other obligations purchased pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484(a)); (5) subsistence homesteads and greentowns (Acts of June 29, 1936, 49 Stat. 2035, and May 19, 1949, 63 Stat. 68); (6) public war housing under title I of the Lanham Act, as amended [42 U.S.C. 1521 et seq.], and defense housing under title III of the Defense Housing and Community Facilities and Services Act of 1951, as amended [42 U.S.C. 1592 et seq.]; and (7) veterans' re-use housing under title V of the Lanham Act, as amended [42 U.S.C. 1571 et seq.]: *Provided*, That said fund shall be available for all necessary expenses (including administrative expenses) in connection with the liquidation of the programs carried out pursuant to the foregoing provisions of law, including operation, maintenance, improvement, or disposition of facilities, and for disbursements pursuant to outstanding commitments against moneys herein authorized to be credited to said fund, repayment of obligations to the Treasury, and refinancing and refunding operations on existing loans: *Provided further*, That any amount in said fund which is determined to be in excess of requirements for the purposes hereof shall be declared and paid as liquidating dividends to the Treasury not less often than annually: *Provided further*, That after June 24, 1954, no additional notes or obligations shall be purchased from funds appropriated pursuant to the Alaska Housing Act, as amended (48 U.S.C. 484(d)), except for the furtherance or refinancing of an existing loan: *Provided further*, That except for extensions, or refinancing, of existing obligations the authority to issue obligations to the Secretary of the Treasury under section 1(4) of Reorganization Plan No. 23 of 1950, shall terminate on June 30, 1954.

(June 24, 1954, ch. 359, title II, §201, 68 Stat. 295.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Lanham Act, as amended, referred to in cls. (1), (6), and (7), is act Oct. 14, 1940, ch. 862, 54 Stat. 1125, known as the Lanham Public War Housing Act. Title I of the Lanham Act is classified generally to subchapter II (§1521 et seq.) of chapter 9 of Title 42, The Public Health and Welfare. Titles II and V of the Lanham Act were classified to subchapters III (§1531 et seq.) and VI (§1571 et seq.), respectively, of chapter 9 of Title 42, and were omitted from the Code. For further details, see References in Text note set out under section 1522 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1501 of Title 42 and Tables.

The Defense Housing and Community Facilities and Services Act, as amended, referred to in cls. (1) and (6), is act Sept. 1, 1951, ch. 378, 65 Stat. 293. Title III of the Act is classified generally to subchapter IX (§1592 et seq.) of chapter 9 of Title 42. For complete classification of this Act to the Code, see Short Title of 1951 Amendment note set out under section 1501 of Title 42 and Tables.

The War Mobilization and Reconversion Act of 1944, referred to in cl. (2), is act Oct. 3, 1944, ch. 480, 58

Stat. 785, which was classified to section 1651 et seq. of the former Appendix to Title 50, War and National Defense, and which has been omitted from the Code. Title V of the War Mobilization and Reconversion Act of 1944 was classified to section 1671 of the former Appendix to Title 50. For complete classification of this Act to the Code, see Tables.

Act of October 13, 1949, referred to in cl. (2), is act Oct. 13, 1949, ch. 685, 63 Stat. 841, which was classified generally to subchapter I (§451 et seq.) of chapter 9 of former Title 40, Public Buildings, Property, and Works. Sections 1–5, 7, and 8 of the Act were repealed by Pub. L. 107–217, §6(b), Aug. 21, 2002, 116 Stat. 1304. Section 6 of the Act was repealed by act Aug. 2, 1954, ch. 649, title VIII, §802(b), 68 Stat. 642. See section 1701o of this title.

Reorganization Plan No. 23 of 1950, referred to in cl. (3) and in the last proviso, is set out in the Appendix to Title 5, Government Organization and Employees.

The Alaska Housing Act, as amended, referred to in cl. (3) and in the third proviso, is act Apr. 23, 1949, ch. 89, 63 Stat. 57, which was classified principally to sections 484 to 484d of Title 48, Territories and Insular Possessions and was omitted from the Code, except for section 2(a) of the Act, which added section 214 to the National Housing Act and which is classified to section 1715d of this title. For complete classification of this Act to the Code, see Tables.

Act June 29, 1936, 49 Stat. 2035, referred to in cl. (5), which related to resettlement or rural rehabilitation projects, and which was classified to sections 431 to 434 of former Title 40, Public Buildings, Property, and Works, was repealed by act Aug. 14, 1946, ch. 964, §2(a)(1), 60 Stat. 1062. See chapter 50 (§1921 et seq.) of Title 7, Agriculture.

Act May 19, 1949, 63 Stat. 68, referred to in cl. (5), authorized the sale, without competitive bidding, of certain resettlement projects in Maryland, Wisconsin, and Ohio, and was not classified to the Code.

CODIFICATION

Section was enacted as a part of title II of the Independent Offices Appropriation Act, 1955, and not as part of the National Housing Act which comprises this chapter.

The third and last provisos contained in the original have been omitted from this section. Those provisos contained limitations on amounts available during fiscal year 1955 for certain administrative and other expenses. Similar or related limitations were contained in the following prior appropriation acts:

Oct. 17, 1975, Pub. L. 94–116, title I, 89 Stat. 583.
Sept. 6, 1974, Pub. L. 93–414, title I, 88 Stat. 1096.
Oct. 26, 1973, Pub. L. 93–137, title I, 87 Stat. 492.
Aug. 14, 1972, Pub. L. 92–383, title I, 86 Stat. 541.
Aug. 10, 1971, Pub. L. 92–78, title I, 85 Stat. 273.
Dec. 17, 1970, Pub. L. 91–556, title IV, 84 Stat. 1462.
Nov. 16, 1969, Pub. L. 91–126, title III, 83 Stat. 241.
Oct. 4, 1968, Pub. L. 90–550, title III, 82 Stat. 955.
Nov. 3, 1967, Pub. L. 90–121, title II, 81 Stat. 359.
Sept. 6, 1966, Pub. L. 89–555, title II, 80 Stat. 686.
Aug. 16, 1965, Pub. L. 89–128, title II, 79 Stat. 541.
Aug. 30, 1964, Pub. L. 88–507, title II, 78 Stat. 664.
Dec. 19, 1963, Pub. L. 88–215, title II, 77 Stat. 446.
Oct. 3, 1962, Pub. L. 87–741, title II, 76 Stat. 738.
Aug. 17, 1961, Pub. L. 87–141, title II, 75 Stat. 362.
July 12, 1960, Pub. L. 86–626, title II, 74 Stat. 443.
Sept. 14, 1959, Pub. L. 86–255, title II, 73 Stat. 516.
Aug. 28, 1958, Pub. L. 85–844, title II, 72 Stat. 1080.
June 29, 1957, Pub. L. 85–69, title II, 71 Stat. 240.
June 27, 1956, ch. 452, title II, 70 Stat. 354.
May 19, 1956, ch. 313, Ch. V, 70 Stat. 166.
June 30, 1955, ch. 244, title II, 69 Stat. 213.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions of Housing and Home Finance Agency and Administrator thereof transferred to Secretary of Housing and Urban Development by section 5(a) of Department of Housing and Urban Development Act (Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669) which is classified to section 3534(a) of Title 42, The Public

Health and Welfare.

§1701g–5a. Transfer of New Communities Fund assets and liabilities

The Secretary shall transfer all assets and liabilities of the fund established pursuant to section 717 of the Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4518), to the Revolving fund (liquidating programs) established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g–5).

(Pub. L. 98–45, title I, §101, July 12, 1983, 97 Stat. 223.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 717 of the Housing and Urban Development Act of 1970, as amended (42 U.S.C. 4518), referred to in text, was repealed by Pub. L. 98–181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239, but remaining in effect until completion of the transfer required in title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984.

The Independent Offices Appropriation Act, 1955, as amended, referred to in text, is act June 24, 1954, ch. 359, 68 Stat. 272. Provisions of title II of this Act relating to the establishment of the revolving fund (liquidating programs) are classified to section 1701g–5 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984, and not as part of the National Housing Act which comprises this chapter.

§1701g–5b. Liquidation of New Communities Program; cancellation of debt

(a) Law applicable

In order to provide for the management and orderly liquidation of the assets, and discharge the liabilities, acquired or incurred in connection with the new communities program authorized pursuant to title IV of the Housing and Urban Development Act of 1968 [42 U.S.C. 3901 et seq.] and title VII of the Housing and Urban Development Act of 1970 [42 U.S.C. 4501 et seq.] (hereafter referred to in this section as "title IV" and "title VII", respectively), the liquidation of the new communities program shall be carried out pursuant to the provisions of law applicable to the revolving fund (liquidating programs) established pursuant to title II of the Independent Offices Appropriations Act, 1955 [12 U.S.C. 1701g–5], upon the transfer by the Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") of the assets and liabilities of the fund authorized under section 717 of title VII [42 U.S.C. 4518] to such revolving fund, as required in title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 [12 U.S.C. 1701g–5a]. The Secretary shall report to the Congress not less than sixty days prior to taking any action with respect to the disposition of real property (other than a purchase money mortgage) which involves any further potential liability of or assistance from the Department of Housing and Urban Development with respect to any property so transferred.

(b) Availability of revolving fund moneys for administrative and other expenses

In carrying out the purposes of subsection (a), all moneys in the revolving fund (liquidating programs) shall be available for necessary administrative and other expenses of servicing and liquidating obligations guaranteed pursuant to section 403 and section 713 of title IV and title VII, respectively [42 U.S.C. 3902, 4514], including costs of services (including legal services) performed on a contract or fee basis, and to discharge any other liability acquired or incurred in connection with the new communities program. Notwithstanding any other provision of law relating to the

acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary of Housing and Urban Development shall also have power, for the protection of the interests of the revolving fund (liquidating programs), to pay out of any moneys in such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by the Secretary either prior or subsequent to November 30, 1983, as a result of recoveries under security, subrogation, or other rights in connection with the new communities program.

(c) Issuance of obligations to Secretary of the Treasury

After making the transfer required in title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 [12 U.S.C. 1701g-5a], the Secretary of Housing and Urban Development may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary of Housing and Urban Development to satisfy any guarantee made pursuant to section 403 or 713 of title IV or title VII, respectively [42 U.S.C. 3902, 4514], and otherwise carry out the functions authorized by this section. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, and the purposes for which securities may be issued under such chapter are extended to include purchases of obligations issued under this subsection.

(d) Cancellation of obligations

Upon the transfer required in title I of the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984 [12 U.S.C. 1701g-5a], each obligation issued by the Secretary of Housing and Urban Development to the Secretary of the Treasury pursuant to section 407(a) or 717(b) of title IV or title VII, respectively [42 U.S.C. 3906(a), 4518(b)], together with any promise to repay the principal and unpaid interest which has accrued on each obligation, and any other term or condition specified by each such obligation, is canceled. (Pub. L. 98-181, title I [title IV, §474(a)-(d)], Nov. 30, 1983, 97 Stat. 1238, 1239.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Urban Development Act of 1968, referred to in subsec. (a), is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476. Title IV of the Housing and Urban Development Act, which was classified to chapter 48 (§3901 et seq.) of Title 42, The Public Health and Welfare, was repealed, with certain exceptions which were omitted from the Code, by Pub. L. 98-181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239. Sections 403 and 407 of the Housing and Urban Development Act of 1968 were classified to sections 3902 and 3906, respectively, of Title 42, and were repealed by section 474(e) of Pub. L. 98-181. For complete classification of this Act to the Code, see Short Title of 1968 Amendment note set out under section 1701 of this title and Tables.

The Housing and Urban Development Act of 1970, referred to in subsec. (a), is Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1770. Title VII of the Housing and Urban Development Act of 1970, known as the Urban Growth and New Community Development Act of 1970, is classified principally to chapter 59 (§4501 et seq.) of Title 42. Sections 713 and 717 of the Housing and Urban Development Act of 1970 were classified to sections 4514 and 4518, respectively, of Title 42, and were repealed by Pub. L. 98-181, title I [title IV, §474(e)], Nov. 30, 1983, 97 Stat. 1239. For complete classification of this Act to the Code, see Short Title of 1970 Amendment note set out under section 1701 of this title and Tables.

The Independent Offices Appropriation Act, 1955, referred to in subsec. (a), is act June 24, 1954, ch. 359, 68 Stat. 272. Provisions of title II of this Act relating to the establishment of the revolving fund (liquidating programs) are classified to section 1701g-5 of this title. For complete classification of this Act to the Code, see Tables.

The Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1984, referred to in subsecs. (a), (c), and (d), is Pub. L. 98-45, July 12, 1983, 97 Stat. 219. Provisions of title I of

this Act requiring the transfer of assets and liabilities to the revolving fund (liquidating programs) are classified to section 1701g–5a of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Housing and Urban-Rural Recovery Act of 1983 and also as part of the Domestic Housing and International Recovery and Financial Stability Act, and not as part of the National Housing Act which comprises this chapter.

§1701g–5c. Transfer of rehabilitation loan fund assets and liabilities

Notwithstanding section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Public Law 101–625), the assets and liabilities of the revolving fund established by section 1452b¹ of title 42, and any collections, including repayments or recaptured amounts, of such fund shall be transferred to and merged with the Revolving Fund (liquidating programs), established pursuant to title II of the Independent Offices Appropriation Act, 1955, as amended (12 U.S.C. 1701g–5), effective October 1, 1991.

(Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 752.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 289(c) of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625), referred to in text, is not classified to the Code.

Section 1452b of title 42, referred to in text, was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

The Independent Offices Appropriation Act, 1955, as amended, referred to in text, is act June 24, 1954, ch. 359, 68 Stat. 272. Provisions of title II of this Act relating to the establishment of the revolving fund (liquidating programs) are classified to section 1701g–5 of this title. For complete classification of this Act to the Code, see Tables.

CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1992, and not as part of the National Housing Act which comprises this chapter.

¹ [*See References in Text note below.*](#)

§1701h. Advisory committees; payment of transportation and other expenses

The Secretary of Housing and Urban Development is authorized to establish such advisory committee or committees as he may deem necessary in carrying out any of his functions, powers, and duties under this or any other Act or authorization. Persons serving without compensation as members of any such committee may be paid transportation expenses and not to exceed \$25 per diem in lieu of subsistence, as authorized by section 5703 of title 5.

(July 15, 1949, ch. 338, title VI, §601, 63 Stat. 439; Aug. 2, 1954, ch. 649, title VIII, §807, 68 Stat. 645; Pub. L. 89–117, title XI, §1106, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90–19, §6(h), May 25, 1967, 81 Stat. 22; Pub. L. 98–479, title II, §202(c), Oct. 17, 1984, 98 Stat. 2228.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, known as the Housing Act of 1949, which is classified principally to chapter 8A (§1441 et seq.) of Title 42, The Public Health and Welfare. For

complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing Act of 1949, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1984—Pub. L. 98-479 substituted "section 5703 of title 5" for "section 5 of the Act of August 2, 1946 (5 U.S.C. 73b-2)".

1967—Pub. L. 90-19 substituted "The Secretary of Housing and Urban Development" and "he" for "The Housing and Home Finance Administrator and the head of each constituent agency of the Housing and Home Finance Agency" and "each", respectively.

1965—Pub. L. 89-117 struck out provision that declared inapplicable the conflict-of-interest statutes in the case of members of advisory committees.

1954—Act Aug. 2, 1954, permitted heads of constituent agencies of the Housing and Home Finance Agency to establish advisory committees, inserted provisions relating to inapplicability of the conflict-of-interest statutes with respect to committee members serving without compensation, and inserted provisions relating to payment of expenses.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 1013 of Title 5, Government Organization and Employees.

EXECUTIVE DOCUMENTS

EX. ORD. NO. 10486. ADVISORY COMMITTEE ON GOVERNMENT HOUSING POLICIES AND PROGRAMS

Ex. Ord. No. 10486, Sept. 12, 1953, 18 F.R. 5561, provided:

1. There shall be established the Advisory Committee on Government Housing Policies and Programs.
2. The Committee shall make, or cause to be made, studies and surveys of the housing policies and programs of the Government and the organization within the Executive Branch for the administration of such policies and programs, and shall advise the Housing and Home Finance Administrator and the President with respect thereto.
3. The Housing and Home Finance Administrator shall serve as the Chairman of the Committee, and the other members of the Committee shall be appointed pursuant to the provisions of this Executive Order and Section 601 of the Housing Act of 1949 (63 Stat. 439) [this section].
4. To work directly with the Housing and Home Finance Administrator in the task of directing specific studies and surveys and developing concrete recommendations, there shall be in the Committee an Executive Committee, consisting of members of the Committee designated for such purpose, and the Housing and Home Finance Administrator shall serve as the Chairman of such Executive Committee.
5. Administrative expenses in connection with the work of the Committee, including expenses of advisers and consultants appointed by the Chairman in connection therewith, shall, upon authorization therefor by the Chairman or his delegate, be paid pursuant to the authority therefor under the heading, "Housing and Home Finance Agency, Office of the Administrator" in the Supplemental Appropriation Act, 1954 (Public Law 207, Eighty-third Congress, approved August 7, 1953).

DWIGHT D. EISENHOWER.

§1701h-1. Housing for elderly persons advisory committee

The Secretary of Housing and Urban Development shall establish, in accordance with the

provisions of section 1701h of this title, an advisory committee on matters relating to housing for elderly persons.

(Aug. 7, 1956, ch. 1029, title I, §104(d), 70 Stat. 1093; Pub. L. 90–19, §13(a), May 25, 1967, 81 Stat. 24.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Act of 1956, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Housing and Home Finance Administrator".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law. See section 1013 of Title 5, Government Organization and Employees.

§§1701i, 1701i–1. Omitted

EDITORIAL NOTES

CODIFICATION

Section 1701i, act July 15, 1949, ch. 338, title VI, §603, 63 Stat. 440; 1953 Reorg. Plan No. 1, §5, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631, included the Secretary of Labor and the Secretary of Health, Education, and Welfare or their designees in the membership of the National Housing Council of the Housing and Home Finance Agency.

Section 1701i–1, act Sept. 1, 1951, ch. 378, title VI, §615, 65 Stat. 317, included the Secretary of Defense or his designee and excluded the Chairman of Board of Directors of Reconstruction Finance Corporation or his designee from National Housing Council membership.

§1701j. Repealed. Aug. 2, 1954, ch. 649, title VIII, §813, 68 Stat. 647

Section, acts Apr. 20, 1950, ch. 94, title V, §504, 64 Stat. 81; Sept. 1, 1951, ch. 378, title VI, §613(a), 65 Stat. 316; June 30, 1953, ch. 170, §23, 67 Stat. 127, related to control of charges and fees, imposed by lenders upon builders and purchasers in connection with home loans, by the Federal Housing Commissioner and the Administrator of Veterans' Affairs.

§1701j–1. Builder's certification as to construction

(a) Warranty requirements

The Secretary of Housing and Urban Development is authorized and directed to require that, in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is approved for mortgage insurance prior to the beginning of construction, the seller or builder, and such other person as may be required by the said

Secretary to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary of Housing and Urban Development) on which the Secretary of Housing and Urban Development based his valuation of the dwelling: *Provided*, That the Secretary of Housing and Urban Development shall deliver to the builder, seller, or other warrantor his written approval (which shall be conclusive evidence of such approval) of any amendment of, or change or variation in, such plans and specifications which the Secretary deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications: *Provided further*, That such warranty shall apply only with respect to such instances of substantial nonconformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided herein, by the Secretary of Housing and Urban Development) as to which the purchaser or homeowner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs: *Provided further*, That such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument: *And provided further*, That the provisions of this section shall apply to any such property covered by a mortgage insured by the Secretary of Housing and Urban Development on and after October 1, 1954, unless such mortgage is insured pursuant to a commitment therefor made prior to October 1, 1954.

(b) Availability of plans and specifications

The Secretary of Housing and Urban Development is further directed to permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided herein) for dwellings in connection with which warranties are required by subsection (a) of this section to be made available in their appropriate local offices for inspection or for copying by any purchaser, homeowner, or warrantor during such hours or periods of time as the said Secretary may determine to be reasonable.

(Aug. 2, 1954, ch. 649, title VIII, §801, 68 Stat. 642; Pub. L. 85-857, §13(s)(2), Sept. 2, 1958, 72 Stat. 1266; Pub. L. 90-19, §10(e), May 25, 1967, 81 Stat. 22.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Act of 1954, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Subsecs. (a), (b). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" and "Secretary" for "Federal Housing Commissioner" and "Commissioner", respectively.

1958—Subsec. (a). Pub. L. 85-857 struck out provisions that related to Administrator of Veterans' Affairs and to mortgages guaranteed by him.

Subsec. (b). Pub. L. 85-857 struck out provisions that related to Administrator of Veterans' Affairs.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding part 1 of Title 38, Veterans' Benefits.

STUDY REGARDING HOME WARRANTY PLANS

Pub. L. 102-550, title V, §514, Oct. 28, 1992, 106 Stat. 3789, directed Secretary of Housing and Urban Development to conduct a study of home and builder's warranties and protection plans regarding construction of, and materials used in, 1- to 4-family dwellings subject to mortgages insured under title II of the National Housing Act (12 U.S.C. 1707 et seq.), and submit a report to Congress regarding findings of the study and any

recommendations of the Secretary resulting from the study, not later than the expiration of the 12-month period beginning on Oct. 28, 1992.

§1701j-2. National Institute of Building Sciences

(a) Congressional findings and declaration of purpose

(1) The Congress finds (A) that the lack of an authoritative national source to make findings and to advise both the public and private sectors of the economy with respect to the use of building science and technology in achieving nationally acceptable standards and other technical provision for use in Federal, State, and local housing and building regulations is an obstacle to efforts by and imposes severe burdens upon all those who procure, design, construct, use, operate, maintain, and retire physical facilities, and frequently results in the failure to take full advantage of new and useful developments in technology which could improve our living environment; (B) that the establishment of model buildings codes or of a single national building code will not completely resolve the problem because of the difficulty at all levels of government in updating their housing and building regulations to reflect new developments in technology, as well as the irregularities and inconsistencies which arise in applying such requirements to particular localities or special local conditions; (C) that the lack of uniform housing and building regulatory provisions increases the costs of construction and thereby reduces the amount of housing and other community facilities which can be provided; and (D) that the existence of a single authoritative nationally recognized institution to provide for the evaluation of new technology could facilitate introduction of such innovations and their acceptance at the Federal, State, and local levels.

(2) The Congress further finds, however, that while an authoritative source of technical findings is needed, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and entities are presently engaged in building research, technology development, testing, and evaluation, standards and model code development and promulgation, and information dissemination. These existing activities should be encouraged and these capabilities effectively utilized wherever possible and appropriate to the purposes of this section.

(3) The Congress declares that an authoritative nongovernmental instrument needs to be created to address the problems and issues described in paragraph (1), that the creation of such an instrument should be initiated by the Government, with the advice and assistance of the National Academy of Sciences-National Academy of Engineering-National Research Council (hereinafter referred to as the "Academies-Research Council") and of the various sectors of the building community, including labor and management, technical experts in building science and technology, and the various levels of government.

(b) Establishment; advice and assistance of Academies-Research Council and other agencies and organizations knowledgeable in building technology

(1) There is authorized to be established, for the purposes described in subsection (a)(3), an appropriate nonprofit, nongovernmental instrument to be known as the National Institute of Building Sciences (hereinafter referred to as the "Institute"), which shall not be an agency or establishment of the United States Government. The Institute shall be subject to the provisions of this section and, to the extent consistent with this section, to a charter of the Congress if such a charter is requested and issued or to the District of Columbia Nonprofit Corporation Act if that is deemed preferable.

(2) The Academies-Research Council, along with other agencies and organizations which are knowledgeable in the field of building technology, shall advise and assist in (A) the establishment of the Institute; (B) the development of an organizational framework to encourage and provide for the maximum feasible participation of public and private scientific, technical, and financial organizations, institutions, and agencies now engaged in activities pertinent to the development, promulgation, and maintenance of performance criteria, standards, and other technical provisions for building codes and other regulations; and (C) the promulgation of appropriate organizational rules and procedures including those for the selection and operation of a technical staff, such rules and procedures to be based upon the primary object of promoting the public interest and insuring that the

widest possible variety of interests and experience essential to the functions of the Institute are represented in the Institute's operations. Recommendations of the Academies-Research Council shall be based upon consultations with and recommendations from various private organizations and institutions, labor, private industry, and governmental agencies entities operating in the field, and the Consultative Council as provided for under subsection (c)(8).

(3) Nothing in this section shall be construed as expressing the intent of the Congress that the Academies-Research Council itself be required to assume any function or operation vested in the Institute by or under this section.

(c) Board of Directors; number; appointment; membership; terms of office; vacancies; appointment, etc., of Chairman and Vice Chairman; employees of United States; travel and subsistence expenses; appointment and compensation of president and other executive officers and employees; establishment, membership, and functions of Consultative Council

(1) The Institute shall have a Board of Directors (hereinafter referred to as the "Board") consisting of not less than fifteen nor more than twenty-one members, appointed by the President of the United States by and with the advice and consent of the Senate. The Board shall be representative of the various segments of the building community, of the various regions of the country, and of the consumers who are or would be affected by actions taken in the exercise of the functions and responsibilities of the Institute, and shall include (A) representatives of the construction industry, including representatives of construction labor organizations, product manufacturers, and builders, housing management experts, and experts in building standards, codes, and fire safety, and (B) members representative of the public interest in such numbers as may be necessary to assure that a majority of the members of the Board represent the public interest and that there is adequate consideration by the Institute of consumer interests in the exercise of its functions and responsibilities. Those representing the public interest on the Board shall include architects, professional engineers, officials of Federal, State, and local agencies, and representatives of consumer organizations. Such members of the Board shall hold no financial interest or membership in, nor be employed by, or receive other compensation from, any company, association, or other group associated with the manufacture, distribution, installation, or maintenance of specialized building products, equipment, systems, subsystems, or other construction materials and techniques for which there are available substitutes.

(2) The members of the initial Board shall serve as incorporators and shall take whatever actions are necessary to establish the Institute as provided for under subsection (b)(1).

(3) The term of office of each member of the initial and succeeding Boards shall be three years; except that (A) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term; and (B) the terms of office of members first taking office shall begin on the date of incorporation and shall expire, as designated at the time of their appointment, one-third at the end of one year, one-third at the end of two years, and one-third at the end of three years. No member shall be eligible to serve in excess of three consecutive terms of three years each. Notwithstanding the preceding provisions of this subsection, a member whose term has expired may serve until his successor has qualified.

(4) Any vacancy in the initial and succeeding Boards shall not affect its power, but shall be filled in the manner in which the original appointments were made, or, after the first five years of operation, as provided for by the organizational rules and procedures of the Institute; except that, notwithstanding any such rules and procedures as may be adopted by the Institute, the President of the United States, by and with the advice and consent of the Senate, shall appoint, as representative of the public interest, two of the members of the Board of Directors selected each year for terms commencing in that year.

(5) The President shall designate one of the members appointed to the initial Board as Chairman; thereafter, the members of the initial and succeeding Boards shall annually elect one of their number as Chairman. The members of the Board shall also elect one or more of their Members as Vice Chairman. Terms of the Chairman and Vice Chairman shall be for one year and no individual shall serve as Chairman or Vice Chairman for more than two consecutive terms.

(6) The members of the initial or succeeding Boards shall not, by reason of such membership, be

deemed to be employees of the United States Government. They shall, while attending meetings of the Board or while engaged in duties related to such meetings or in other activities of the Board pursuant to this section, be entitled to receive compensation at the rate of \$100 per day including traveltime, and while away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, equal to that authorized under section 5703 of title 5, for persons in the Government service employed intermittently.

(7) The Institute shall have a president and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board. No such executive officer or employee may receive any salary or other compensation from any source other than the Institute during the period of his employment by the Institute.

(8) The Institute shall establish, with the advice and assistance of the Academies-Research Council and other agencies and organizations which are knowledgeable in the field of building technology, a Consultative Council, membership in which shall be available to representatives of all appropriate private trade, professional, and labor organizations, private and public standards, code, and testing bodies, public regulatory agencies, and consumer groups, so as to insure a direct line of communication between such groups and the Institute and a vehicle for representative hearings on matters before the Institute.

(d) Financial restrictions and prohibitions

(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall inure to the benefit of any director, officer, employee, or other individual except as salary or reasonable compensation for services.

(3) The Institute shall not contribute to or otherwise support any political party or candidate for elective public office.

(e) Exercise of functions and responsibilities

(1) The Institute shall exercise its functions and responsibilities in four general areas, relating to building regulations, as follows:

(A) Development, promulgation, and maintenance of nationally recognized performance criteria, standards, and other technical provisions for maintenance of life, safety, health, and public welfare suitable for adoption by building regulating jurisdictions and agencies, including test methods and other evaluative techniques relating to building systems, subsystems, components, products, and materials with due regard for consumer problems.

(B) Evaluation and prequalification of existing and new building technology in accordance with subparagraph (A).

(C) Conduct of needed investigations in direct support of subparagraphs (A) and (B).

(D) Assembly, storage, and dissemination of technical data and other information directly related to subparagraphs (A), (B), and (C).

(2) The Institute in exercising its functions and responsibilities described in paragraph (1) shall assign and delegate, to the maximum extent possible, responsibility for conducting each of the needed activities described in paragraph (1) to one or more of the private organizations, institutions, agencies, and Federal and other governmental entities with a capacity to exercise or contribute to the exercise of such responsibility, monitor the performance achieved through assignment and delegation, and, when deemed necessary, reassign and delegate such responsibility.

(3) The Institute in exercising its functions and responsibilities under paragraphs (1) and (2) shall (A) give particular attention to the development of methods for encouraging all sectors of the economy to cooperate with the Institute and to accept and use its technical findings, and to accept and use the nationally recognized performance criteria, standards, and other technical provisions developed for use in Federal, State, and local building codes and other regulations which result from the program of the Institute; (B) seek to assure that its actions are coordinated with related requirements which are imposed in connection with community and environmental development generally; and (C) consult with the Department of Justice and other agencies of government to the

extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

(f) Contract and grant authorization; donations; fees; amounts received in addition to amounts appropriated

(1) The Institute is authorized to accept contracts and grants from Federal, State, and local governmental agencies and other entities, and grants and donations from private organizations, institutions, and individuals.

(2) The Institute may, in accordance with rates and schedules established with guidance as provided under subsection (b)(2), establish fees and other charges for services provided by the Institute or under its authorization.

(3) Amounts received by the Institute under this section shall be in addition to any amounts which may be appropriated to provide its initial operating capital under subsection (h).

(g) Technical findings and performance criteria and standards; applicability and use by Federal departments, agencies, and establishments, and State and local governments; supporting grants and contracts

(1) Every department, agency, and establishment of the Federal Government, in carrying out any building or construction, or any building- or construction-related programs, which involves direct expenditures, and in developing technical requirements for any such building or construction, shall be encouraged to accept the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute, which may be applicable.

(2) All projects and programs involving Federal assistance in the form of loans, grants, guarantees, insurance, or technical aid, or in any other form, shall be encouraged to accept, use, and comply with any of the technical findings of the Institute, or any nationally recognized performance criteria, standards, and other technical provisions for building codes and other regulations brought about by the Institute, which may be applicable to the purposes for which the assistance is to be used.

(3) Every department, agency, and establishment of the Federal Government having responsibility for building or construction, or for building- or construction-related programs, is authorized and encouraged to request authorization and appropriations for grants to the Institute for its general support, and is authorized to contract with and accept contracts from the Institute for specific services where deemed appropriate by the responsible Federal official involved.

(4) The Institute shall establish and carry on a specific and continuing program of cooperation with the States and their political subdivisions designed to encourage their acceptance of its technical findings and of nationally recognized performance criteria, standards, and other technical provisions for building regulations brought about by the Institute. Such program shall include (A) efforts to encourage any changes in existing State and local law to utilize or embody such findings and regulatory provisions; and (B) assistance to States in the development of inservice training programs for building officials, and in the establishment of fully staffed and qualified State technical agencies to advise local officials on questions of technical interpretation.

(h) Advanced Building Technology Program

(1) Establishment of Advanced Building Technology Council

There is established within the Institute, the Advanced Building Technology Council (hereafter referred to as the "Council").

(2) Purposes

The Council shall carry out an Advanced Building Technology Program for the purposes of—

(A) identifying, selecting, and evaluating existing and new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet applicable test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

(B) to the extent necessary, developing criteria for the use of such technology;

(C) conducting economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

(D) in cooperation with the appropriate Federal agencies, advising building designers, installers, subcontractors, contractors and supervisory officials on the appropriate design and use of new building technology incorporated in federally owned or operated buildings;

(E) in cooperation with the appropriate Federal agencies, monitoring and evaluating the performance of new building technologies for at least 1 year after installation and building occupancy; and

(F) disseminating resulting data to affected parties through automated information management systems.

(3) Council membership

The Council shall be comprised of not less than 6 and not more than 11 members selected by the Secretary of Housing and Urban Development from among representatives of the various segments of the nationwide building community that have extensive experience in building industries, including, but not limited to—

(A) product manufacturers;

(B) experts in the fields of health, fire hazards, and safety; and

(C) independent representatives of the public interest such as architects, professional engineers, and representatives of consumer organizations,

except that serving members of the National Institute of Building Sciences Advisory Council shall not be eligible to serve simultaneously on the Council.

(4) Federal participation

(A) In general

Any agency of the Federal Government involved in any building or construction may participate in the Advanced Building Technology Program with the Council to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within the agency.

(B) Required assurances

Upon agreement between a participating Federal agency and the Council, with respect to the selection of the appropriate technology and the schedule of necessary work, the Council shall—

(i) provide the Federal agency with a 5-year guarantee from the technology manufacturer that—

(I) all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology;

(II) all malfunctions will be repaired without delay; and

(III) the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required;

(ii) provide the Federal agency and its officials responsible for constructing or renovating buildings utilizing the new technology, as well as the designers, installers, subcontractors, and contractors responsible for the design, construction, or renovation of the buildings utilizing such technology with the technical information necessary to ensure its most appropriate use,

(iii) in cooperation with the Federal agency, monitor and evaluate the performance of the new technology, and

(iv) prepare reports to be made available to public agencies at all levels of government, the industry, and the public on the performance of the new technology.

(5) Report to the Institute

The Council shall submit to the Institute annually a description of its activities under the

Advanced Building Technology Program for inclusion in the Institute's annual report to the Congress under subsection (j).

(i) Authorization of appropriations

There is authorized to be appropriated to the Institute not to exceed \$5,000,000 for the fiscal year 1975, and \$5,000,000 for the fiscal year 1976, and \$5,000,000 for each of the fiscal years 1977 and 1978, and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1984 (with not more than \$500,000 to be appropriated for each of the fiscal years 1982, 1983, and 1984 and with each appropriation to be available until expended), to provide the Institute with initial capital adequate for the exercise of its functions and responsibilities during such years; and thereafter the Institute shall be financially self-sustaining through the means described in subsection (f). In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed \$512,000 for fiscal year 1991 and \$534,000 for fiscal year 1992. Any amount appropriated under the preceding sentence shall be made available for expenditure or obligation by the Institute only to the extent of an equal amount received by the Institute after November 30, 1983, from persons or entities other than the Federal Government.

(j) Annual report to President for transmittal to Congress; contents

The Institute shall submit an annual report for the preceding fiscal year to the President for transmittal to the Congress within sixty days of its receipt. The report shall include a comprehensive and detailed report of the Institute's operations, activities, financial condition, and accomplishments under this section and may include such recommendations as the Institute deems appropriate.

(Pub. L. 93-383, title VIII, §809, Aug. 22, 1974, 88 Stat. 729; Pub. L. 94-375, §24, Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95-557, title III, §319, Oct. 31, 1978, 92 Stat. 2101; Pub. L. 97-35, title III, §339E, Aug. 13, 1981, 95 Stat. 417; Pub. L. 98-181, title I [title IV, §462], Nov. 30, 1983, 97 Stat. 1232; Pub. L. 100-242, title V, §570(f), Feb. 5, 1988, 101 Stat. 1950; Pub. L. 101-625, title IX, §952(a), Nov. 28, 1990, 104 Stat. 4418; Pub. L. 102-550, title IX, §904(a), Oct. 28, 1992, 106 Stat. 3868.)

EDITORIAL NOTES

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (b)(1), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1992—Subsecs. (h) to (j). Pub. L. 102-550 added subsec. (h) and redesignated former subsecs. (h) and (i) as (i) and (j), respectively.

1990—Subsec. (h). Pub. L. 101-625 amended second sentence generally. Prior to amendment, second sentence read as follows: "In addition to the amounts authorized to be appropriated under the first sentence of this section, there is authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed \$250,000 for fiscal year 1984."

1988—Subsec. (g)(4). Pub. L. 100-242, §570(f)(1), substituted "of its" for "and its".

Subsec. (h). Pub. L. 100-242, §570(f)(2), substituted "preceding" for "preceeding".

1983—Subsec. (h). Pub. L. 98-181 inserted provisions relating to the appropriation of not to exceed \$250,000 for fiscal 1984, such amount to be made available for expenditure only to the extent of an equal amount received from persons or entities other than the Federal Government.

1981—Subsec. (c)(4). Pub. L. 97-35, §339E(b), inserted provisions respecting Presidential appointment powers to the Board.

Subsec. (h). Pub. L. 97-35, §339E(a), inserted provisions which extended authorization from 1982 to 1984, and enumerated amount for fiscal years 1982, 1983, and 1984.

1978—Subsec. (h). Pub. L. 95–557 inserted ", and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1982" after "1978".

1976—Subsec. (h). Pub. L. 94–375 inserted ", and \$5,000,000 for each of the fiscal years 1977 and 1978" after "fiscal year 1976".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

NATIONAL INSTITUTE OF BUILDING SCIENCES TRUST FUND; AUTHORIZATION OF APPROPRIATIONS

Pub. L. 98–396, title I, Aug. 22, 1984, 98 Stat. 1384, provided that: "There is appropriated out of funds not otherwise appropriated, the sum of \$5,000,000 to a 'National Institute of Building Sciences Trust Fund' which is hereby established in the Treasury of the United States: *Provided*, That the Secretary shall invest such funds in U.S. Treasury special issue securities at a fixed rate of ten per centum per annum, that such interest shall be credited to the Trust Fund on a quarterly basis, and that the Secretary shall make quarterly disbursements from such interest to the National Institute of Building Sciences: *Provided further*, That the total amount of such payment during any fiscal year may not exceed \$500,000 or the amount equivalent to non-Federal funds received by the Institute during the preceding fiscal year, whichever is less: *Provided further*, That any amount of interest not used for any such annual payment shall be paid into the general fund of the Treasury: *Provided further*, That the appropriation of \$5,000,000 made in this paragraph shall revert to the Treasury, on October 1, 1989, and the National Institute of Building Sciences Trust Fund shall terminate following the final quarterly disbursement of interest provided for in this paragraph."

§1701j–3. Preemption of due-on-sale prohibitions

(a) Definitions

For the purpose of this section—

(1) the term "due-on-sale clause" means a contract provision which authorizes a lender, at its option, to declare due and payable sums secured by the lender's security instrument if all or any part of the property, or an interest therein, securing the real property loan is sold or transferred without the lender's prior written consent;

(2) the term "lender" means a person or government agency making a real property loan or any assignee or transferee, in whole or in part, of such a person or agency;

(3) the term "real property loan" means a loan, mortgage, advance, or credit sale secured by a lien on real property, the stock allocated to a dwelling unit in a cooperative housing corporation, or a residential manufactured home, whether real or personal property; and

(4) the term "residential manufactured home" means a manufactured home as defined in section 5402(6) of title 42 which is used as a residence; and

(5) the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(b) Loan contract and terms governing execution or enforcement of due-on-sale options and rights and remedies of lenders and borrowers; assumptions of loan rates

(1) Notwithstanding any provision of the constitution or laws (including the judicial decisions) of any State to the contrary, a lender may, subject to subsection (c), enter into or enforce a contract containing a due-on-sale clause with respect to a real property loan.

(2) Except as otherwise provided in subsection (d), the exercise by the lender of its option pursuant to such a clause shall be exclusively governed by the terms of the loan contract, and all rights and remedies of the lender and the borrower shall be fixed and governed by the contract.

(3) In the exercise of its option under a due-on-sale clause, a lender is encouraged to permit an

assumption of a real property loan at the existing contract rate or at a rate which is at or below the average between the contract and market rates, and nothing in this section shall be interpreted to prohibit any such assumption.

(c) State prohibitions applicable for prescribed period; subsection (b) provisions applicable upon expiration of such period; loans subject to State and Federal regulation or subsection (b) provisions when authorized by State laws or Federal regulations

(1) In the case of a contract involving a real property loan which was made or assumed, including a transfer of the lien property subject to the real property loan, during the period beginning on the date a State adopted a constitutional provision or statute prohibiting the exercise of due-on-sale clauses, or the date on which the highest court of such State has rendered a decision (or if the highest court has not so decided, the date on which the next highest appellate court has rendered a decision resulting in a final judgment if such decision applies State-wide) prohibiting such exercise, and ending on October 15, 1982, the provisions of subsection (b) shall apply only in the case of a transfer which occurs on or after the expiration of 3 years after October 15, 1982, except that—

(A) a State, by a State law enacted by the State legislature prior to the close of such 3-year period, with respect to real property loans originated in the State by lenders other than national banks, Federal savings and loan associations, Federal savings banks, and Federal credit unions, may otherwise regulate such contracts, in which case subsection (b) shall apply only if such State law so provides; and

(B) the Comptroller of the Currency with respect to real property loans originated by national banks or the National Credit Union Administration Board with respect to real property loans originated by Federal credit unions may, by regulation prescribed prior to the close of such period, otherwise regulate such contracts, in which case subsection (b) shall apply only if such regulation so provides.

(2)(A) For any contract to which subsection (b) does not apply pursuant to this subsection, a lender may require any successor or transferee of the borrower to meet customary credit standards applied to loans secured by similar property, and the lender may declare the loan due and payable pursuant to the terms of the contract upon transfer to any successor or transferee of the borrower who fails to meet such customary credit standards.

(B) A lender may not exercise its option pursuant to a due-on-sale clause in the case of a transfer of a real property loan which is subject to this subsection where the transfer occurred prior to October 15, 1982.

(C) This subsection does not apply to a loan which was originated by a Federal savings and loan association or Federal savings bank.

(d) Exemption of specified transfers or dispositions

With respect to a real property loan secured by a lien on residential real property containing less than five dwelling units, including a lien on the stock allocated to a dwelling unit in a cooperative housing corporation, or on a residential manufactured home, a lender may not exercise its option pursuant to a due-on-sale clause upon—

(1) the creation of a lien or other encumbrance subordinate to the lender's security instrument which does not relate to a transfer of rights of occupancy in the property;

(2) the creation of a purchase money security interest for household appliances;

(3) a transfer by devise, descent, or operation of law on the death of a joint tenant or tenant by the entirety;

(4) the granting of a leasehold interest of three years or less not containing an option to purchase;

(5) a transfer to a relative resulting from the death of a borrower;

(6) a transfer where the spouse or children of the borrower become an owner of the property;

(7) a transfer resulting from a decree of a dissolution of marriage, legal separation agreement, or from an incidental property settlement agreement, by which the spouse of the borrower becomes an owner of the property;

(8) a transfer into an inter vivos trust in which the borrower is and remains a beneficiary and which does not relate to a transfer of rights of occupancy in the property; or

(9) any other transfer or disposition described in regulations prescribed by the Federal Home Loan Bank Board.

(e) Rules, regulations, and interpretations; future income bearing loans subject to due-on-sale options

(1) The Federal Home Loan Bank Board, in consultation with the Comptroller of the Currency and the National Credit Union Administration Board, is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(2) Notwithstanding the provisions of subsection (d), the rules and regulations prescribed under this section may permit a lender to exercise its option pursuant to a due-on-sale clause with respect to a real property loan and any related agreement pursuant to which a borrower obtains the right to receive future income.

(f) Effective date for enforcement of Corporation-owned loans with due-on-sale options

The Federal Home Loan Mortgage Corporation (hereinafter referred to as the "Corporation") shall not, prior to July 1, 1983, implement the change in its policy announced on July 2, 1982, with respect to enforcement of due-on-sale clauses in real property loans which are owned in whole or in part by the Corporation.

(g) Balloon payments

Federal Home Loan Bank Board regulations restricting the use of a balloon payment shall not apply to a loan, mortgage, advance, or credit sale to which this section applies.

(Pub. L. 97-320, title III, §341, Oct. 15, 1982, 96 Stat. 1505; Pub. L. 98-181, title I [title IV, §473], Nov. 30, 1983, 97 Stat. 1237.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Thrift Institutions Restructuring Act and also as part of the Garn-St Germain Depository Institutions Act of 1982, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1983—Subsec. (d). Pub. L. 98-181 substituted "With respect to a real property loan secured by a lien on residential real property containing less than five dwelling units, including a lien on the stock allocated to a dwelling unit in a cooperative housing corporation, or on a residential manufactured home, a lender" for "A lender".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Federal Home Loan Bank Board abolished and functions transferred, see sections 401 to 406 of Pub. L. 101-73, set out as a note under section 1437 of this title.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1701k. Right to redeem property on which United States has lien

The right to redeem provided for by section 2410(c) of title 28, shall not arise in any case in which the subordinate lien or interest of the United States derives from the issuance of insurance under the National Housing Act, as amended [12 U.S.C. 1701 et seq.].

(Apr. 20, 1950, ch. 94, title V, §505, 64 Stat. 81; Pub. L. 85–857, §13(q), Sept. 2, 1958, 72 Stat. 1266.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in text, 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.

CODIFICATION

Section was enacted as part of the Housing Act of 1950, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1958—Pub. L. 85–857 struck out provisions which related to the right to redeem in cases in which the subordinate lien or interest derives from the issuance of guaranties of insurance under the Serviceman's Readjustment Act of 1944, as amended.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–857 effective Jan. 1, 1959, see section 2 of Pub. L. 85–857, set out as an Effective Date note preceding part 1 of Title 38, Veterans' Benefits.

ACT APRIL 20, 1950, AS CONTROLLING LAW; HOUSING AND HOME FINANCE ADMINISTRATOR UNAFFECTED

Act Apr. 20, 1950, ch. 94, title V, §509, 64 Stat. 81, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [see Tables for classification] the provisions of this Act shall be controlling: *Provided*, That nothing contained in this Act shall affect the authority of the Housing and Home Finance Administrator under title II of Public Law 266, Eighty-first Congress [Act Aug. 24, 1949, ch. 506, title II, 63 Stat. 657]."

POWERS AND AUTHORITIES OF ACT APRIL 20, 1950, AS CUMULATIVE; SEPARABILITY

Act Apr. 20, 1950, ch. 94, title V, §510, 64 Stat. 81, provided that: "Except as may be otherwise expressly provided in this Act [see Tables for classification] all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its applications to other persons and circumstances, but shall be confined in its operation to the provisions of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered."

§1701/. Limitation on interest rates of insured mortgages; terms of sales

It is the intent of Congress that no sale of a dwelling on which a mortgage is insured under the National Housing Act, as amended [12 U.S.C. 1701 et seq.], shall be financed, while such mortgage is so insured, at an interest rate higher than that prescribed by the Secretary of Housing and Urban Development. It is the further intent of Congress that no such sale shall be made, while such mortgage is so insured, on terms less favorable to the purchaser as to amortization, retirement, foreclosure, or forfeiture than those contained in such mortgage.

(Apr. 20, 1950, ch. 94, title V, §508, 64 Stat. 81; Pub. L. 90–19, §8(e), May 25, 1967, 81 Stat. 22.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in text, 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.

CODIFICATION

Section was enacted as part of the Housing Act of 1950, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

§1701l–1. Mortgage proceeds fraudulently misappropriated by mortgagor; recovery of deficiency after foreclosure

The Secretary of Housing and Urban Development shall take action to secure the payment of any deficiency after foreclosure on a mortgage insured or assisted under Federal law where the Secretary has reason to believe that the mortgage proceeds have been fraudulently misappropriated by the mortgagor.

(Pub. L. 93–383, title VIII, §819, Aug. 22, 1974, 88 Stat. 740.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1974, and not as part of the National Housing Act which comprises this chapter.

§1701m. Credit and cancellation of notes transferred from Reconstruction Finance Corporation; net loss computation

The Secretary of the Treasury is authorized and directed from time to time to credit and cancel the note or notes of the Housing and Home Finance Administrator executed and delivered in connection with loans transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Agency pursuant to Reorganization Plan Numbered 23 of 1950 (64 Stat. 1279), to the extent of the net loss, as determined by the Secretary of the Treasury, sustained by said Agency in the liquidation of defaulted loans. The net loss shall be the sum of the unpaid principal and advances for care and preservation of collateral, together with accrued and unpaid interest on said principal and advances, and all expenses and costs (other than those subject to administrative expense limitations) in connection with the liquidation of defaulted loans, less the amount actually realized by the Housing and Home Finance Agency on account of such defaulted loans.

(July 14, 1952, ch. 723, §9, 66 Stat. 603.)

EDITORIAL NOTES

REFERENCES IN TEXT

Reorganization Plan Numbered 23 of 1950, referred to in text, is set out in the Appendix to Title 5, Government Organization and Employees.

CODIFICATION

Section was enacted as part of the Housing Act of 1952, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Housing and Home Finance Agency and its Administrator transferred to and vested in Secretary of Housing and Urban Development by Pub. L. 89-174, §5, Sept. 9, 1965, 79 Stat. 669, classified to section 3534 of Title 42, The Public Health and Welfare.

TERMINATION AND LIQUIDATION OF RECONSTRUCTION FINANCE CORPORATION

Termination on June 30, 1954, of Reconstruction Finance Corporation and liquidation thereof, see sections 608 and 609 of Title 15, Commerce and Trade, and notes thereunder.

EXECUTIVE DOCUMENTS

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

Section 6(a) of Reorg. Plan No. 1 of 1957, eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees, abolished Reconstruction Finance Corporation.

§1701n. Reduction of vulnerability of congested urban areas to enemy attack

The Department of Housing and Urban Development, and any other departments or agencies of the Federal Government having powers, functions, or duties with respect to housing under any law shall exercise such powers, functions, or duties in such manner as, consistent with the requirements thereof, will facilitate progress in the reduction of the vulnerability of congested urban areas to enemy attack.

(Aug. 2, 1954, ch. 649, title VIII, §811, 68 Stat. 646; Pub. L. 90-19, §10(g), May 25, 1967, 81 Stat. 23.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Act of 1954, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" for "Housing and Home Finance Agency, including its constituent agencies".

§1701o. Annual report of Secretary

The Secretary of Housing and Urban Development shall, as soon as practicable during each calendar year, make a report to the President for submission to the Congress on all operations and programs (including but not limited to the insurance, urban renewal, public housing, and rent supplement programs) under the jurisdiction of the Department of Housing and Urban Development during the previous calendar year. Such report shall contain recommendations for strengthening or improving such programs, or, when necessary to implement more effectively Congressional policies and purposes, for establishing new or alternative programs.

(Aug. 2, 1954, ch. 649, title VIII, §802(a), 68 Stat. 642; Pub. L. 89-117, title XI, §1101, Aug. 10, 1965, 79 Stat. 502; Pub. L. 90-19, §10(f), May 25, 1967, 81 Stat. 23; Pub. L. 100-242, title V,

§570(b), Feb. 5, 1988, 101 Stat. 1950.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Act of 1954, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1988—Pub. L. 100–242 inserted section catchline "Annual report of Secretary".

1967—Pub. L. 90–19 struck out "FHA" before "insurance" and substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

1965—Pub. L. 89–117 specifically included FHA insurance, urban renewal, public housing, and rent supplement programs within the operation and programs of the Housing and Home Finance Agency which the report shall cover and inserted requirement that the report contain recommendations for improving programs and for new or alternative programs.

§1701p. Contents of report to President and Congress

The annual report made by the Secretary of Housing and Urban Development to the President for submission to the Congress on all operations provided for by section 1701o of this title shall contain pertinent information with respect to all projects for which any loan, contribution, or grant has been made by the Department of Housing and Urban Development, including the amount of loans, contributions and grants contracted for.

(Aug. 2, 1954, ch. 649, title VIII, §817, 68 Stat. 648; Pub. L. 90–19, §10(j), May 25, 1967, 81 Stat. 23; Pub. L. 97–375, title II, §207(a), Dec. 21, 1982, 96 Stat. 1824.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Act of 1954, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1982—Pub. L. 97–375 struck out requirement for the inclusion of pertinent information respecting all builders' cost certifications required by section 1715r of this title, including amounts paid by mortgagors to mortgagees for application to the reduction of the principal obligations of the mortgages pursuant to that section.

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" and "Department of Housing and Urban Development" for "Housing and Home Finance Administrator" and "Housing and Home Finance Agency", respectively.

§1701p–1. Periodic report on residential mortgage delinquencies and foreclosures

As soon as practicable following November 30, 1983, the Secretary of Housing and Urban Development, with the cooperation of the Federal Housing Finance Agency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Comptroller of the Currency, shall develop a method of accurately reporting to the Congress on a periodic basis with respect to residential mortgage delinquencies and foreclosures. Each such report shall include information with respect to the number of residential mortgage foreclosures, and the number of sixty- and ninety-day residential mortgage delinquencies, in the Nation and in each State.

(Pub. L. 98–181, title I [title IV, §469], Nov. 30, 1983, 97 Stat. 1237; Pub. L. 111–203, title III, §372, July 21, 2010, 124 Stat. 1566.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban–Rural Recovery Act of 1983 and also as part of the Domestic Housing and International Recovery and Financial Stability Act, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2010—Pub. L. 111–203 substituted "Federal Housing Finance Agency" for "Federal Home Loan Bank Board".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103–7 (in which a report required under this section is listed on page 105), see section 3003 of Pub. L. 104–66, set out as a note under section 1113 of Title 31, Money and Finance.

§1701p–2. Default and foreclosure database

(a) Establishment

The Secretary of Housing and Urban Development and the Director of the Bureau, in consultation with the Federal agencies responsible for regulation of banking and financial institutions involved in residential mortgage lending and servicing, shall establish and maintain a database of information on foreclosures and defaults on mortgage loans for one- to four-unit residential properties and shall make such information publicly available, subject to subsection (e).

(b) Census tract data

Information in the database may be collected, aggregated, and made available on a census tract basis.

(c) Requirements

Information collected and made available through the database shall include—

- (1) the number and percentage of such mortgage loans that are delinquent by more than 30 days;
- (2) the number and percentage of such mortgage loans that are delinquent by more than 90 days;
- (3) the number and percentage of such properties that are real estate-owned;
- (4) number and percentage of such mortgage loans that are in the foreclosure process;
- (5) the number and percentage of such mortgage loans that have an outstanding principal obligation amount that is greater than the value of the property for which the loan was made; and
- (6) such other information as the Secretary of Housing and Urban Development and the Director of the Bureau consider appropriate.

(d) Rule of construction

Nothing in this section shall be construed to encourage discriminatory or unsound allocation of credit or lending policies or practices.

(e) Privacy and confidentiality

In establishing and maintaining the database described in subsection (a), the Secretary of Housing and Urban Development and the Director of the Bureau shall—

- (1) be subject to the standards applicable to Federal agencies for the protection of the confidentiality of personally identifiable information and for data security and integrity;
- (2) implement the necessary measures to conform to the standards for data integrity and security described in paragraph (1); and
- (3) collect and make available information under this section, in accordance with paragraphs (5) and (6) of section 5512(c) of this title and the rules prescribed under such paragraphs, in order to protect privacy and confidentiality.

(Pub. L. 111–203, title XIV, §1447, July 21, 2010, 124 Stat. 2172.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Expand and Preserve Home Ownership Through Counseling Act and also as part of the Mortgage Reform and Anti-Predatory Lending Act and as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

DEFINITION OF "BUREAU"

"Bureau" as meaning the Bureau of Consumer Financial Protection established under title X of Pub. L. 111–203, see section 5301 of this title.

§1701q. Supportive housing for the elderly

(a) Purpose

The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

- (1) is designed to accommodate the special needs of elderly persons; and
- (2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

(b) General authority

The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure, or the acquisition of a structure, to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for the elderly.

(c) Forms of assistance

(1) Capital advances

A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) Project rental assistance

Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

(3) Tenant rent contribution

A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

(d) Term of commitment

(1) Use limitations

All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

(2) Contract terms

The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(e) Applications

Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

- (1) a description of the proposed housing;
- (2) a description of the assistance the applicant seeks under this section;
- (3) a description of the resources that are expected to be made available in compliance with subsection (h);
- (4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;
- (5) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 12705 of title 42 that the proposed project is consistent with the approved housing strategy; and

(6) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

The Secretary shall not reject an application on technical grounds without giving notice of that rejection and the basis therefor to the applicant and affording the applicant an opportunity to respond.

(f) Initial selection criteria and processing

(1) Selection criteria

The Secretary shall establish selection criteria for assistance under this section, which shall include—

- (A) the ability of the applicant to develop and operate the proposed housing;
- (B) the need for supportive housing for the elderly in the area to be served, taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities;
- (C) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;
- (D) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;
- (E) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) will be provided on a consistent, long-term basis;
- (F) the extent to which the applicant has ensured that a service coordinator will be employed or otherwise retained for the housing, who has the managerial capacity and responsibility for carrying out the actions described in subparagraphs (A) and (B) of subsection (g)(2);
- (G) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and
- (H) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(2) Delegated processing

- (A) The Secretary shall establish procedures to delegate the award, review and processing of projects, selected by the Secretary in a national competition, to a State or local housing agency that—
- (i) is in geographic proximity to the property;
 - (ii) has demonstrated experience in and capacity for underwriting multifamily housing loans that provide housing and supportive services;
 - (iii) may or may not be providing low-income housing tax credits in combination with the funding under this section; and
 - (iv) agrees to issue a firm commitment within 12 months of delegation.

(B) The Secretary shall retain the authority to process funding under this section in cases in which no State or local housing agency has applied to provide delegated processing pursuant to this paragraph or no such agency has entered into an agreement with the Secretary to serve as a delegated processing agency.

(C) The Secretary shall develop a schedule for reasonable fees under this subparagraph to be paid to delegated processing agencies, which shall take into consideration any other fees to be paid to the agency for other funding provided to the project by the agency, including bonds, tax credits, and other gap funding.

(D) Assistance under subsection (c)(2) may be provided for projects which identify in the application for assistance a defined health and other supportive services program including sources of financing the services for eligible residents and memoranda of understanding with

service provision agencies and organizations to provide such services for eligible residents at their request. Such supportive services plan and memoranda of understating shall—

- (i) identify the target populations to be served by the project;
- (ii) set forth methods for outreach and referral;
- (iii) identify the health and other supportive services to be provided; and
- (iv) identify the terms under which such services will be made available to residents of the project.

(E) Under such delegated system, the Secretary shall retain the authority to approve rents and development costs and to execute funding under this section within 60 days of receipt of the commitment from the State or local agency. The Secretary shall provide to such agency and the project sponsor, in writing, the reasons for any reduction in funding under this section and such reductions shall be subject to appeal.

(g) Provisions of services

(1) In general

In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons (including frail elderly persons) occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; (F) providing education and outreach regarding telemarketing fraud, in accordance with the standards issued under section 671(f) of the Housing and Community Development Act of 1992 (42 U.S.C. 13631(f)); and (G) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

(2) Local coordination of services

The Secretary shall ensure that owners have the managerial capacity to—

- (A) assess on an ongoing basis the service needs of residents;
- (B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and
- (C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection shall be an eligible cost under subsection (c)(2).

(3) Service coordinators

Any cost associated with employing or otherwise retaining a service coordinator in housing assisted under this section shall be considered an eligible cost under subsection (c)(2). If a project is receiving congregate housing services assistance under section 8011 of title 42, the amount of costs provided under subsection (c)(2) for the project service coordinator may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 8011 of title 42. To the extent that amounts are available pursuant to subsection (c)(2) for the costs of carrying out this paragraph within a project, an owner of housing assisted under this section shall provide a service coordinator for the housing to coordinate the provision of services under this subsection within the housing.

(h) Development cost limitations

(1) In general

The Secretary shall periodically establish reasonable development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the

cost limitations in the Federal Register. The cost limitations shall reflect—

- (A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes;
- (B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;
- (C) the cost of special design features necessary to make the housing accessible to elderly persons;
- (D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly project residents;
- (E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly project residents;
- (F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of title 42; and
- (G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect currently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities. Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility.

(2) Acquisition

In the case of existing housing and related facilities to be acquired, the cost limitations shall include—

- (A) the cost of acquiring such housing,
- (B) the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and
- (C) the cost of the land on which the housing and related facilities are located.

(3) Annual adjustments

The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

(4) Incentives for savings

(A) Special housing account

The Secretary shall use the development cost limitations established under paragraph (1) or (2) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which—

- (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 12709 of title 42;
- (ii) substantially reduce the life-cycle cost of the housing;
- (iii) reduce gross rent requirements; and
- (iv) enhance tenant comfort and convenience.

(B) Uses

The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement

reserves, or (ii) for such other purposes as determined by the Secretary.

(5) Design flexibility

The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

(6) Use of funds from other sources

An owner shall be permitted voluntarily to provide funds from sources other than this section for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants. Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant.

(i) Tenant selection

(1) In general

An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income elderly persons; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Information regarding housing under this section

The Secretary shall provide to an appropriate agency in each area (which may be the applicable Area Agency on the Aging) information regarding the availability of housing assisted under this section.

(j) Miscellaneous provisions

(1) Technical assistance

The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) Civil rights compliance

Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

(3) Owner deposit

(A) In general

The Secretary shall require an owner to deposit an amount not to exceed \$25,000 in a special escrow account to assure the owner's commitment to the housing. Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts.

(B) Reduction of requirement

The Secretary may reduce or waive the owner deposit specified under paragraph (1) for individual applicants if the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section and the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section. The

Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary.

(4) Notice of appeal

The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(5) Labor

(A) In general

The Secretary shall take such action as may be necessary to ensure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing with 12 or more units assisted under this section shall be paid wages at rates not less than the rates prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with sections 3141–3144, 3146, and 3147 of title 40.

(B) Exemption

Subparagraph (A) shall not apply to any individual who—

- (i) performs services for which the individual volunteered;
- (ii)(I) does not receive compensation for such services; or
- (II) is paid expenses, reasonable benefits, or a nominal fee for such services; and
- (iii) is not otherwise employed at any time in the construction work.

(6) Access to residual receipts

The Secretary shall authorize the owner of a project assisted under this section to use any residual receipts held for the project in excess of \$500 per unit (or in excess of such other amount prescribed by the Secretary based on the needs of the project) for activities to retrofit and renovate the project described under section 8011(d)(3) of title 42, to provide a service coordinator for the project as described in section 8011(d)(4) of title 42, or to provide supportive services (as such term is defined in section 8011(k) of title 42) to residents of the project. Any owner that uses residual receipts under this paragraph shall submit to the Secretary a report, not less than annually, describing the uses of the residual receipts. In determining the amount of project rental assistance to be provided to a project under subsection (c)(2) of this section, the Secretary may take into consideration the residual receipts held for the project only if, and to the extent that, excess residual receipts are not used under this paragraph.

(7) Compliance with Housing and Community Development Act of 1992

Each owner shall operate housing assisted under this section in compliance with subtitle C of title VI of the Housing and Community Development Act of 1992 [42 U.S.C. 13601 et seq.] and any regulations issued under such subtitle.

(8) Use of project reserves

Amounts for project reserves for a project assisted under this section may be used for costs, subject to reasonable limitations as the Secretary determines appropriate, for reducing the number of dwelling units in the project. Such use shall be subject to the approval of the Secretary to ensure that the use is designed to retrofit units that are currently obsolete or unmarketable.

(9) Carbon monoxide alarms

Each owner of a dwelling unit assisted under this section shall ensure that carbon monoxide alarms or detectors are installed in the dwelling unit in a manner that meets or exceeds—

- (A) the standards described in chapters 9 and 11 of the 2018 publication of the International Fire Code, as published by the International Code Council; or

(B) any other standards as may be adopted by the Secretary, including any relevant updates to the International Fire Code, through a notice published in the Federal Register.

(k) Definitions

(1) The term "elderly person" means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

(2) The term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligibility requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

(3) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

(4) The term "private nonprofit organization" means—

(A) any incorporated private institution or foundation—

(i) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(ii) which has a governing board—

(I) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located; and

(II) which is responsible for the operation of the housing assisted under this section, except that, in the case of a nonprofit organization that is the sponsoring organization of multiple housing projects assisted under this section, the Secretary may determine the criteria or conditions under which financial, compliance and other administrative responsibilities exercised by a single-entity private nonprofit organization that is the owner corporation responsible for the operation of an individual housing project may be shared or transferred to the governing board of such sponsoring organization; and

(iii) which is approved by the Secretary as to financial responsibility; and

(B) a for-profit limited partnership the sole general partner of which is—

(i) an organization meeting the requirements under subparagraph (A);

(ii) a for-profit corporation wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A); or

(iii) a limited liability company wholly owned and controlled by one or more organizations meeting the requirements under subparagraph (A).

(5) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(6) The term "Secretary" means the Secretary of Housing and Urban Development.

(7) The term "supportive housing for the elderly" means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

(8) The term "very low-income" has the same meaning as given the term "very low-income families" under section 1437a(b)(2) of title 42.

(l) Allocation of funds

(1) Capital advances

Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding capital advances in accordance with subsection (c)(1). Such amounts, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to November 28, 1990, shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) Project rental assistance

Of any amounts made available for assistance under this section, such sums as may be necessary shall be available for funding project rental assistance in accordance with subsection (c)(2).

(3) Nonmetropolitan allocation

Not less than 15 percent of the funds made available for assistance under this section shall be allocated by the Secretary on a national basis for nonmetropolitan areas. In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development.

(m) Authorization of appropriations

There is authorized to be appropriated for providing assistance under this section \$710,000,000 for fiscal year 2000.

(m) ¹ Authorization of appropriations

There are authorized to be appropriated for providing assistance under this section such sums as may be necessary for each of fiscal years 2001, 2002, and 2003.

(Pub. L. 86–372, title II, §202, Sept. 23, 1959, 73 Stat. 667; Pub. L. 87–70, title II, §201, June 30, 1961, 75 Stat. 162; Pub. L. 87–723, §3, Sept. 28, 1962, 76 Stat. 670; Pub. L. 88–158, Oct. 24, 1963, 77 Stat. 278; Pub. L. 88–560, title II, §§201, 203(a)(2), Sept. 2, 1964, 78 Stat. 783; Pub. L. 89–117, title I, §105(a), (b)(1), formerly §105, Aug. 10, 1965, 79 Stat. 457, renumbered Pub. L. 89–754, title X, §1001(1), (2), Nov. 3, 1966, 80 Stat. 1284; Pub. L. 90–19, §16(a), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title XVII, §1706, Aug. 1, 1968, 82 Stat. 605; Pub. L. 91–152, title II, §218, Dec. 24, 1969, 83 Stat. 390; Pub. L. 93–383, title II, §210(a)–(f), Aug. 22, 1974, 88 Stat. 669–671; Pub. L. 94–375, §11, Aug. 3, 1976, 90 Stat. 1074; Pub. L. 95–128, title II, §202, Oct. 12, 1977, 91 Stat. 1129; Pub. L. 95–557, title II, §205, Oct. 31, 1978, 92 Stat. 2090; Pub. L. 96–153, title III, §306(a)–(d), Dec. 21, 1979, 93 Stat. 1112, 1113; Pub. L. 96–399, title III, §319, Oct. 8, 1980, 94 Stat. 1646; Pub. L. 97–35, title III, §336, Aug. 13, 1981, 95 Stat. 414; Pub. L. 98–181, title I [title II, §223(a)(1), (b)–(e)], Nov. 30, 1983, 97 Stat. 1189, 1190; Pub. L. 98–479, title I, §102(c), title II, §§201(e), 203(h), Oct. 17, 1984, 98 Stat. 2222, 2228, 2230; Pub. L. 100–242, title I, §§161(a)–(c)(1), (d)–(f), 162(b), (c), 170(g), Feb. 5, 1988, 101 Stat. 1855–1857, 1859, 1867; Pub. L. 101–625, title VIII, §§801(a), (e), 804(a)–(c), 805, 807, 808, title IX, §955(c), Nov. 28, 1990, 104 Stat. 4297, 4304, 4322–4324, 4421; Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 756; Pub. L. 102–242, title II, §241(c)(2), Dec. 19, 1991, 105 Stat. 2331; Pub. L. 102–550, title VI, §§601(c), 602(a)–(c), (e)–(g), 677(a), 682(c), title IX, §913(a), title XVI, §1604(c)(3), Oct. 28, 1992, 106 Stat. 3802–3805, 3829, 3831, 3876, 4083; Pub. L. 106–74, title V, §511, Oct. 20, 1999, 113 Stat. 1101; Pub. L. 106–569, title VIII, §§821, 831–835, 851(c)(1), Dec. 27, 2000, 114 Stat. 3020–3022, 3024; Pub. L. 110–289, div. B, title VIII, §2835(b), July 30, 2008, 122 Stat. 2873; Pub. L. 111–372, title I, §§101–105, Jan. 4, 2011, 124 Stat. 4077–4079; Pub. L. 113–76, div. L, title II, §241, Jan. 17, 2014, 128 Stat. 636; Pub. L. 116–260, div. Q, title I, §101(c), Dec. 27, 2020, 134 Stat. 2163; Pub. L. 117–328, div. AA, title VI, §601(b), Dec. 29, 2022, 136 Stat. 5544.)

AMENDMENT OF SUBSECTION (J)

Pub. L. 117–328, div. AA, title VI, §601(b), (h), Dec. 29, 2022, 136 Stat. 5544, 5548, provided that, effective two years after Dec. 29, 2022, subsection (j) of this section is amended by adding at the end the following:

(10) Qualifying smoke alarms

(A) In general

Each owner of a dwelling unit assisted under this section shall ensure that qualifying smoke alarms are installed in accordance with the requirements of applicable codes and standards and the National Fire Protection Association Standard 72, or any successor standard, in each level and in or near each sleeping area in such dwelling unit, including in basements but

excepting crawl spaces and unfinished attics, and in each common area in a project containing such a dwelling unit.

(B) Definitions

For purposes of this paragraph, the following definitions shall apply:

(i) Smoke alarm defined

The term "smoke alarm" has the meaning given the term "smoke detector" in section 2225(d) of title 15.

(ii) Qualifying smoke alarm defined

The term "qualifying smoke alarm" means a smoke alarm that—

(I) in the case of a dwelling unit built before December 29, 2022, and not substantially rehabilitated after December 29, 2022—

(aa)(AA) is hardwired; or

(BB) uses 10-year non rechargeable, nonreplaceable primary batteries and is sealed, is tamper resistant, and contains silencing means; and

(bb) provides notification for persons with hearing loss as required by the National Fire Protection Association Standard 72, or any successor standard; or

(II) in the case of a dwelling unit built or substantially rehabilitated after December 29, 2022, is hardwired.

See 2022 Amendment note below.

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (g)(1), is Pub. L. 86–372, Sept. 23, 1959, 73 Stat. 654, known as the Housing Act of 1959. For complete classification of this Act to the Code, see Short Title of 1959 Amendment note set out under section 1701 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsecs. (i)(1) and (j)(7), is Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3672. Subtitle C of title VI of the Act is classified generally to subchapter I (§13601 et seq.) of chapter 135 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1992 Amendment note set out under section 5301 of Title 42 and Tables.

The Civil Rights Act of 1964, referred to in subsec. (j)(2), is Pub. L. 88–352, July 2, 1964, 78 Stat. 241. Title VI of the Act is classified generally to subchapter V (§2000d et seq.) of chapter 21 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of Title 42 and Tables.

The Fair Housing Act, referred to in subsec. (j)(2), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

CODIFICATION

"Sections 3141–3144, 3146, and 3147 of title 40" substituted in subsec. (j)(5)(A) for "the Act of March 3, 1931 (commonly known as the Davis-Bacon Act)" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

Section was enacted as part of the Housing Act of 1959, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2022—Subsec. (j)(10). Pub. L. 117–328 added par. (10).

2020—Subsec. (j)(9). Pub. L. 116–260 added par. (9).

2014—Subsec. (f)(2)(A). Pub. L. 113–76, §241(a)(1), in introductory provisions, substituted "The Secretary shall establish procedures to delegate the award, review and processing of projects, selected by the Secretary in a national competition, to a State or local housing agency that—" for "In issuing a capital advance under this subsection for any project for which financing for the purposes described in the last two sentences of subsection (b) is provided by a combination of a capital advance under subsection (c)(1) and sources other

than this section, within 30 days of award of the capital advance, the Secretary shall delegate review and processing of such projects to a State or local housing agency that—".

Subsec. (f)(2)(A)(iii). Pub. L. 113–76, §241(a)(2), substituted "funding" for "capital advance" and a semicolon for a comma.

Subsec. (f)(2)(B). Pub. L. 113–76, §241(b), substituted "funding under this section" for "capital advances".

Subsec. (f)(2)(C). Pub. L. 113–76, §241(c), struck out first sentence "An agency to which review and processing is delegated pursuant to subparagraph (A) may assess a reasonable fee which shall be included in the capital advance amounts and may recommend project rental assistance amounts in excess of those initially awarded by the Secretary."

Subsec. (f)(2)(D), (E). Pub. L. 113–76, §241(d), (e), added subpar. (D), redesignated former subpar. (D) as (E), and in subpar. (E), substituted "execute funding under this section" for "execute a capital advance" and "in funding under this section" for "in capital advance amounts or project rental assistance".

2011—Subsec. (f)(1)(F) to (H). Pub. L. 111–372, §101, added subpar. (F) and redesignated former subpars. (F) and (G) as (G) and (H), respectively.

Subsec. (h)(1). Pub. L. 111–372, §102, inserted "reasonable" before "development cost limitations" in introductory provisions.

Subsec. (j)(3)(A). Pub. L. 111–372, §103, inserted after period at end "Such amount shall be used only to cover operating deficits during the first 3 years of operations and shall not be used to cover construction shortfalls or inadequate initial project rental assistance amounts."

Subsec. (k)(4). Pub. L. 111–372, §104, amended par. (4) generally. Prior to amendment, par. (4) defined "private nonprofit organization".

Subsec. (l)(3). Pub. L. 111–372, §105, inserted after period at end "In complying with this paragraph, the Secretary shall either operate a national competition for the nonmetropolitan funds or make allocations to regional offices of the Department of Housing and Urban Development."

2008—Subsec. (f). Pub. L. 110–289 substituted "Initial selection criteria and processing" for "Selection criteria" in heading, designated existing provisions as par. (1) and inserted heading, redesignated former pars. (1) to (7) as subpars. (A) to (G), respectively, of par. (1), and added par. (2).

2000—Subsec. (b). Pub. L. 106–569, §833(1), struck out "from the Resolution Trust Corporation" after "or the acquisition of a structure".

Subsec. (g)(1)(F), (G). Pub. L. 106–569, §851(c)(1), added cl. (F) and redesignated former cl. (F) as (G).

Subsec. (h)(1). Pub. L. 106–569, §835, inserted at end of concluding provisions "Neither this section nor any other provision of law may be construed as prohibiting or preventing the location and operation, in a project assisted under this section, of commercial facilities for the benefit of residents of the project and the community in which the project is located, except that assistance made available under this section may not be used to subsidize any such commercial facility."

Subsec. (h)(2). Pub. L. 106–569, §833(2), substituted "Acquisition" for "RTC properties" in heading and struck out "from the Resolution Trust Corporation under section 1441a(c) of this title or from the Federal Deposit Insurance Corporation under section 1831q of this title" after "related facilities to be acquired" in introductory provisions.

Subsec. (h)(6). Pub. L. 106–569, §832, substituted "sources other than this section" for "non-Federal sources" and inserted at end "Notwithstanding any other provision of law, assistance amounts provided under this section may be treated as amounts not derived from a Federal grant."

Subsec. (j)(8). Pub. L. 106–569, §834, added par. (8).

Subsec. (k)(4). Pub. L. 106–569, §831, inserted concluding provisions.

Subsec. (m). Pub. L. 106–569, §821, added subsec. (m) relating to authorization of appropriations for fiscal years 2001 to 2003.

1999—Subsec. (m). Pub. L. 106–74 added subsec. (m) relating to authorization of appropriations for fiscal year 2000.

1992—Subsec. (e)(5) to (7). Pub. L. 102–550, §602(b), redesignated pars. (6) and (7) as (5) and (6), respectively, and struck out former par. (5) which read as follows: "a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of services identified in paragraph (4) is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve;"

Subsec. (f)(2). Pub. L. 102–550, §602(c), which directed insertion of ", taking into consideration the availability of public housing for the elderly and vacancy rates in such facilities" at end, was executed by making insertion before semicolon at end.

Subsec. (g)(1). Pub. L. 102–550, §602(a)(1), struck out "and persons with disabilities" after "elderly persons" in last sentence.

Subsec. (g)(2). Pub. L. 102-550, §677(a)(A), struck out at end "Any cost associated with the employment of a service coordinator shall also be an eligible cost except where the project is receiving congregate housing services assistance under section 8011 of title 42."

Subsec. (g)(3). Pub. L. 102-550, §677(a)(B), added par. (3).

Subsec. (h)(2). Pub. L. 102-550, §1604(c)(3), made technical amendment to reference to section 1831q of this title to correct reference to corresponding provision of original act.

Subsec. (i)(1). Pub. L. 102-550, §682(c)(1), inserted after first sentence "Such tenant selection procedures shall comply with subtitle C of title VI of the Housing and Community Development Act of 1992 and any regulations issued under such subtitle."

Subsec. (i)(1)(A). Pub. L. 102-550, §602(a)(2), substituted "elderly persons" for "persons with disabilities".

Subsec. (j)(3)(B). Pub. L. 102-550, §602(f), inserted at end "The Secretary shall reduce or waive the requirement of the owner deposit under paragraph (1) in the case of a nonprofit applicant that is not affiliated with a national sponsor, as determined by the Secretary."

Subsec. (j)(5). Pub. L. 102-550, §913(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows:

"(A) IN GENERAL.—Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a-276a-5), shall be paid to all laborers and mechanics employed in the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract.

"(B) WAIVER.—Subparagraph (A) shall not apply if the individual receives no compensation or is paid expenses, reasonable benefits, or a nominal fee to perform the services for which the individual volunteered and such persons are not otherwise employed at any time in the construction work."

Subsec. (j)(6). Pub. L. 102-550, §602(e), added par. (6).

Subsec. (j)(7). Pub. L. 102-550, §682(c)(2), added par. (7).

Subsec. (l). Pub. L. 102-550, §601(c)(1), substituted "Allocation of funds" for "Authorizations" in heading.

Subsec. (l)(1). Pub. L. 102-550, §601(c)(2), inserted sentence at beginning, substituted "Such amounts" for "Amounts so appropriated" in second sentence, and struck out former first sentence which read as follows: "There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) of this section \$659,000,000 for fiscal year 1992."

Subsec. (l)(2). Pub. L. 102-550, §601(c)(3), added par. (2) and struck out former par. (2) which read as follows: "For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) of this section the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating \$363,000,000 for fiscal year 1992."

Subsec. (l)(3). Pub. L. 102-550, §602(g), which directed substitution of "15 percent" for "20 percent" in par. (4) was executed to par. (3) to reflect the probable intent of Congress.

Pub. L. 102-550, §601(c)(4), substituted "for assistance under this section" for "under this subtitle".

1991—Subsec. (g)(2). Pub. L. 102-139, amending Pub. L. 101-625, §801(a), struck out "in housing principally serving frail elderly persons" after "coordinator".

Pub. L. 102-139 struck out "or a project where the tenants are not principally frail elderly" before period at end of subsec. (g)(2) as it existed prior to the general amendment of this section by section 801(a) of Pub. L. 101-625.

Subsec. (h)(2). Pub. L. 102-242 inserted "or from the Federal Deposit Insurance Corporation under section 1831q of this title" after "section 1441a(c) of this title".

1990—Pub. L. 101-625, §801(a), amended section generally, substituting present provisions for provisions authorizing loans for housing and related facilities for elderly or handicapped families.

Subsec. (a)(4)(C). Pub. L. 101-625, §801(e), struck out before period at end ", and not more than \$666,400,000 may be approved in appropriation Acts for such loans with respect to fiscal year 1984. For fiscal years 1988 and 1989, not more than \$621,701,000 and \$630,000,000, respectively, may be approved in appropriation Acts for such loans" and inserted at end "For fiscal year 1991, not more than \$714,200,000 may be approved in appropriation Acts for such loans."

Subsec. (a)(9). Pub. L. 101-625, §804(b), added par. (9).

Subsec. (c)(3). Pub. L. 101-625, §955(c), designated existing provisions as subpar. (A), struck out before period at end "; but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing,

voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction", and added subpar. (B).

Subsec. (d)(3). Pub. L. 101-625, §804(a), inserted at end "The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 1441a(c) of this title, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located."

Subsec. (g). Pub. L. 101-625, §808, designated existing provisions as par. (1) and added par. (2).

Pub. L. 101-625, §804(c), inserted at end "In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 1441a(c) of this title, the term of the contract pursuant to such section 8 shall be 240 months."

Subsec. (k)(3). Pub. L. 101-625, §807, added par. (3).

Subsec. (p). Pub. L. 101-625, §805, added subsec. (p).

1988—Subsec. (a)(3). Pub. L. 100-242, §161(c)(1), designated existing provisions as subpar. (A), substituted "taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States" for "of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made", and added subpar. (B).

Subsec. (a)(4)(B)(i). Pub. L. 100-242, §161(a), inserted provisions relating to such sums as may be approved for fiscal years 1988 and 1989, and substituted "October 1, 1983, to such sum" for "October 1, 1983, and to such sum".

Pub. L. 100-242, §161(d), substituted "Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury taking into consideration the average yield, during the 3-month period immediately preceding the fiscal year in which the loan is made, on the most recently issued 30-year marketable obligations of the United States." for "Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made."

Subsec. (a)(4)(C). Pub. L. 100-242, §161(b), inserted provisions relating to loan authority for fiscal years 1988 and 1989.

Subsec. (a)(8). Pub. L. 100-242, §161(f), added par. (8).

Subsec. (c)(3). Pub. L. 100-242, §162(b)(3), inserted reference to construction designed for dwelling use by 12 or more elderly or handicapped families.

Subsec. (d)(4). Pub. L. 100-242, §170(g)(1), substituted reference to a handicapped person if such person has a developmental disability as defined in section 6001(7) of title 42, for reference to a handicapped person if such person is a developmentally disabled individual as defined in section 102(5) of the Developmental Disabilities Services and Facilities Construction Amendments of 1950.

Subsec. (d)(9), (10). Pub. L. 100-242, §162(b)(2), added pars. (9), (10).

Subsec. (f). Pub. L. 100-242, §162(c), designated existing provisions as par. (1) and added par. (2).

Pub. L. 100-242, §170(g)(2), substituted "section 133" for "section 134".

Subsec. (h). Pub. L. 100-242, §162(b)(1), amended subsec. (h) generally, changing structure of subsection from one consisting of introductory provisions and two numbered paragraphs to one consisting of four numbered paragraphs.

Subsec. (l). Pub. L. 100-242, §170(g)(3), substituted "different" for "difference".

Subsec. (n). Pub. L. 100-242, §161(e), added subsec. (n).

1984—Subsec. (a)(4)(B)(i). Pub. L. 98-479, §203(h), substituted "chapter 31 of title 31" for "the Second Liberty Bond Act" and "such chapter" for "that Act".

Pub. L. 98-479, §102(c)(1), substituted "October 1, 1984" for "October 1, 1985".

Subsec. (f). Pub. L. 98-479, §201(e), substituted "Health and Human Services" for "Health, Education, and Welfare".

Subsec. (h)(1). Pub. L. 98-479, §102(c)(2)(A), inserted "and" at end.

Subsec. (h)(2). Pub. L. 98-479, §102(c)(2)(B), substituted a period for "; and" at end.

Subsec. (l). Pub. L. 98-479, §102(c)(3), inserted "The Secretary shall not impose difference requirements or standards with respect to construction change orders, increases in loan amount to cover change orders, errors in plans and specifications, and use of contingency funds, because of the method of contractor selection used by the sponsor or borrower."

1983—Subsec. (a)(3). Pub. L. 98-181, §223(a)(1), inserted ", except that such interest rate plus such

allowance shall not exceed 9.25 per centum per annum".

Subsec. (a)(4)(B)(i). Pub. L. 98-181, §223(b), struck out "and" after "1980" and inserted ", to \$6,400,000,000 on October 1, 1983, and to such sum as may be approved in an appropriation Act on October 1, 1985,".

Subsec. (a)(4)(C). Pub. L. 98-181, §223(c), substituted "\$666,400,000" and "1984" for "\$850,848,000" and "1982", respectively.

Subsec. (h). Pub. L. 98-181, §223(d)(1), (2), in provisions preceding par. (1), substituted "1983" for "1978", and inserted ", and persons described in subparagraphs (B) and (C) of subsection (d)(4) of this section who have been released from residential health treatment facilities".

Subsec. (h)(1). Pub. L. 98-181, §223(d)(3), (5), substituted "persons described in the first sentence of this subsection" for "handicapped persons", and struck out "and" at end.

Subsec. (h)(2). Pub. L. 98-181, §223(d)(4), (6), substituted "persons described in the first sentence of this subsection who are" for "handicapped persons", and substituted "such community; and" for "such community".

Subsecs. (i) to (m). Pub. L. 98-181, §223(e), added subsecs. (i) to (m).

1981—Subsec. (a)(4)(C). Pub. L. 97-35 inserted provisions relating to fiscal year 1982.

1980—Subsec. (d)(3). Pub. L. 96-399 inserted last sentence relating to housing to meet the needs of handicapped (primarily nonelderly) persons.

1979—Subsec. (a)(4)(B)(i). Pub. L. 96-153, §306(a), provided for increase of notes or other obligations to \$3,827,500,000 on October 1, 1979, to \$4,777,500,000 on October 1, 1980, and to \$5,752,500,000 on October 1, 1981.

Subsec. (a)(6), (7). Pub. L. 96-153, §306(b), added pars. (6) and (7).

Subsec. (d)(8)(A). Pub. L. 96-153, §306(c)(1), substituted "adult day health facilities, or other" for "or infirmaries or other inpatient or".

Subsec. (f). Pub. L. 96-153, §306(c)(2), inserted reference to adult day health services.

Subsec. (g). Pub. L. 96-153, §306(d), inserted provisions that at the time of settlement on permanent financing, the Secretary make appropriate adjustment in the amount of assistance to be provided under a contract for annual contributions pursuant to section 8 of the United States Housing Act of 1937 reflecting the difference between interest rate which will actually be charged in connection with such permanent financing and the interest rate which was in effect at the time of the reservation of assistance in connection with the project.

1978—Subsec. (a)(4)(C). Pub. L. 95-557, §205(b), struck out "in any fiscal year" after "The aggregate loans made under this section", and "for such year" after "lending authority established".

Subsec. (d)(2). Pub. L. 95-557, §205(d), designated provisions beginning "no part of" as par. (A), substituted "member, founder, contributor, or individual" for "private shareholder, contributor, or individual, if such institution or foundation is approved by the Secretary as to financial responsibility", and added pars. (B) and (C).

Subsec. (d)(3). Pub. L. 95-557, §205(c), inserted "the cost of movables necessary to the basic operation of the project as determined by the Secretary," after "related facilities".

Subsec. (h). Pub. L. 95-557, §205(a), added subsec. (h).

1977—Subsec. (d)(3). Pub. L. 95-128, §202(a), provided for determination of "development cost" without regard to mortgage limits applicable to housing projects subject to mortgages insured under section 1715v of this title.

Subsec. (g). Pub. L. 95-128, §202(b), added subsec. (g).

1976—Subsec. (a)(3). Pub. L. 94-375, §11(c)(1), substituted "average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made" for "current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans".

Subsec. (a)(4)(B)(i). Pub. L. 94-375, §11(a), (c)(2), substituted "\$1,475,000,000, which amount shall be increased to \$2,387,500,000 on October 1, 1977, and to \$3,300,000,000 on October 1, 1978" for "\$800,000,000" and "the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made" for "the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations", and inserted provision restricting the amount of notes or obligations issued to the Secretary of the Treasury to not more than \$800,000,000.

Subsec. (d)(4). Pub. L. 94-375, §11(b), included in definition of "elderly or handicapped families" two or

more elderly or handicapped persons living together, one such person and another providing care for the first, or a surviving member of the family who was living in the unit at the time another member died.

1974—Subsec. (a)(3). Pub. L. 93-383, §210(a), substituted provisions authorizing the Secretary of the Treasury to determine the interest rate, for provisions authorizing the Secretary of Housing and Urban Development to determine the interest rate.

Subsec. (a)(4). Pub. L. 93-383, §210(d), redesignated existing provision as subsec. (a)(4)(A), inserted ", and the proceeds from notes or other obligations issued under subparagraph (B)," after "Amounts so appropriated", and added subsec. (a)(4)(B), (C).

Subsec. (a)(5). Pub. L. 93-383, §210(e), added par. (5).

Subsec. (d)(4). Pub. L. 93-383, §210(b), substituted "an impairment" for "a physical impairment" and inserted provisions relating to developmentally disabled individuals.

Subsec. (d)(8). Pub. L. 93-383, §210(f), inserted "residing in the project or in the area" after "families".

Subsec. (f). Pub. L. 93-383, §210(c), added subsec. (f).

1969—Subsec. (a)(4). Pub. L. 91-152 increased by \$150,000,000 on July 1, 1969 the amount authorized to be appropriated for the purposes of this section.

1968—Subsec. (a)(1). Pub. L. 90-448, §1706(1), authorized assistance to limited profit sponsors.

Subsec. (a)(2). Pub. L. 90-448, §1706(2), authorized loans to any limited profit sponsor approved by the Secretary.

Subsec. (a)(3). Pub. L. 90-448, §1706(3), limited the amount of the loan to not more than 90 per centum of the development cost in the case of other than a corporation, consumer cooperative, or public body or agency.

1967—Pub. L. 90-19, §16(a)(1), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (a)(2) to (4), (b), (c)(2), (3), (d)(2), (4), and (e) of this section.

Subsec. (c)(2). Pub. L. 90-19, §16(a)(2), struck out at end ", except that for purposes of this subsection the Administrator shall perform the functions vested in the Commissioner by such section 513".

Subsec. (d)(6). Pub. L. 90-19, §16(a)(3), substituted definition of "Secretary" meaning the Secretary of Housing and Urban Development for "Administrator" meaning the Housing and Home Finance Administrator.

1965—Subsec. (a)(3). Pub. L. 89-117, §105(b)(1), substituted "the lower of (A) 3 per centum per annum, or" for "the higher of (A) 2¾ per centum per annum, or".

Subsec. (a)(4). Pub. L. 89-117, §105(a), increased amount authorized to be appropriated from \$350,000,000 to \$500,000,000.

1964—Subsec. (a)(1), (2). Pub. L. 88-560, §203(a)(2)(A), substituted "elderly or handicapped families" for "elderly families and elderly persons".

Subsec. (a)(4). Pub. L. 88-560, §201, increased amount authorized to be appropriated from \$275,000,000 to \$350,000,000.

Subsec. (d)(1). Pub. L. 88-560, §203(a)(2)(B), included in definition of "housing" structures suitable for dwelling use by handicapped families, designated existing provisions as subpar. (A), and added subpar. (B).

Subsec. (d)(4). Pub. L. 88-560, §203(a)(2)(C), substituted definitions of "elderly or handicapped families" and when "a person shall be considered handicapped" for former provisions defining "elderly families" as "families the head of which (or his spouse) is sixty-two years of age or over" and "elderly persons" as "persons who are sixty-two years of age or over".

Subsec. (d)(7). Pub. L. 88-560, §203(a)(2)(D), redefined "construction" to include rehabilitation, alteration, conversion, or improvement of existing structures.

Subsec. (d)(8). Pub. L. 88-560, §203 (a)(2)(E), redefined "existing facilities" by designating existing provisions as cl. (A), inserting in cl. (A) "by elderly or handicapped families" and "workshops", and adding cl. (B).

Subsec. (e). Pub. L. 88-560, §203(a)(2)(A), substituted "elderly or handicapped families" for "elderly families and elderly persons" in two places.

1963—Subsec. (a)(4). Pub. L. 88-158 increased amount authorized to be appropriated from \$225,000,000 to \$275,000,000.

1962—Subsec. (a)(4). Pub. L. 87-723, §3(a), increased amount authorized to be appropriated from \$125,000,000 to \$225,000,000.

Subsec. (d)(1). Pub. L. 87-723, §3(b)(1), redesignated subsec. (d)(1)(A) as entire subsec. (d)(1) and struck out subsec. (d)(1)(B) which included in definition of "housing" dwelling facilities provided by rehabilitation, alteration, conversion, or improvement of existing structures which were otherwise inadequate for proposed dwellings used by elderly families and persons.

Subsec. (d)(7). Pub. L. 87-723, §3(b)(2), struck out ", or rehabilitation, alteration, conversion, or improvement of existing structures" after "new structures".

Subsec. (d)(8). Pub. L. 87-723, §3(b)(3), redesignated subsec. (d)(8)(A) as entire subsec. (d)(8) and struck

out subsec. (d)(8)(B) which included in definition of "related facilities" structures suitable for essential service facilities provided by rehabilitation, alteration, conversion, or improvement of existing structures which were otherwise inadequate for essential service facilities.

1961—Subsec. (a)(1). Pub. L. 87–70, §201(a)(1), authorized assistance for consumer cooperatives and public bodies and agencies.

Subsec. (a)(2). Pub. L. 87–70, §201(a)(2), authorized loans to consumer cooperatives and to public bodies or agencies, and prohibited loans to public bodies or agencies unless they certify that they are not receiving financial assistance exclusively pursuant to the United States Housing Act of 1937.

Subsec. (a)(3). Pub. L. 87–70, §201(a)(3), (b), substituted "loan under this section" for "loan to a corporation under this section", and "may be in an amount not exceeding the total development cost" for "may be in an amount not exceeding 98 per centum of the total development cost".

Subsec. (a)(4). Pub. L. 87–70, §201(c), increased amount authorized to be appropriated from \$50,000,000 to \$125,000,000, and struck out provisions which limited the amount outstanding at any one time for related facilities to not more than \$5,000,000.

Subsec. (c)(3). Pub. L. 87–70, §201(a)(4), substituted "credited to the corporation, cooperative, or public body or agency undertaking" for "credited to the corporation undertaking".

Subsec. (e). Pub. L. 87–70, §201(d), added subsec. (e).

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2022 AMENDMENT

Pub. L. 117–328, div. AA, title VI, §601(h), Dec. 29, 2022, 136 Stat. 5548, provided that: "The amendments made by subsections (a) through (f) [amending this section and sections 1437a, 1437f, 1484 to 1486, 8013, and 12905 of Title 42, The Public Health and Welfare] shall take effect on the date that is 2 years after the date of enactment of this Act [Dec. 29, 2022]."

EFFECTIVE DATE OF 2020 AMENDMENT

Pub. L. 116–260, div. Q, title I, §101(h), Dec. 27, 2020, 134 Stat. 2165, provided that: "The amendments made by subsections (b) through (e) [amending this section and sections 1437a, 1437f, 8013, and 12905 of Title 42, The Public Health and Welfare] shall take effect on the date that is 2 years after the date of enactment of this Act [Dec. 27, 2020]."

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106–569, title VIII, §803, Dec. 27, 2000, 114 Stat. 3019, provided that:

"(a) **IN GENERAL.**—The provisions of this title [see section 801 of Pub. L. 106–569, set out as a Short Title of 2000 Amendment note under section 1701 of this title] and the amendments made by this title are effective as of the date of the enactment of this Act [Dec. 27, 2000], unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

"(b) **EFFECT OF REGULATORY AUTHORITY.**—Any authority in this title or the amendments made by this title to issue regulations, and any specific requirement to issue regulations by a date certain, may not be construed to affect the effectiveness or applicability of the provisions of this title or the amendments made by this title under such provisions and amendments and subsection (a) of this section."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–74, title V, §503, Oct. 20, 1999, 113 Stat. 1101, provided that:

"(a) **IN GENERAL.**—The provisions of this title [see Short Title of 1999 Amendment note set out under section 1701 of this title] and the amendments made by this title are effective as of the date of the enactment of this Act [Oct. 20, 1999], unless such provisions or amendments specifically provide for effectiveness or applicability upon another date certain.

"(b) **EFFECT OF REGULATORY AUTHORITY.**—Any authority in this title or the amendments made by this title to issue regulations, and any specific requirement to issue regulations by a date certain, may not be construed to affect the effectiveness or applicability of the provisions of this title or the amendments made by this title under such provisions and amendments and subsection (a) of this section."

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 677(a) and 682(c) of Pub. L. 102–550 applicable on expiration of 6-month period beginning Oct. 28, 1992, see section 13642 of Title 42, The Public Health and Welfare.

Amendment by section 1604(c)(3) of Pub. L. 102–550 effective as if included in the Federal Deposit

Insurance Corporation Improvement Act of 1991, Pub. L. 102-242, as of Dec. 19, 1991, see section 1609(a) of Pub. L. 102-550, set out as a note under section 191 of this title.

EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 101-625, title VIII, §801(c), Nov. 28, 1990, 104 Stat. 4304, provided that: "The amendments made by this section [amending this section and section 1439 of Title 42, The Public Health and Welfare] shall take effect on October 1, 1991, with respect to projects approved on or after such date. The Secretary shall issue regulations for such purpose after notice and an opportunity for public comment in accordance with section 553 of title 5, United States Code. Regulations shall be issued for comment not later than 180 days after the date of enactment of this Act [Nov. 28, 1990]."

Amendment by section 955(c) of Pub. L. 101-625 applicable to any volunteer services provided before, on, or after Nov. 28, 1990, except that such amendment may not be construed to require repayment of any wages paid before Nov. 28, 1990, for services provided before such date, see section 955(d) of Pub. L. 101-625, set out as a note under section 1437j of Title 42.

Pub. L. 101-507, title II, Nov. 5, 1990, 104 Stat. 1358, provided that sections 801, 802, and 811 of Pub. L. 101-625 [enacting sections 8011 and 8013 of Title 42, amending this section and sections 1437g and 1439 of Title 42, and enacting provisions set out as notes under this section] are deemed enacted as of the date of enactment of Pub. L. 101-507, which was approved Nov. 5, 1990.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-242, title I, §162(f), Feb. 5, 1988, 101 Stat. 1859, provided that:

"(1) Except as otherwise provided in this section, the provisions of, and amendments made by, this section [amending this section and enacting and repealing provisions set out as notes below] shall not apply with respect to projects with loans or loan reservations made under section 202 of the Housing Act of 1959 [this section] before the implementation date under subsection (e) [section 162(e) of Pub. L. 100-242 set out below].

"(2) Notwithstanding paragraph (1), the Secretary shall apply the provisions of, and amendments made by, this section to any project if needed to facilitate the development of such project in a timely manner."

EFFECTIVE AND TERMINATION DATES OF 1983 AMENDMENT

Pub. L. 98-181, title I [title II, §223(a)(2)], Nov. 30, 1983, 97 Stat. 1190, as amended by Pub. L. 99-120, §5(b), Oct. 8, 1985, 99 Stat. 504; Pub. L. 99-156, §5(b), Nov. 15, 1985, 99 Stat. 817; Pub. L. 99-219, §5(b), Dec. 26, 1985, 99 Stat. 1732; Pub. L. 99-267, §5(b), Mar. 27, 1986, 100 Stat. 75; Pub. L. 99-272, title III, §3011(b), Apr. 7, 1986, 100 Stat. 106; Pub. L. 99-289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327, which provided that the amendment made by paragraph (1), amending this section, shall apply only with respect to loan agreements entered into after September 30, 1982, and not later than March 15, 1988, was repealed by Pub. L. 100-242, title I, §161(c)(2), Feb. 5, 1988, 101 Stat. 1856.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-117, title I, §105(b)(2), as added by Pub. L. 89-754, title X, §1001(3), Nov. 3, 1966, 80 Stat. 1284, provided that: "The interest rate provided by the amendment made in paragraph (1) [amending this section] shall be applicable (A) with respect to any loan made on or after August 10, 1965, and (B) with respect to any loan made prior to such date if construction of the housing or related facilities to be assisted by such loan was not commenced prior to such date, and not completed prior to the filing of an application for the benefits of such interest rate."

EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-723, §3(b), Sept. 28, 1962, 76 Stat. 670, provided that the amendments made by that section are effective with respect to applications for loans made under this section after Sept. 28, 1962.

REGULATIONS

Pub. L. 106-74, title V, §502, Oct. 20, 1999, 113 Stat. 1101, provided that: "The Secretary of Housing and

Urban Development shall issue any regulations to carry out this title [see Short Title of 1999 Amendment note set out under section 1701 of this title] and the amendments made by this title that the Secretary determines may or will affect tenants of federally assisted housing only after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section). Notice of such proposed rulemaking shall be provided by publication in the Federal Register. In issuing such regulations, the Secretary shall take such actions as may be necessary to ensure that such tenants are notified of, and provided an opportunity to participate in, the rulemaking, as required by such section 553."

CONSTRUCTION OF 2022 AMENDMENT

Pub. L. 117–328, div. AA, title VI, §601(i), Dec. 29, 2022, 136 Stat. 5548, provided that: "Nothing in the amendments made by this section [see Effective Date of 2022 Amendment note above] shall be construed to preempt or limit the applicability of any State or local law relating to the installation and maintenance of smoke alarms in housing that requires standards that are more stringent than the standards described in the amendments made by this section."

CONSTRUCTION OF 2020 AMENDMENT

Nothing in amendment made by Pub. L. 116–260 to be construed to preempt or limit applicability of certain State or local laws relating to carbon monoxide devices, see section 101(j) of Pub. L. 116–260, set out as a note under section 1437a of Title 42, The Public Health and Welfare.

RENTAL ASSISTANCE CONTRACT OBLIGATIONS

Pub. L. 111–117, div. A, title II, Dec. 16, 2009, 123 Stat. 3088, as amended by Pub. L. 112–10, div. B, title XII, §2256, Apr. 15, 2011, 125 Stat. 197, provided in part: "That amounts obligated for initial project rental assistance contracts from amounts appropriated in fiscal year 2003 and thereafter shall remain available for the purpose of paying such obligations incurred prior to the expiration of such amounts for a 10 year period following such expiration".

INTERGENERATIONAL HOUSING ASSISTANCE

Pub. L. 108–186, title II, Dec. 16, 2003, 117 Stat. 2688, provided that:

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Living Equitably: Grandparents Aiding Children and Youth Act of 2003' or the 'LEGACY Act of 2003'.

"SEC. 202. DEFINITIONS.

"In this title:

"(1) **CHILD.**—The term 'child' means an individual who—

"(A) is not attending school and is not more than 18 years of age; or

"(B) is attending school and is not more than 19 years of age.

"(2) **COVERED FAMILY.**—The term 'covered family' means a family that—

"(A) includes a child; and

"(B) has a head of household who is—

"(i) a grandparent of the child who is raising the child; or

"(ii) a relative of the child who is raising the child.

"(3) **ELDERLY PERSON.**—The term 'elderly person' has the same meaning as in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).

"(4) **GRANDPARENT.**—

"(A) **IN GENERAL.**—The term 'grandparent' means, with respect to a child, an individual who is a grandparent or stepgrandparent of the child by blood or marriage, regardless of the age of such individual.

"(B) **CASE OF ADOPTION.**—In the case of a child who was adopted, the term includes an individual who, by blood or marriage, is a grandparent or stepgrandparent of the child as adopted.

"(5) **INTERGENERATIONAL DWELLING UNIT.**—The term 'intergenerational dwelling unit' means a qualified dwelling unit that is reserved for occupancy only by an intergenerational family.

"(6) **INTERGENERATIONAL FAMILY.**—The term 'intergenerational family' means a covered family that has a head of household who is an elderly person.

"(7) **PRIVATE NONPROFIT ORGANIZATION.**—The term 'private nonprofit organization' has the same meaning as in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)).

"(8) **QUALIFIED DWELLING UNIT.**—The term 'qualified dwelling unit' means a dwelling unit

that—

"(A) has not fewer than 2 separate bedrooms;

"(B) is equipped with design features appropriate to meet the special physical needs of elderly persons, as needed; and

"(C) is equipped with design features appropriate to meet the special physical needs of young children, as needed.

"(9) RAISING A CHILD.—The term 'raising a child' means, with respect to an individual, that the individual—

"(A) resides with the child; and

"(B) is the primary caregiver for the child—

"(i) because the biological or adoptive parents of the child do not reside with the child or are unable or unwilling to serve as the primary caregiver for the child; and

"(ii) regardless of whether the individual has a legal relationship to the child (such as guardianship or legal custody) or is caring for the child informally and has no such legal relationship with the child.

"(10) RELATIVE.—

"(A) IN GENERAL.—The term 'relative' means, with respect to a child, an individual who—

"(i) is not a parent of the child by blood or marriage; and

"(ii) is a relative of the child by blood or marriage, regardless of the age of the individual.

"(B) CASE OF ADOPTION.—In the case of a child who was adopted, the term 'relative' includes an individual who, by blood or marriage, is a relative of the family who adopted the child.

"(11) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

"SEC. 203. DEMONSTRATION PROGRAM FOR ELDERLY HOUSING FOR INTERGENERATIONAL FAMILIES.

"(a) DEMONSTRATION PROGRAM.—The Secretary shall carry out a demonstration program (referred to in this section as the 'demonstration program') to provide assistance for intergenerational dwelling units for intergenerational families in connection with the supportive housing program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q).

"(b) INTERGENERATIONAL DWELLING UNITS.—The Secretary shall provide assistance under this section only to private nonprofit organizations selected under subsection (d) for use only for expanding the supply of intergenerational dwelling units, which units shall be provided—

"(1) by designating and retrofitting, for use as intergenerational dwelling units, existing dwelling units that are located within a project assisted under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q);

"(2) through development of buildings or projects comprised solely of intergenerational dwelling units; or

"(3) through the development of an annex or addition to an existing project assisted under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), that contains intergenerational dwelling units, including through the development of elder cottage housing opportunity units that are small, freestanding, barrier free, energy efficient, removable dwelling units located adjacent to a larger project or dwelling.

"(c) PROGRAM TERMS.—Assistance provided pursuant to this section shall be subject to the provisions of section 202 of the Housing Act of 1959 (12 U.S.C. 1701q), except that—

"(1) notwithstanding subsection (d)(1) of that section 202 or any provision of that section restricting occupancy to elderly persons, any intergenerational dwelling unit assisted under the demonstration program may be occupied by an intergenerational family;

"(2) subsections (e) and (f) of that section 202 shall not apply;

"(3) in addition to the requirements under subsection (g) of that section 202, the Secretary shall—

"(A) ensure that occupants of intergenerational dwelling units assisted under the demonstration program are provided a range of services that are tailored to meet the needs of elderly persons, children, and intergenerational families; and

"(B) coordinate with the heads of other Federal agencies as may be appropriate to ensure the provision of such services; and

"(4) the Secretary may waive or alter any other provision of that section 202 necessary to provide for assistance under the demonstration program.

"(d) SELECTION.—The Secretary shall—

"(1) establish application procedures for private nonprofit organizations to apply for assistance under this section; and

"(2) to the extent that amounts are made available pursuant to subsection (f), select not less than 2 and not more than 4 projects that are assisted under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q)

for assistance under this section, based on the ability of the applicant to develop and operate intergenerational dwelling units and national geographical diversity among those projects funded.

"(e) REPORT.—Not later than 36 months after the date of enactment of this Act [Dec. 16, 2003], the Secretary shall submit a report to Congress that—

"(1) describes the demonstration program; and

"(2) analyzes the effectiveness of the demonstration program.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$10,000,000 to carry out this section.

"(g) SUNSET.—The demonstration program carried out under this section shall terminate 5 years after the date of enactment of this Act.

"SEC. 204. TRAINING FOR HUD PERSONNEL REGARDING GRANDPARENT-HEADED AND RELATIVE-HEADED FAMILIES ISSUES.

[Amended section 3535 of Title 42, The Public Health and Welfare.]

"SEC. 205. STUDY OF HOUSING NEEDS OF GRANDPARENT-HEADED AND RELATIVE-HEADED FAMILIES.

"(a) IN GENERAL.—The Secretary and the Director of the Bureau of the Census jointly shall—

"(1) conduct a study to determine an estimate of the number of covered families in the United States and their affordable housing needs; and

"(2) submit a report to Congress regarding the results of the study conducted under paragraph (1).

"(b) REPORT AND RECOMMENDATIONS.—The report required under subsection (a) shall—

"(1) be submitted to Congress not later than 12 months after the date of enactment of this Act [Dec. 16, 2003]; and

"(2) include recommendations by the Secretary and the Director of the Bureau of the Census regarding how the major assisted housing programs of the Department of Housing and Urban Development, including the supportive housing for the elderly program under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) can be used and, if appropriate, amended or altered, to meet the affordable housing needs of covered families."

PREPAYMENT AND REFINANCING

Pub. L. 106–569, title VIII, §811, Dec. 27, 2000, 114 Stat. 3019, as amended by Pub. L. 107–116, title VI, §633(a), Jan. 10, 2002, 115 Stat. 2228; Pub. L. 111–372, title II, §§201–204, Jan. 4, 2011, 124 Stat. 4079–4081, provided that:

"(a) APPROVAL OF PREPAYMENT OF DEBT.—Upon request of the project sponsor of a project assisted with a loan under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q](as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, which was approved Nov. 28, 1990]), for which the Secretary's consent to prepayment is required,, [sic] the Secretary shall approve the prepayment of any indebtedness to the Secretary relating to any remaining principal and interest under the loan as part of a prepayment plan under which—

"(1) the project sponsor agrees to operate the project until at least 20 years following the maturity date of the original loan under terms at least as advantageous to existing and future tenants as the terms required by the original loan agreement or any project-based rental assistance payments contract under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (or any other project-based rental housing assistance programs of the Department of Housing and Urban Development, including the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s)), or any successor project-based rental assistance program, relating to the project; and

"(2) the prepayment may involve refinancing of the loan if such refinancing results in—

"(A) a lower interest rate on the principal of the loan for the project and in reductions in debt service related to such loan; or

"(B) a transaction in which the project owner will address the physical needs of the project, but only if, as a result of the refinancing—

"(i) the rent charges for unassisted families residing in the project do not increase or such families are provided rental assistance under a senior preservation rental assistance contract for the project pursuant to subsection (e); and

"(ii) the overall cost for providing rental assistance under section 8 for the project (if any) is not increased, except, upon approval by the Secretary to—

"(I) mark-up-to-market contracts pursuant to section 524(a)(3) of the Multifamily Assisted Housing Reform and Affordability Act [of 1997] [Pub. L. 105–65] (42 U.S.C. 1437f note), as such section is

carried out by the Secretary for properties owned by nonprofit organizations; or

"(II) mark-up-to-budget contracts pursuant to section 524(a)(4) of the Multifamily Assisted Housing Reform and Affordability Act (42 U.S.C. 1437f note), as such section is carried out by the Secretary for properties owned by eligible owners (as such term is defined in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k)); and

"(3) notwithstanding paragraph (2)(A), the prepayment and refinancing authorized pursuant to paragraph (2)(B) involves an increase in debt service only in the case of a refinancing of a project assisted with a loan under such section 202 carrying an interest rate of 6 percent or lower.

"(b) SOURCES OF REFINANCING.—In the case of prepayment under this section involving refinancing, the project sponsor may refinance the project through any third party source, including financing by State and local housing finance agencies, use of tax-exempt bonds, multi-family mortgage insurance under the National Housing Act [12 U.S.C. 1701 et seq.], reinsurance, or other credit enhancements, including risk sharing as provided under section 542 of the Housing and Community Development Act of 1992 [12 U.S.C. 1715z–22]([former] 12 U.S.C. 1707 note). For purposes of underwriting a loan insured under the National Housing Act, the Secretary may assume that any section 8 rental assistance contract relating to a project will be renewed for the term of such loan.

"(c) USE OF PROCEEDS.—Upon execution of the refinancing for a project pursuant to this section, the Secretary shall ensure that proceeds are used in a manner advantageous to tenants of the project, or are used in the provision of affordable rental housing and related social services for elderly persons that are tenants of the project or are tenants of other HUD-assisted senior housing by the private nonprofit organization project owner, private nonprofit organization project sponsor, or private nonprofit organization project developer, including—

"(1) not more than 15 percent of the cost of increasing the availability or provision of supportive services, which may include the financing of service coordinators and congregate services, except that upon the request of the non-profit owner, sponsor, or organization and determination of the Secretary, such 15 percent limitation may be waived to ensure that the use of unexpended amounts better enables seniors to age in place;

"(2) rehabilitation, modernization, or retrofitting of structures, common areas, or individual dwelling units, including reducing the number of units by reconfiguring units that are functionally obsolete, unmarketable, or not economically viable;

"(3) construction of an addition or other facility in the project, including assisted living facilities (or, upon the approval of the Secretary, facilities located in the community where the project sponsor refinances a project under this section, or pools shared resources from more than one such project);

"(4) rent reduction of unassisted tenants residing in the project;

"(5) rehabilitation of the project to ensure long-term viability; and

"(6) the payment to the project owner, sponsor, or third party developer of a developer's fee in an amount not to exceed or duplicate—

"(A) in the case of a project refinanced through a State low income housing tax credit program, the fee permitted by the low income housing tax credit program as calculated by the State program as a percentage of acceptable development cost as defined by that State program; or

"(B) in the case of a project refinanced through any other source of refinancing, 15 percent of the acceptable development cost.

"For purposes of paragraph (6)(B), the term 'acceptable development cost' shall include, as applicable, the cost of acquisition, rehabilitation, loan prepayment, initial reserve deposits, and transaction costs.

"(d) USE OF CERTAIN PROJECT FUNDS.—The Secretary shall allow a project sponsor that is prepaying and refinancing a project under this section—

"(1) to use any residual receipts held for that project in excess of \$500 per individual dwelling unit for the cost of activities designed to increase the availability or provision of supportive services or other purposes approved by the Secretary; and

"(2) to use any reserves for replacement in excess of \$1,000 per individual dwelling unit for activities described in paragraphs (2) and (3) of subsection (c).

"(e) SENIOR PRESERVATION RENTAL ASSISTANCE CONTRACTS.—Notwithstanding any other provision of law, in connection with a prepayment plan for a project approved under subsection (a) by the Secretary or as otherwise approved by the Secretary to prevent displacement of elderly residents of the project in the case of refinancing or recapitalization and to further preservation and affordability of such project, the Secretary shall provide project-based rental assistance for the project under a senior preservation rental assistance contract, as follows:

"(1) Assistance under the contract shall be made available to the private nonprofit organization owner—

"(A) for a term of at least 20 years, subject to annual appropriations; and

"(B) under the same rules governing project-based rental assistance made available under section 8 of the Housing Act of 1937 [42 U.S.C. 1437f] or under the rules of such assistance as may be made available for the project.

"(2) Any projects for which a senior preservation rental assistance contract is provided shall be subject to a use agreement to ensure continued project affordability having a term of the longer of (A) the term of the senior preservation rental assistance contract, or (B) such term as is required by the new financing.

"(f) SUBORDINATION OR ASSUMPTION OF EXISTING DEBT.—In lieu of prepayment under this section of the indebtedness with respect to a project, the Secretary may approve—

"(1) in connection with new financing for the project, the subordination of the loan for the project under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] (as in effect before the enactment of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, which was approved Nov. 28, 1990]) and the continued subordination of any other existing subordinate debt previously approved by the Secretary to facilitate preservation of the project as affordable housing; or

"(2) the assumption (which may include the subordination described in paragraph (1)) of the loan for the project under such section 202 in connection with the transfer of the project with such a loan to a private nonprofit organization.

"(g) FLEXIBLE SUBSIDY DEBT.—The Secretary shall waive the requirement that debt for a project pursuant to the flexible subsidy program under section 201 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z–1a) be prepaid in connection with a prepayment, refinancing, or transfer under this section of a project if the financial transaction or refinancing cannot be completed without the waiver.

"(h) TENANT INVOLVEMENT IN PREPAYMENT AND REFINANCING.—The Secretary shall not accept an offer to prepay the loan for any project under section 202 of the Housing Act of 1959 unless the Secretary—

"(1) has determined that the owner of the project has notified the tenants of the owner's request for approval of a prepayment; and

"(2) has determined that the owner of the project has provided the tenants with an opportunity to comment on the owner's request for approval of a prepayment, including on the description of any anticipated rehabilitation or other use of the proceeds from the transaction, and its impacts on project rents, tenant contributions, or the affordability restrictions for the project, and that the owner has responded to such comments in writing.

"(i) DEFINITION OF PRIVATE NONPROFIT ORGANIZATION.—For purposes of this section, the term 'private nonprofit organization' has the meaning given such term in section 202(k) of the Housing Act of 1959 (12 U.S.C. 1701q(k))."

[Pub. L. 111–372, title II, §203(2), Jan. 4, 2011, 124 Stat. 4081, which directed amendment of section 811(d)(1) of Pub. L. 106–569, set out above, by inserting before the period at the end "or other purposes approved by the Secretary", was executed by making the insertion before "; and" to reflect the probable intent of Congress.]

[Pub. L. 107–116, title VI, §633(b), Jan. 10, 2002, 115 Stat. 2228, provided that: "The amendment made by subsection (a) of this section [amending section 811 of Pub. L. 106–569, set out above] shall take effect upon the date of the enactment of this Act [Jan. 10, 2002] and the provisions of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note), as amended by subsection (a) of this section, shall apply as so amended upon such date of enactment, notwithstanding—

["(1) any authority of the Secretary of Housing and Urban Development to issue regulations to implement or carry out the amendments made by subsection (a) of this section or the provisions of section 811 of the American Homeownership and Economic Opportunity Act of 2000 (12 U.S.C. 1701q note); or

["(2) any failure of the Secretary of Housing and Urban Development to issue any such regulations authorized."]

CONSIDERATION OF COSTS OF PROVIDING SERVICE COORDINATORS IN DETERMINING AMOUNT OF HOUSING ASSISTANCE

Pub. L. 102–550, title VI, §677(b), Oct. 28, 1992, 106 Stat. 3829, provided that:

"(1) AVAILABILITY OF SECTION 8 ASSISTANCE.—Subject to the availability of appropriations for contract amendments for the purpose of this paragraph, in determining the amount of assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to be provided for a project assisted under

section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], as in effect before the effectiveness of the amendments made by section 801 of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101-625, see Effective Date of 1990 Amendment note above], the Secretary shall consider (and annually adjust for) the costs of—

"(A) employing or otherwise retaining the services of one or more service coordinators under section 661 [671] of this Act [42 U.S.C. 13631] to coordinate the provision of any services within the project for residents of the project who are elderly families and disabled families; and

"(B) expenses for the provision of such services.

Not more than 15 percent of the cost of the provision of services under subparagraph (B) may be considered under this paragraph for purposes of determining the amount of assistance provided.

"(2) INAPPLICABILITY OF HUD REFORM ACT PROVISIONS.—Notwithstanding section 102 of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545], the provisions of paragraphs (1), (2), and (3) of subsection (a) of such section shall not apply to amendments to contracts under section 8 of the United States Housing Act of 1937 made to carry out the purposes of paragraph (1) of this subsection.

"(3) LIMITATION.—If a project is receiving congregate housing services assistance under the Congregate Housing Services Act of 1978 [42 U.S.C. 8001 et seq.] or section 802 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8011], the amount of costs provided pursuant to paragraph (1) for the project may not exceed the additional amount necessary to cover the costs of providing for the coordination of services for residents of the project who are not eligible residents under such section 802 or eligible project residents under the Congregate Housing Services Act of 1978, as applicable."

EXPEDITED FINANCING AND CONSTRUCTION

Pub. L. 101-625, title VIII, §801(d), Nov. 28, 1990, 104 Stat. 4304, provided that:

"(1) IN GENERAL.—The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

"(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

"(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)(1)] in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

"(2) DEFINITION.—For purposes of this subsection, the term 'supportive housing for the elderly' means housing—

"(A) located in a high-cost jurisdiction; and

"(B) for which a loan reservation was made under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], 3 years before the date of enactment of this Act [Nov. 28, 1990] but for which no loan has been executed and recorded."

FEASIBILITY OF INCLUDING ELDER COTTAGE HOUSING OPPORTUNITY UNITS AS ELIGIBLE DEVELOPMENT COSTS

Pub. L. 101-625, title VIII, §806(b), Nov. 28, 1990, 104 Stat. 4323, as amended by Pub. L. 102-550, title VI, §602(d), Oct. 28, 1992, 106 Stat. 3804, provided that:

"(1) IN GENERAL.—The Secretary of Housing and Urban Development shall carry out a program to determine the feasibility of including, as an eligible development cost under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], the cost of purchasing and installing elder cottage housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings. In conducting the demonstration, the Secretary shall determine whether the durability of such units is appropriate for making such units generally eligible for assistance under the programs under such sections.

"(2) ALLOCATION.—Notwithstanding any other law, the Secretary shall reserve from any amounts available for capital advances and project rental assistance under section 202 of the Housing Act of 1959, amounts sufficient in each of fiscal years 1993 and 1994 to provide not less than 100 units under the demonstration under this subsection in connection with each such section. Any amounts reserved under this paragraph shall be available only for carrying out the demonstration under this subsection and, for purposes of the demonstration, the cost of purchasing and installing an elder cottage housing opportunity unit shall be considered an eligible development cost under sections [sic] 202 of the Housing Act of 1959.

"(3) REPORT.—Not later than January 1, 1994, the Secretary shall submit a report to the Congress on the results of the demonstration under this subsection, which shall be based on actual experience in implementing this subsection.

"(4) IMPLEMENTATION.—The Secretary shall issue regulations to carry out the demonstration under this subsection not later than the expiration of the 6-month period beginning on the date of the enactment of the Housing and Community Development Act of 1992 [Oct. 28, 1992]."

PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOME LANDS UNDER HUD PROGRAMS

Secretary of Housing and Urban Development to provide a preference to native Hawaiians for housing assistance programs under this section for housing located on Hawaiian home lands, see section 958 of Pub. L. 101–625, set out as a note under section 1437f of Title 42, The Public Health and Welfare.

FINDINGS AND PURPOSE OF 1988 AMENDMENT

Pub. L. 100–242, title I, §162(a), Feb. 5, 1988, 101 Stat. 1856, provided that:

"(1) The Congress finds that—

"(A) housing for nonelderly handicapped families is assisted under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] and section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

"(B) the housing programs under such sections are designed and implemented primarily to assist rental housing for elderly and nonelderly families and are often inappropriate for dealing with the specialized needs of the physically impaired, the developmentally disabled, and the chronically mentally ill;

"(C) the development of housing for nonelderly handicapped families under such programs is often more expensive than necessary, thereby reducing the number of such families that can be assisted with available funds;

"(D) the program under section 202 of the Housing Act of 1959 can continue to provide direct loans to finance group residences and independent apartments for nonelderly handicapped families, but can be made more efficient and less costly by the adoption of standards and procedures applicable only to housing for such families;

"(E) the cost containment policies currently being implemented in the development of small group homes (i) do not adequately reflect the necessity for building designs to meet the needs of the designated residents; and (ii) do not recognize necessary State and local standards for the operation of such homes;

"(F) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families is time consuming and unnecessarily costly and, in some areas of the Nation, prevents the development of such housing;

"(G) the use of the program under section 8 of the United States Housing Act of 1937 to assist rentals for housing for nonelderly handicapped families should be replaced by a more appropriate subsidy mechanism;

"(H) both elderly and handicapped housing projects assisted under section 202 of the Housing Act of 1959 will benefit from an increased emphasis on supportive services and a greater use of State and local funds; and

"(I) an improved program for nonelderly handicapped families will assist in providing shelter and supportive services for mentally ill persons who might otherwise be homeless.

"(2) The purpose of this section is to improve the direct loan program under section 202 of the Housing Act of 1959 to ensure that such program meets the special housing and related needs of nonelderly handicapped families."

TERMINATION OF SECTION 8 ASSISTANCE

Pub. L. 100–242, title I, §162(d), Feb. 5, 1988, 101 Stat. 1859, provided that: "On and after the first date that amounts approved in an appropriation Act for any fiscal year become available for contracts under section 202(h)(4)(A) of the Housing Act of 1959 [12 U.S.C. 1701q(h)(4)(A)], as amended by subsection (b) of this section, no project for handicapped (primarily nonelderly) families approved for such fiscal year pursuant to section 202 of such Act shall be provided assistance payments under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], except pursuant to a reservation for a contract to make such assistance payments that was made before the first date that amounts for contracts under such section 202(h)(4)(A) became available."

IMPLEMENTATION OF 1988 AMENDMENT

Pub. L. 100–242, title I, §162(e), Feb. 5, 1988, 101 Stat. 1859, provided that: "Not later than the expiration of the 120-day period following the date of the enactment of this Act [Feb. 5, 1988], the Secretary of Housing

and Urban Development shall, to the extent amounts are approved in an appropriation Act for use under section 202(h)(4)(A) of the Housing Act of 1959 [12 U.S.C. 1701q(h)(4)(A)] for fiscal year 1988, publish in the Federal Register a notice of fund availability to implement the provisions of, and amendments made by, this section [amending this section and enacting and repealing provisions set out above]. The Secretary shall issue such rules as may be necessary to carry out such provisions and amendments for fiscal year 1989 and thereafter."

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

Pub. L. 101-507, title II, Nov. 5, 1990, 104 Stat. 1361, provided: "That, notwithstanding section 202(a)(3) of the Housing Act of 1959 [12 U.S.C. 1701q(a)(3)], any such obligations [direct loan obligations made in fiscal year 1991] shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program."

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 101-144, title II, Nov. 9, 1989, 103 Stat. 847.

Pub. L. 100-404, title I, Aug. 19, 1988, 102 Stat. 1016.

Pub. L. 100-202, §101(f) [title I], Dec. 22, 1987, 101 Stat. 1329-187, 1329-190.

Pub. L. 99-500, §101(g) [H.R. 5313, title I], Oct. 18, 1986, 100 Stat. 1783-242, and Pub. L. 99-591, §101(g), Oct. 30, 1986, 100 Stat. 3341-242.

Pub. L. 99-160, title I, Nov. 25, 1985, 99 Stat. 911.

Pub. L. 98-371, title I, July 18, 1984, 98 Stat. 1216.

Pub. L. 98-45, title I, as added Pub. L. 98-181, title I, Nov. 30, 1983, 97 Stat. 1153.

REPORTS RESPECTING ELDERLY AND HANDICAPPED HOUSING PROGRAMS IN RURAL AREAS, ETC.

Pub. L. 96-153, title III, §306(e), (f), Dec. 21, 1979, 93 Stat. 1113, required Secretary of Housing and Urban Development, not later than six months after Dec. 21, 1979, to report to Congress on housing needs of elderly and handicapped in rural areas and recommend to Congress on means to reduce costs of program carried out under this section.

FEASIBILITY AND MARKETABILITY OF PROJECTS; ASSISTANCE FOR PROJECTS SERVICING LOW- AND MODERATE-INCOME FAMILIES

Pub. L. 93-383, title II, §210(g), Aug. 22, 1974, 88 Stat. 671, provided that:

"(1) In determining the feasibility and marketability of a project under section 202 of the Housing Act of 1959 [this section], the Secretary shall consider the availability of monthly assistance payments pursuant to section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] with respect to such a project.

"(2) The Secretary shall insure that with the original approval of a project authorized pursuant to section 202 of the Housing Act of 1959, and thereafter at each annual revision of the assistance contract under section 8 of the United States Housing Act of 1937 with respect to units in such project, the project will serve both low- and moderate-income families in a mix which he determines to be appropriate for the area and for viable operation of the project; except that the Secretary shall not permit maintenance of vacancies to await tenants of one income level where tenants of another income level are available."

¹ So in original. Probably should be "(n)".

§1701q-1. Civil money penalties against mortgagors under section 1701q of this title

(a) In general

The penalties set forth in this section shall be in addition to any other available civil remedy or criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions. The Secretary may not impose penalties under this section for violations a material cause of which are the failure of the Department, an agent of the Department, or a public housing agency to comply with existing agreements.

(b) Penalty for violation of agreement as condition of transfer of physical assets, flexible

subsidy loan, capital improvement loan, modification of mortgage terms, or workout agreement

(1) In general

Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage held pursuant to section 1701q of this title, who has agreed in writing, as a condition of a transfer of physical assets, a flexible subsidy loan, a capital improvement loan, a modification of the mortgage terms, or a workout agreement, to use nonproject income to make cash contributions for payments due under the note and mortgage, for payments to the reserve for replacements, to restore the project to good physical condition, or to pay other project liabilities, knowingly and materially fails to comply with any of these commitments, the Secretary may impose a civil money penalty on the mortgagor in accordance with the provisions of this section.

(2) Amount

The amount of the penalty, as determined by the Secretary, for a violation of this subsection may not exceed the amount of the loss the Secretary would incur at a foreclosure sale, or sale after foreclosure, with respect to the property involved.

(c) Violations of regulatory agreement

(1) In general

The Secretary may also impose a civil money penalty on a mortgagor or property that includes 5 or more living units and that has a mortgage held pursuant to section 1701q of this title for any knowing and material violation of the regulatory agreement executed by the mortgagor, as follows:

(A) Conveyance, transfer, or encumbrance of any of the mortgaged property, or permitting the conveyance, transfer, or encumbrance of such property, without the prior written approval of the Secretary.

(B) Assignment, transfer, disposition, or encumbrance of any personal property of the project, including rents, or paying out any funds, except for reasonable operating expenses and necessary repairs, without the prior written approval of the Secretary.

(C) Conveyance, assignment, or transfer of any beneficial interest in any trust holding title to the property, or the interest of any general partner in a partnership owning the property, or any right to manage or receive the rents and profits from the mortgaged property, without the prior written approval of the Secretary.

(D) Remodeling, adding to, reconstructing, or demolishing any part of the mortgaged property or subtracting from any real or personal property of the project, without the prior written approval of the Secretary.

(E) Requiring, as a condition of the occupancy or leasing of any unit in the project, any consideration or deposit other than the prepayment of the first month's rent, plus a security deposit in an amount not in excess of 1 month's rent, to guarantee the performance of the covenants of the lease.

(F) Not holding any funds collected as security deposits separate and apart from all other funds of the project in a trust account, the amount of which at all times equals or exceeds the aggregate of all outstanding obligations under the account.

(G) Payment for services, supplies, or materials which exceeds \$500 and substantially exceeds the amount ordinarily paid for such services, supplies, or materials in the area where the services are rendered or the supplies or materials furnished.

(H) Failure to maintain at any time the mortgaged property, equipment, buildings, plans, offices, apparatus, devices, books, contracts, records, documents, and other related papers (including failure to keep copies of all written contracts or other instruments which affect the mortgaged property) in reasonable condition for proper audit and for examination and inspection at any reasonable time by the Secretary or any duly authorized agents of the Secretary.

(I) Failure to maintain the books and accounts of the operations of the mortgaged property

and of the project in accordance with requirements prescribed by the Secretary.

(J) Failure to furnish the Secretary, by the expiration of the 60-day period beginning on the 1st day after the completion of each fiscal year, with a complete annual financial report based upon an examination of the books and records of the mortgagor prepared in accordance with requirements prescribed by the Secretary, and prepared and certified to by an independent public accountant or a certified public accountant and certified to by an officer of the mortgagor, unless the Secretary has approved an extension of the 60-day period in writing. The Secretary shall approve an extension where the mortgagor demonstrates that failure to comply with this subparagraph is due to events beyond the control of the mortgagor.

(K) At the request of the Secretary, the agents of the Secretary, the employees of the Secretary, or the attorneys of the Secretary, failure to furnish monthly occupancy reports or failure to provide specific answers to questions upon which information is sought relative to income, assets, liabilities, contracts, the operation and condition of the property, or the status of the mortgage.

(L) Failure to make promptly all payments due under the note and mortgage, including tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

(M) Amending the articles of incorporation or bylaws, other than as permitted under the terms of the articles of incorporation as approved by the Secretary, without the prior written approval of the Secretary.

(2) Amount of penalty

A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed \$25,000 for a violation of any of the subparagraphs of paragraph (1).

(d) Agency procedures

(1) Establishment

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c). These standards and procedures—

(A) shall provide for the Secretary or other department official (such as the Assistant Secretary for Housing) to make the determination to impose a penalty;

(B) shall provide for the imposition of a penalty only after the mortgagor has been given an opportunity for a hearing on the record; and

(C) may provide for review by the Secretary of any determination or order, or interlocutory ruling, arising from a hearing.

(2) Final orders

If no hearing is requested within 15 days of receipt of the notice of opportunity for hearing, the imposition of the penalty shall constitute a final and unappealable determination. If the Secretary reviews the determination or order, the Secretary may affirm, modify, or reverse that determination or order. If the Secretary does not review the determination or order within 90 days of the issuance of the determination or order, the determination or order shall be final.

(3) Factors in determining amount of penalty

In determining the amount of a penalty under subsection (b) or (c), consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including offenses occurring before December 15, 1989), ability to pay the penalty, injury to the tenants, injury to the public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine in regulations to be appropriate.

(4) Reviewability of imposition of penalty

The Secretary's determination or order imposing a penalty under subsection (b) or (c) shall not be subject to review, except as provided in subsection (e).

(e) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (d)(1), a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) may obtain a review of the penalty and such ancillary issues as may be addressed in the notice of determination to impose a penalty under subsection (d)(1)(A) in the appropriate court of appeals of the United States, by filing in such court, within 20 days after the entry of such order or determination, a written petition praying that the Secretary's order or determination be modified or be set aside in whole or in part.

(2) Objections not raised in hearing

The court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (d)(1) unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection. If any party demonstrates to the satisfaction of the court that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at the hearing, the court shall remand the matter to the Secretary for consideration of such additional evidence.

(3) Scope of review

The decisions, findings, and determinations of the Secretary shall be reviewed pursuant to section 706 of title 5.

(4) Order to pay penalty

Notwithstanding any other provision of law, in any such review, the court shall have the power to order payment of the penalty imposed by the Secretary.

(f) Action to collect penalty

If a mortgagor fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (b) or (c), after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e), the Secretary may request the Attorney General of the United States to bring an action in an appropriate United States district court to obtain a monetary judgment against the mortgagor and such other relief as may be available. The monetary judgment may, in the court's discretion, include the attorneys fees and other expenses incurred by the United States in connection with the action. In an action under this subsection, the validity and appropriateness of the Secretary's determination or order imposing the penalty shall not be subject to review.

(g) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(h) "Knowingly" defined

The term "knowingly" means having actual knowledge of or acting with deliberate ignorance of or reckless disregard for the prohibitions under this section.

(i) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(j) Deposit of penalties in insurance funds

Notwithstanding any other provision of law, all civil money penalties collected under this section shall be deposited in the fund established under section 1715z-1a(j) of this title.

(Pub. L. 86-372, title II, §202a, as added Pub. L. 101-235, title I, §109(a), Dec. 15, 1989, 103 Stat. 2007.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing Act of 1959, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Pub. L. 101–235, title I, §109(b), Dec. 15, 1989, 103 Stat. 2011, provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to violations referred to in the amendment that occur on or after the effective date of this section [Dec. 15, 1989]."

§1701q–2. Grants for conversion of elderly housing to assisted living facilities and other purposes

(a) Grant authority

The Secretary of Housing and Urban Development may make grants in accordance with this section to owners of eligible projects described in subsection (b) for one or both of the following activities:

(1) Repairs

Substantial capital repairs to projects that are needed to rehabilitate, modernize, or retrofit aging structures, common areas, or individual dwelling units.

(2) Conversion

(A) Assisted living facilities

Activities designed to convert dwelling units in the eligible project to assisted living facilities for elderly persons.

(B) Service-enriched housing

Activities designed to convert dwelling units in the eligible project to service-enriched housing for elderly persons.

(b) Eligible projects

An eligible project described in this subsection is a multifamily housing project that is—

(1)(A) described in subparagraph (B), (C), (D), (E), (F), or (G) of section 13641(2) of title 42, or (B) only to the extent amounts of the Department of Agriculture are made available to the Secretary of Housing and Urban Development for such grants under this section for such projects, subject to a loan made or insured under section 1485 of title 42;

(2) owned by a private nonprofit organization (as such term is defined in section 1701q of this title); and

(3) designated primarily for occupancy by elderly persons.

Notwithstanding any other provision of this subsection or this section, an unused or underutilized commercial property may be considered an eligible project under this subsection, except that the Secretary may not provide grants under this section for more than three such properties. For any such projects, any reference under this section to dwelling units shall be considered to refer to the premises of such properties.

(c) Applications

Applications for grants under this section shall be submitted to the Secretary in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the substantial capital repairs or the proposed conversion activities for either an assisted living facility or service-enriched housing for which a grant under this section is requested;

(2) the amount of the grant requested to complete the substantial capital repairs or conversion

activities;

(3) a description of the resources that are expected to be made available, if any, in conjunction with the grant under this section; and

(4) such other information or certifications that the Secretary determines to be necessary or appropriate.

(d) Requirements for services

(1) Sufficient evidence of firm funding commitments

The Secretary may not make a grant under this section for conversion activities unless an application for a grant submitted pursuant to subsection (c) contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility or service-enriched housing, which may be provided by third parties.

(2) Required evidence

The Secretary shall require evidence that each recipient of a grant for service-enriched housing under this section provides relevant and timely disclosure of information to residents or potential residents of such housing relating to—

(A) the services that will be available at the property to each resident, including—

(i) the right to accept, decline, or choose such services and to have the choice of provider;

(ii) the services made available by or contracted through the grantee;

(iii) the identity of, and relevant information for, all agencies or organizations providing any services to residents, which agencies or organizations shall provide information regarding all procedures and requirements to obtain services, any charges or rates for the services, and the rights and responsibilities of the residents related to those services;

(B) the availability, identity, contact information, and role of the service coordinator; and

(C) such other information as the Secretary determines to be appropriate to ensure that residents are adequately informed of the services options available to promote resident independence and quality of life.

(e) Selection criteria

The Secretary shall select applications for grants under this section based upon selection criteria, which shall be established by the Secretary and shall include—

(1) in the case of a grant for substantial capital repairs, the extent to which the project to be repaired is in need of such repair, including such factors as the age of improvements to be repaired, and the impact on the health and safety of residents of failure to make such repairs;

(2) in the case of a grant for conversion activities, the extent to which the conversion is likely to provide assisted living facilities or service-enriched housing that are needed or are expected to be needed by the categories of elderly persons that the assisted living facility ¹ service-enriched housing is intended to serve, with a special emphasis on very low-income elderly persons who need assistance with activities of daily living;

(3) the inability of the applicant to fund the repairs or conversion activities from existing financial resources, as evidenced by the applicant's financial records, including assets in the applicant's residual receipts account and reserves for replacement account;

(4) the extent to which the applicant has evidenced community support for the repairs or conversion, by such indicators as letters of support from the local community for the repairs or conversion and financial contributions from public and private sources;

(5) in the case of a grant for conversion activities, the extent to which the applicant demonstrates a strong commitment to promoting the autonomy and independence of the elderly persons that the assisted living facility or service-enriched housing is intended to serve;

(6) in the case of a grant for conversion activities, the quality, completeness, and managerial capability of providing the services which the assisted living facility or service-enriched housing intends to provide to elderly residents, especially in such areas as meals, 24-hour staffing, and on-site health care; and

(7) such other criteria as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(f) Section 8 project-based assistance

(1) Eligibility

Notwithstanding any other provision of law, a multifamily project which includes one or more dwelling units that have been converted to assisted living facilities or service-enriched housing using grants made under this section shall be eligible for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], in the same manner in which the project would be eligible for such assistance but for the assisted living facilities or service-enriched housing in the project.

(2) Calculation of rent

For assistance pursuant to this subsection, the maximum monthly rent of a dwelling unit that is an assisted living facility or service-enriched housing with respect to which assistance payments are made shall not include charges attributable to services relating to assisted living.

(g) Definitions

For purposes of this section—

(1) the term "assisted living facility" has the meaning given such term in section 1715w(b) of this title;

(2) the term "service-enriched housing" means housing that—

(A) makes available through licensed or certified third party service providers supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy;

(B) includes the position of service coordinator, which may be funded as an operating expense of the property;

(C) provides separate dwelling units for residents, each of which contains a full kitchen and bathroom and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the housing; and

(D) provides residents with control over health care and supportive services decisions, including the right to accept, decline, or choose such services, and to have the choice of provider; and

(3) the definitions in section 1701(q)(k) ² of this title shall apply.

(h) Authorization of appropriations

There is authorized to be appropriated for providing grants under this section such sums as may be necessary for fiscal year 2000.

(Pub. L. 86–372, title II, §202b, as added and amended Pub. L. 106–74, title V, §§522, 523(b), Oct. 20, 1999, 113 Stat. 1103, 1105; Pub. L. 111–372, title III, §301, Jan. 4, 2011, 124 Stat. 4082.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1701(q)(k) of this title, referred to in subsec. (g)(3), probably should be a reference to section 202(k) of this Act, which is classified to section 1701q(k) of this title.

CODIFICATION

Section was enacted as part of the Housing Act of 1959, and not as part of the National Housing Act which

comprises this chapter.

AMENDMENTS

2011—Pub. L. 111–372, §301(a), inserted "and other purposes" after "assisted living facilities" in section catchline.

Subsec. (a)(2). Pub. L. 111–372, §301(b), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (c)(1). Pub. L. 111–372, §301(c), inserted "for either an assisted living facility or service-enriched housing" after "activities".

Subsec. (d). Pub. L. 111–372, §301(d), amended subsec. (d) generally. Prior to amendment, text read as follows: "The Secretary may not make a grant under this section for conversion activities unless the application contains sufficient evidence, in the determination of the Secretary, of firm commitments for the funding of services to be provided in the assisted living facility, which may be provided by third parties."

Subsec. (e)(2). Pub. L. 111–372, §301(e)(1), inserted "or service-enriched housing" after "facilities" and "service-enriched housing" after "facility".

Subsec. (e)(5). Pub. L. 111–372, §301(e)(2), inserted "or service-enriched housing" after "facility".

Subsec. (e)(6). Pub. L. 111–372, §301(e)(3), inserted "or service-enriched housing" after "facility".

Subsec. (f)(1). Pub. L. 111–372, §301(f)(1), inserted "or service-enriched housing" after "facilities" in two places.

Subsec. (f)(2). Pub. L. 111–372, §301(f)(2), inserted "or service-enriched housing" after "facility".

Subsec. (g). Pub. L. 111–372, §301(g), amended subsec. (g) generally. Prior to amendment, subsec. (g) related to definitions for purposes of this section.

1999—Subsecs. (f) to (h). Pub. L. 106–74 added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

¹ *So in original. Probably should be followed by "or".*

² *See References in Text note below.*

§1701q–3. Funds for housing for elderly and persons with disabilities available for cost of maintenance and disposal of such properties

Notwithstanding any other provision of law, for this fiscal year and every fiscal year thereafter, funds appropriated for housing for the elderly, as authorized by section 1701q of this title, as amended, and for supportive housing for persons with disabilities, as authorized by section 8013 of title 42, shall be available for the cost of maintaining and disposing of such properties that are acquired or otherwise become the responsibility of the Department.

(Pub. L. 109–115, div. A, title III, §313, Nov. 30, 2005, 119 Stat. 2463.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act, 2006, and also as part of the Transportation, Treasury, Housing and Urban Development, the Judiciary, and Independent Agencies Appropriations Act, 2006, and the Department of Housing and Urban Development Appropriations Act, 2006, and not as part of the National Housing Act which comprises this chapter.

PRIOR PROVISIONS

Provisions similar to this section were contained in the following prior appropriations acts:

Pub. L. 108–447, div. I, title II, §213, Dec. 8, 2004, 118 Stat. 3318.

Pub. L. 108–199, div. G, title II, §221, Jan. 23, 2004, 118 Stat. 398.

§1701r. Congressional findings respecting housing for senior citizens

The Congress finds that there is a large and growing need for suitable housing for older people both in urban and rural areas. Our older citizens face special problems in meeting their housing needs because of the prevalence of modest and limited incomes among the elderly, their difficulty in obtaining liberal long-term home mortgage credit, and their need for housing planned and designed to include features necessary to the safety and convenience of the occupants in a suitable neighborhood environment. The Congress further finds that the present programs for housing the elderly under the Department of Housing and Urban Development have proven the value of Federal credit assistance in this field and at the same time demonstrated the urgent need for an expanded and more comprehensive effort to meet our responsibilities to our senior citizens.

(Pub. L. 87-723, §2, Sept. 28, 1962, 76 Stat. 670; Pub. L. 90-19, §19, May 25, 1967, 81 Stat. 25.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Senior Citizens Housing Act of 1962, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" for "Housing and Home Finance Agency" in second sentence.

§1701r-1. Pet ownership in assisted rental housing for the elderly or handicapped

(a) Restrictions on ownership

No owner or manager of any federally assisted rental housing for the elderly or handicapped may—

(1) as a condition of tenancy or otherwise, prohibit or prevent any tenant in such housing from owning common household pets or having common household pets living in the dwelling accommodations of such tenant in such housing; or

(2) restrict or discriminate against any person in connection with admission to, or continued occupancy of, such housing by reason of the ownership of such pets by, or the presence of such pets in the dwelling accommodations of, such person.

(b) Rules and regulations

(1) Not later than the expiration of the twelve-month period following November 30, 1983, the Secretary of Housing and Urban Development and the Secretary of Agriculture shall each issue such regulations as may be necessary to ensure (A) compliance with the provisions of subsection (a) with respect to any program of assistance referred to in subsection (d) that is administered by such Secretary; and (B) attaining the goal of providing decent, safe, and sanitary housing for the elderly or handicapped.

(2) Such regulations shall establish guidelines under which the owner or manager of any federally assisted rental housing for the elderly or handicapped (A) may prescribe reasonable rules for the keeping of pets by tenants in such housing; and (B) shall consult with the tenants of such housing in prescribing such rules. Such rules may consider factors such as density of tenants, pet size, types of pets, potential financial obligations of tenants, and standards of pet care.

(c) Removal of pets constituting a nuisance

Nothing in this section may be construed to prohibit any owner or manager of federally assisted rental housing for the elderly or handicapped, or any local housing authority or other appropriate authority of the community where such housing is located, from requiring the removal from any such housing of any pet whose conduct or condition is duly determined to constitute a nuisance or a threat

to the health or safety of the other occupants of such housing or of other persons in the community where such housing is located.

(d) "Federally assisted rental housing for the elderly or handicapped" defined

For purposes of this section, the term "federally assisted rental housing for the elderly or handicapped" means any rental housing project that—

(1) is assisted under section 1701q of this title; or

(2) is assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], and is designated for occupancy by elderly or handicapped families, as such term is defined in section 1701q(d)(4) ¹ of this title.

(Pub. L. 98–181, title I [title II, §227], Nov. 30, 1983, 97 Stat. 1195.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (d)(2), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

The National Housing Act, referred to in subsec. (d)(2), 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 Housing Act of 1949, referred to in subsec. (d)(2), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Housing Act of 1949 is classified generally to subchapter III (§1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

Section 1701q of this title, referred to in subsec. (d)(2), was amended generally by Pub. L. 101–625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, no longer contains a subsec. (d)(4) or a definition of the term "elderly or handicapped families".

CODIFICATION

Section was enacted as part of the Housing and Urban–Rural Recovery Act of 1983 and also as part of the Domestic Housing and International Recovery and Financial Stability Act, and not as part of the National Housing Act which comprises this chapter.

¹ [*See References in Text note below.*](#)

§1701s. Rent supplement payments for qualified lower income families

(a) Authorization; maximum term; maximum aggregate amount

The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to make, and contract to make, annual payments to a "housing owner" on behalf of "qualified tenants", as those terms are defined herein, in such amounts and under such circumstances as are prescribed in or pursuant to this section. In no case shall a contract provide for such payments with respect to any housing for a period exceeding forty years. The aggregate amount of the contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$150,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by \$40,000,000, on July 1, 1969, by \$100,000,000 on July 1, 1970, and by \$40,000,000 on July 1, 1971.

(b) "Housing owner" defined; limitation on payments to housing owner

As used in this section, the term "housing owner" means a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or

a cooperative housing corporation, which is a mortgagor under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715l(d)(3)] and which, after August 10, 1965, has been approved for mortgage insurance thereunder and has been approved for receiving the benefits of this section: *Provided*, That, except as provided in subsection (j), no payments under this section may be made with respect to any property financed with a mortgage receiving the benefits of the interest rate provided for in the proviso in section 221(d)(5) of that Act [12 U.S.C. 1715l(d)(5)]. Such term also includes a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is the owner of a rental or cooperative housing project financed under a State or local program providing assistance through loans, loan insurance, or tax abatement and which may involve either new or existing construction and which is approved for receiving the benefits of this section. Subject to the limitations provided in subsection (j), the term "housing owner" also has the meaning prescribed in such subsection. Nothing in this section shall be construed as preventing payments to a housing owner with respect to projects in which all or part of the dwelling units do not contain kitchen facilities; but of the total amount of contracts to make annual payments approved in appropriation Acts pursuant to subsection (a) after December 31, 1970, not more than 10 per centum in the aggregate shall be made with respect to such projects.

(c) Definitions

As used in this section, the term—

(1) "qualified tenant" means any individual or family having an income which would qualify such individual or family for assistance under section 1437f of title 42, except that such term shall also include any individual or family who was receiving assistance under this section on the day preceding December 21, 1979, so long as such individual or family continues to meet the conditions for such assistance which were in effect on such day; and

(2) "income" means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary. In determining amounts to be excluded from income, the Secretary may, in the Secretary's discretion, take into account the number of minor children in the household and such other factors as the Secretary may determine are appropriate.

The terms "qualified tenant" and "tenant" include a member of a cooperative who satisfies the foregoing requirements and who, upon resale of his membership to the cooperative, will not be reimbursed for any equity increment accumulated through payments under this section. With respect to members of a cooperative, the terms "rental" and "rental charges" mean the charges under the occupancy agreements between such members and the cooperative.

(d) Annual payment amount

The amount of the annual payment with respect to any dwelling unit shall be the lesser of (1) 70 per centum of the fair market rent, or (2) the amount by which the fair market rental for such unit exceeds 30 per centum of the tenant's adjusted income.

(e) Criteria and procedure for determining eligibility and rental charges; recertification of income; agreements for services required in selection of tenants; delegation of authority to issue certificates

(1) For purposes of carrying out the provisions of this section, the Secretary shall establish criteria and procedures for determining the eligibility of occupants and rental charges, including criteria and procedures with respect to periodic review of tenant incomes and periodic adjustment of rental charges.

(2) Procedures adopted by the Secretary hereunder shall provide for recertifications of the incomes of occupants no less frequently than annually for the purpose of adjusting rental charges and annual payments on the basis of occupants' incomes, but in no event shall rental charges adjusted under this section for any dwelling exceed the fair market rental of the dwelling.

(3) The Secretary may enter into agreements, or authorize housing owners to enter into agreements, with public or private agencies for services required in the selection of qualified tenants,

including those who may be approved, on the basis of the probability of future increases in their incomes, as lessees under an option to purchase (which will give such approved qualified tenants an exclusive right to purchase at a price established or determined as provided in the option) dwellings, and in the establishment of rentals. The Secretary is authorized (without limiting his authority under any other provision of law) to delegate to any such public or private agency his authority to issue certificates pursuant to this subsection.

(4) No payments under this section may be made with respect to any property for which the costs of operation (including wages and salaries) are determined by the Secretary to be greater than similar costs of operation of similar housing in the community where the property is situated.

(f) Omitted

(g) Authority of Secretary

The Secretary is authorized to make such rules and regulations, to enter into such agreements, and to adopt such procedures as he may deem necessary or desirable to carry out the provisions of this section. Nothing contained in this section shall affect the authority of the Secretary of Housing and Urban Development with respect to any housing assisted under this section, section 221(d)(3), section 231(c)(3), or section 236 of the National Housing Act [12 U.S.C. 1715l(d)(3), 1715v(c)(3), 1715z-1], or section 1701q of this title, including the authority to prescribe occupancy requirements under other provisions of law or to determine the portion of such housing which may be occupied by qualified tenants. To ensure that qualified tenants occupying that number of units with respect to which assistance was being provided under this section immediately prior to November 30, 1983, receive the benefit of assistance contracted for under this section, the Secretary shall offer annually to amend contracts entered into with owners of projects assisted under this section but not subject to mortgages insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] to provide sufficient payments to cover 100 percent of the necessary rent increases and changes in the incomes of qualified tenants, subject to the availability of authority for such purpose under section 1437c(c) of title 42. The Secretary shall take such actions as may be necessary to ensure that payments, including payments that reflect necessary rent increases and changes in the incomes of tenants, are made on a timely basis for all units covered by contracts entered into under this section.

(h) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including, but not limited to, such sums as may be necessary to make annual payments as prescribed in this section, pay for services provided under (or pursuant to agreements entered into under) subsection (e), and provide administrative expenses.

(i) Omitted

(j) Additional definition of housing owner; restrictions on payments

(1) For the purpose of assisting housing under this section on an experimental basis, subject to the limitations of this subsection, the term "housing owner" (in addition to the meaning prescribed in subsection (b)) includes—

(A) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is a mortgagor under a mortgage which receives the benefits of the interest rate provided for in the proviso in section 221(d)(5) of the National Housing Act [12 U.S.C. 1715l(d)(5)] and which, after August 10, 1965, has been approved for mortgage insurance under section 221(d)(3) of the National Housing Act and has been approved for receiving the benefits of this section;

(B) a private nonprofit corporation or other private nonprofit legal entity which is a mortgagor under a mortgage insured under section 231(c)(3) of the National Housing Act [12 U.S.C. 1715v(c)(3)] and which, after August 10, 1965, has obtained final endorsement of such mortgage for mortgage insurance and has been approved for receiving the benefits of this section;

(C) a private nonprofit corporation, a public body or agency, or a cooperative housing corporation, which is a borrower under section 1701q of this title and has been approved for receiving the benefits of this section: *Provided*, That, with respect to properties financed with

loans under such section made on or before August 10, 1965, payments shall not be made with respect to more than 20 per centum of the dwelling units in any property so financed; and

(D) a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is assisted under section 236 of the National Housing Act [12 U.S.C. 1715z-1] and which has been approved for receiving the benefits of this section: *Provided*, That payments shall not be made with respect to more than 20 per centum of the dwelling units in any property so financed, except that the foregoing limitation may be increased to 40 per centum of the dwelling units in any such property if the Secretary determines that such increase is necessary and desirable in order to provide additional housing for individuals and families meeting the requirements of subsection (c).

(2) Of the amounts approved in appropriation Acts pursuant to subsection (a) for payments under this section in any year, not more than 5 per centum in the aggregate shall be paid with respect to properties of housing owners as defined in paragraph (1)(A) of this subsection, and not more than 5 per centum in the aggregate shall be paid with respect to properties of housing owners as defined in paragraphs (1)(B) and (1)(C) of this subsection.

(k) Repealed. Pub. L. 105-276, title V, §514(d), Oct. 21, 1998, 112 Stat. 2548

(l) Additional available assistance authority

Notwithstanding the provisions of subsection (a) and any other provision of law, the Secretary may utilize additional authority under section 1437c(c) of title 42 made available by appropriation Acts on or after October 1, 1979, to supplement assistance authority available under this section. The Secretary shall utilize, to the extent necessary after September 30, 1984, any authority under this section that is recaptured either as the result of the conversion of housing projects covered by assistance under this section to contracts for assistance under section 1437f of title 42 or otherwise (1) for the purpose of making assistance payments, including amendments as provided in subsection (g), with respect to housing projects assisted under this section, but not subject to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.], that remain covered by assistance under this section; and (2) if not required to provide assistance under this section, and notwithstanding any other provision of law, for the purpose of contracting for assistance payments under section 236(f)(2) of the National Housing Act [12 U.S.C. 1715z-1(f)(2)].

(m) Payments for benefit of certain projects having mortgages made by State or local housing finance or government agencies

The Secretary shall, not later than 45 days after receipt of an application by the mortgagee, provide interest reduction and rental assistance payments for the benefit of projects assisted under this section whose mortgages were made by State or local housing finance agencies or State or local government agencies for a term equal to the remaining mortgage term to maturity on projects assisted under this section to the extent of—

(1) unexpended balances of amounts of authority as set forth in certain letter agreements between the Department of Housing and Urban Development and such State or local housing finance agencies or State or local government agencies, and

(2) existing allocation under section 236 contracts on projects whose mortgages were made by State or local housing finance agencies or State or local government agencies which are not being funded, to the extent of such excess allocation, for any purposes permitted under the provisions of this section.

An application shall be eligible for assistance under the previous sentence only if the mortgagee submits the application within 548 days after February 5, 1988, along with a certification of the mortgagee that amounts are to be utilized hereunder for the purpose of either (A) reducing rents or rent increases to tenants, or (B) making repairs or otherwise increasing the economic viability of a related project. Unexpended balances referred to in the first sentence of this subsection which remain

after disposition of all such applications is favorably concluded shall be rescinded. The authority conferred by this subsection to provide interest reduction and rental assistance payments shall be available only to the extent approved in appropriation Acts.

(Pub. L. 89–117, title I, §101, Aug. 10, 1965, 79 Stat. 451; Pub. L. 90–19, §22(a), (c), May 25, 1967, 81 Stat. 26; Pub. L. 90–448, title II, §§201(e), 202, title XI, §1106(b), Aug. 1, 1968, 82 Stat. 502, 503, 567; Pub. L. 91–152, title I, §112, Dec. 24, 1969, 83 Stat. 383; Pub. L. 91–609, title I, §§103, 114[115](c), 118(b), 120(a), (b), Dec. 31, 1970, 84 Stat. 1771, 1774, 1775; Pub. L. 96–153, title II, §203(a), Dec. 21, 1979, 93 Stat. 1106; Pub. L. 96–399, Oct. 8, 1980, title II, §205, 94 Stat. 1630; Pub. L. 97–35, title III, §322(g), 327, Aug. 13, 1981, 95 Stat. 403, 407; Pub. L. 98–181, title I [title II, §§203(b)(3), 219], Nov. 30, 1983, 97 Stat. 1178, 1187; Pub. L. 98–479, title I, §102(d), title II, §204(e), Oct. 17, 1984, 98 Stat. 2222, 2233; Pub. L. 100–242, title I, §§167(a)(2), 168, 170(h), title IV, §430(b), Feb. 5, 1988, 101 Stat. 1864, 1867, 1920; Pub. L. 104–99, title IV, §402(d)(5), Jan. 26, 1996, 110 Stat. 42; Pub. L. 105–276, title V, §514(d), Oct. 21, 1998, 112 Stat. 2548.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (g) and (l), is act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). Title II of the National Housing Act is classified generally to subchapter II (§1707 et seq.) of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 236 contracts, referred to in subsec. (m)(2), refer to contracts under section 1715z–1 of this title.

CODIFICATION

Subsecs. (f) and (i) of this section amended sections 1451(c) and 1465(c)(2) of Title 42, The Public Health and Welfare.

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

1998—Subsec. (k). Pub. L. 105–276, which directed the repeal of subsec. (k) of section 1010 of Pub. L. 89–117, was executed by striking out subsec. (k) of this section, to reflect the probable intent of Congress. For text, see 1996 Amendment note below.

1996—Subsec. (k). Pub. L. 104–99 temporarily substituted "[Reserved.]" for the text of subsec. (k), which read as follows: "In selecting individuals or families to be assisted under this section in accordance with the eligibility criteria and procedures established under subsection (e)(1) of this section, the project owner shall give preference to individuals or families who are occupying substandard housing, are paying more than 50 percent of family income for rent, or are involuntarily displaced at the time they are seeking housing assistance under this section." See Effective and Termination Dates of 1996 Amendment note below.

1988—Subsec. (e)(1). Pub. L. 100–242, §168(1), struck out provisions authorizing the Secretary to issue, upon the request of a housing owner, certificates of facts concerning individuals and families applying for admission to, or residing in, dwellings of such owner.

Subsec. (g). Pub. L. 100–242, §167(a)(2), substituted "100 percent" for "90 per centum".

Subsec. (j)(1)(D). Pub. L. 100–242, §170(h), made amendment identical to Pub. L. 98–479, §204(e). See 1984 Amendment note below.

Subsec. (k). Pub. L. 100–242, §168(2), amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: "In making assistance available under this section, the Secretary shall give priority to individuals or families who are occupying substandard housing or are involuntarily displaced at the time they are seeking housing assistance under this section."

Subsec. (m). Pub. L. 100–242, §430(b), added subsec. (m).

1984—Subsec. (g). Pub. L. 98–479, §102(d), struck out "up to" before "90 per centum" in next to last sentence.

Subsec. (j)(1)(D). Pub. L. 98–479, §204(e), substituted "dividend" for "divided" before "legal entity".

1983—Subsec. (e)(1)(B). Pub. L. 98–181, §203(b)(3), inserted ", was paying more than 50 per centum of family income for rent,".

Subsec. (g). Pub. L. 98–181, §219(a), inserted provision relating to the offer annually to amend contracts to

ensure that qualified tenants receive the benefit of assistance contracted for under this section.

Subsec. (l). Pub. L. 98-181, §219(b), inserted provision relating to the utilization by the Secretary of any authority under this section that is recaptured.

1981—Subsec. (c)(2). Pub. L. 97-35, §322(g)(1), substituted provisions defining "income" as income from all sources of each member and criteria for exclusions, for provisions defining "income" as determined under section 1437f of title 42.

Subsec. (d). Pub. L. 97-35, §§322(g)(2), 327(b), substituted provisions relating to determination of annual payment amount, for provisions relating to determination of maximum amount of annual payment.

Subsec. (e)(2). Pub. L. 97-35, §322(g)(3), substituted provisions relating to annual recertifications, for provisions relating to the elderly and recertifications at intervals of two years or shorter.

Subsec. (l). Pub. L. 97-35, §327(a), substituted provisions relating to additional available assistance authority, for provisions relating to amendment of contracts.

1980—Subsec. (l). Pub. L. 96-399 substituted "shall, not later than 4 years after October 8, 1980," for "may" in first sentence; inserted second sentence relating to amending of contracts; and substituted "the first sentence of this paragraph" for "preceding" in last sentence.

1979—Subsec. (c). Pub. L. 96-153, §203(a)(1), revised definition of "qualified tenant" and inserted definition of "income".

Subsec. (d). Pub. L. 96-153, §203(a)(2), struck out provisions that in determining the income of tenants, an amount equal to \$300 for each minor person shall be deducted and that the earnings of minor persons shall not be included in the income of the tenant, and inserted provisions relating to the determination of amount of payments under contracts amended pursuant to subsec. (j) of this section by reference to section 1437f of title 42.

Subsec. (e)(1)(B). Pub. L. 96-153, §203(a)(3), substituted "occupying substandard housing or was involuntarily displaced at the time it was seeking assistance under this section" for "displaced by governmental action, is elderly, is physically handicapped, or is (or was) occupying substandard housing or housing extensively damaged or destroyed as the result of a natural disaster".

Subsecs. (k), (l). Pub. L. 96-153, §203(a)(4), added subsecs. (k) and (l).

1970—Subsec. (a). Pub. L. 91-609, §103, increased maximum amount of payments by \$40,000,000 on July 1, 1971.

Subsec. (b). Pub. L. 91-609, §§114[115](c), 118(b), authorized payments to housing owners with respect to projects with dwelling units without kitchen facilities and provided for percentage limitation on payments to housing owner, and substituted "which may involve either new or existing construction and which" for "which prior to completion of construction or rehabilitation" before "is approved", respectively.

Subsec. (c)(2)(F). Pub. L. 91-609, §120(a), added par. (F).

Subsec. (e)(1)(B). Pub. L. 91-609, §120(b), provided for issuance of certificates with respect to whether the individual or family is a member of the Armed Forces of the United States serving on active duty.

1969—Subsec. (j)(1)(D). Pub. L. 91-152 inserted exception which authorized the Secretary to increase payments to 40 per centum of the dwelling units under the specified conditions.

1968—Subsec. (a). Pub. L. 90-448, §202(a), increased maximum amount of payments by \$40,000,000 on July 1, 1969, and by \$100,000,000 on July 1, 1970.

Subsec. (b). Pub. L. 90-448, §202(b), included within definition of "housing owner" a private nonprofit corporation or other private nonprofit legal entity, a limited dividend corporation or other limited dividend legal entity, or a cooperative housing corporation, which is the owner of a rental or cooperative housing project financed under a State or local program.

Subsec. (c)(2)(E). Pub. L. 90-448, §1106(b), substituted "affected by a disaster" for "affected by a natural disaster".

Subsec. (d). Pub. L. 90-448, §201(e)(1), inserted provisions authorizing, in determining the income of any tenant, a deduction of an amount equal to \$300 for each minor person who is a member of the immediate family of the tenant and living with the tenant, and directing that the earnings of any such minor shall not be included in the income of such tenant.

Subsec. (g). Pub. L. 90-448, §201(e)(2), inserted reference to section 1715z-1 of this title.

Subsec. (j)(1)(D). Pub. L. 90-448, §201(e)(3), inserted subpar. (D).

1967—Pub. L. 90-19, §22(a), substituted "Secretary" for "Administrator" wherever appearing in subsecs. (c), (d), (e), and (g).

Subsec. (a). Pub. L. 90-19, §22(c)(1), substituted "Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary')" for "Housing and Home Finance Administrator (hereinafter referred to as the 'Administrator')".

Subsec. (g). Pub. L. 90-19, §22(c)(2), consolidated in the Secretary of Housing and Urban Development the

authorities of the Federal Housing Commissioner and the Housing and Home Finance Administrator with respect to housing assisted under sections 1715l(d)(3) and 1715v(c)(3), and section 1701q of this title, respectively.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–276, title V, §514(g), Oct. 21, 1998, 112 Stat. 2549, provided that: "This section [amending this section, sections 1701z–11 and 4116 of this title, and sections 1437d, 1437f, 12899d, and 13615 of Title 42, The Public Health and Welfare, enacting provisions set out as notes under sections 1437a and 1437f of Title 42, and repealing provisions set out as notes under sections 1437d and 1437f of Title 42] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE AND TERMINATION DATES OF 1996 AMENDMENT

Amendment by Pub. L. 104–99 effective Jan. 26, 1996, and only for fiscal years 1996, 1997, and 1998, and to cease to be effective Oct. 21, 1998, see section 402(f) of Pub. L. 104–99, as amended, and section 514(f) of Pub. L. 105–276, set out as notes under section 1437a of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96–153, title II, §203(c), Dec. 21, 1979, 93 Stat. 1107, providing for the effective date of amendment of this section and section 1715z–1 of this title as Dec. 21, 1979, and setting forth maximum applicable tenant contribution, was repealed by Pub. L. 97–35, title III, §§322(h)(2), 371, Aug. 13, 1981, 95 Stat. 404, 431, eff. Oct. 1, 1981.

AMENDMENTS TO CONTRACTS

Pub. L. 109–115, div. A, title III, Nov. 30, 2005, 119 Stat. 2453, provided in part: "That amendments to such contracts [under this section and section 1715z–1(f)(2) of this title in State-aided, non-insured rental housing projects] hereafter may be for a period less than the term of the respective contracts."

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, 1969, and 1970 [see Short Title note set out under section 1701 of this title], not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93–383, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

§1701t. Congressional affirmation of national goal of decent homes and suitable living environment for American families

The Congress affirms the national goal, as set forth in section 1441 of title 42, of "a decent home and a suitable living environment for every American family".

The Congress finds that this goal has not been fully realized for many of the Nation's lower income families; that this is a matter of grave national concern; and that there exist in the public and private sectors of the economy the resources and capabilities necessary to the full realization of this goal.

The Congress declares that in the administration of those housing programs authorized by this Act which are designed to assist families with incomes so low that they could not otherwise decently house themselves, and of other Government programs designed to assist in the provision of housing for such families, the highest priority and emphasis should be given to meeting the housing needs of

those families for which the national goal has not become a reality; and in the carrying out of such programs there should be the fullest practicable utilization of the resources and capabilities of private enterprise and of individual self-help techniques.

(Pub. L. 90-448, §2, Aug. 1, 1968, 82 Stat. 476.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 476, known as the Housing and Urban Development Act of 1968. For complete classification of this Act to the Code, see Short Title of 1968 Amendments note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

LIMITATION ON WITHHOLDING OR CONDITIONING OF ASSISTANCE

Assistance provided for in Housing and Community Development Act of 1974, National Housing Act, United States Housing Act of 1937, Housing Act of 1949, Demonstration Cities and Metropolitan Development Act of 1966, and Housing and Urban Development Acts of 1965, 1968, [see Short Title notes set out under section 1701 of this title], 1969, and 1970 not to be withheld or made subject to conditions by reason of tax-exempt status of obligations issued or to be issued for financing of assistance, except as otherwise provided by law, see section 817 of Pub. L. 93-383, set out as a note under section 5301 of Title 42, The Public Health and Welfare.

NATIONAL ADVISORY COMMISSION ON LOW INCOME HOUSING

Pub. L. 90-448, title I, §110, Aug. 1, 1968, 82 Stat. 497, established the National Advisory Commission on Low Income Housing; provided for the appointment of members and the filling of vacancies; fixed the quorum number and the number necessary to conduct hearings; provided that the Commission study ways of bringing safe and sanitary housing to low income families, utilize services of private research organizations, and coordinate its investigation with the Banking and Currency Committees of the Senate and House; required that an interim report be submitted by July 1, 1969 and a final report by July 1, 1970; authorized the Commission or a subcommittee to hold hearings and to administer oaths and affirmations; directed executive branch departments, agencies, and instrumentalities to furnish information requested by the Commission; empowered the chairman, without regard to the provisions of Title 5, Government Organization and Employees, governing appointments in the competitive service and relating to classification and General Schedule pay rates, to appoint and pay personnel as he deemed necessary and to procure temporary services, as is authorized by section 3109 of title 5, at rates up to \$50 a day for individuals; provided that members appointed from the executive or legislative branch serve without compensation in addition to that received in their regular employment but be reimbursed for travel, subsistence, and necessary expenses incurred while performing duties for the Commission and that members other than those appointed from the executive or legislative branches be paid \$75 a day plus travel, subsistence, and other necessary expenses while acting as members of the Commission; and directed that the Commission cease to exist 30 days after its final report.

§1701u. Economic opportunities for low- and very low-income persons

(a) Findings

The Congress finds that—

(1) Federal housing and community development programs provide State and local governments and other recipients of Federal financial assistance with substantial funds for projects and activities that produce significant employment and other economic opportunities;

(2) low- and very low-income persons, especially recipients of government assistance for housing, often have restricted access to employment and other economic opportunities;

(3) the employment and other economic opportunities generated by projects and activities that receive Federal housing and community development assistance offer an effective means of empowering low- and very low-income persons, particularly persons who are recipients of government assistance for housing; and

(4) prior Federal efforts to direct employment and other economic opportunities generated by Federal housing and community development programs to low- and very low-income persons have not been fully effective and should be intensified.

(b) Policy

It is the policy of the Congress and the purpose of this section to ensure that the employment and other economic opportunities generated by Federal financial assistance for housing and community development programs shall, to the greatest extent feasible, be directed toward low- and very low-income persons, particularly those who are recipients of government assistance for housing.

(c) Employment

(1) Public and Indian housing program

(A) In general

The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to give to low- and very low-income persons the training and employment opportunities generated by development assistance provided pursuant to section 1437c of title 42, operating assistance provided pursuant to section 1437g of title 42, and modernization grants provided pursuant to section 1437l of title 42.¹

(B) Priority

The efforts required under subparagraph (A) shall be directed in the following order of priority:

- (i) To residents of the housing developments for which the assistance is expended.
- (ii) To residents of other developments managed by the public or Indian housing agency that is expending the assistance.
- (iii) To participants in YouthBuild programs receiving assistance under section 3226 of title 29.
- (iv) To other low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(2) Other programs

(A) In general

In other programs that provide housing and community development assistance, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the project is located.

(B) Priority

Where feasible, priority should be given to low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to participants in YouthBuild programs receiving assistance under section 3226 of title 29.

(d) Contracting

(1) Public and Indian housing program

(A) In general

The Secretary shall require that public and Indian housing agencies, and their contractors and subcontractors, make their best efforts, consistent with existing Federal, State, and local laws and regulations, to award contracts for work to be performed in connection with development assistance provided pursuant to section 1437c of title 42, operating assistance provided pursuant to section 1437g of title 42, and modernization grants provided pursuant to section 1437l of title 42,¹ to business concerns that provide economic opportunities for low- and very low-income persons.

(B) Priority

The efforts required under subparagraph (A) shall be directed in the following order of priority:

- (i) To business concerns that provide economic opportunities for residents of the housing development for which the assistance is provided.
- (ii) To business concerns that provide economic opportunities for residents of other housing developments operated by the public and Indian housing agency that is providing the assistance.
- (iii) To YouthBuild programs receiving assistance under section 3226 of title 29.
- (iv) To business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is provided.

(2) Other programs

(A) In general

In providing housing and community development assistance pursuant to other programs, the Secretary shall ensure that, to the greatest extent feasible, and consistent with existing Federal, State, and local laws and regulations, contracts awarded for work to be performed in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area (or nonmetropolitan county) in which the assistance is expended.

(B) Priority

Where feasible, priority should be given to business concerns which provide economic opportunities for low- and very low-income persons residing within the service area of the project or the neighborhood in which the project is located and to YouthBuild programs receiving assistance under section 3226 of title 29.

(e) Definitions

For the purposes of this section the following definitions shall apply:

(1) Low- and very low-income persons

The terms "low-income persons" and "very low-income persons" have the same meanings given the terms "low-income families" and "very low-income families", respectively, in section 1437a(b)(2) of title 42.

(2) Business concern that provides economic opportunities

The term "a business concern that provides economic opportunities" means a business concern that—

- (A) provides economic opportunities for a class of persons that has a majority controlling interest in the business;
- (B) employs a substantial number of such persons; or
- (C) meets such other criteria as the Secretary may establish.

(f) Coordination with other Federal agencies

The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human

Services, the Secretary of Commerce, the Administrator of the Small Business Administration, and such other Federal agencies as the Secretary determines are necessary to carry out this section.

(g) Regulations

Not later than 180 days after October 28, 1992, the Secretary shall promulgate regulations to implement this section.

(Pub. L. 90-448, §3, Aug. 1, 1968, 82 Stat. 476; Pub. L. 91-152, title IV, §404, Dec. 24, 1969, 83 Stat. 395; Pub. L. 93-383, title I, §118, Aug. 22, 1974, 88 Stat. 653; Pub. L. 96-399, title III, §329, Oct. 8, 1980, 94 Stat. 1651; Pub. L. 102-550, title IX, §915, Oct. 28, 1992, 106 Stat. 3878; Pub. L. 109-281, §2(d)(1), Sept. 22, 2006, 120 Stat. 1181; Pub. L. 113-128, title V, §512(p), July 22, 2014, 128 Stat. 1711.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1437l of title 42, referred to in subsecs. (c)(1)(A) and (d)(1)(A), was repealed by Pub. L. 105-276, title V, §522(a), Oct. 21, 1998, 112 Stat. 2564.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

October 28, 1992, referred to in subsec. (g), was in the original "the date of enactment of the National Affordable Housing Act Amendments of 1992", and was translated as meaning the date of enactment of the Housing and Community Development Act of 1992, Pub. L. 102-550, which amended this section generally, to reflect the probable intent of Congress.

AMENDMENTS

2014—Subsec. (c)(1)(B)(iii). Pub. L. 113-128, §512(p)(1)(A), substituted "participants in YouthBuild programs receiving assistance under section 3226 of title 29" for "participants in YouthBuild programs receiving assistance under section 2918a of title 29".

Subsec. (c)(2)(B). Pub. L. 113-128, §512(p)(1)(B), substituted "participants in YouthBuild programs receiving assistance under section 3226 of title 29" for "participants in YouthBuild programs receiving assistance under section 2918a of title 29".

Subsec. (d)(1)(B)(iii). Pub. L. 113-128, §512(p)(2)(A), substituted "To YouthBuild programs receiving assistance under section 3226 of title 29" for "To YouthBuild programs receiving assistance under section 2918a of title 29".

Subsec. (d)(2)(B). Pub. L. 113-128, §512(p)(2)(B), substituted "to YouthBuild programs receiving assistance under section 3226 of title 29" for "to YouthBuild programs receiving assistance under section 2918a of title 29".

2006—Subsecs. (c)(1)(B)(iii), (2)(B), (d)(1)(B)(iii), (2)(B). Pub. L. 109-281 substituted "YouthBuild programs receiving assistance under section 2918a of title 29" for "Youthbuild programs receiving assistance under subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act".

1992—Pub. L. 102-550 amended section generally. Prior to amendment, section read as follows: "In the administration by the Secretary of Housing and Urban Development of programs providing direct financial assistance, including community development block grants under title I of the Housing and Community Development Act of 1974, in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, the Secretary shall—

"(1) require, in consultation with the Secretary of Labor, that to the greatest extent feasible opportunities for training and employment arising in connection with the planning and carrying out of any project assisted under any such program be given to lower income persons residing within the unit of local government or the metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located; and

"(2) require, in consultation with the Administrator of the Small Business Administration, that to the greatest extent feasible contracts for work to be performed in connection with any such project be awarded to business concerns, including but not limited to individuals or firms doing business in the field of

planning, consulting, design, architecture, building construction, rehabilitation, maintenance or repair, which are located in or owned in substantial part by persons residing in the same metropolitan area (or nonmetropolitan county) as the project."

1980—Par. (1). Pub. L. 96–399, §329(1), substituted "residing within the unit of local government or the metropolitan area (or nonmetropolitan county), as determined by the Secretary, in which the project is located" for "residing in the area of such project".

Par. (2). Pub. L. 96–399, §329(2), substituted "residing in the same metropolitan area (or nonmetropolitan county) as the project" for "residing in the area of such project".

1974—Pub. L. 93–383 inserted reference to community development block grants under title I of the Housing and Community Development Act of 1974.

1969—Pub. L. 91–152 substituted provisions making applicable programs providing direct financial assistance in aid of housing, urban planning, development, redevelopment, or renewal, public or community facilities, and new community development, for provisions making applicable programs authorized by sections 1715l(d)(3), 1715z, and 1715z–1 of this title, the low-rent public housing program under the United States Housing Act of 1937, and the rent supplement program under section 101 of the Housing and Urban Development Act of 1965.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of Title 29, Labor.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109–281, §2(f), Sept. 22, 2006, 120 Stat. 1182, provided that: "This section [enacting former section 2918a of Title 29, Labor, amending this section, section 4183 of Title 25, Indians, former section 2939 of Title 29, and section 12870 of Title 42, The Public Health and Welfare, and repealing sections 12899 to 12899i of Title 42] and the amendments made by this section take effect on the earlier of—

"(1) the date of enactment of this Act [Sept. 22, 2006]; and

"(2) September 30, 2006."

EFFECTIVENESS STUDY

Pub. L. 102–550, title IX, §916, Oct. 28, 1992, 106 Stat. 3881, provided that the Secretary of Housing and Urban Development should submit to Congress no later than 1 year after Oct. 28, 1992, a report describing efforts to enforce this section and the costs and barriers to full implementation of this section, coupled with legislative recommendations.

¹ See References in Text note below.

§1701v. Congressional findings and declaration for improved architectural design in Government housing programs

The Congress finds that Federal aids to housing have not contributed fully to improvement in architectural standards. This objective has been contemplated in Federal housing legislation since the establishment of mortgage insurance through the Federal Housing Administration.

The Congress commends the Department of Housing and Urban Development for its recent efforts to improve architectural standards through competitive design awards and in other ways but at the same time recognizes that this important objective requires high priority if Federal aid is to make its full communitywide contribution toward improving our urban environment.

The Congress further finds that even within the necessary budget limitations on housing for low and moderate income families architectural design could be improved not only to make the housing more attractive, but to make it better suited to the needs of occupants.

The Congress declares that in the administration of housing programs which assist in the provision of housing for low and moderate income families, emphasis should be given to encouraging good

design as an essential component of such housing and to developing housing which will be of such quality as to reflect its important relationship to the architectural standards of the neighborhood and community in which it is situated, consistent with prudent budgeting.

(Pub. L. 90-448, §4, Aug. 1, 1968, 82 Stat. 477.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

§1701w. Budget, debt management, and related counseling services for mortgagors; authorization of appropriations

The Secretary of Housing and Urban Development is authorized to provide, or contract with public or private organizations to provide, such budget, debt management, and related counseling services to mortgagors whose mortgages are insured under section 1715z(i) or (j)(4) of this title as he determines to be necessary to assist such mortgagors in meeting the responsibilities of homeownership. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

(Pub. L. 90-448, title I, §101(e), Aug. 1, 1968, 82 Stat. 484.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

§1701x. Assistance with respect to housing for low- and moderate-income families

(a) Authorization to provide information, advice, and technical assistance; scope of assistance; authorization of appropriations

(1) The Secretary is authorized to provide, or contract with public or private organizations to provide, information, advice, and technical assistance, including but not limited to—

(i) the assembly, correlation, publication, and dissemination of information with respect to the construction, rehabilitation, and operation of low- and moderate-income housing;

(ii) the provision of advice and technical assistance to public bodies or to nonprofit or cooperative organizations with respect to the construction, rehabilitation, and operation of low- and moderate-income housing, including assistance with respect to self-help and mutual self-help programs;

(iii) counseling and advice to tenants and homeowners with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and in meeting the responsibilities of tenancy or homeownership; and

(iv) the provision of technical assistance to communities, particularly smaller communities, to assist such communities in planning, developing, and administering Community Development Programs pursuant to title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.].

(2) The Secretary (A) shall provide the services described in clause (iii) of paragraph (1) for homeowners assisted under section 235 of the National Housing Act [12 U.S.C. 1715z]; (B) shall, in

consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(h) of the Housing Act of 1949 [42 U.S.C. 1472(h)]; and (C) may provide such services for other owners of single family dwelling units insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or guaranteed or insured under chapter 37 of title 38. For purposes of this paragraph and clause (iii) of paragraph (1), the Secretary may provide the services described in such clause directly or may enter into contracts with, make grants to, and provide other types of assistance to private or public organizations with special competence and knowledge in counseling low- and moderate-income families to provide such services.

(3) There is authorized to be appropriated for the purposes of this subsection, without fiscal year limitation, such sums as may be necessary; except that for such purposes there are authorized to be appropriated \$6,025,000 for fiscal year 1993 and \$6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to \$500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992. Any amounts so appropriated shall remain available until expended.

(4) HOMEOWNERSHIP AND RENTAL COUNSELING ASSISTANCE.—

(A) IN GENERAL.—The Secretary shall make financial assistance available under this paragraph to HUD-approved housing counseling agencies and State housing finance agencies.

(B) QUALIFIED ENTITIES.—The Secretary shall establish standards and guidelines for eligibility of organizations (including governmental and nonprofit organizations) to receive assistance under this paragraph, in accordance with subparagraph (D).

(C) DISTRIBUTION.—Assistance made available under this paragraph shall be distributed in a manner that encourages efficient and successful counseling programs and that ensures adequate distribution of amounts for rural areas having traditionally low levels of access to such counseling services, including areas with insufficient access to the Internet. In distributing such assistance, the Secretary may give priority consideration to entities serving areas with the highest home foreclosure rates.

(D) LIMITATION ON DISTRIBUTION OF ASSISTANCE.—

(i) IN GENERAL.—None of the amounts made available under this paragraph shall be distributed to—

(I) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(II) any organization which employs applicable individuals.

(ii) DEFINITION OF APPLICABLE INDIVIDUALS.—In this subparagraph, the term "applicable individual" means an individual who—

(I) is—

(aa) employed by the organization in a permanent or temporary capacity;

(bb) contracted or retained by the organization; or

(cc) acting on behalf of, or with the express or apparent authority of, the organization;
and

(II) has been convicted for a violation under Federal law relating to an election for Federal office.

(E) GRANTMAKING PROCESS.—In making assistance available under this paragraph, the Secretary shall consider appropriate ways of streamlining and improving the processes for grant application, review, approval, and award.

(F) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$45,000,000 for each of fiscal years 2009 through 2012 for—

(i) the operations of the Office of Housing Counseling of the Department of Housing and Urban Development;

- (ii) the responsibilities of the Director of Housing Counseling under paragraphs (2) through (5) of subsection (g); and
- (iii) assistance pursuant to this paragraph for entities providing homeownership and rental counseling.

(b) Loans to nonprofit organizations or public housing agencies; purpose and terms; repayment; authorization of appropriations; deposit of appropriations in Low and Moderate Income Sponsor Fund

(1) The Secretary is authorized to make loans to nonprofit organizations or public housing agencies for the necessary expenses, prior to construction, in planning, and obtaining financing for, the rehabilitation or construction of housing for low or moderate income families under section 235 of the National Housing Act [12 U.S.C. 1715z] or any other federally assisted program. Such loans shall be made without interest and shall not exceed 80 per centum of the reasonable costs expected to be incurred in planning, and in obtaining financing for, such housing prior to the availability of financing, including, but not limited to, preliminary surveys and analyses of market needs, preliminary site engineering and architectural fees, site acquisition, application and mortgage commitment fees, and construction loan fees and discounts. The Secretary shall require repayment of loans made under this subsection, under such terms and conditions as he may require, upon completion of the project or sooner, and may cancel any part or all of a loan if he determines that it cannot be recovered from the proceeds of any permanent loan made to finance the rehabilitation or construction of the housing.

(2) The Secretary shall determine prior to the making of any loan that the nonprofit organization or public housing agency meets such requirements with respect to financial responsibility and stability as he may prescribe.

(3) There are authorized to be appropriated for the purposes of this subsection not to exceed \$7,500,000 for the fiscal year ending June 30, 1969, and not to exceed \$10,000,000 for the fiscal year ending June 30, 1970. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year under this paragraph but not appropriated may be appropriated for any succeeding fiscal year.

(4) All funds appropriated for the purposes of this subsection shall be deposited in a fund which shall be known as the Low and Moderate Income Sponsor Fund, and which shall be available without fiscal year limitation and be administered by the Secretary as a revolving fund for carrying out the purposes of this subsection. Sums received in repayment of loans made under this subsection shall be deposited in such fund.

(c) Grants for homeownership counseling organizations

(1) In general

The Secretary of Housing and Urban Development may make grants—

- (A) to nonprofit organizations experienced in the provision of homeownership counseling to enable the organizations to provide homeownership counseling to eligible homeowners; and
- (B) to assist in the establishment of nonprofit homeownership counseling organizations.

(2) Program requirements

(A) Applications for grants under this subsection shall be submitted in the form, and in accordance with the procedures, that the Secretary requires.

(B) The homeownership counseling organizations receiving assistance under this subsection shall use the assistance only to provide homeownership counseling to eligible homeowners.

(C) The homeownership counseling provided by homeownership counseling organizations receiving assistance under this subsection shall include counseling with respect to—

- (i) financial management;
- (ii) available community resources, including public assistance programs, mortgage assistance programs, home repair assistance programs, utility assistance programs, food programs, and social services; and
- (iii) employment training and placement.

(3) Availability of homeownership counseling

The Secretary shall take any action that is necessary—

(A) to ensure the availability throughout the United States of homeownership counseling from homeownership counseling organizations receiving assistance under this subsection, with priority to areas that—

(i) are experiencing high rates of home foreclosure and any other indicators of homeowner distress determined by the Secretary to be appropriate;

(ii) are not already adequately served by homeownership counseling organizations; and

(iii) have a high incidence of mortgages involving principal obligations (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the properties that are insured pursuant to section 203 of the National Housing Act [12 U.S.C. 1709]; and

(B) to inform the public of the availability of the homeownership counseling.

(4) Eligibility for counseling

A homeowner shall be eligible for homeownership counseling under this subsection if—

(A) the home loan is secured by property that is the principal residence (as defined by the Secretary) of the homeowner;

(B) the home loan is not assisted under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.]; and

(C) the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments due to a reduction in the income of the homeowner because of—

(i) an involuntary loss of, or reduction in, the employment of the homeowner, the self-employment of the homeowner, or income from the pursuit of the occupation of the homeowner;

(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner;

(iii) a significant reduction in the income of the household due to divorce or death; or

(iv) a significant increase in basic expenses of the homeowner or an immediate family member of the homeowner (including the spouse, child, or parent for whom the homeowner provides substantial care or financial assistance) due to—

(I) an unexpected or significant increase in medical expenses;

(II) a divorce;

(III) unexpected and significant damage to the property, the repair of which will not be covered by private or public insurance; or

(IV) a large property-tax increase; or

(D) the Secretary of Housing and Urban Development determines that the annual income of the homeowner is no greater than the annual income established by the Secretary as being of low- or moderate-income.

(5) Notification of availability of homeownership counseling

(A) Notification of availability of homeownership counseling

(i) Requirement

Except as provided in subparagraph (C), the creditor of a loan (or proposed creditor) shall provide notice under clause (ii) to (I) any eligible homeowner who fails to pay any amount by the date the amount is due under a home loan, and (II) any applicant for a mortgage described in paragraph (4).

(ii) Content

Notification under this subparagraph shall—

(I) notify the homeowner or mortgage applicant of the availability of any homeownership counseling offered by the creditor (or proposed creditor);

(II) if provided to an eligible mortgage applicant, state that completion of a counseling program is required for insurance pursuant to section 203 of the National Housing Act [12 U.S.C. 1709];

(III) notify the homeowner or mortgage applicant of the availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling, or provide the toll-free telephone number described in subparagraph (D)(i);

(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.) [now 50 U.S.C. 3901 et seq.], including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance; and

(V) notify the housing or mortgage applicant of the availability of mortgage software systems provided pursuant to subsection (g)(3).

(B) Deadline for notification

The notification required in subparagraph (A) shall be made—

- (i) in a manner approved by the Secretary; and
- (ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

(C) Notification

Notification under subparagraph (A) shall not be required with respect to any loan for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

(D) Administration and compliance

The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

- (i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations, which shall be updated annually, that—

(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and

(II) serve the area in which the residential property of the homeowner is located;

- (ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

(iii) report to the Secretary not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B).

(E) Report

The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements.

(6) Definitions

For purposes of this subsection:

(A) The term "creditor" means a person or entity that is servicing a home loan on behalf of itself or another person or entity.

(B) The term "eligible homeowner" means a homeowner eligible for counseling under paragraph (4).

(C) The term "home loan" means a loan secured by a mortgage or lien on residential property.

(D) The term "homeowner" means a person who is obligated under a home loan.

(E) The term "residential property" means a 1-family residence, including a 1-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

(7) Regulations

The Secretary shall issue any regulations that are necessary to carry out this subsection.

(8) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$7,000,000 for fiscal year 1993 and \$7,294,000 for fiscal year 1994, of which amounts \$1,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D). Any amount appropriated under this subsection shall remain available until expended.

(d) Prepurchase and foreclosure-prevention counseling demonstration

(1) Purposes

The purpose of this subsection is—

(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

(B) to encourage responsible and prudent use of such federally insured home mortgages;

(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased pursuant to such mortgages; and

(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

(2) Authority

The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

(3) Grants

Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

(4) Qualified nonprofit organizations

The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

(5) Prepurchase counseling

(A) Mandatory participation

Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as

determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (9)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mortgage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

- (i) financial management and the responsibilities involved in homeownership;
- (ii) fair housing laws and requirements;
- (iii) the maximum mortgage amount that the homebuyer can afford; and
- (iv) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

(B) Eligibility for counseling

A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

- (i) the homebuyer has applied for a qualified mortgage;
- (ii) the homebuyer is a first-time homebuyer; and
- (iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

(6) Foreclosure-prevention counseling

(A) Availability

Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the delinquency or default.

(B) Notification of delinquency

Under the demonstration program, the Secretary shall require the creditor of any eligible homeowner who is delinquent (as described in subparagraph (A)) to send written notice by registered or certified mail within 5 days (excluding Saturdays, Sundays, and legal public holidays) after the occurrence of such delinquency—

- (i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and
- (ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.

(C) Coordination with emergency homeownership counseling program

The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

(D) Eligibility for counseling

A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if—

- (i) the home owned by the homeowner is subject to a qualified mortgage; and
- (ii) such home is located in a counseling target area.

(7) Scope of demonstration program

(A) Designation of counseling target areas

The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

(B) Counseling target areas

Each counseling target area shall consist of a group of contiguous census tracts—

- (i) the population of which is greater than 50,000;

(ii) which together constitute an identifiable neighborhood, area, borough, district, or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

(iii) in which the average age of existing housing is greater than 20 years; and

(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

(C) Mortgage characteristics

In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

(D) Expansion of target areas

The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

(E) Designation of control areas

For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

(8) Evaluation

Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General may require.

(9) Definitions

For purposes of this subsection:

(A) The term "control area" means an area designated by the Secretary under paragraph (7)(E).

(B) The term "counseling target area" means an area designated by the Secretary under paragraph (7)(A).

(C) The term "creditor" means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

(D) The term "displaced homemaker" means an individual who—

(i) is an adult;

(ii) has not worked full-time, full-year in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family; and

(iii) is unemployed or underemployed and is experiencing difficulty in obtaining or

upgrading employment.

(E) The term "downpayment" means the amount of purchase price of home required to be paid at or before the time of purchase.

(F) The term "eligible homebuyer" means a homebuyer that meets the requirements under paragraph (5)(B).

(G) The term "eligible homeowner" means a homeowner that meets the requirements under paragraph (6)(D).

(H) The term "first-time homebuyer" means an individual who—

(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse, meets the requirements of clause (i); or

(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

(I) The term "home" includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

(J) The term "metropolitan area" means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

(K) The term "qualified mortgage" means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(L) The term "Secretary" means the Secretary of Housing and Urban Development.

(M) The term "single parent" means an individual who—

(i) is unmarried or legally separated from a spouse; and

(ii)(I) has 1 or more minor children for whom the individual has custody or joint custody;
or

(II) is pregnant.

(10) Regulations

The Secretary may issue any regulations necessary to carry out this subsection.

(11) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection \$365,000 for fiscal year 1993 and \$380,330 for fiscal year 1994.

(12) Termination

The demonstration program under this subsection shall terminate at the end of fiscal year 1994.

(e) Certification

(1) Requirement for assistance

An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (a)(4), (c), or (d) of this section, or under section 1701w of this title, unless the organization, or the individuals through which the organization provides such counseling, has been certified by the Secretary under this subsection as competent to provide such counseling.

(2) Standards and examination

The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors and for certifying organizations. Such standards and procedures shall require, for certification of an organization, that each individual through which the organization provides

counseling shall demonstrate, and, for certification of an individual, that the individual shall demonstrate, by written examination (as provided under subsection (f)(4)), competence to provide counseling in each of the following areas:

- (A) Financial management.
- (B) Property maintenance.
- (C) Responsibilities of homeownership and tenancy.
- (D) Fair housing laws and requirements.
- (E) Housing affordability.
- (F) Avoidance of, and responses to, rental and mortgage delinquency and avoidance of eviction and mortgage default.

(3) Requirement under HUD programs

Any homeownership counseling or rental housing counseling (as such terms are defined in subsection (g)(1)) required under, or provided in connection with, any program administered by the Department of Housing and Urban Development shall be provided only by organizations or counselors certified by the Secretary under this subsection as competent to provide such counseling.

(4) Outreach

The Secretary shall take such actions as the Secretary considers appropriate to ensure that individuals and organizations providing homeownership or rental housing counseling are aware of the certification requirements and standards of this subsection and of the training and certification programs under subsection (f).

(5) Encouragement

The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ organizations and individuals to provide such counseling who are certified under this subsection or meet the certification standards established under this subsection.

(f) Homeownership and rental counselor training and certification programs

(1) Establishment

To the extent amounts are provided in appropriations Acts under paragraph (7), the Secretary shall contract with an appropriate entity (which may be a nonprofit organization) to carry out a program under this subsection to train individuals to provide homeownership and rental counseling and to administer the examination under subsection (e)(2) and certify individuals under such subsection.

(2) Eligibility and selection

(A) Eligibility

To be eligible to provide the training and certification program under this subsection, an entity shall have demonstrated experience in training homeownership and rental counselors.

(B) Selection

The Secretary shall provide for entities meeting the requirements of subparagraph (A) to submit applications to provide the training and certification program under this subsection. The Secretary shall select an application based on the ability of the entity to—

- (i) establish the program as soon as possible on a national basis, but not later than the date under paragraph (6);
- (ii) minimize the costs involved in establishing the program; and
- (iii) effectively and efficiently carry out the program.

(3) Training

The Secretary shall require that training of counselors under the program under this subsection be designed and coordinated to prepare individuals for successful completion of the examination

for certification under subsection (e)(2). The Secretary, in consultation with the entity selected under paragraph (2)(B), shall establish the curriculum and standards for training counselors under the program.

(4) Certification

The entity selected under paragraph (2)(B) shall administer the examination under subsection (e)(2) and, on behalf of the Secretary, certify individuals successfully completing the examination. The Secretary, in consultation with such entity, shall establish the content and format of the examination.

(5) Fees

Subject to the approval of the Secretary, the entity selected under paragraph (2)(B) may establish and impose reasonable fees for participation in the training provided under the program and for examination and certification under subsection (e)(2), in an amount sufficient to cover any costs of such activities not covered with amounts provided under paragraph (7).

(6) Timing

The entity selected under paragraph (2)(B) to carry out the training and certification program shall establish the program as soon as possible after such selection, and shall make training and certification available under the program on a national basis not later than the expiration of the 1-year period beginning upon such selection.

(7) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection \$2,000,000 for fiscal year 1993 and \$2,084,000 for 1994.

(g) Procedures and activities

(1) Counseling procedures

(A) In general

The Secretary shall establish, coordinate, and monitor the administration by the Department of Housing and Urban Development of the counseling procedures for homeownership counseling and rental housing counseling provided in connection with any program of the Department, including all requirements, standards, and performance measures that relate to homeownership and rental housing counseling.

(B) Homeownership counseling

For purposes of this subsection and as used in the provisions referred to in this subparagraph, the term "homeownership counseling" means counseling related to homeownership and residential mortgage loans. Such term includes counseling related to homeownership and residential mortgage loans that is provided pursuant to—

(i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));

(ii) in the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]—

(I) section 9(e) (42 U.S.C. 1437g(e));

(II) section 8(y)(1)(D) (42 U.S.C. 1437f(y)(1)(D));

(III) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));

(IV) section 23(c)(4) ¹ (42 U.S.C. 1437u(c)(4));

(V) section 32(e)(4) (42 U.S.C. 1437z-4(e)(4));

(VI) section 33(d)(2)(B) (42 U.S.C. 1437z-5(d)(2)(B));

(VII) sections 302(b)(6) and 303(b)(7) (42 U.S.C. 1437aaa-1(b)(6), 1437aaa-2(b)(7));

and

(VIII) section 304(c)(4) (42 U.S.C. 1437aaa-3(c)(4));

(iii) section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000 (42 U.S.C. 1437f note);

- (iv) sections 12773(b)(2) and 12808(b) of title 42;
- (v) this section and section 1701w of this title;
- (vi) section 4110(d)(2)(G) of this title;
- (vii) sections 12872(b)(6), 12873(b)(7), 12874(c)(4), 12892(b)(6), and 12893(b)(6) of title 42;
- (viii) section 11408(b)(1)(F)(iii) [1](#) of title 42;
- (ix) sections 202(3) [1](#) and 810(b)(2)(A) [1](#) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A));
- (x) in the National Housing Act [12 U.S.C. 1701 et seq.]—
 - (I) in section 203 (12 U.S.C. 1709), the penultimate undesignated paragraph of paragraph (2) of subsection (b), subsection (c)(2)(A), and subsection (r)(4);
 - (II) subsections (a) and (c)(3) of section 237; [1](#) and
 - (III) subsections (d)(2)(B) and (m)(1) of section 255 (12 U.S.C. 1715z–20);
- (xi) section 502(h)(4)(B) of the Housing Act of 1949 (42 U.S.C. 1472(h)(4)(B));
- (xii) section 1701z–7 of this title; and
- (xiii) section 1701z–16 of this title.

(C) Rental housing counseling

For purposes of this subsection, the term "rental housing counseling" means counseling related to rental of residential property, which may include counseling regarding future homeownership opportunities and providing referrals for renters and prospective renters to entities providing counseling and shall include counseling related to such topics that is provided pursuant to—

- (i) section 105(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(20));
- (ii) in the United States Housing Act of 1937—
 - (I) section 9(e) (42 U.S.C. 1437g(e));
 - (II) section 18(a)(4)(D) (42 U.S.C. 1437p(a)(4)(D));
 - (III) section 23(c)(4) [1](#) (42 U.S.C. 1437u(c)(4));
 - (IV) section 32(e)(4) (42 U.S.C. 1437z–4(e)(4));
 - (V) section 33(d)(2)(B) (42 U.S.C. 1437z–5(d)(2)(B)); and
 - (VI) section 302(b)(6) (42 U.S.C. 1437aaa–1(b)(6));
- (iii) section 12773(b)(2) of title 42;
- (iv) this section;
- (v) section 12872(b)(6) of title 42;
- (vi) section 11408(b)(1)(F)(iii) [1](#) of title 42;
- (vii) sections 202(3) [1](#) and 810(b)(2)(A) [1](#) of the Native American Housing and Self-Determination Act of 1996 (25 U.S.C. 4132(3), 4229(b)(2)(A)); and
- (viii) the rental assistance program under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(2) Standards for materials

The Secretary, in consultation with the advisory committee established under subsection (g)(4) [1](#) of the Department of Housing and Urban Development Act, shall establish standards for materials and forms to be used, as appropriate, by organizations providing homeownership counseling services, including any recipients of assistance pursuant to subsection (a)(4).

(3) Mortgage software systems

(A) Certification

The Secretary shall provide for the certification of various computer software programs for

consumers to use in evaluating different residential mortgage loan proposals. The Secretary shall require, for such certification, that the mortgage software systems take into account—

- (i) the consumer's financial situation and the cost of maintaining a home, including insurance, taxes, and utilities;
- (ii) the amount of time the consumer expects to remain in the home or expected time to maturity of the loan; and
- (iii) such other factors as the Secretary considers appropriate to assist the consumer in evaluating whether to pay points, to lock in an interest rate, to select an adjustable or fixed rate loan, to select a conventional or government-insured or guaranteed loan and to make other choices during the loan application process.

If the Secretary determines that available existing software is inadequate to assist consumers during the residential mortgage loan application process, the Secretary shall arrange for the development by private sector software companies of new mortgage software systems that meet the Secretary's specifications.

(B) Use and initial availability

Such certified computer software programs shall be used to supplement, not replace, housing counseling. The Secretary shall provide that such programs are initially used only in connection with the assistance of housing counselors certified pursuant to subsection (e).

(C) Availability

After a period of initial availability under subparagraph (B) as the Secretary considers appropriate, the Secretary shall take reasonable steps to make mortgage software systems certified pursuant to this paragraph widely available through the Internet and at public locations, including public libraries, senior-citizen centers, public housing sites, offices of public housing agencies that administer rental housing assistance vouchers, and housing counseling centers.

(D) Budget compliance

This paragraph shall be effective only to the extent that amounts to carry out this paragraph are made available in advance in appropriations Acts.

(4) National public service multimedia campaigns to promote housing counseling

(A) In general

The Director of Housing Counseling shall develop, implement, and conduct national public service multimedia campaigns designed to make persons facing mortgage foreclosure, persons considering a subprime mortgage loan to purchase a home, elderly persons, persons who face language barriers, low-income persons, minorities, and other potentially vulnerable consumers aware that it is advisable, before seeking or maintaining a residential mortgage loan, to obtain homeownership counseling from an unbiased and reliable sources ² and that such homeownership counseling is available, including through programs sponsored by the Secretary of Housing and Urban Development.

(B) Contact information

Each segment of the multimedia campaign under subparagraph (A) shall publicize the toll-free telephone number and website of the Department of Housing and Urban Development through which persons seeking housing counseling can locate a housing counseling agency in their State that is certified by the Secretary of Housing and Urban Development and can provide advice on buying a home, renting, defaults, foreclosures, credit issues, and reverse mortgages.

(C) Authorization of appropriations

There are authorized to be appropriated to the Secretary, not to exceed \$3,000,000 for fiscal years 2009, 2010, and 2011, for the development, implementation, and conduct of national public service multimedia campaigns under this paragraph.

(D) Foreclosure rescue education programs

(i) In general

Ten percent of any funds appropriated pursuant to the authorization under subparagraph (C) shall be used by the Director of Housing Counseling to conduct an education program in areas that have a high density of foreclosure. Such program shall involve direct mailings to persons living in such areas describing—

- (I) tips on avoiding foreclosure rescue scams;
- (II) tips on avoiding predatory lending mortgage agreements;
- (III) tips on avoiding for-profit foreclosure counseling services; and
- (IV) local counseling resources that are approved by the Department of Housing and Urban Development.

(ii) Program emphasis

In conducting the education program described under clause (i), the Director of Housing Counseling shall also place an emphasis on serving communities that have a high percentage of retirement communities or a high percentage of low-income minority communities.

(iii) Terms defined

For purposes of this subparagraph:

(I) High density of foreclosures

An area has a "high density of foreclosures" if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.

(II) High percentage of retirement communities

An area has a "high percentage of retirement communities" if such area is one of the metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest percentage of residents aged 65 or older.

(III) High percentage of low-income minority communities

An area has a "high percentage of low-income minority communities" if such area contains a higher-than-normal percentage of residents who are both minorities and low-income, as defined by the Director of Housing Counseling.

(5) Education programs

The Secretary shall provide advice and technical assistance to States, units of general local government, and nonprofit organizations regarding the establishment and operation of, including assistance with the development of content and materials for, educational programs to inform and educate consumers, particularly those most vulnerable with respect to residential mortgage loans (such as elderly persons, persons facing language barriers, low-income persons, minorities, and other potentially vulnerable consumers), regarding home mortgages, mortgage refinancing, home equity loans, home repair loans, and where appropriate by region, any requirements and costs associated with obtaining flood or other disaster-specific insurance coverage.

(h) Definitions

For purposes of this section:

(1) Nonprofit organization

The term "nonprofit organization" has the meaning given such term in section 12704(5) of title 42, except that subparagraph (D) of such section shall not apply for purposes of this section.

(2) State

The term "State" means each of the several States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, or any other possession of the United States.

(3) Unit of general local government

The term "unit of general local government" means any city, county, parish, town, township, borough, village, or other general purpose political subdivision of a State.

(4) HUD-approved counseling agency

The term "HUD-approved counseling agency" means a private or public nonprofit organization that is—

- (A) exempt from taxation under section 501(c) of title 26; and
- (B) certified by the Secretary to provide housing counseling services.

(5) State housing finance agency

The term "State housing finance agency" means any public body, agency, or instrumentality specifically created under State statute that is authorized to finance activities designed to provide housing and related facilities throughout an entire State through land acquisition, construction, or rehabilitation.

(i) Accountability for recipients of covered assistance

(1) Tracking of funds

The Secretary shall—

(A) develop and maintain a system to ensure that any organization or entity that receives any covered assistance uses all amounts of covered assistance in accordance with this section, the regulations issued under this section, and any requirements or conditions under which such amounts were provided; and

(B) require any organization or entity, as a condition of receipt of any covered assistance, to agree to comply with such requirements regarding covered assistance as the Secretary shall establish, which shall include—

- (i) appropriate periodic financial and grant activity reporting, record retention, and audit requirements for the duration of the covered assistance to the organization or entity to ensure compliance with the limitations and requirements of this section, the regulations under this section, and any requirements or conditions under which such amounts were provided; and
- (ii) any other requirements that the Secretary determines are necessary to ensure appropriate administration and compliance.

(2) Misuse of funds

If any organization or entity that receives any covered assistance is determined by the Secretary to have used any covered assistance in a manner that is materially in violation of this section, the regulations issued under this section, or any requirements or conditions under which such assistance was provided—

(A) the Secretary shall require that, within 12 months after the determination of such misuse, the organization or entity shall reimburse the Secretary for such misused amounts and return to the Secretary any such amounts that remain unused or uncommitted for use; and

(B) such organization or entity shall be ineligible, at any time after such determination, to apply for or receive any further covered assistance.

The remedies under this paragraph are in addition to any other remedies that may be available under law.

(3) Covered assistance

For purposes of this subsection, the term "covered assistance" means any grant or other financial assistance provided under this section.

(Pub. L. 90–448, title I, §106, Aug. 1, 1968, 82 Stat. 490; Pub. L. 91–609, title IX, §903(a), (b), Dec. 31, 1970, 84 Stat. 1808; Pub. L. 93–383, title VIII, §811, Aug. 22, 1974, 88 Stat. 735; Pub. L. 95–128, title IX, §903, Oct. 12, 1977, 91 Stat. 1149; Pub. L. 97–35, title III, §339A, Aug. 13, 1981, 95 Stat. 417; Pub. L. 98–181, title I [title IV, §465], Nov. 30, 1983, 97 Stat. 1236; Pub. L. 98–479,

title II, §204(f), Oct. 17, 1984, 98 Stat. 2233; Pub. L. 100–242, title I, §169, Feb. 5, 1988, 101 Stat. 1865; Pub. L. 100–628, title X, §1009, Nov. 7, 1988, 102 Stat. 3266; Pub. L. 101–137, §8, Nov. 3, 1989, 103 Stat. 826; Pub. L. 101–625, title V, §577, title VII, §706(c), Nov. 28, 1990, 104 Stat. 4238, 4286; Pub. L. 102–550, title I, §162(a)–(d), Oct. 28, 1992, 106 Stat. 3719–3721; Pub. L. 104–316, title I, §106(a), Oct. 19, 1996, 110 Stat. 3830; Pub. L. 105–276, title V, §594(a), (b), Oct. 21, 1998, 112 Stat. 2655; Pub. L. 107–73, title II, §205, Nov. 26, 2001, 115 Stat. 674; Pub. L. 109–163, div. A, title VI, §688(a), Jan. 6, 2006, 119 Stat. 3336; Pub. L. 110–289, div. B, title I, §2127, July 30, 2008, 122 Stat. 2841; Pub. L. 111–203, title XIV, §§1443–1445, 1448, 1449, July 21, 2010, 124 Stat. 2165–2171, 2173, 2174.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (a)(1)(iv), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633. Title I of the Housing and Community Development Act of 1974 is classified principally to chapter 69 (§5301 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

The National Housing Act, referred to in subsecs. (a)(2), (d)(9)(K), and (g)(1)(B)(x), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of this chapter. Section 237 of the Act, which was formerly classified to section 1715z–2 of this title, was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(6), July 30, 2008, 122 Stat. 2835. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

Section 152 of the Housing and Community Development Act of 1992, referred to in subsec. (a)(3), is section 152 of Pub. L. 102–550, which was set out as a note under section 1437f of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 105–276, title V, §550(f), Oct. 21, 1998, 112 Stat. 2610.

The Housing Act of 1949, referred to in subsec. (c)(4)(B), is act July 15, 1949, ch. 338, 63 Stat. 413. Title V of the Housing Act of 1949 is classified generally to subchapter III (§1471 et seq.) of chapter 8A of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42, The Public Health and Welfare, and Tables.

The Servicemembers Civil Relief Act, referred to in subsec. (c)(5)(A)(ii)(IV), is act Oct. 17, 1940, ch. 888, 54 Stat. 1178, which was classified to section 501 et seq. of the former Appendix to Title 50, War and National Defense, prior to editorial reclassification and renumbering as chapter 50 (§3901 et seq.) of Title 50. For complete classification of this Act to the Code, see Tables.

The United States Housing Act of 1937, referred to in subsec. (g)(1)(B)(ii), (C)(ii), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

Section 302(a)(4) of the American Homeownership and Economic Opportunity Act of 2000, referred to in subsec. (g)(1)(B)(iii), is section 302(a)(4) of Pub. L. 106–569, title III, Dec. 27, 2000, 114 Stat. 2953, which was formerly set out as a note under section 1437f of Title 42, The Public Health and Welfare.

Section 11408(b)(1)(F)(iii) of this title, referred to in subsec. (g)(1)(B)(viii), (C)(vi), was redesignated section 11408(b)(1)(J)(iii) of this title by Pub. L. 111–22, div. B., title IV, §1401(2)(C)(i), May 20, 2009, 123 Stat. 1697.

Sections 202(3) and 810(b)(2)(A) of the Native American Housing and Self-Determination Act of 1996, referred to in subsec. (g)(1)(B)(ix), (C)(vii), probably means sections 202(3) and 810(b)(2)(A) of Pub. L. 104–330, known as the Native American Housing Assistance and Self-Determination Act of 1996, which are classified to sections 4132(3) and 4229(b)(2)(A), respectively, of Title 25, Indians.

Section 23(c)(4) of the United States Housing Act of 1937, referred to in subsec. (g)(1)(B)(ii)(IV), (C)(ii)(III), was classified to section 1437u(c)(4) of Title 42, The Public Health and Welfare, and was redesignated as section 23(d)(4) of that Act and then amended generally by Pub. L. 115–174, title III, §306(a)(4), (6)(D), May 24, 2018, 132 Stat. 1340, 1341. As amended, section 1437u(d)(4) of Title 42 still relates to an employment requirement but no longer contains a provision for counseling.

Subsection (g)(4) of the Department of Housing and Urban Development Act, referred to in subsec. (g)(2), probably means section 4(g)(4) of Pub. L. 89–174, known as the Department of Housing and Urban Development Act, which is classified to section 3533(g)(4) of Title 42, The Public Health and Welfare.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2010—Subsec. (a)(4). Pub. L. 111–203, §1444, added par. (4).

Subsec. (c)(5)(A)(ii)(V). Pub. L. 111–203, §1443(b), added subcl. (V).

Subsec. (e)(1). Pub. L. 111–203, §1445(1), added par. (1) and struck out former subpar. (1). Prior to amendment, text read as follows: "An organization may not receive assistance for counseling activities under subsection (a)(1)(iii), (a)(2), (c), or (d) of this section, unless the organization provides such counseling, to the extent practicable, by individuals who have been certified by the Secretary under this subsection as competent to provide such counseling."

Subsec. (e)(2). Pub. L. 111–203, §1445(2), in introductory provisions, inserted "and for certifying organizations" before period at end of first sentence and substituted ", for certification of an organization, that each individual through which the organization provides counseling shall demonstrate, and, for certification of an individual," for "for certification".

Subsec. (e)(3). Pub. L. 111–203, §1445(5), added par. (3). Former par. (3) redesignated (5).

Pub. L. 111–203, §1445(3), inserted "organizations and" before "individuals".

Subsec. (e)(4), (5). Pub. L. 111–203, §1445(4), (5), added par. (4) and redesignated former par. (3) as (5).

Subsec. (g). Pub. L. 111–203, §1443(a), added subsec. (g).

Subsec. (h). Pub. L. 111–203, §1448, added subsec. (h).

Subsec. (i). Pub. L. 111–203, §1449, added subsec. (i).

2008—Subsec. (c)(4). Pub. L. 110–289, §2127(2), struck out concluding provisions which read as follows: "An applicant for a mortgage shall be eligible for homeownership counseling under this subsection if the applicant is a first-time homebuyer who meets the requirements of section 12852(b)(1) of title 42 and the mortgage involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property and is to be insured pursuant to section 203 of the National Housing Act."

Subsec. (c)(4)(C)(iii), (iv). Pub. L. 110–289, §2127(1), added cls. (iii) and (iv).

Subsec. (c)(4)(D). Pub. L. 110–289, §2127(3), added subpar. (D).

2006—Subsec. (c)(5)(A)(ii)(IV). Pub. L. 109–163 added subcl. (IV).

2001—Subsec. (c)(9). Pub. L. 107–73 struck out heading and text of par. (9). Text read as follows: "The provisions of this subsection shall not be effective after September 30, 2000."

1998—Subsec. (c)(5)(C). Pub. L. 105–276, §594(b), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: "Notification under subparagraph (A) shall not be required with respect to any loan—

"(i) insured or guaranteed under chapter 37 of title 38; or

"(ii) for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii)."

Subsec. (c)(9). Pub. L. 105–276, §594(a), substituted "2000" for "1994".

1996—Subsec. (d)(5)(A). Pub. L. 104–316, §106(a)(2), substituted "(9)" for "(10)(K)" in introductory provisions.

Subsec. (d)(8). Pub. L. 104–316, §106(a)(3), struck out "(for purposes of the study and report under paragraph (9))" before "may require".

Subsec. (d)(9) to (13). Pub. L. 104–316, §106(a)(1), (4), redesignated pars. (10) to (13) as (9) to (12), respectively, and struck out former par. (9) which related to GAO study and report on demonstration program.

1992—Subsec. (a)(3). Pub. L. 102–550, §162(a), substituted "except that for such purposes there are authorized to be appropriated \$6,025,000 for fiscal year 1993 and \$6,278,050 for fiscal year 1994. Of the amounts appropriated for each of fiscal years 1993 and 1994, up to \$500,000 shall be available for use for counseling and other activities in connection with the demonstration program under section 152 of the Housing and Community Development Act of 1992." for "except that for such purposes there are authorized to be appropriated \$3,600,000 for fiscal year 1991 and \$3,700,000 for fiscal year 1992."

Subsec. (c)(3)(A)(iii). Pub. L. 102–550, §162(b)(3), added cl. (iii).

Subsec. (c)(4). Pub. L. 102–550, §162(b)(4), inserted flush sentence at end.

Subsec. (c)(5)(A). Pub. L. 102–550, §162(b)(5), added subpar. (A) and struck out former subpar. (A) which read as follows: "(A) IN GENERAL.—Except as provided in subparagraph (C), if any eligible homeowner fails to pay any amount by the date the amount is due under a home loan, the creditor of the loan shall notify the homeowner of the availability of any homeownership counseling offered by the creditor and, as a supplement to counseling provided by the creditor, shall notify the homeowner of 1 of the following:

"(i) The availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(ii) The toll-free telephone number described in subparagraph (D)(i)."

Subsec. (c)(5)(D)(i). Pub. L. 102-550, §162(b)(6), inserted ", which shall be updated annually," after "organizations".

Subsec. (c)(8). Pub. L. 102-550, §162(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "There is authorized to be appropriated to carry out this section \$6,700,000 for fiscal year 1991 and \$7,000,000 for fiscal year 1992, of which amounts \$2,000,000 shall be available in each such fiscal year to carry out paragraph (5)(D)."

Subsec. (c)(9). Pub. L. 102-550, §162(b)(2), substituted "1994" for "1992".

Subsec. (d)(12). Pub. L. 102-550, §162(c), amended par. (12) generally. Prior to amendment, par. (12) read as follows: "There are authorized to be appropriated to carry out this subsection \$350,000 for fiscal year 1991 and \$365,000 for fiscal year 1992."

Subsecs. (e), (f). Pub. L. 102-550, §162(d), added subsecs. (e) and (f).

1990—Subsec. (a)(2)(A) to (C). Pub. L. 101-625, §706(c), designated portions of existing text as cls. (A) and (C), and added cl. (B).

Subsec. (a)(3). Pub. L. 101-625, §577(a), substituted provisions authorizing appropriations of \$3,600,000 for fiscal year 1991 and \$3,700,000 for fiscal year 1992, for provisions authorizing appropriations of \$3,500,000 for each of the fiscal years 1988 and 1989.

Subsec. (c)(5). Pub. L. 101-625, §577(b)(3), amended par. (5) generally. Prior to amendment, par. (5) read as follows: "The creditor of a delinquent home loan shall notify an eligible homeowner of the availability of any homeownership counseling offered by the creditor. As a supplement to the counseling provided by the creditor, the creditor shall notify the homeowner of the availability of 1 of the following:

"(A) Homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(B) A list of the nonprofit organizations, approved by the Secretary and experienced in the provision of homeownership counseling, that can be obtained by calling a toll-free telephone number at the Department of Housing and Urban Development.

"(C) Homeownership counseling provided by the Administrator of Veterans' Affairs for loans insured or guaranteed under chapter 37 of title 38."

Subsec. (c)(8). Pub. L. 101-625, §577(b)(1), amended first sentence generally. Prior to amendment, first sentence read as follows: "There are authorized to be appropriated to carry out this subsection \$3,500,000 for each of the fiscal years 1988 and 1989."

Subsec. (c)(9). Pub. L. 101-625, §577(b)(2), substituted "September 30, 1992" for "September 30, 1990".

Subsec. (d). Pub. L. 101-625, §577(c), added subsec. (d).

1989—Subsec. (c)(9). Pub. L. 101-137 substituted "September 30, 1990" for "September 30, 1989".

1988—Subsec. (a)(2). Pub. L. 100-628 inserted before period at end of first sentence "or guaranteed or insured under chapter 37 of title 38".

Subsec. (a)(3). Pub. L. 100-242, §169(a), substituted "except that for each of the fiscal years 1988 and 1989 there are authorized to be appropriated \$3,500,000 for such purposes" for "except that for the fiscal year 1984, there are authorized to be appropriated not to exceed \$3,500,000 for such purposes".

Subsec. (c). Pub. L. 100-242, §169(b), added subsec. (c).

1984—Subsec. (b)(1). Pub. L. 98-479 substituted "architectural" for "architechtual".

1983—Subsec. (a)(3). Pub. L. 98-181 substituted "1984" for "1982", and "\$3,500,000" for "\$4,000,000".

1981—Subsec. (a)(3). Pub. L. 97-35 inserted provisions authorizing appropriations for fiscal year 1982.

1977—Subsec. (a)(2). Pub. L. 95-128 authorized the Secretary to provide the services for other owners of single family dwelling units insured under subchapter II of this chapter.

1974—Subsec. (a)(1). Pub. L. 93-383, §811(b)(1), (c), in cl. (iii) substituted provisions authorizing counseling and advice to tenants and homeowners with respect to property maintenance, etc., for provisions authorizing counseling on household management, self-help, etc., for families receiving assistance under this chapter or the United States Housing Act of 1937, and added cl. (iv).

Subsec. (a)(2). Pub. L. 93-383, §811(b)(2), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 93-383, §811(b)(2), (d), redesignated former par. (2) as (3) and substituted "such sums as may be necessary" for "not to exceed \$5,000,000".

Subsec. (b)(1), (2). Pub. L. 93-383, §811(e), (f), inserted reference to public housing agencies.

1970—Subsec. (a). Pub. L. 91-609, §903(a), designated existing provisions as par. (1), inserted provision respecting specific authorities without limitation to such authorities, redesignated former par. (1) as cl. (i), struck out introductory text relating to assistance with respect to construction, rehabilitation, and operation by

nonprofit organizations of housing for low or moderate income families now incorporated in cl. (i), redesignated former par. (2) as cl. (ii), inserting therein provision for assistance to public bodies or to nonprofit or cooperative organizations, including assistance with respect to self-help and mutual self-help programs, and added cl. (iii) and par. (2).

Subsec. (b)(1). Pub. L. 91-609, §903(b), substituted "section 1715z of this title or any other federally assisted program" for "any federally assisted program" in first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the date on which final regulations implementing that amendment take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111-203, set out as a note under section 1601 of Title 15, Commerce and Trade.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-163, div. A, title VI, §688(d), Jan. 6, 2006, 119 Stat. 3337, provided that: "The amendments made under subsection (a) [amending this section] shall take effect 150 days after the date of the enactment of this Act [Jan. 6, 2006]."

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, §594(c), Oct. 21, 1998, 112 Stat. 2656, provided that: "The amendments made by this section [amending this section] are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

REGULATIONS

Pub. L. 102-550, title I, §162(e), Oct. 28, 1992, 106 Stat. 3722, provided that: "The Secretary of Housing and Urban Development shall issue any regulations necessary to carry out the amendments made by subsection (d) [amending this section], not later than the expiration of the 6-month period beginning on the date of the enactment of this Act [Oct. 28, 1992]."

CONSTRUCTION OF AMENDMENTS BY PUB. L. 109-163

Pub. L. 109-163, div. A, title VI, §688(b), Jan. 6, 2006, 119 Stat. 3337, provided that: "Nothing in this section [amending this section and enacting provisions set out as notes under this section] shall relieve any person of any obligation imposed by any other Federal, State, or local law."

FINANCIAL EDUCATION AND COUNSELING

Pub. L. 110-289, div. A, title I, §1132, July 30, 2008, 122 Stat. 2727, as amended by Pub. L. 111-203, title X, §1072(a), July 21, 2010, 124 Stat. 2059, provided that:

"(a) **GOALS.**—Financial education and counseling under this section shall have the goal of—

"(1) increasing the financial knowledge and decision making capabilities of prospective homebuyers or economically vulnerable individuals and families;

"(2) assisting prospective homebuyers or economically vulnerable individuals and families to develop monthly budgets, build personal savings, finance or plan for major purchases, reduce their debt, improve their financial stability, and set and reach their financial goals;

"(3) helping prospective homebuyers or economically vulnerable individuals and families to improve their credit scores by understanding the relationship between their credit histories and their credit scores; and

"(4) educating prospective homebuyers or economically vulnerable individuals and families about the options available to build savings for short- and long-term goals.

"(b) **GRANTS.**—

"(1) **IN GENERAL.**—The Secretary of the Treasury (in this section referred to as the 'Secretary') shall make grants to eligible organizations to enable such organizations to provide a range of financial education and counseling services to prospective homebuyers or economically vulnerable individuals and families.

"(2) **SELECTION.**—The Secretary shall select eligible organizations to receive assistance under this

section based on their experience and ability to provide financial education and counseling services that result in documented positive behavioral changes.

"(c) ELIGIBLE ORGANIZATIONS.—

"(1) IN GENERAL.—For purposes of this section, the term 'eligible organization' means an organization that is—

"(A) certified in accordance with section 106(e)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(e)[1]);

"(B) certified by the Office of Financial Education of the Department of the Treasury for purposes of this section, in accordance with paragraph (2); or

"(C) a nonprofit corporation that—

"(i) is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 [26 U.S.C. 501(c)(3)]; and

"(ii) specializes or has expertise in working with economically vulnerable individuals and families, but whose primary purpose is not provision of credit counseling services.

"(2) OFE CERTIFICATION.—To be certified by the Office of Financial Education for purposes of this section, an eligible organization shall be—

"(A) a housing counseling agency certified by the Secretary of Housing and Urban Development under section 106(e) of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701x(e)];

"(B) a State, local, or tribal government agency;

"(C) a community development financial institution (as defined in section 103(5) of the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4702(5)) or a credit union; or

"(D) any collaborative effort of entities described in any of subparagraphs (A) through (C).

"(d) AUTHORITY FOR PILOT PROJECTS.—

"(1) IN GENERAL.—The Secretary of the Treasury shall authorize pilot project grants to eligible organizations under subsection (c) in order to—

"(A) carry out the services under this section; and

"(B) provide such other services that will improve the financial stability and economic condition of low- and moderate-income and low-wealth individuals.

"(2) GOAL.—The goal of the pilot project grants under this subsection is to—

"(A) identify successful methods resulting in positive behavioral change for financial empowerment; and

"(B) establish program models for organizations to carry out effective counseling services.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section and for the provision of additional financial educational services.

"(f) STUDY AND REPORT ON EFFECTIVENESS AND IMPACT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on the effectiveness and impact of the grant program established under this section. Not later than 3 years after the date of enactment of this Act [July 30, 2008], the Comptroller General shall submit a report on the results of such study to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.

"(2) CONTENT OF STUDY.—The study required under paragraph (1) shall include an evaluation of the following:

"(A) The effectiveness of the grant program established under this section in improving the financial situation of homeowners and prospective homebuyers served by the grant program.

"(B) The extent to which financial education and counseling services have resulted in positive behavioral changes.

"(C) The effectiveness and quality of the eligible organizations providing financial education and counseling services under the grant program.

"(g) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be necessary to implement and administer the grant program authorized by this section."

[Pub. L. 111–203, title X, §1072(b), July 21, 2010, 124 Stat. 2060, provided that: "Amendments made by subsection (a) [amending section 1132 of Pub. L. 110–289, set out above] shall not apply to programs authorized by section 1132 of the Housing and Economic Recovery Act of 2008 [Pub. L. 110–289] (12 U.S.C. 1701x note) that are funded with appropriations prior to fiscal year 2011."]

PRE-PURCHASE HOMEOWNERSHIP COUNSELING DEMONSTRATION

Pub. L. 110–289, div. B, title I, §2128, July 30, 2008, 122 Stat. 2841, provided that:

"(a) ESTABLISHMENT OF PROGRAM.—For the period beginning on the date of enactment of this title [July 30, 2008] and ending on the date that is 3 years after such date of enactment, the Secretary of Housing and Urban Development shall establish and conduct a demonstration program to test the effectiveness of alternative forms of pre-purchase homeownership counseling for eligible homebuyers.

"(b) FORMS OF COUNSELING.—The Secretary of Housing and Urban Development shall provide to eligible homebuyers pre-purchase homeownership counseling under this section in the form of—

"(1) telephone counseling;

"(2) individualized in-person counseling;

"(3) web-based counseling;

"(4) counseling classes; or

"(5) any other form or type of counseling that the Secretary may, in his discretion, determine appropriate.

"(c) SIZE OF PROGRAM.—The Secretary shall make available the pre-purchase homeownership counseling described in subsection (b) to not more than 3,000 eligible homebuyers in any given year.

"(d) INCENTIVE TO PARTICIPATE.—The Secretary of Housing and Urban Development may provide incentives to eligible homebuyers to participate in the demonstration program established under subsection (a). Such incentives may include the reduction of any insurance premium charges owed by the eligible homebuyer to the Secretary.

"(e) ELIGIBLE HOMEBUYER DEFINED.—For purposes of this section an 'eligible homebuyer' means a first-time homebuyer who has been approved for a home loan with a loan-to-value ratio between 97 percent and 98.5 percent.

"(f) REPORT TO CONGRESS.—The Secretary of Housing and Urban Development shall report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representative—[sic]

"(1) on an annual basis, on the progress and results of the demonstration program established under subsection (a); and

"(2) for the period beginning on the date of enactment of this title [July 30, 2008] and ending on the date that is 5 years after such date of enactment, on the payment history and delinquency rates of eligible homebuyers who participated in the demonstration program."

DISCLOSURE FORM

Pub. L. 109–163, div. A, title VI, §688(c), Jan. 6, 2006, 119 Stat. 3337, provided that: "Not later than 150 days after the date of the enactment of this Act [Jan. 6, 2006], the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of subclause (IV) of section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701x(c)(5)(A)(ii)(IV)], as added by subsection (a)."

¹ [*See References in Text note below.*](#)

² [*So in original.*](#)

§1701x–1. Home inspection counseling

(a) Public outreach

(1) In general

The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall take such actions as may be necessary to inform potential homebuyers of the availability and importance of obtaining an independent home inspection. Such actions shall include—

(A) publication of the HUD/FHA form HUD 92564–CN entitled "For Your Protection: Get a Home Inspection", in both English and Spanish languages;

(B) publication of the HUD/FHA booklet entitled "For Your Protection: Get a Home Inspection", in both English and Spanish languages;

(C) development and publication of a HUD booklet entitled "For Your Protection—Get a

Home Inspection" that does not reference FHA-insured homes, in both English and Spanish languages; and

(D) publication of the HUD document entitled "Ten Important Questions To Ask Your Home Inspector", in both English and Spanish languages.

(2) Availability

The Secretary shall make the materials specified in paragraph (1) available for electronic access and, where appropriate, inform potential homebuyers of such availability through home purchase counseling public service announcements and toll-free telephone hotlines of the Department of Housing and Urban Development. The Secretary shall give special emphasis to reaching first-time and low-income homebuyers with these materials and efforts.

(3) Updating

The Secretary may periodically update and revise such materials, as the Secretary determines to be appropriate.

(b) Requirement for FHA-approved lenders

Each mortgagee approved for participation in the mortgage insurance programs under title II of the National Housing Act [12 U.S.C. 1707 et seq.] shall provide prospective homebuyers, at first contact, whether upon pre-qualification, pre-approval, or initial application, the materials specified in subparagraphs (A), (B), and (D) of subsection (a)(1).

(c) Requirements for HUD-approved counseling agencies

Each counseling agency certified pursuant by ¹ the Secretary to provide housing counseling services shall provide each of their clients, as part of the home purchase counseling process, the materials specified in subparagraphs (C) and (D) of subsection (a)(1).

(d) Training

Training provided the Department of Housing and Urban Development for housing counseling agencies, whether such training is provided directly by the Department or otherwise, shall include—

- (1) providing information on counseling potential homebuyers of the availability and importance of getting an independent home inspection;
- (2) providing information about the home inspection process, including the reasons for specific inspections such as radon and lead-based paint testing;
- (3) providing information about advising potential homebuyers on how to locate and select a qualified home inspector; and
- (4) review of home inspection public outreach materials of the Department.

(Pub. L. 111–203, title XIV, §1451, July 21, 2010, 124 Stat. 2176.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Expand and Preserve Home Ownership Through Counseling Act and also as part of the Mortgage Reform and Anti-Predatory Lending Act and as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

¹ So in original.

§1701x–2. Legal assistance for foreclosure-related issues

(a) Establishment

The Secretary of Housing and Urban Development (hereafter in this section referred to as the "Secretary") shall establish a program for making grants for providing a full range of foreclosure legal assistance to low- and moderate-income homeowners and tenants related to home ownership preservation, home foreclosure prevention, and tenancy associated with home foreclosure.

(b) Competitive allocation

The Secretary shall allocate amounts made available for grants under this section to State and local legal organizations on the basis of a competitive process. For purposes of this subsection "State and local legal organizations" are those State and local organizations whose primary business or mission is to provide legal assistance.

(c) Priority to certain areas

In allocating amounts in accordance with subsection (b), the Secretary shall give priority consideration to State and local legal organizations that are operating in the 125 metropolitan statistical areas (as that term is defined by the Director of the Office of Management and Budget) with the highest home foreclosure rates.

(d) Legal assistance

(1) In general

Any State or local legal organization that receives financial assistance pursuant to this section may use such amounts only to assist—

(A) homeowners of owner-occupied homes with mortgages in default, in danger of default, or subject to or at risk of foreclosure; and

(B) tenants at risk of or subject to eviction as a result of foreclosure of the property in which such tenant resides.

(2) Commence use within 90 days

Any State or local legal organization that receives financial assistance pursuant to this section shall begin using any financial assistance received under this section within 90 days after receipt of the assistance.

(3) Prohibition on class actions

No funds provided to a State or local legal organization under this section may be used to support any class action litigation.

(4) Limitation on legal assistance

Legal assistance funded with amounts provided under this section shall be limited to mortgage-related default, eviction, or foreclosure proceedings, without regard to whether such foreclosure is judicial or nonjudicial.

(5) Effective date

Notwithstanding any other provision of this Act, this subsection shall take effect on July 21, 2010.

(e) Limitation on distribution of assistance

(1) In general

None of the amounts made available under this section shall be distributed to—

(A) any organization which has been convicted for a violation under Federal law relating to an election for Federal office; or

(B) any organization which employs applicable individuals.

(2) Definition of applicable individuals

In this subsection, the term "applicable individual" means an individual who—

(A) is—

(i) employed by the organization in a permanent or temporary capacity;

(ii) contracted or retained by the organization; or

(iii) acting on behalf of, or with the express or apparent authority of, the organization; and

(B) has been convicted for a violation under Federal law relating to an election for Federal office.

(f) Authorization of appropriations

There are authorized to be appropriated to the Secretary \$35,000,000 for each of fiscal years 2011 through 2012 for grants under this section.

(Pub. L. 111–203, title XIV, §1498, July 21, 2010, 124 Stat. 2211.)

EDITORIAL NOTES

REFERENCES IN TEXT

This Act, referred to in subsec. (d)(5), is Pub. L. 111–203, July 21, 2010, 124 Stat. 1376, known as the Dodd-Frank Wall Street Reform and Consumer Protection Act, which enacted chapter 53 (§5301 et seq.) of this title and chapters 108 (§8201 et seq.) and 109 (§8301 et seq.) of Title 15, Commerce and Trade, and enacted, amended, and repealed numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

CODIFICATION

Section was enacted as part of the Mortgage Reform and Anti-Predatory Lending Act and also as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective on the date on which final regulations implementing such section take effect, or on the date that is 18 months after the designated transfer date if such regulations have not been issued by that date, see section 1400(c) of Pub. L. 111–203, set out as an Effective Date of 2010 Amendment note under section 1601 of Title 15, Commerce and Trade.

DEFINITION OF "STATE"

For definition of "State", see section 5301 of this title.

§1701y. National Homeownership Foundation

(a) Creation; purpose; articles of incorporation and charter; reservation of right to alter or amend charter; term; principal office; administration as charitable and educational foundation; compensation of officers and employees; contract authority; donations and grants; payment of principal and interest on borrowings

(1) There is hereby created a body corporate to be known as the "National Homeownership Foundation" (hereinafter referred to as the "Foundation") to carry out a continuing program of

encouraging private and public organizations at the national, community, and neighborhood levels to provide increased homeownership and housing opportunities in urban and rural areas for lower income families through such means as—

- (A) encouraging the investment in, and sponsoring of, housing for lower income families;
- (B) encouraging the establishment of programs of assistance and counseling to lower income families to enable them better to achieve and afford adequate housing;
- (C) providing a broad range of technical assistance through publications and advisory services to public and private organizations which are carrying out, or are desirous of carrying out, programs to expand homeownership and housing opportunities for lower income families; and
- (D) providing grants and loans to public and private organizations carrying out homeownership and housing opportunity programs for lower income families to help cover some of the expenses of such programs.

(2) The Foundation shall be deemed to be a corporation without members organized and established under the provisions of the District of Columbia Nonprofit Corporation Act, with all the rights, powers, and responsibilities thereof except as limited by this section and any amendments thereto. This section shall constitute the articles of incorporation and charter of the Foundation, which shall not be an agency or instrumentality of the United States Government. The Congress expressly reserves the exclusive right to alter or amend this charter. The Foundation shall have succession until dissolved by Act of Congress. The Foundation shall maintain its principal office in the District of Columbia.

(3) No part of the net earnings of the Foundation shall inure to the benefit of any private person, and no substantial part of its activities shall be devoted to attempting to influence legislation. The Foundation shall not participate or intervene in any political campaign on behalf of any candidate for public office. The Foundation shall be operated and administered at all times as a charitable and educational foundation.

(4) No employee or officer of the Foundation shall receive compensation in excess of that received by or hereafter prescribed by law for heads of executive departments.

(5) The Foundation shall make maximum use of existing public and private agencies and programs, and in carrying out its functions the Foundation is authorized to contract with individuals, private corporations, organizations, and associations, and with agencies of the Federal, State, and local governments.

(6) The Foundation is authorized to receive donations and grants from individuals and from public and private organizations, foundations, and agencies.

(7) The Foundation may use only donated funds, or funds derived from payment of interest on loans made by it, for the principal and interest payments on any borrowings.

(b) Board of Directors; appointment of members; Chairman; terms of office; reappointment; compensation and travel expenses; Executive Director and other officers; vacancies; by-laws

(1) The Foundation shall have a Board of Directors consisting of eighteen members, fifteen of whom shall be appointed by the President of the United States, with the advice and consent of the Senate. The other three members shall be, ex officio, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the Director of the Office of Economic Opportunity. The President shall appoint one of the fifteen appointed members to serve as Chairman of the Board during his term of office as a member.

(2) Within thirty days after August 1, 1968, the President shall appoint the fifteen appointed members of the Board. Not more than five of such members shall, at the time of their appointment, be serving full time as officers or employees of the Federal Government, or as officers or employees of any State or local government. Each appointed member of the Board shall hold office for a term of three years, except that (A) any member appointed to fill a vacancy prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and (B) the terms of the members first taking office shall expire, as designated by the President at the time of appointment, five at the end of the first year, five at the end of the second year, and five at the end of the third year after the date of appointment. Members of the Board, however appointed, shall be

eligible for reappointment, but at no time shall there be more than five members of the Board who at the time of their appointment or reappointment were full-time officers or employees of the Federal Government or of any State or local government.

(3) Appointed members of the Board who are not employees of the Federal Government, while attending meetings or conferences of the Board or otherwise serving on business of the Board, shall be entitled to receive compensation at rates fixed by the President, but not exceeding \$100 per day, including travel time, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government service employed intermittently.

(4) The Board shall appoint an Executive Director of the Foundation. The Executive Director shall be the chief executive officer of the Foundation and shall serve at the pleasure of the Board, and all other executive officers and employees of the Board shall be responsible to him. The Board shall also cause to be appointed a secretary, a treasurer, and such other officers as may be necessary to conduct properly the business of the Foundation, and shall provide for filling vacancies in such offices.

(5) The Board shall adopt bylaws for the Foundation which shall be made available for public inspection upon request.

(c) Functions; programs to expand homeownership and housing opportunities for lower income families; fees for assistance or services

(1) The Foundation shall assist public and private organizations, at their request, in initiating, developing, and conducting programs to expand homeownership and housing opportunities for lower income families. To provide such assistance and to carry out the purposes of this section, the Foundation is authorized to—

(A) carry out a continuing program of encouraging private and public organizations at the national, community, and neighborhood levels in the establishment of such programs;

(B) assist in the formation of organizations the purpose of which is the development and carrying out of such programs, including the establishment of local development funds for financing housing for lower income families through the pooling of moneys from private sources;

(C) identify and arrange for the technical and managerial assistance and personnel needed for the successful operation of such programs by public and private organizations;

(D) assist public and private organizations in obtaining the mortgage financing, insurance, and other requirements or aids necessary for conducting programs of housing construction, rehabilitation, or improvement for lower income families;

(E) arrange for, or provide on a limited basis, training for persons in the skills needed in administering programs of homeownership and housing opportunity for lower income families;

(F) encourage research and innovation, and collect and make available such information as may be desirable to further the purposes of this section, including but not limited to such activities as the sponsoring of seminars, conferences, and meetings and the establishment of a continuing information program to acquaint lower income families with the means they can use to improve the quality of their housing and the homeownership and housing opportunities available to them;

(G) assist private and public organizations in establishing, in connection with their homeownership and housing opportunity programs for lower income families, counseling and similar activities designed to advise lower income families of the means available to better themselves economically through job training and manpower development programs; and

(H) perform other similar services in order to further the purposes of this section.

(2) The Foundation may, if it deems it appropriate, charge a reasonable fee for any assistance or service provided under this subsection.

(d) Grants and loans to public or private organizations; eligibility; encouragement of cooperation between organizations and neighborhoods and communities

(1) In order to assist public and private organizations which are carrying out homeownership and housing opportunity programs for lower income families to fill unmet needs, initiate exceptional

programs, and experiment with new approaches and programs, the Foundation is authorized, subject to such terms and conditions as it may prescribe, to make grants and loans to such organizations to help defray the following expenses:

(A) organizational and administrative expenses incurred in commencing the operation of a program, or in expanding an existing program, to the extent that the activities are related to providing homeownership and housing opportunities for lower income families;

(B) necessary preconstruction costs incurred for architectural assistance, land options, application fees, and similar items; and

(C) the cost of carrying out programs providing counseling or similar services to lower income families for whom housing is being provided, in order to enable those families better to achieve and afford adequate housing, in such matters as home management, budget management, and home maintenance.

(2) In order to be eligible for a grant or loan under this subsection, the organization seeking such assistance shall demonstrate to the satisfaction of the Foundation that the funds requested are not otherwise available from Federal sources: *Provided*, That a grant or loan under this subsection may be provided to help cover that portion of the cost of an eligible activity not covered by Federal funds.

(3) The Foundation shall encourage cooperation between public and private organizations carrying out programs of homeownership and housing opportunity for lower income families and the neighborhoods and communities affected by such programs. To help assure such cooperation and in order to coordinate, to the maximum extent feasible, any construction or rehabilitation activities with the development goals of the neighborhood or community affected, no application for a loan or grant under this subsection shall be considered unless such application has been submitted to the governing body of the community affected, or to such other entity of local government as may be designated by the governing body, for such recommendations as the local governing body or its designee may desire to make. Any recommendations so made shall be given careful consideration by the Foundation before taking final action on any such application. If, upon the expiration of thirty days after any such application has been submitted to such governing body or its designee, such body or designee fails to provide such recommendations, the application may be considered without the benefit of such recommendations.

(e) Coordination of activities and consultation with Department of Housing and Urban Development and other Federal departments and agencies

The Foundation shall coordinate its activities and consult with the Department of Housing and Urban Development and other Federal departments and agencies engaged in providing homeownership and housing opportunities for lower income families.

(f) Annual report to the President and the Congress; contents

(1) Not later than one hundred and twenty days after the close of each fiscal year, the Foundation shall prepare and submit to the President and to the Congress a full report of its activities during such year. Such report shall include an account of the Foundation's experiences with the efforts of private and public organizations to expand homeownership and housing opportunities for lower income families, together with such recommendations as it deems appropriate.

(2) Whenever in its judgement the general unavailability of mortgage funds is sufficiently serious to deter the Foundation from carrying out its objective of expanding homeownership and housing opportunities for lower income families, the Foundation shall, in its annual report or in a separate report to the President and the Congress, state its findings and make such recommendations for alternate means of financing housing for such families as it deems appropriate.

(g) Audit of financial transaction; access to records; report of audit; contents of report

(1) The financial transactions of the Foundation shall be audited by the Government Accountability Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the Government Accountability Office shall

have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Foundation and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The audit shall cover the fiscal year corresponding to that of the United States Government.

(2) A report of each such audit shall be made by the Comptroller General to the Congress not later than six and one-half months following the close of the last year covered by such audit. The report shall set forth the scope of the audit and shall include a statement of assets and liabilities, capital, and surplus or deficit; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the Congress informed of the operations and financial condition of the Foundation, together with such recommendations with respect thereto as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking, observed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made without authority of law. A copy of each report shall be furnished to the President and to the Foundation at the time submitted to the Congress.

(h) Deposit of funds of Foundation

Funds of the Foundation shall be deposited, to the extent practicable, in accounts with financial institutions which are actively engaged in making loans or are otherwise carrying on activities in furtherance of homeownership and housing opportunities for lower income families.

(i) Authorization of appropriations

There is authorized to be appropriated to the Foundation not to exceed \$10,000,000 to carry out the purposes of this section. Appropriations made hereunder shall remain available until expended. (Pub. L. 90-448, title I, §107, Aug. 1, 1968, 82 Stat. 491; Pub. L. 93-604, title VI, §604, Jan. 2, 1975, 88 Stat. 1963; Pub. L. 104-66, title I, §1072(b), Dec. 21, 1995, 109 Stat. 721; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

EDITORIAL NOTES

REFERENCES IN TEXT

The District of Columbia Nonprofit Corporation Act, referred to in subsec. (a)(2), is Pub. L. 87-569, Aug. 6, 1962, 76 Stat. 265, which is not classified to the Code.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2004—Subsec. (g)(1). Pub. L. 108-271 substituted "Government Accountability Office" for "General Accounting Office" in two places.

1995—Subsec. (g)(1). Pub. L. 104-66 struck out at end "Such audit shall be made at least once in every three years."

1975—Subsec. (g)(1). Pub. L. 93-604, §604(1), inserted provision that the audit under this subsection shall be made at least once in every three years.

Subsec. (g)(2). Pub. L. 93-604, §604(2), substituted "six and one-half months following the close of the last year covered by such audit" for "January 15 following the close of the fiscal year for which the audit was made".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of provisions in subsec. (f)(1) of this section relating to submittal of an annual report to Congress, see section 3003 of Pub. L. 104-66, as amended, set out as a note under

section 1113 of Title 31, Money and Finance, and page 203 of House Document No. 103-7.

OFFICE OF ECONOMIC OPPORTUNITY

Pub. L. 93-644, §9(a), Jan. 4, 1975, 88 Stat. 2310 [42 U.S.C. 2941], amended the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] to create the Community Services Administration, an independent agency in the executive branch, as the successor authority to the Office of Economic Opportunity, and provided that references to the Office of Economic Opportunity or to its Director were deemed to refer to the Community Services Administration or its Director. The Community Services Administration was terminated when the Economic Opportunity Act of 1964, except for titles VIII and X, was repealed, effective Oct. 1, 1981, by section 683(a) of Pub. L. 97-35, title VI, Aug. 13, 1981, 95 Stat. 519, which is classified to 42 U.S.C. 9912(a). An Office of Community Services, headed by a Director, was established in the Department of Health and Human Services by section 676 of Pub. L. 97-35, which is classified to 42 U.S.C. 9905.

§1701z. New technologies in the development of housing for lower income families

(a) Institution of program; assistance to mobile home buyers

In order to encourage the use of new housing technologies in providing decent, safe, and sanitary housing for lower income families; to encourage large-scale experimentation in the use of such technologies; to provide a basis for comparison of such technologies with existing housing technologies in providing such housing; and to evaluate the effect of local housing codes and zoning regulations on the large-scale use of new housing technologies in the provision of such housing, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall institute a program under which qualified organizations, public and private, will submit plans for the development of housing for lower income families, using new and advanced technologies, on Federal land which has been made available by the Secretary for the purposes of this section, or on other land where (1) local building regulations permit the construction of experimental housing, or (2) State or local law permits variances from building regulations in the construction of experimental housing for the purpose of testing and developing new building technologies.

(b) Approval of plans utilizing new housing technologies; considerations

The Secretary shall approve not more than five plans utilizing new housing technologies which are submitted to him pursuant to the program referred to in subsection (a) and which he determines are most promising in furtherance of the purposes of this section. In making such determination the Secretary shall consider—

- (1) the potential of the technology employed for producing housing for lower income families on a large scale at a moderate cost;
- (2) the extent to which the plan envisages environmental quality;
- (3) the possibility of mass production of the technology; and
- (4) the financial soundness of the organization submitting the plan, and the ability of such organization, alone or in combination with other organizations, to produce at least one thousand dwelling units a year utilizing the technology proposed.

(c) Number of dwelling units to be constructed for each type of technology; evaluation of projects

In approving projects for mortgage insurance under section 1715x(a)(2) of this title, the Secretary shall seek to achieve the construction of at least one thousand dwelling units a year over a five-year period for each of the various types of technologies proposed in approved plans under subsection (b). The Secretary shall evaluate each project with respect to which assistance is extended pursuant to this section with a view to determining (1) the detailed cost breakdown per dwelling unit, (2) the environmental quality achieved in each unit, and (3) the effect which local housing codes and zoning regulations have, or would have if applicable, on the cost per dwelling unit.

(d) Transfer of surplus property

Notwithstanding the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, any land which is excess property within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 and which is determined by the Secretary to be suitable in furtherance of the purposes of this section may be transferred to the Secretary upon his request.

(e) Report of findings; legislative recommendations

The Secretary shall, at the earliest practicable date, report his findings with respect to projects assisted pursuant to this section (including evaluations of each such project in accordance with subsection (c)), together with such recommendations for additional legislation as he determines to be necessary or desirable to expand the available supply of decent, safe, and sanitary housing for lower income families through the use of technologies the efficacy of which has been demonstrated under this section.

(Pub. L. 90-448, title I, §108(a)–(e), Aug. 1, 1968, 82 Stat. 495, 496.)

EDITORIAL NOTES

CODIFICATION

In subsec. (d), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, any land which is excess property within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, any land which is excess property within the meaning of such Act" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was enacted as part of the Housing and Urban Development Act of 1968, and not as part of the National Housing Act which comprises this chapter.

§1701z–1. Research and demonstrations; authorization of appropriations; continuing availability of funds

The Secretary of Housing and Urban Development is authorized and directed to undertake such programs of research, studies, testing, and demonstration relating to the mission and programs of the Department as he determines to be necessary and appropriate. There is ¹ authorized to be appropriated to carry out this title [12 U.S.C. 1701z–1 et seq.] \$35,000,000 for fiscal year 1993 and \$36,470,000 for fiscal year 1994.

(Pub. L. 91-609, title V, §501, Dec. 31, 1970, 84 Stat. 1784; Pub. L. 94-375, §23(a), Aug. 3, 1976, 90 Stat. 1078; Pub. L. 95-128, title II, §204, Oct. 12, 1977, 91 Stat. 1129; Pub. L. 95-557, title III, §305(a), Oct. 31, 1978, 92 Stat. 2097; Pub. L. 96-153, title III, §304, Dec. 21, 1979, 93 Stat. 1112; Pub. L. 96-399, title III, §303, Oct. 8, 1980, 94 Stat. 1639; Pub. L. 97-35, title III, §337, Aug. 13, 1981, 95 Stat. 414; Pub. L. 98-181, title I [title IV, §466(a)], Nov. 30, 1983, 97 Stat. 1236; Pub. L. 100-242, title V, §564, Feb. 5, 1988, 101 Stat. 1945; Pub. L. 101-625, title IX, §951(a), Nov. 28, 1990, 104 Stat. 4417; Pub. L. 102-550, title IX, §901, Oct. 28, 1992, 106 Stat. 3866.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in text, is title V of the Housing and Urban Development Act of 1970, Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1784, which is classified generally to section 1701z–1 et seq. of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendments note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1992—Pub. L. 102–550 substituted "There is authorized to be appropriated to carry out this title \$35,000,000 for fiscal year 1993 and \$36,470,000 for fiscal year 1994." for "There are authorized to be appropriated to carry out this title \$21,200,000 for fiscal year 1991 and \$22,100,000 for fiscal year 1992. From any amounts appropriated under this section for fiscal year 1991, the Secretary shall use not more than \$500,000 to carry out a demonstration project to test affordable housing technologies, and shall include in the annual report under section 3536 of title 42 (for the appropriate year) a statement of the activities under the demonstration program and findings resulting from the program. The statement shall set forth the amount and use of funds expended by the Secretary under the program for the year relating to the report and the Secretary shall include such a statement in each such annual report for each year that amounts appropriated under this section are used under the demonstration. All funds so appropriated shall remain available until expended unless specifically limited."

1990—Pub. L. 101–625 substituted provisions authorizing appropriations of \$21,200,000 for 1991 and \$22,100,000 for 1992, for provisions authorizing \$17,000,000 for 1988 and \$18,000,000 for 1989, and added provisions limiting amount to be used for demonstration project in 1991 and requiring that annual report include statement relating to such project.

1988—Pub. L. 100–242 substituted "There are authorized to be appropriated to carry out this title \$17,000,000 for fiscal year 1988, and \$18,000,000 for fiscal year 1989." for "There are authorized to be appropriated for activities under this title not to exceed \$19,000,000 for fiscal year 1984, and such sums as may be necessary for fiscal year 1985. Of the amount appropriated under the preceding sentence for fiscal year 1984, not less than \$2,000,000 shall be provided for implementation of a research program to be developed in consultation with public housing agencies, which program shall identify current problems of public housing management, specific solutions to such problems, and incentives to encourage implementation of such solutions."

1983—Pub. L. 98–181 substituted provisions relating to appropriations for fiscal years 1984 and 1985 and the expenditure of not less than \$2,000,000 for a public housing management research program for provisions authorizing appropriations of \$65,000,000 for fiscal 1977, \$60,000,000 for fiscal 1978, \$62,000,000 for fiscal 1979, \$50,300,000 for fiscal 1980, \$51,000,000 for fiscal 1981 and \$35,000,000 for fiscal 1982.

1981—Pub. L. 97–35 inserted provisions authorizing appropriations for fiscal year 1982.

1980—Pub. L. 96–399 authorized appropriation of \$51,000,000 for fiscal year 1981.

1979—Pub. L. 96–153 authorized appropriation of \$50,300,000 for fiscal year 1980.

1978—Pub. L. 95–557 substituted "not to exceed \$60,000,000 for the fiscal year 1978, and not to exceed \$62,000,000 for the fiscal year 1979" for "and not to exceed \$60,000,000 for the fiscal year 1978".

1977—Pub. L. 95–128 authorized appropriation of \$60,000,000 for fiscal year 1978.

1976—Pub. L. 94–375 substituted provision authorizing appropriations for fiscal year 1977 in an amount not exceeding \$65,000,000 for provision which authorized sums to be appropriated as may have been necessary.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

REHABILITATION DEMONSTRATION GRANT PROGRAM

Pub. L. 105–276, title V, §599G, Oct. 21, 1998, 112 Stat. 2666, provided that:

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, to the extent amounts are provided in appropriation Acts to carry out this section, carry out a program to demonstrate the effectiveness of making grants for rehabilitation of single family housing located within 10 demonstration areas designated by the Secretary. Of the areas designated by the Secretary under this section—

"(1) 6 shall be areas that have primarily urban characteristics;

"(2) 3 shall be areas that are outside of a metropolitan statistical area; and

"(3) 1 shall be an area that has primarily rural characteristics.

In selecting areas, the Secretary shall provide for national geographic and demographic diversity.

"(b) GRANTEES.—Grants under the program under this section may be made only to agencies of State and local governments and non-profit organizations operating within the demonstration areas.

"(c) SELECTION CRITERIA.—In selecting among applications for designation of demonstration areas and grants under this section, the Secretary shall consider—

"(1) the extent of single family residences located in the proposed area that have rehabilitation needs;

"(2) the ability and expertise of the applicant in carrying out the purposes of the demonstration program, including the availability of qualified housing counselors and contractors in the proposed area willing and able to participate in rehabilitation activities funded with grant amounts;

"(3) the extent to which the designation of such area and the grant award would promote affordable housing opportunities;

"(4) the extent to which selection of the proposed area would have a beneficial effect on the neighborhood or community in the area and on surrounding areas;

"(5) the extent to which the applicant has demonstrated that grant amounts will be used to leverage additional public or private funds to carry out the purposes of the demonstration program;

"(6) the extent to which lenders (including local lenders and lenders outside the proposed area) are willing and able to make loans for rehabilitation activities assisted with grant funds; and

"(7) the extent to which the application provides for the involvement of local residents in the planning of rehabilitation activities in the demonstration area.

"(d) USE OF GRANT FUNDS.—Funds from grants made under this section may be used by grantees—

"(1) to subsidize interest on loans, over a period of not more than 5 years from the origination date of the loan, made after the date of the enactment of this Act [Oct. 21, 1998] for rehabilitation of any owner-occupied 1- to 4-family residence, including the payment of interest during any period in which a residence is uninhabitable because of rehabilitation activities;

"(2) to facilitate loans for rehabilitation of 1- to 4-family properties previously subject to a mortgage insured under the National Housing Act [12 U.S.C. 1701 et seq.] that has been foreclosed or for which insurance benefits have been paid, including to establish revolving loan funds, loan loss reserves, and other financial structures; and

"(3) to provide technical assistance in conjunction with the rehabilitation of owner-occupied 1- to 4-family residences, including counseling, selection contractors, monitoring of work, approval of contractor payments, and final inspection of work.

"(e) DEFINITION OF REHABILITATION.—For purposes of this section, the term 'rehabilitation' has the meaning given such term in section 203(k)(2)(B) of the National Housing Act (12 U.S.C. 1709(k)(2)(B)).

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary to carry out this section such sums as may be necessary for each of fiscal years 1999 through 2003.

"(g) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act [Oct. 21, 1998]."

REPORT REGARDING RESEARCH ACTIVITIES

Pub. L. 101-625, title IX, §951(b), Nov. 28, 1990, 104 Stat. 4417, directed Secretary of Housing and Urban Development, not later than the expiration of the 1-year period beginning on Nov. 28, 1990, to submit to Congress a report listing and describing various research activities, studies, testing, and demonstration programs relating to mission and programs of Department of Housing and Urban Development that are being conducted, have concluded, or will conclude during such period, pursuant to section 501 of the Housing and Urban Development Act of 1970 (12 U.S.C. 1701z-1), title V of such Act (12 U.S.C. 1701z-1 et seq.), or any other authority, such report to include a statement identifying the individual or entity that is conducting each such activity, study, test, and demonstration program.

¹ So in original. Probably should be "are".

§1701z-2. Advanced technologies, methods, and materials for housing construction, rehabilitation, and maintenance

(a) General acceptance; costs, reduction; health and safety restrictions on expanded housing production

The Secretary shall require, to the greatest extent feasible, the employment of new and improved

technologies, methods, and materials in housing construction, rehabilitation, and maintenance under programs administered by him with a view to reducing costs, and shall encourage and promote the acceptance and application of such advanced technology, methods, and materials by all segments of the housing industry, communities, industries engaged in urban development activities, and the general public. To the extent feasible, in connection with the construction, major rehabilitation, or maintenance of any housing assisted under section 1701z-1 of this title, the Secretary shall assure that there is no restraint by contract, building code, zoning ordinance, or practice against the employment of new or improved technologies, techniques, materials, and methods or of preassembled products which may reduce the cost or improve the quality of such construction, rehabilitation, and maintenance, and therefore stimulate expanded production of housing, except where such restraint is necessary to insure safe and healthful working and living conditions.

(b) Experimental construction under approved housing plans on Federal or other lands with view toward ultimate mass housing production; use of section 1701z-1 funds and authority

To encourage large-scale experimentation in the use of new technologies, methods, and materials, with a view toward the ultimate mass production of housing and related facilities, the Secretary shall wherever feasible conduct programs under section 1701z-1 of this title in which qualified organizations, public and private, will submit plans for development and production of housing and related facilities using such new advances on Federal land which has been made available or acquired by the Secretary for the purpose of this subsection or on other land where (1) local building regulations permit such experimental construction, or (2) necessary variances from building regulations can be granted. The Secretary may utilize the funds and authority available to him under the provisions of section 1701z-1 of this title to assist in the implementation of plans which he approves.

(c) Acquisition, use, and disposal of property; transfer of excess property

Notwithstanding any other provision of law, the Secretary is authorized, in connection with projects under this title [12 U.S.C. 1701z-1 et seq.], to acquire, use and dispose of any land and other property required for the project as he deems necessary. Notwithstanding the provisions of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, any land which is excess property within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) may be transferred to the Secretary upon his request.

(d) Technical assistance; reports; general dissemination and form of reports, data, and information

In order to effectively carry out his activities under section 1701z-1 of this title, the Secretary is authorized to provide such advice and technical assistance as may be required and to pay for the cost of writing and publishing reports on activities and undertakings financed under section 1701z-1 of this title, as well as reports on similar activities and undertakings, not so financed, which are of significant value in furthering the purposes of that section. He may disseminate (without regard to the provisions of section 3204 of title 39 or section 4154 of such title with respect to any period before the effective date of such section 3204 as provided in section 15(a) of the Postal Reorganization Act) any reports, data, or information acquired or held under this title [12 U.S.C. 1701z-1 et seq.], including related data and information otherwise available to the Secretary through the operation of the programs and activities of the Department of Housing and Urban Development, in such form as he determines to be most useful to departments, establishments, and agencies of Federal, State, and local governments, to industry, and to the general public.

(e) Contracts or grants; authority; advance and progress payments; work limitation

The Secretary is authorized to carry out the functions authorized in section 1701z-1 of this title either directly or, without regard to section 6101 of title 41, by contract or by grant. Advance and

progress payments may be made under such contracts or grants without regard to the provisions of subsections (a) and (b) of section 3324 of title 31 and such contracts or grants may be made for work to continue for not more than four years from the date thereof.

(f) Utilization of facilities of other agencies; working agreements, cooperative agreements, contract authority, receipt of funds, and exercise of section 1701c(c) powers

In carrying out activities under section 1701z-1 of this title, the Secretary shall utilize to the fullest extent feasible the available facilities of other Federal departments and agencies, and shall consult with, and make recommendations to, such departments and agencies. The Secretary may enter into working agreements with such departments and agencies and contract or make grants on their behalf or have such departments and agencies contract or make grants on his behalf and such departments and agencies are hereby authorized to execute such contracts and grants. The Secretary is authorized to make or accept reimbursement for the cost of such activities. The Secretary is further authorized to undertake activities under this title [12 U.S.C. 1701z-1 et seq.] under cooperative agreements with industry and labor, agencies of State or local governments, educational institutions, and other organizations. He may enter into contracts with and receive funds from such agencies, institutions, and organizations, and may exercise any of the other powers vested in him by section 1701c(c) of this title.

(g) Information and data; restriction on use or identification

The Secretary is authorized to request and receive such information or data as he deems appropriate from private individuals and organizations, and from public agencies. Any such information or data shall be used only for the purposes for which it is supplied, and no publication shall be made by the Secretary whereby the information or data furnished by any particular person or establishment can be identified, except with the consent of such person or establishment.

(Pub. L. 91-609, title V, §502, Dec. 31, 1970, 84 Stat. 1784; Pub. L. 94-375, §23(c), Aug. 3, 1976, 90 Stat. 1078; Pub. L. 98-479, title II, §203(k), Oct. 17, 1984, 98 Stat. 2231.)

EDITORIAL NOTES

REFERENCES IN TEXT

This title, referred to in subsecs. (c), (d), and (f) following "under", is title V of the Housing and Urban Development Act of 1970, Pub. L. 91-609, Dec. 31, 1970, 84 Stat. 1784, which is classified generally to section 1701z-1 et seq., of this title. For complete classification of this Act to the Code, see Short Title of 1970 Amendments note set out under section 1701 of this title and Tables.

For effective date of section 3204 of title 39 as provided in section 15(a) of the Postal Reorganization Act, referred to in subsec. (d), see notes preceding section 101 and under section 3204 of Title 39, Postal Service.

CODIFICATION

In subsec. (c), "chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41, any land which is excess property within the meaning of chapters 1 to 11 of title 40 and division C (except sections 3302, 3307(e), 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41" substituted for "the Federal Property and Administrative Services Act of 1949, any land which is excess property within the meaning of such Act" on authority of Pub. L. 107-217, §5(c), Aug. 21, 2002, 116 Stat. 1303, which Act enacted Title 40, Public Buildings, Property, and Works, and Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

In subsec. (e), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111-350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1984—Subsec. (e). Pub. L. 98-479 substituted "subsections (a) and (b) of section 3324 of title 31" for "section 3648 of the Revised Statutes [31 U.S.C. 529]".

1976—Subsec. (f). Pub. L. 94-375 inserted "and such departments and agencies are hereby authorized to execute such contracts and grants." after "make grants on his behalf".

§1701z-3. Experimental housing allowance payment program

(a) Purpose of payments

The Secretary is authorized to undertake on an experimental basis programs to demonstrate the feasibility of providing housing allowance payments to assist families in meeting rental or homeownership expenses.

(b) Termination date of payments; termination date for contracts; contracts for performance of administrative functions

(1) No housing allowance payments shall be made after July 1, 1985. After January 1, 1975, the Secretary shall not enter into contracts under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] to carry out the purposes of this section. The Secretary may contract with public or private agencies for the performance of administrative functions in connection with the programs authorized by this section.

(2) Notwithstanding the provisions of paragraph (1), the Secretary shall, to the extent approved in appropriation Acts, extend the annual contributions contracts for the experimental housing allowance supply program through September 30, 1989, on the same terms and conditions as the original contracts, for the sole purpose of providing assistance for homeowners participating in such program on June 1, 1983. In extending such contracts, the Secretary may, to the extent approved in appropriation Acts, use authority available under section 5(c) of the United States Housing Act of 1937 [42 U.S.C. 1437c(c)].

(c) Report to Congress

The Secretary shall report to the Congress on his findings pursuant to this section not later than eighteen months after August 22, 1974.

(Pub. L. 91-609, title V, §504, Dec. 31, 1970, 84 Stat. 1786; Pub. L. 93-383, title VIII, §804, Aug. 22, 1974, 88 Stat. 725; Pub. L. 94-375, §23(b), Aug. 3, 1976, 90 Stat. 1078; Pub. L. 98-35, §6(a), May 26, 1983, 97 Stat. 198.)

EDITORIAL NOTES

REFERENCES IN TEXT

The United States Housing Act of 1937, referred to in subsec. (b)(1), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, Aug. 22, 1974, 88 Stat. 653, which is classified to chapter 8 (§1437 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1983—Subsec. (b). Pub. L. 98-35 designated existing provisions as par. (1) and added par. (2).

1976—Subsec. (b). Pub. L. 94-375 struck out provisions which authorized the Secretary to make or contract to make housing allowance payments, authorized sums to be appropriated as necessary, including sums for contract payments and administrative costs, and limited the aggregate amount of contracts for making housing allowance payments.

1974—Subsec. (a). Pub. L. 93-383 substituted provisions authorizing the Secretary to undertake programs on an experimental basis of housing allowance payments to assist families in meeting rental or homeownership expenses, for provisions authorizing the Secretary in carrying out activities under section 1701z-1 of this title to undertake programs on an experimental basis of housing allowances to assist families of low income to obtain rental housing of their choice in existing units.

Subsec. (b). Pub. L. 93-383 substituted provisions relating to the authority of the Secretary to make or contract to make payments to or on behalf of participating families, authorizing appropriations, and setting

forth limits on the contracting power of the Secretary, for provisions setting forth limitations on the amount of family allowances and conditioning payment of such allowances.

Subsec. (c). Pub. L. 93-383 substituted provisions requiring the Secretary to report to Congress not later than 18 months after Aug. 22, 1974, for provisions setting forth the contracting authority of the Secretary for services.

Subsec. (d). Pub. L. 93-383 struck out subsec. (d) which set forth limits on aggregate family allowances and authorizing appropriations to make payments.

Subsec. (e). Pub. L. 93-383 struck out subsec. (e) which required a report to Congress by the Secretary as soon as practicable in calendar years 1972 and 1973.

Subsec. (f). Pub. L. 93-383 struck out subsec. (f) which defined "families of low income" and "existing standard housing".

Subsec. (g). Pub. L. 93-383 struck out subsec. (g) which prohibited payments after June 30, 1973.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-35, §6(b), May 26, 1983, 97 Stat. 199, provided that: "The amendments made by this section [amending this section] shall become effective on October 1, 1983."

§1701z-4. Abandoned properties demonstration project

(a) Grants for arrest of incipient abandonment and revitalization of blighted areas

In carrying out activities under section 1701z-1 of this title, the Secretary may undertake programs to demonstrate the most feasible means of providing assistance to localities in which a substantial number of structures are abandoned or are threatened with abandonment for the purpose of arresting the process of housing abandonment in its incipency or in restoring viability to blighted areas in which abandonment is pervasive. For this purpose, the Secretary is authorized to make grants, subject to the limitations of this section, to assist local public bodies in planning and implementing demonstration projects for prompt and effective action in alleviating and preventing such abandonment in designated demonstration areas.

(b) Preferred projects; scope of projects

In administering this section, the Secretary shall give preference to those demonstration projects which in his judgment can reasonably be expected to arrest the process of abandonment in the demonstration area within a period of two years and which provide for innovative approaches to combating the problem of housing abandonment. Such projects may include, but shall not be limited to (1) acquisition by negotiated purchase, lease, receivership, tax lien proceedings, or other means authorized by law and satisfactory to the Secretary, of real property within the demonstration area or areas which is abandoned, deteriorated, or in violation of applicable code standards; (2) the repair of streets, sidewalks, parks, playgrounds, publicly owned utilities, public buildings to meet needs consistent with the revitalization and continued use of the area; (3) the demolition of structures determined to be structurally unsound or unfit for human habitation or which contribute adversely to the physical or social environment of the locality involved; (4) the establishment of recreational or community facilities including public playgrounds; (5) the improvement of garbage and trash collection, street cleaning and other essential services necessary to the revitalization and maintenance of the area; (6) the rehabilitation of privately and publicly owned real property by the locality; and (7) the establishment and operation of locally controlled, nonprofit housing management corporations and municipal repair programs.

(c) Purchase or lease of project real estate at fair market value for new or rehabilitated housing use; conditions

Subject to such conditions as the Secretary may prescribe, real property held as part of a project assisted under this section may be made available to (1) a limited dividend corporation, nonprofit corporation, or association, cooperative or public body or agency, or other approved purchaser or

lessee, or (2) a purchaser who would be eligible for a mortgage insured under section 1715l(d)(3) or (d)(4), section 1715l(h)(1), section 1715z(i) or (j)(1), or section 1715z-1 of this title, for purchase or lease at fair market value for use by such purchaser or lessee, as, or in the provision of, new or rehabilitated housing for occupancy by families or individuals of low or moderate income.

(d) Amount of grants; authorization of appropriations; continuing availability of funds; locality limitation

Grants under this section shall be in amounts which do not exceed 90 per centum of the net project cost as determined by the Secretary. There are authorized to be appropriated for demonstration grants under this section not to exceed \$20,000,000 for the fiscal year ending June 30, 1971. Any amounts appropriated shall remain available until expended and any amount authorized but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1972. Not more than one-third of the aggregate amount of grants made in any fiscal year under this section shall be made with respect to projects undertaken by one locality.

(e) Projects as part of urban renewal projects for purpose of application of urban renewal provisions

The provisions of sections 1456, 1465, and 1466 ¹ of title 42, and section 1452b ¹ of title 42, may apply to projects assisted under this Act as if such projects were being carried out in urban renewal areas as part of urban renewal projects within the meaning of section 1460 ¹ of title 42.

(Pub. L. 91-609, title V, §505, Dec. 31, 1970, 84 Stat. 1787; Pub. L. 99-386, title I, §105(a), Aug. 22, 1986, 100 Stat. 822.)

EDITORIAL NOTES

REFERENCES IN TEXT

Sections 1456, 1460, and 1466 of title 42, referred to in subsec. (e), were omitted from the Code pursuant to section 5316 of Title 42, The Public Health and Welfare, which terminated authority to make grants or loans under those sections after Jan. 1, 1975.

Section 1465 of title 42, referred to in subsec. (e), was repealed by Pub. L. 91-646, title II, §220(a)(5), Jan. 2, 1971, 84 Stat. 1903. See section 4601 et seq. of Title 42.

Section 1452b of title 42, referred to in subsec. (e), was repealed by Pub. L. 101-625, title II, §289(b)(1), Nov. 28, 1990, 104 Stat. 4128.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1986—Subsec. (f). Pub. L. 99-386 struck out subsec. (f) which related to annual reports to Congress by Secretary with respect to status of demonstration projects.

¹ [*See References in Text note below.*](#)

§1701z-5. Demonstrations of heating or cooling residential housing utilizing solar energy

(a) Consultation by Secretary with National Science Foundation; scope of demonstrations; powers of Secretary

In carrying out activities under section 1701z-1 of this title, the Secretary may, after consultation with the National Science Foundation, undertake demonstrations to determine the economic and technical feasibility of utilizing solar energy for heating or cooling residential housing (including demonstrations of new housing design or structure involving the use of solar energy).

Demonstrations carried out under this section should involve both single family and multifamily housing located in areas having distinguishable climatic characteristics in urban as well as rural environments. To carry out the purpose of this section the Secretary is authorized—

(1) to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, design, development, and operation of such housing;

(2) to utilize the contract, loan, or mortgage insurance authority of any federally assisted housing program in the actual planning, development, and occupancy of such housing; and

(3) to set aside any development, construction, design, or occupancy requirements for the purpose of any demonstration under this section if he determines that such requirements inhibit such demonstration.

(b) Evaluation by Secretary

The Secretary shall include in any demonstration under this section an evaluation of the demonstration to cover the full experience involved in all stages of the demonstration.

(Pub. L. 91-609, title V, §506, as added Pub. L. 93-383, title VIII, §814, Aug. 22, 1974, 88 Stat. 738; amended Pub. L. 99-386, title I, §105(b), Aug. 22, 1986, 100 Stat. 822.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1986—Subsec. (c). Pub. L. 99-386 struck out subsec. (c) which related to reports to Congress by Secretary not later than 6 months following close of year in which the Secretary carried out demonstration under this section.

§1701z-6. Special housing need research and demonstration authority

(a) Special demonstrations of housing design, structure, facilities, and amenities to meet needs of elderly, handicapped, etc.; contracts, grants, and assistance by Secretary

In carrying out activities under section 1701z-1 of this title, the Secretary may undertake special demonstrations to determine the housing design, the housing structure, and the housing-related facilities, and amenities most effective or appropriate to meet the needs of groups with special housing needs including the elderly, the handicapped, the displaced, single individuals, broken families, and large households. For this purpose, the Secretary is authorized to enter into contracts with, to make grants to, and to provide other types of assistance to individuals and entities with special competence and knowledge to contribute to the planning, development, design, and management of such housing.

(b) Areas of preferential attention

In carrying out his functions under this section, the Secretary shall give preferential attention to demonstrations which in his judgment involve areas of housing user needs most neglected in past and current research and demonstration efforts.

(c) Utilization of contract and loan authority of federally assisted housing programs; setting aside of development, etc., requirements during testing

The Secretary is authorized to undertake demonstrations involving the actual planning, development, and occupancy of housing utilizing the contract and loan authority of any federally assisted housing program. He is also authorized to set aside any development, construction, design, and occupancy requirements, for the purposes of these demonstrations, if in his judgment they inhibit the testing of housing designed to meet the special housing needs.

(d) Evaluation of demonstration

In carrying out this section, the Secretary shall include, as part of any demonstration, an evaluation of the demonstration to cover the full experience involved in planning, development, and occupancy.

(e) Limitation on amounts available for research

In addition to any other contract or loan authority which the Secretary may utilize under subsection (c), not more than \$10,000,000 from amounts approved in appropriation Acts shall be available for research under this section.

(Pub. L. 91-609, title V, §507, as added Pub. L. 93-383, title VIII, §815, Aug. 22, 1974, 88 Stat. 738.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM

Pub. L. 101-625, title V, §518, Nov. 28, 1990, 104 Stat. 4201, as amended by Pub. L. 102-550, title I, §124, Oct. 28, 1992, 106 Stat. 3709; Pub. L. 104-330, title V, §501(d)(1), Oct. 26, 1996, 110 Stat. 4042, authorized Secretary of Housing and Urban Development to carry out demonstration program in low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority in the same manner as the demonstration program under section 222 of Pub. L. 98-181 was carried out, and further provided for funding for demonstration program, limitations, and report to Congress, prior to repeal by Pub. L. 105-276, title V, §582(a)(7), Oct. 21, 1998, 112 Stat. 2643.

DEMONSTRATION PROJECT FOR ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT TO ENCOURAGE UPGRADING OF LOWER INCOME FAMILY HOUSING

Pub. L. 98-181, title I [title II, §225], Nov. 30, 1983, 97 Stat. 1191, provided that:

"(a) The Congress finds that—

"(1) the Department of Health and Human Services spends in excess of \$5,000,000,000 annually for housing in the form of allowances for shelter for public assistance recipients;

"(2) States administering the Department of Health and Human Services public assistance program often specify shelter allowances that have little relationship to the cost or the quality of the housing in which public assistance recipients live;

"(3) at least 30 per centum of public assistance recipients live in substandard housing;

"(4) the older rental buildings in which many public assistance recipients live are in those neighborhoods that need the assistance of the programs of the Department of Housing and Urban Development for preservation and rehabilitation; and

"(5) there is the potential for improving housing for many lower income families by coordinating State and local government efforts in order to assure that families receiving public assistance payments from the Department of Health and Human Services are able to live in decent, safe, and sanitary housing.

"(b) The purpose of this section, therefore, is to provide assistance to units of general local government and their designated agencies in order to develop a program that will—

"(1) encourage the upgrading of housing occupied primarily by lower income families, including families receiving assistance under the aid for families with dependent children program established under title IV of the Social Security Act [42 U.S.C. 601 et seq.]; and

"(2) provide for better coordination at the local level of the efforts to assist families receiving public assistance from the Department of Health and Human Services so that these families will be able to occupy affordable housing that is decent, safe, and sanitary and that, if necessary, is rehabilitated with funds provided by the Department of Housing and Urban Development.

"(c) The Secretary of Housing and Urban Development (hereafter referred to in this section as the 'Secretary') shall, to the extent approved in appropriation Acts, establish and maintain a demonstration project

to carry out the purpose described in subsection (b).

"(d) In carrying out such project, the Secretary shall make grants to units of general local government, or designated agencies thereof, to carry out administrative plans approved by the Secretary in accordance with subsection (e), and the Secretary may make grants to States to provide technical assistance for the purpose of assisting such units of general local government to develop and carry out such plans.

"(e)(1) Grants may be made to States and units of general local government and agencies thereof that apply for them in a manner and at a time determined by the Secretary and that, in the case of units of general local government and their agencies, are selected on the basis of an administrative plan described in such application.

"(2) No such administrative plan shall be selected by the Secretary unless it sets forth a plan for local government activities that are designed to—

"(A) require or encourage owners of rental housing occupied by lower income families to bring such housing into compliance with local housing codes;

"(B) provide technical assistance, loans, or grants to assist owners described in subparagraph (A) to undertake cost-effective improvements of such housing;

"(C) work with the State to establish and implement a schedule of local shelter allowances for recipients of assistance under title IV of the Social Security Act [42 U.S.C. 601 et seq.] based on building quality that will be applicable to buildings involved in this program; and

"(D) coordinate local housing inspection, housing rehabilitation loan or grant assistance, rental assistance, and social service programs for the purpose of improving the quality and affordability of housing for lower income families.

"(3) Funds received from any grant made by the Secretary to a unit of general local government shall be made available for use according to the administrative plans and may be used for—

"(A) technical assistance or financial assistance to property owners to upgrade housing projects described in paragraph (2)(A) of this subsection;

"(B) temporary rental assistance to families who live in buildings assisted under this program and who are eligible for, but are not receiving, assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], except that such families shall not include families receiving assistance under title IV of the Social Security Act [42 U.S.C. 601 et seq.], and the amount of such rental assistance may not exceed 20 per centum of each grant received under this section;

"(C) housing counseling and referral and other housing related services;

"(D) expenses incurred in administering the program carried out with funds received under this section, except that such expenses may not exceed 10 per centum of the grant received under this section; and

"(E) other appropriate activities that are consistent with the purposes of this section and that are approved by the Secretary.

"(f) Any recipient of a grant from the Secretary under this section shall agree to—

"(1) contribute to the program an amount equal to 15 per centum of the funds received from the Secretary under this section, and the Secretary shall permit the recipient to meet this requirement by the contribution of the value of services carried out specifically in connection with the program assisted under this section;

"(2) permit the Secretary and the General Accounting Office [now Government Accountability Office] to audit its books in order to assure that the funds received under this section are used in accordance with the section; and

"(3) other terms and conditions prescribed by the Secretary for the purpose of carrying out this section in an effective and efficient manner.

"(g) In making grants available under this section, the Secretary shall select as recipients at least 20 units of general local government (or their designated agencies). The selection of proposals for funding shall be based on criteria that result in a selection of projects that will enable the Secretary to carry out the purpose of this section in an effective and efficient manner and provide a sufficient amount of data necessary to make an evaluation of the demonstration project carried out under this section.

"(h)(1) Not later than June 1, 1984, the Secretary shall transmit to the Congress an interim report on the implementation of the demonstration under this section.

"(2) The Secretary shall transmit, not later than October 1, 1985, to both Houses of the Congress a detailed report concerning the findings and conclusions that have been reached by the Secretary as a result of carrying out this section, along with any legislative recommendations that the Secretary determines are necessary.

"(i) To carry out this section, there are authorized to be appropriated not to exceed \$10,000,000 during fiscal year 1984, and not to exceed \$15,000,000 during fiscal year 1985, to remain available until expended."

PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM

Pub. L. 98-181, title I [title II, §222], Nov. 30, 1983, 97 Stat. 1188, as amended by Pub. L. 100-242, title I, §117, Feb. 5, 1988, 101 Stat. 1826; Pub. L. 100-628, title X, §1002, Nov. 7, 1988, 102 Stat. 3263; Pub. L. 101-625, title V, §517, Nov. 28, 1990, 104 Stat. 4200; Pub. L. 102-550, title I, §123, Oct. 28, 1992, 106 Stat. 3709, which authorized Secretary of Housing and Urban Development to carry out demonstration program of making grants to nonprofit organizations to assist in providing early childhood development services in or near lower income housing projects, and required report to Congress setting forth findings and conclusions not later than three years after Feb. 5, 1988, was repealed by Pub. L. 105-276, title V, §582(a)(6), Oct. 21, 1998, 112 Stat. 2643.

PUBLIC HOUSING SECURITY

Pub. L. 96-399, title II, §209, Oct. 8, 1980, 94 Stat. 1635, provided that:

"(a) This section may be cited as the 'Public Housing Anti-Crime Amendments of 1980'.

"(b) The Congress finds that—

"(1) public housing and surrounding neighborhoods continue to suffer substantially from rising crime and the fear of crime;

"(2) funding to provide more security for public housing can be used to leverage funding from other sources and thereby produce more successful anti-crime efforts;

"(3) the effects of inflation and the need for reductions in the budget of the Federal Government result in a need for more co-targeting of Federal and local anti-crime resources;

"(4) as authorized by the Public Housing Security Demonstration Act of 1978 [set out below], the Urban Initiatives Anti-Crime Program has performed in a promising manner; and

"(5) the First Annual Report to Congress of the Urban Initiatives Anti-Crime Program and the two General Accounting Office [now Government Accountability Office] reports to Congress on such Program have provided useful suggestions which can now be implemented.

"(c) It is, therefore, the purpose of this section to continue the efforts of the Urban Initiatives Anti-Crime Program so that more progress can be made in providing secure, decent, safe, and sanitary dwelling units for low-income and elderly tenants in public housing projects.

"(d) [This subsection amended section 207 of Pub. L. 95-557, set out below]."

Pub. L. 95-557, title II, §207, Oct. 31, 1978, 92 Stat. 2093, as amended by Pub. L. 96-399, title II, §209(d), Oct. 8, 1980, 94 Stat. 1635; Pub. L. 98-479, title II, §201(i), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 103-82, title IV, §405(c), Sept. 21, 1993, 107 Stat. 921, provided that:

"(a) This section may be cited as the 'Public Housing Security Demonstration Act of 1978'.

"(b)(1) The Congress finds that—

"(A) low-income and elderly public housing residents of the Nation have suffered substantially from rising crime and violence, and are being threatened as a result of inadequate security arrangements for the prevention of physical violence, theft, burglary, and other crimes;

"(B) older persons generally regard the fear of crime as the most serious problem in their lives, to the extent that one-fourth of all Americans over 65 voluntarily restrict their mobility because of it;

"(C) crime and the fear of crime have led some residents to move from public housing projects;

"(D) an integral part of successfully providing decent, safe, and sanitary dwellings for low-income persons is to insure that the housing is secure;

"(E) local public housing authorities may have inadequate security arrangements for the prevention of crime and vandalism; and

"(F) action is needed to provide for the security of public housing residents and to preserve the Nation's investment in its public housing stock.

"(2) It is, therefore, declared to be the policy of the United States to provide for a demonstration and evaluation of effective means of mitigating crime and vandalism in public housing projects, in order to provide a safe living environment for the residents, particularly the elderly residents, of such projects.

"(c)(1) The Secretary of Housing and Urban Development shall promptly initiate and carry out during the fiscal year beginning on October 1, 1978, to the extent approved in appropriation Acts, a program for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods, concepts and techniques which will mitigate the level of crime in public housing projects and their surrounding neighborhoods.

"(2) In selecting public housing projects to receive assistance under this section, the Secretary shall assure that a broad spectrum of project types, locations and tenant populations are represented and shall consider at least the following: the extent of crime and vandalism currently existing in the projects; the extent, nature and quality of community anticrime efforts in the projects and surrounding areas; the extent, nature and quality of

police and other protective services available to the projects and their tenants; the demand for public housing units in the locality, the vacancy rate, and extent of abandonment of such units; and the characteristics and needs of the public housing tenants.

"(3) In selecting the anticrime and security methods, concepts and techniques to be demonstrated under this section, the Secretary shall consider the improvement of physical security equipment or dwelling units in those projects, social and environmental design improvements, tenant awareness and volunteer programs, tenant participation and employment in providing security services, and such other measures as deemed necessary or appropriate by the Secretary. Particular attention shall be given to comprehensive community anticrime and security plans submitted by public housing authorities which (i) provide for coordination between public housing management and local law enforcement officials, or (ii) coordinate resources available to the community through programs funded by the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Community Services Administration, and the Corporation for National and Community Service, or other Federal or State agencies.

"(4) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health and Human Services, the Department of Labor, the Department of Justice, the Department of the Interior, the Department of Commerce, the Department of Education, the Corporation for National and Community Service, the Community Services Administration, and State and local agencies.

"(5) In order to assess the impact of crime and vandalism in public housing projects, the Secretary may, as part of the Annual Housing Survey conducted by the Department of Housing and Urban Development or by other means, collect data on crime and vandalism and integrate the data collection with the victimization surveys undertaken by the Department of Justice and the Department of Commerce.

"(6) The Secretary shall, to the maximum extent practicable, utilize information derived from the program authorized by this section for assisting in establishing (A) guidelines to be used by public housing authorities in determining strategies to meet the security needs of tenants of public housing projects assisted under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] other than under section 8 of such Act [42 U.S.C. 1437f], and (B) guidelines for improvements relating to the security of projects (and the tenants living in such projects) assisted under section 14 of such Act [42 U.S.C. 1437l].

"(d) The Secretary shall initiate and carry out a survey of crime and vandalism existing in the Nation's public housing projects. The survey shall include the nature, extent and impact of crime and vandalism and the nature and extent of resources currently available and employed to alleviate crime and vandalism in public housing.

"(e) The Secretary shall report to the Congress not later than eighteen months after the date of enactment of the Housing and Community Development Act of 1980 [Oct. 8, 1980]. Such report shall include the results of the survey on crime and vandalism in public housing; findings from the demonstration and evaluation of various methods of reducing the level of crime; and legislative recommendations, if appropriate for (A) a comprehensive program to increase security in public housing projects and (B) increasing the coordination between anticrime programs of other State and Federal agencies that may be used by public housing authorities. Any recommendations shall include estimated costs of such programs.

"(f) Of the additional authority approved in appropriation Acts with respect to entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 [42 U.S.C. 1437c(c)] for the fiscal year beginning on October 1, 1978, the Secretary may utilize up to \$12,000,000 of such authority in the fiscal year beginning on October 1, 1978, for the establishment of the public housing security demonstration program authorized by this section. Of the authority approved in appropriation Acts for the purpose of entering into annual contributions contracts under section 5(c) of the United States Housing Act of 1937 with respect to the fiscal year beginning on October 1, 1980, the Secretary may enter into contracts to carry out this section, except that the aggregate amount obligated over the duration of such contracts may not exceed \$10,000,000."

§1701z-7. Studies to determine extent of need for counseling to mortgagors; report to Congress

(a) In carrying out activities under section 1701z-1 of this title, the Secretary is directed to undertake programs of studies and demonstrations within at least three standard metropolitan statistical areas to determine the extent of need for and cost effectiveness of providing pre-purchase,

default and delinquency counseling and related services to owners and purchasers of single-family dwellings insured or to be insured under the unsubsidized mortgage insurance programs of the National Housing Act [12 U.S.C. 1701 et seq.].

(b) Within one year from August 3, 1976, the Secretary shall submit an interim report to the Congress with respect to the progress made under such studies and demonstrations, including an estimate as to the date when a final report on the results of such demonstrations will be made available to the Congress.

(Pub. L. 91-609, title V, §508, as added Pub. L. 94-375, §26, Aug. 3, 1976, 90 Stat. 1078.)

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.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§1701z-8. Energy conservation and renewable-resource demonstration

(a) National demonstration program; purpose

The Secretary shall undertake a national demonstration program designed to test the feasibility and effectiveness of various forms of financial assistance for encouraging the installation or implementation of approved energy conservation measures and approved renewable-resource energy measures in existing dwelling units. The Secretary shall carry out such demonstration program with a view toward recommending a national program or programs designed to reduce significantly the consumption of energy in existing dwelling units.

(b) Financial assistance to owners and tenants of dwelling units; authorization of Secretary

The Secretary is authorized to make financial assistance available pursuant to this section in the form of grants, low-interest-rate loans, interest subsidies, loan guarantees, and such other forms of assistance as the Secretary deems appropriate to carry out the purposes of this section. Assistance may be made available to both owners of dwelling units and tenants occupying such units.

(c) Duties of Secretary

In carrying out the demonstration program required by this section, the Secretary shall—

(1) provide assistance in a wide variety of geographic areas to reflect differences in climate, types of dwelling units, and income levels of recipients in order to provide a national profile for use in designing a program which is to be operational and effective nationwide;

(2) evaluate the appropriateness of various financial incentives for different income levels of owners and occupants of existing dwelling units;

(3) take into account and evaluate any other financial assistance which may be available for the installation or implementation of energy conservation and renewable-resource energy measures;

(4) make use of such State and local instrumentalities or other public or private entities as may be appropriate in carrying out the purposes of this section in coordination with the provisions of part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.];

(5) consider, with respect to various forms of assistance and procedures for their application, (A) the extent to which energy conservation measures and renewable-resource energy measures are encouraged which would otherwise not have been undertaken, (B) the minimum amount of Federal subsidy necessary to achieve the objectives of a national program, (C) the costs of administering the assistance, (D) the extent to which the assistance may be encumbered by delays,

redtape, and uncertainty as to its availability with respect to any particular applicant, (E) the factors which may prevent the assistance from being available in certain areas or for certain classes of persons, and (F) the extent to which fraudulent practices can be prevented; and

(6) consult with the Administrator, the Secretary of Housing and Urban Development, and the heads of such other Federal agencies as may be appropriate.

(d) Limitations on grants; modification and exceptions to limitation; eligibility

(1) The amount of any grant made pursuant to this section shall not exceed the lesser of—

(A) with respect to an approved energy conservation measure, (i) \$400, or (ii) 20 per centum of the cost of installing or otherwise implementing such measure; and

(B) with respect to an approved renewable-resource energy measure, (i) \$2,000, or (ii) 25 per centum of the cost of installing or otherwise implementing such measure.

The Secretary may, by rule, increase such percentages and amounts in the case of an applicant whose annual gross family income for the preceding taxable year is less than the median family income for the housing market area in which the dwelling unit which is to be modified by such measure is located, as determined by the Secretary. The Secretary may also modify the limitations specified in this paragraph if necessary in order to achieve the purposes of this section.

(2) No person shall be eligible for both financial assistance under this section and a credit against income tax for the same energy conservation measure or renewable-resource energy measure.

(e) Conditions upon availability of financial assistance

The Secretary may condition the availability of financial assistance with respect to the installation and implementation of any renewable-resource energy measure on such measure's meeting performance standards for reliability and efficiency and such certification procedures as the Secretary may, in consultation with the Administrator, the Secretary of Housing and Urban Development, and other appropriate Federal agencies, prescribe for the purpose of protecting consumers.

(f) Implementation of program

In carrying out the demonstration program required by this section, the Secretary is authorized to delegate responsibilities to, or to contract with, other Federal agencies or with such State or local instrumentalities or other public or private bodies as the Secretary may deem desirable. Such demonstration program shall be coordinated, to the extent practicable, with the State energy conservation plans as described in, and implemented pursuant to, part C of title III of the Energy Policy and Conservation Act [42 U.S.C. 6321 et seq.].

(g) Interim and final reports on program progress, findings, and legislative recommendations; criteria for evaluation of projects

The Secretary shall submit an interim report to the Congress not later than 6 months after August 14, 1976, (and every 6 months thereafter until the final report is made under this subsection) indicating the progress made in carrying out the demonstration program required by this section and shall submit a final report to the Congress, containing findings and legislative recommendations, not later than 2 years after August 14, 1976. As part of each report made under this subsection, the Secretary shall include an evaluation, based on the criteria described in subsection (h), of each demonstration project conducted under this section.

(h) Report on evaluation criteria to be used and results sought prior to funding of projects

Prior to undertaking any demonstration project under this section, the Secretary shall specify and report to the Congress the criteria by which the Secretary will evaluate the effectiveness of the project and the results to be sought.

(i) Definitions

As used in this section:

(1) The term "Administrator" means the Administrator of the Federal Energy Administration; except that after such Administration ceases to exist, such term means any officer of the United

States designated by the President for purposes of this section.

(2) The term "approved", with respect to an energy conservation measure or a renewable-resource energy measure, means any such measure which is included on a list of such measures which is published by the Administrator of the Federal Energy Administration pursuant to section 365(e)(1) of the Energy Policy and Conservation Act [42 U.S.C. 6325(e)(1)]. The Administrator may, by rule, require that an energy audit be conducted as a condition of obtaining assistance under this section for a renewable-resource energy measure.

(3) The terms "energy audit", "energy conservation measure", and "renewable-resource energy measure" have the meanings given the terms in section 361(c) of the Energy Policy and Conservation Act [42 U.S.C. 6321(c)].

(j) Authorization of appropriations

There is authorized to be appropriated, for purposes of this section, not to exceed \$200,000,000. Any amount appropriated pursuant to this subsection shall remain available until expended.

(Pub. L. 91–609, title V, §509, as added Pub. L. 94–385, title IV, §441, Aug. 14, 1976, 90 Stat. 1162; amended Pub. L. 95–91, title VII, §709(d), Aug. 4, 1977, 91 Stat. 608; Pub. L. 117–58, div. D, title I, §40108(c)(1), Nov. 15, 2021, 135 Stat. 944.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Energy Policy and Conservation Act, referred to in subsecs. (c)(4) and (f), is Pub. L. 94–163, Dec. 22, 1975, 89 Stat. 871. Part C of title III of such act is classified generally to part B (§6321 et seq.) of subchapter III of chapter 77 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 6201 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2021—Subsec. (i)(3). Pub. L. 117–58 substituted "given the terms in section 361(c) of the Energy Policy and Conservation Act" for "prescribed for such terms in section 366 of the Energy Policy and Conservation Act".

1977—Subsecs. (c)(6), (e). Pub. L. 95–91 inserted ", the Secretary of Housing and Urban Development," after "the Administrator".

STATUTORY NOTES AND RELATED SUBSIDIARIES

TRANSFER OF FUNCTIONS

Functions vested in Secretary of Housing and Urban Development under this section transferred to Secretary of Energy by section 7154(b) of Title 42, The Public Health and Welfare.

Federal Energy Administration terminated and functions vested by law in Administrator thereof transferred to Secretary of Energy (unless otherwise specifically provided) by sections 7151(a) and 7293 of Title 42.

WAGE RATE REQUIREMENTS

For provisions relating to rates of wages to be paid to laborers and mechanics on projects for construction, alteration, or repair work funded under div. D or an amendment by div. D of Pub. L. 117–58, including authority of Secretary of Labor, see section 18851 of Title 42, The Public Health and Welfare.

§1701z–9. Expansion of home ownership opportunities in urban areas

In carrying out activities under section 1701z–1 of this title, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such

areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.

(Pub. L. 91-609, title V, §510, as added Pub. L. 95-557, title III, §305(b), Oct. 31, 1978, 92 Stat. 2097.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

STUDY TO DETERMINE FEASIBILITY OF UNDERGROUND CONSTRUCTION OF RESIDENTIAL HOUSING

Pub. L. 95-557, title III, §305(c), Oct. 31, 1978, 92 Stat. 2097, required the Secretary to study the feasibility of underground construction of residential housing and necessary changes in housing codes and financing, and report to Congress no later than one year after Oct. 31, 1978 as to the findings and recommendations of legislative enactments as a result of the study.

§1701z-10. Model rehabilitation guidelines in inspection and approval of rehabilitated properties; report to Congress

(a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

(3) The Secretary shall publish such guidelines for public comment not later than one year after October 31, 1978, and promulgate them no later than eighteen months after such date.

(4) The Secretary may furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

(b) The Secretary shall report to Congress not later than thirty-six months after October 31, 1978, regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.

(Pub. L. 91-609, title V, §511, as added Pub. L. 95-557, title IX, §903, Oct. 31, 1978, 92 Stat. 2125.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§1701z-10a. Biennial survey of economic and housing market conditions

The Secretary shall, not less than biennially, survey national, regional, and local economic and housing market conditions in a manner that provides data comparable to the data collected in such survey conducted in 1981.

(Pub. L. 91-609, title V, §512, as added Pub. L. 98-181, title I [title IV, §466(b)], Nov. 30, 1983, 97

Stat. 1236.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

§1701z–11. Management and disposition of multifamily housing projects

(a) Goals

The Secretary of Housing and Urban Development shall manage or dispose of multifamily housing projects that are owned by the Secretary or that are subject to a mortgage held by the Secretary in a manner that—

- (1) is consistent with the National Housing Act [12 U.S.C. 1701 et seq.] and this section;
- (2) will protect the financial interests of the Federal Government; and
- (3) will, in the least costly fashion among reasonable available alternatives, address the goals of—
 - (A) preserving certain housing so that it can remain available to and affordable by low-income persons;
 - (B) preserving and revitalizing residential neighborhoods;
 - (C) maintaining existing housing stock in a decent, safe, and sanitary condition;
 - (D) minimizing the involuntary displacement of tenants;
 - (E) maintaining housing for the purpose of providing rental housing, cooperative housing, and homeownership opportunities for low-income persons;
 - (F) minimizing the need to demolish multifamily housing projects;
 - (G) supporting fair housing strategies; and
 - (H) disposing of such projects in a manner consistent with local housing market conditions.

In determining the manner in which a project is to be managed or disposed of, the Secretary may balance competing goals relating to individual projects in a manner that will further the purposes of this section.

(b) Definitions

For purposes of this section:

(1) Multifamily housing project

The term "multifamily housing project" means any multifamily rental housing project which is, or prior to acquisition by the Secretary was, assisted or insured under the National Housing Act [12 U.S.C. 1701 et seq.], or was subject to a loan under section 1701q of this title.

(2) Subsidized project

The term "subsidized project" means a multifamily housing project that, immediately prior to the assignment of the mortgage on such project to, or the acquisition of such mortgage by, the Secretary, was receiving any of the following types of assistance:

- (A) Below market interest rate mortgage insurance under the proviso of section 221(d)(5) of the National Housing Act [12 U.S.C. 1715l(d)(5)].
- (B) Interest reduction payments made in connection with mortgages insured under section 236 of the National Housing Act [12 U.S.C. 1715z–1].
- (C) Direct loans made under section 1701q of this title.
- (D) Assistance in the form of—
 - (i) rent supplement payments under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s],
 - (ii) additional assistance payments under section 236(f)(2) of the National Housing Act [12

U.S.C. 1715z-1(f)(2)],

(iii) housing assistance payments made under section 23 of the United States Housing Act of 1937 [42 U.S.C. 1421b] (as in effect before January 1, 1975), or

(iv) housing assistance payments made under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (excluding payments made for tenant-based assistance under section 8),

if (except for purposes of section 183(c) of the Housing and Community Development Act of 1987) such assistance payments are made to more than 50 percent of the units in the project.

(3) Formerly subsidized project

The term "formerly subsidized project" means a multifamily housing project owned by the Secretary that was a subsidized project immediately prior to its acquisition by the Secretary.

(4) Unsubsidized project

The term "unsubsidized project" means a multifamily housing project owned by the Secretary that is not a subsidized project or a formerly subsidized project.

(5) Affordable

A unit shall be considered affordable if—

(A) for units occupied—

(i) by very low-income families, the rent does not exceed 30 percent of 50 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; and

(ii) by low-income families other than very low-income families, the rent does not exceed 30 percent of 80 percent of the area median income, as determined by the Secretary, with adjustments for smaller and larger families; or

(B) the unit, or the family residing in the unit, is receiving assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

(6) Low-income families and very low-income families

The terms "low-income families" and "very low-income families" shall have the meanings given the terms in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)].

(7) Preexisting tenant

The term "preexisting tenant" means, with respect to a multifamily housing project acquired pursuant to this section by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, a family that resides in a unit in the project immediately before the acquisition of the project by the purchaser.

(8) Market area

The term "market area" means a market area determined by the Secretary.

(9) Secretary

The term "Secretary" means the Secretary of Housing and Urban Development.

(c) Disposition of property

(1) Disposition to purchasers

In carrying out this section, the Secretary may dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, on such terms as the Secretary deems appropriate considering the low-income character of the project and consistent with the goals in subsection (a), only to a purchaser determined by the Secretary to be capable of—

(A) satisfying the conditions of the disposition plan developed under paragraph (2) for the project;

(B) implementing a sound financial and physical management program that is designed to

enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(C) responding to the needs of the tenants and working cooperatively with tenant organizations;

(D) providing adequate organizational, staff, and financial resources to the project; and

(E) meeting such other requirements as the Secretary may determine.

(2) Disposition plan

(A) In general

Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop an initial disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, the initial sales price that is acceptable to the Secretary, and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with this section.

(B) Market-wide plans

In developing the initial disposition plan under this subsection for a multifamily housing project located in a market area in which at least 1 other multifamily housing project owned by the Secretary is located, the Secretary may coordinate the disposition of all such multifamily housing projects located within the same market area to the extent and in such manner as the Secretary determines appropriate to carry out the goals under subsection (a).

(C) Sales price

The initial sales price shall be reasonably related to the intended use of the project after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(D) Community and tenant input

In carrying out this section, the Secretary shall develop procedures—

(i) to obtain appropriate and timely input into disposition plans from officials of the unit of general local government affected, the community in which the project is situated, and the tenants of the project; and

(ii) to facilitate, where feasible and appropriate, the sale of multifamily housing projects to existing tenant organizations with demonstrated capacity, to public or nonprofit entities that represent or are affiliated with existing tenant organizations, or to other public or nonprofit entities.

(E) Technical assistance

To carry out the procedures developed under subparagraph (D), the Secretary may provide technical assistance, directly or indirectly, and may use amounts available for technical assistance under the Emergency Low Income Housing Preservation Act of 1987, subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4141 et seq.], subtitle B of title IV of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12871 et seq.], or this section, for the provision of technical assistance under this paragraph. Recipients of technical assistance funding under the provisions referred to in this subparagraph shall be permitted to provide technical assistance to the extent of such funding under any of such provisions or under this subparagraph, notwithstanding the source of the funding.

(3) Foreclosure sale

In carrying out this section, the Secretary shall—

(A) prior to foreclosing on any mortgage held by the Secretary on any multifamily housing project, notify both the unit of general local government in which the property is located and the tenants of the property of the proposed foreclosure sale; and

(B) dispose of a multifamily housing project through a foreclosure sale only to a purchaser that the Secretary determines is capable of implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and repair expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary.

(d) Management and maintenance of properties

(1) Contracting for management services

In carrying out this section, the Secretary may—

(A) contract for management services for a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession) with for-profit and nonprofit entities and public agencies (including public housing authorities) on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable, with a manager the Secretary has determined is capable of—

(i) implementing a sound financial and physical management program that is designed to enable the project to meet anticipated operating and maintenance expenses to ensure that the project will remain in decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the project and any such standards established by the Secretary;

(ii) responding to the needs of the tenants and working cooperatively with tenant organizations;

(iii) providing adequate organizational, staff, and financial resources to the project; and

(iv) meeting such other requirements as the Secretary may determine; and

(B) require the owner of a multifamily housing project that is subject to a mortgage held by the Secretary to contract for management services for the project in the manner described in subparagraph (A).

(2) Maintenance of projects owned by Secretary

In the case of multifamily housing projects that are owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall—

(A) to the greatest extent possible, maintain all such occupied projects in a decent, safe, and sanitary condition and in compliance with any standards under applicable State or local laws, rules, ordinances, or regulations relating to the physical condition of the housing and any such standards established by the Secretary;

(B) to the greatest extent possible, maintain full occupancy in all such projects; and

(C) maintain all such projects for purposes of providing rental or cooperative housing.

(3) Projects subject to a mortgage held by Secretary

In the case of any multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of paragraph (2).

(e) Required assistance

In disposing of multifamily housing property under this section, consistent with the goal of subsection (a)(3)(A), the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f), one or more of the following actions:

(1) Contract with owner for project-based assistance

In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into contracts under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] (to the extent budget authority is available) with owners of the projects, subject to the following requirements:

(A) Subsidized or formerly subsidized projects receiving mortgage-related assistance

In the case of a subsidized or formerly subsidized project referred to in subparagraphs (A) through (C) of subsection (b)(2)—

(i) the contract shall be sufficient to assist at least all units covered by an assistance contract under any of the authorities referred to in subsection (b)(2)(D) before acquisition or foreclosure, unless the Secretary acts pursuant to the provisions of subparagraph (C);

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8 [42 U.S.C. 1437f], the owner shall lease the available unit to a family eligible for assistance under such section 8; and

(iii) the Secretary shall take actions to ensure that any unit in any such project that does not otherwise receive project-based assistance under this subparagraph remains available and affordable for the remaining useful life of the project, as defined by the Secretary; to carry out this clause, the Secretary may require purchasers to establish use or rent restrictions maintaining the affordability of such units.

(B) Subsidized or formerly subsidized projects receiving rental assistance

In the case of a subsidized or formerly subsidized project referred to in subsection (b)(2)(D) that is not subject to subparagraph (A)—

(i) the contract shall be sufficient to assist at least all units in the project that are covered, or were covered immediately before foreclosure on or acquisition of the project by the Secretary, by an assistance contract under any of the provisions referred to in such subsection, unless the Secretary acts pursuant to provisions of subparagraph (C); and

(ii) the contract shall provide that, when a vacancy occurs in any unit in the project requiring project-based rental assistance pursuant to this subparagraph that is occupied by a family who is not eligible for assistance under such section 8 [42 U.S.C. 1437f], the owner shall lease the available unit to a family eligible for assistance under such section 8.

(C) Exceptions

(i) Authority

In lieu of providing project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] in accordance with subparagraph (A)(i) or (B)(i) for a project, the Secretary may, for certain units in unsubsidized projects located within the same market area as the project otherwise required to be assisted with such project-based assistance—

(I) require use and rent restrictions providing that such units shall be available to and affordable by very low-income families for the remaining useful life of the project (as defined by the Secretary), or

(II) provide project-based assistance under section 8 for such units to be occupied by only very low-income persons,

but only if the requirements under clause (ii) are met.

(ii) Requirements

The requirements under this clause are that—

(I) upon the disposition of the project otherwise required to be assisted with project-based assistance under subparagraph (A)(i) or (B)(i), the Secretary shall make available tenant-based assistance under section 8 [42 U.S.C. 1437f] to low-income families residing in units otherwise required to be assisted with such project-based assistance; and

(II) the number of units subject to use restrictions or provided assistance under clause (i)

shall be at least equivalent to the number of units otherwise required to be assisted with project-based assistance under section 8 in accordance with subparagraph (A)(i) or (B)(i).

(D) Unsubsidized projects

Notwithstanding actions taken pursuant to subparagraph (C), in the case of unsubsidized projects, the contract shall be sufficient to provide—

(i) project-based rental assistance for all units that are covered, or were covered immediately before foreclosure or acquisition, by an assistance contract under—

(I) the new construction and substantial rehabilitation program under section 8(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(2)] (as in effect before October 1, 1983);

(II) the property disposition program under section 8(b) of such Act;

(III) the project-based certificate program under section 8 of such Act;

(IV) the moderate rehabilitation program under section 8(e)(2) of such Act;

(V) section 23 of such Act [42 U.S.C. 1421b] (as in effect before January 1, 1975);

(VI) the rent supplement program under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

(VII) section 8 of the United States Housing Act of 1937, following conversion from assistance under section 101 of the Housing and Urban Development Act of 1965; and

(ii) tenant-based assistance under section 8 of the United States Housing Act of 1937 for families that are preexisting tenants of the project in units that, immediately before foreclosure or acquisition of the project by the Secretary, were covered by an assistance contract under the loan management set-aside program under section 8(b) of the United States Housing Act of 1937.

(2) Annual contribution contracts for tenant-based assistance

In the case of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, the Secretary may enter into annual contribution contracts with public housing agencies to provide tenant-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] on behalf of all low-income families who are otherwise eligible for assistance in accordance with subparagraph (A), (B), or (D) of paragraph (1) on the date that the project is acquired by the purchaser, subject to the following requirements:

(A) Requirement of sufficient affordable housing in area

The Secretary may not take action under this paragraph unless the Secretary determines that there is available in the area an adequate supply of habitable, affordable housing for very low-income families and other low-income families using tenant-based assistance.

(B) Limitation for subsidized and formerly subsidized projects

The Secretary may not take actions under this paragraph in connection with units in subsidized or formerly subsidized projects for more than 10 percent of the aggregate number of units in such projects disposed of by the Secretary in any fiscal year.

(3) Other assistance

(A) In general

In accordance with the authority provided under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may provide other assistance pursuant to subsection (f) to the owners of multifamily housing projects that are acquired by a purchaser other than the Secretary at foreclosure, or after sale by the Secretary, on terms that ensure that—

(i) at least the units in the project otherwise required to receive project-based assistance pursuant to subparagraphs (A), (B), or (D) of paragraph (1) are available to and affordable by low-income persons; and

(ii) for the remaining useful life of the project, as defined by the Secretary, there shall be in

force such use or rent restrictions as the Secretary may prescribe.

(B) Very low-income tenants

If, as a result of actions taken pursuant to this paragraph, the rents charged to any very low-income families residing in the project who are otherwise required (pursuant to subparagraph (A), (B), or (D) of paragraph (1)) to receive project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] exceed the amount payable as rent under section 3(a) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)], the Secretary shall provide tenant-based assistance under section 8 of such Act to such families.

(f) Discretionary assistance

In addition to the actions required under subsection (e) for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a), take one or more of the following actions:

(1) Discounted sales price

In accordance with the authority provided under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may reduce the selling price of the project. Such reduced sales price shall be reasonably related to the intended use of the property after sale, any rehabilitation requirements for the project, the rents for units in the project that can be supported by the market, the amount of rental assistance available for the project under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the occupancy profile of the project (including family size and income levels for tenant families), and any other factors that the Secretary considers appropriate.

(2) Use and rent restrictions

The Secretary may require certain units in a project to be subject to use or rent restrictions providing that such units will be available to and affordable by low- and very low-income persons for the remaining useful life of the property, as defined by the Secretary.

(3) Short-term loans

The Secretary may provide short-term loans to facilitate the sale of a multifamily housing project if—

(A) authority for such loans is provided in advance in an appropriation Act;

(B) such loan has a term of not more than 5 years;

(C) the Secretary determines, based upon documentation provided to the Secretary, that the borrower has obtained a commitment of permanent financing to replace the short-term loan from a lender who meets standards established by the Secretary; and

(D) the terms of such loan are consistent with prevailing practices in the marketplace or the provision of such loan results in no cost to the Government, as defined in section 661a of title 2.

(4) Up-front grants

If the Secretary determines that action under this paragraph is more cost-effective than establishing rents pursuant to subsection (h)(2), the Secretary may utilize the budget authority provided for contracts issued under this section for project-based assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] to (in addition to providing project-based section 8 rental assistance) provide up-front grants for the necessary cost of rehabilitation and other related development costs. This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts.

(5) Tenant-based assistance

The Secretary may make available tenant-based assistance under section 8 of the United States Housing Act of 1937 to families residing in a multifamily housing project that do not otherwise qualify for project-based assistance.

(6) Alternative uses

(A) In general

Notwithstanding any other provision of law, after providing notice to and an opportunity for comment by preexisting tenants, the Secretary may allow not more than—

- (i) 10 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be made available for uses other than rental or cooperative uses, including low-income homeownership opportunities, or in any particular project, community space, office space for tenant or housing-related service providers or security programs, or small business uses, if such uses benefit the tenants of the project; and
- (ii) 5 percent of the total number of units in multifamily housing projects that are disposed of by the Secretary during any fiscal year to be used in any manner, if the Secretary and the unit of general local government or area-wide governing body determine that such use will further fair housing, community development, or neighborhood revitalization goals.

(B) Displacement protection

The Secretary may take actions under subparagraph (A) only if—

- (i) tenant-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] is made available to each eligible family residing in the project that is displaced as a result of such actions; and
- (ii) the Secretary determines that sufficient habitable, affordable rental housing is available in the market area in which the project is located to ensure use of such assistance.

(7) Transfer for use under other programs of Secretary

(A) In general

Notwithstanding the provisions of subsection (e), the Secretary may, pursuant to an agreement under subparagraph (B), transfer a multifamily housing project—

- (i) to a public housing agency for use of the project as public housing; or
- (ii) to an entity eligible to own or operate housing assisted under section 1701q of this title or under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013] for use as supportive housing under either of such sections.

(B) Requirements for agreement

An agreement providing for the transfer of a project described in subparagraph (A) shall—

- (i) contain such terms, conditions, and limitations as the Secretary determines appropriate, including requirements to ensure use of the project as public housing, supportive housing under section 1701q of this title, or supportive housing under section 811 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 8013], as applicable; and
- (ii) ensure that no tenant of the project will be displaced as a result of actions taken under this paragraph.

(8) Rebuilding

Notwithstanding any provision of section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], the Secretary may provide project-based assistance in accordance with subsection (e) of this section to support the rebuilding of a multifamily housing project rebuilt or to be rebuilt (in whole or in part and on-site, off-site, or in a combination of both) in connection with disposition under this section, if the Secretary determines that—

- (A) the project is not being maintained in a decent, safe, and sanitary condition;
- (B) rebuilding the project would be less expensive than substantial rehabilitation;
- (C) the unit of general local government in which the project is located approves the rebuilding and makes a financial contribution or other commitment to the project; and
- (D) the rebuilding is a part of a local neighborhood revitalization plan approved by the unit of general local government.

The provisions of subsection (j)(2) shall apply to any tenants of the project who are displaced.

(9) Emergency assistance funds

The Secretary may make arrangements with State agencies and units of general local government of States receiving emergency assistance under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.] for the provision of assistance under such Act [42 U.S.C. 301 et seq.] on behalf of eligible families who would reside in any multifamily housing projects.

(g) Protection for unassisted very low-income tenants

For each multifamily housing project disposed of under this section, the Secretary shall require that, for any very low-income family who is a preexisting tenant of the project who (upon disposition) would be required to pay rent in an amount in excess of 30 percent of the adjusted income (as such term is defined in section 3(b) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)]) of the family—

(1) for a period of 2 years beginning upon the date of the acquisition of the project by the purchaser under such disposition, the rent for the unit occupied by the family may not be increased above the rent charged immediately before acquisition;

(2) such family shall be considered displaced for purposes of any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A) of the United States Housing Act of 1937 [42 U.S.C. 1437d(c)(4)(A), 1437f(d)(1)(A), and 1437f(o)(6)(A)]; and

(3) notice shall be provided to such family, not later than the date of the acquisition of the project by the purchaser—

(A) of the requirements under paragraphs (1) and (2); and

(B) that, after the expiration of the period under paragraph (1), the rent for the unit occupied by the family may be increased.

(h) Contract requirements

Contracts for project-based rental assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] provided pursuant to this section shall be subject to the following requirements:

(1) Contract term

The contract shall have a term of 15 years, except that the term may be less than 15 years—

(A) to the extent that the Secretary finds that, based on the rental charges and financing for the multifamily housing project to which the contract relates, the financial viability of the project can be maintained under a contract having such a term; except that the Secretary shall require that the amount of rent payable by tenants of the project for units assisted under such contract shall not exceed the amount payable for rent under section 3(a) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)] for a period of at least 15 years; or

(B) if such assistance is provided—

(i) under a contract authorized under section 6 of the HUD Demonstration Act of 1993; and

(ii) pursuant to a disposition plan under this section for a project that is determined by the Secretary to be otherwise in compliance with this section.

(2) Contract rent

The Secretary shall establish the contract rents under such contracts at levels that, together with other resources available to the purchasers, provide sufficient amounts for the necessary costs of rehabilitating and operating the multifamily housing project and do not exceed the percentage of the existing housing fair market rentals for the market area in which the project assisted under the contract is located as determined by the Secretary under section 8(c) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)].

(i) Right of first refusal for local and State government agencies

(1) Notification

Not later than 30 days after the Secretary acquires title to a multifamily housing project, the Secretary shall notify the appropriate unit of general local government (including public housing agencies) and State agency or agencies designated by the chief executive officer of the State in

which the project is located of such acquisition of title and that, for a period beginning upon such notification that does not exceed 90 days, such unit of general local government and agency or agencies shall have the exclusive right under this subsection to make bona fide offers to purchase the project.

(2) Right of first refusal

During the 90-day period, the Secretary may not sell or offer to sell the multifamily housing project other than to a party notified under paragraph (1), unless the unit of general local government and the designated State agency or agencies notify the Secretary that they will not make an offer to purchase the project. The Secretary shall accept a bona fide offer to purchase the project made during such period if it complies with the terms and conditions of the disposition plan for the project or is otherwise acceptable to the Secretary.

(3) Procedure

The Secretary shall establish any procedures necessary to carry out this subsection.

(j) Displacement of tenants and relocation assistance

(1) In general

Whenever tenants will be displaced as a result of the demolition of, repairs to, or conversion in the use of, a multifamily housing project that is owned by the Secretary (or for which the Secretary is mortgagee in possession), the Secretary shall identify tenants who will be displaced, and shall notify all such tenants of their pending displacement and of any relocation assistance that may be available. In the case of a multifamily housing project that is subject to a mortgage held by the Secretary, the Secretary shall require the owner of the project to carry out the requirements of this paragraph, if the Secretary has authorized the demolition of, repairs to, or conversion in the use of such multifamily housing project.

(2) Rights of displaced tenants

The Secretary shall ensure for any such tenant (who continues to meet applicable qualification standards) the right—

- (A) to return, whenever possible, to a repaired or rebuilt unit;
- (B) to occupy a unit in another multifamily housing project owned by the Secretary;
- (C) to obtain housing assistance under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.]; or
- (D) to receive any other available similar relocation assistance as the Secretary determines to be appropriate.

(k) Mortgage and project sales

(1) In general

The Secretary may not approve the sale of any loan or mortgage held by the Secretary (including any loan or mortgage owned by the Government National Mortgage Association) on any subsidized project or formerly subsidized project, unless such sale is made as part of a transaction that will ensure that such project will continue to operate at least until the maturity date of such loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the assignment of the loan or mortgage on such project to the Secretary.

(2) Sale of certain projects

The Secretary may not approve the sale of any subsidized project—

- (A) that is subject to a mortgage held by the Secretary, or
- (B) if the sale transaction involves the provision of any additional subsidy funds by the Secretary or a recasting of the mortgage,

unless such sale is made as part of a transaction that will ensure that the project will continue to

operate, at least until the maturity date of the loan or mortgage, in a manner that will provide rental housing on terms at least as advantageous to existing and future tenants as the terms required by the program under which the loan or mortgage was made or insured prior to the proposed sale of the project.

(3) Mortgage sales to State and local governments

Notwithstanding any provision of law that requires competitive sales or bidding, the Secretary may carry out negotiated sales of mortgages held by the Secretary, without the competitive selection of purchasers or intermediaries, to units of general local government or State agencies, or groups of investors that include at least one such unit of general local government or State agency, if the negotiations are conducted with such agencies, except that—

(A) the terms of any such sale shall include the agreement of the purchasing agency or unit of local government or State agency to act as mortgagee or owner of a beneficial interest in such mortgages, in a manner consistent with maintaining the projects that are subject to such mortgages for occupancy by the general tenant group intended to be served by the applicable mortgage insurance program, including, to the extent the Secretary determines appropriate, authorizing such unit of local government or State agency to enforce the provisions of any regulatory agreement or other program requirements applicable to the related projects; and

(B) the sales prices for such mortgages shall be, in the determination of the Secretary, the best prices that may be obtained for such mortgages from a unit of general local government or State agency, consistent with the expectation and intention that the projects financed will be retained for use under the applicable mortgage insurance program for the life of the initial mortgage insurance contract.

(4) Sale of mortgages covering unsubsidized projects

Notwithstanding any other provision of law, the Secretary may sell mortgages held on projects that are not subsidized or formerly subsidized projects on such terms and conditions as the Secretary may prescribe.

(5) Mortgage sale demonstration

The Secretary may carry out a demonstration to test the feasibility of restructuring and disposing of troubled multifamily mortgages held by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(6) Project sale demonstration

The Secretary may carry out a demonstration to test the feasibility of disposing of troubled multifamily housing projects that are owned by the Secretary through the establishment of partnerships with public, private, and nonprofit entities.

(I) Report to Congress

Not later than June 1 of each year, the Secretary shall submit to the Congress a report describing the status of multifamily housing projects owned by or subject to mortgages held by the Secretary, on an aggregate basis, which highlights the differences, if any, between the subsidized and the unsubsidized inventory. The report shall include—

- (1) the average and median size of the projects;
- (2) the geographic locations of the projects, by State and region;
- (3) the years during which projects were assigned to the Department, and the average and median length of time that projects remain in the HUD-held inventory;
- (4) the status of HUD-held mortgages;
- (5) the physical condition of the HUD-held and HUD-owned inventory;
- (6) the occupancy profile of the projects, including the income, family size, race, and ethnic origin of current tenants, and the rents paid by such tenants;
- (7) the proportion of units that are vacant;
- (8) the number of projects for which the Secretary is mortgagee in possession;
- (9) the number of projects sold in foreclosure sales;

(10) the number of HUD-owned projects sold;

(11) a description of actions undertaken pursuant to this section, including a description of the effectiveness of such actions and any impediments to the disposition or management of multifamily housing projects;

(12) a description of the extent to which the provisions of this section and actions taken under this section have displaced tenants of multifamily housing projects;

(13) a description of any of the functions performed in connection with this section that are contracted out to public or private entities or to States; and

(14) a description of the activities carried out under subsection (i) during the preceding year.

(Pub. L. 95–557, title II, §203, Oct. 31, 1978, 92 Stat. 2088; Pub. L. 96–153, title II, §208, Dec. 21, 1979, 93 Stat. 1109; Pub. L. 96–399, title II, §213, Oct. 8, 1980, 94 Stat. 1636; Pub. L. 100–242, title I, §181, Feb. 5, 1988, 101 Stat. 1868; Pub. L. 100–628, title X, §1010, Nov. 7, 1988, 102 Stat. 3266; Pub. L. 101–235, title II, §204(a), Dec. 15, 1989, 103 Stat. 2039; Pub. L. 101–625, title V, §579, Nov. 28, 1990, 104 Stat. 4245; Pub. L. 103–120, §6(c)(2), Oct. 27, 1993, 107 Stat. 1149; Pub. L. 103–233, title I, §101(b), Apr. 11, 1994, 108 Stat. 343; Pub. L. 105–276, title V, §514(b)(2)(C), Oct. 21, 1998, 112 Stat. 2548; Pub. L. 109–171, title II, §2003(b), Feb. 8, 2006, 120 Stat. 9.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a)(1), (b)(1), (e)(3)(A), and (f)(1), 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.

Section 183(c) of the Housing and Community Development Act of 1987, referred to in subsec. (b)(2)(D), is section 183(c) of Pub. L. 100–242, which was set out as a note under section 1437f of Title 42, The Public Health and Welfare, prior to repeal by Pub. L. 105–276, title V, §582(a)(2), Oct. 21, 1998, 112 Stat. 2643.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsecs. (b)(2)(D)(i) and (e)(1)(D)(i)(VI), (VII), is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, which enacted section 1701s of this title and amended sections 1451 and 1465 of Title 42.

Section 23 of the United States Housing Act of 1937, referred to in subsecs. (b)(2)(D)(iii) and (e)(1)(D)(i)(V), was classified to section 1421b of Title 42 and was omitted from the Code following the general revision of the United States Housing Act of 1937 by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (c)(2)(E), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101–625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and is classified principally to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitle C of the Low-Income Housing Preservation and Resident Homeownership Act of 1990, probably means subtitle C of title II of Pub. L. 100–242, as added by Pub. L. 102–550, which is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. Another subtitle C of title II of Pub. L. 100–242 amended sections 1472, 1485, and 1487 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsec. (c)(2)(E), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. Subtitle B of title IV of the Act is classified principally to part A (§12871 et seq.) of subchapter IV of chapter 130 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of Title 42 and Tables.

The Social Security Act, referred to in subsec. (f)(9), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, which is classified generally to chapter 7 (§301 et seq.) of Title 42. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

Section 6 of the HUD Demonstration Act of 1993, referred to in subsec. (h)(1)(B)(i), is section 6 of Pub. L. 103–120, which is set out as a note under section 1437f of Title 42.

The United States Housing Act of 1937, as amended, referred to in subsec. (j)(2)(C), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93–383, title II, §201(a), Aug. 22, 1974, 88 Stat. 653, which is classified generally to chapter 8 (§1437 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of Title 42 and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2006—Subsec. (f)(4). Pub. L. 109–171 inserted at end "This paragraph shall be effective during fiscal years 2006 through 2010 only to the extent that such budget authority is made available for use under this paragraph in advance in appropriation Acts."

1998—Subsec. (g)(2). Pub. L. 105–276 substituted "any system of preferences established pursuant to section 6(c)(4)(A), 8(d)(1)(A), or 8(o)(6)(A)" for "the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(o)(3)(B)".

1994—Pub. L. 103–233 amended section generally, substituting present provisions for former provisions which related, in subsec. (a) to goals, in subsec. (b) to management or disposal of property by negotiated competitive bids, in subsec. (c) to maintenance of housing projects, in subsec. (d) to financial assistance to owner, in subsec. (e) to right of first refusal, in subsec. (f) to displacement of tenants and relocation assistance, in subsec. (g) to assignment or partial payment of mortgages, in subsec. (h) to limitations on certain project, loan, and mortgage sales, in subsec. (i) to definition of multifamily housing project, in subsec. (j) to rules and regulations, in subsec. (k) to annual report describing status of projects, and in subsec. (l) to project-based assistance.

1993—Subsec. (l). Pub. L. 103–120 added subsec. (l).

1990—Subsec. (a)(1)(B). Pub. L. 101–625, §579(a), struck out "or vacant" after "moderate-income persons".

Subsec. (d)(1). Pub. L. 101–625, §579(b)(1), struck out "or are vacant (which units shall be made available for such families as soon as possible)" before semicolon at end of cl. (B).

Subsec. (d)(2), (3). Pub. L. 101–625, §579(b)(2), (3), added par. (2) and redesignated former par. (2) as (3).

1989—Subsec. (k). Pub. L. 101–235 amended subsec. (k) generally. Prior to amendment, subsec. (k) read as follows: "The Secretary shall annually submit to the Congress a report describing the activities carried out under subsection (e) of this section during the preceding year."

1988—Subsec. (a). Pub. L. 100–628, §1010(a), substituted "occupied by low- and moderate-income persons on the date of assignment or foreclosure (whichever is greater)" for ", on the date of assignment, occupied by low- and moderate-income persons" in par. (1)(C).

Pub. L. 100–242, §181(a), substituted introductory provisions and par. (1) for former introductory provisions and par. (1) which read as follows: "It is the policy of the United States that the Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') shall manage and dispose of multifamily housing projects which are owned by the Secretary in a manner consistent with the National Housing Act and this section. The purpose of the property management and disposition program of the Department of Housing and Urban Development shall be to manage and dispose of projects in a manner which will protect the financial interests of the Federal Government and be less costly to the Federal Government than other reasonable alternatives by which the Secretary can further the goals of—

"(1) preserving the housing units so that at least those units which are occupied by low- and moderate-income persons or which are vacant, at the time of acquisition, are available to and affordable by such persons;"

Subsec. (b)(2). Pub. L. 100–242, §181(b), designated existing provisions as subpar. (A) and redesignated former cls. (A) to (D) as cls. (i) to (iv), substituted "subject to subsection (a) of this section that is owned by the Secretary (or for which the Secretary is mortgagee in possession)" for ", owned by the Secretary", substituted "may determine; and" for "may determine.", and added subpar. (B).

Subsec. (c). Pub. L. 100–242, §181(c), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "Except where the Secretary has determined on a case-by-case basis that it would be clearly inappropriate, given the manner by which an individual project is to be managed or disposed of pursuant to subsection (a) of this section, the Secretary shall seek to—

"(1) maintain all occupied multifamily housing projects owned by the Secretary in a decent, safe, and sanitary condition;

"(2) to the greatest extent possible, maintain full occupancy in all multifamily housing projects owned by the Secretary; and

"(3) maintain the project for purposes of providing rental or cooperative housing for the longest feasible period."

Subsec. (d). Pub. L. 100–628, §1010(b), amended third sentence of par. (1) generally. Prior to amendment, third sentence read as follows: "Such contracts shall be sufficient to assist all units in subsidized or formerly

subsidized projects, and all units in other projects that are occupied by lower income families eligible for assistance under such section 8 at the time of foreclosure or sale, as the case may be, and all units that are vacant at such time (which units shall be made available for such families as soon as possible)."

Pub. L. 100-242, §181(d), added subsec. (d). Former subsec. (d) redesignated (f).

Subsec. (e). Pub. L. 100-628, §1010(c), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "Upon receipt of a bona fide offer to purchase a project subject to subsection (a) of this section, the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the proposed terms and conditions of the offer, including the assistance that the Secretary plans to make available to the prospective purchaser. The local government and the designated State agency shall have 90 days to match the offer and purchase the project. In administering the right of first refusal provided in this subsection, the Secretary shall offer assistance to the local government or designated State agency on terms and conditions at least as favorable as made available to the prospective purchaser. Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized project or formerly subsidized project in accordance with this subsection."

Pub. L. 100-242, §181(d)(1), (e), added subsec. (e). Former subsec. (e) redesignated (g).

Subsec. (f). Pub. L. 100-242, §181(d)(1), (e)(1), (g)(1), redesignated former subsec. (d) as (f). Former subsec. (f) redesignated (i).

Subsec. (f)(1). Pub. L. 100-242, §181(f), substituted "subject to subsection (a) of this section that is owned by the Secretary (or for which the Secretary is mortgagee in possession)" for "owned by the Secretary", and inserted at end "In the case of a multifamily housing project subject to subsection (a) of this section that is not owned by the Secretary (and for which the Secretary is not mortgagee in possession), the Secretary shall require the owner of the project to carry out the requirements of this paragraph."

Subsec. (g). Pub. L. 100-242, §181(d)(1), (e)(1), redesignated former subsec. (e) as (g). Former subsec. (g) redesignated (j).

Subsec. (h). Pub. L. 100-242, §181(d)(1), (e)(1), (g), added subsec. (h).

Subsec. (i). Pub. L. 100-628, §1010(d), (e), substituted "(excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o) of this section), if (except for purposes of paragraphs (1) and (2) of subsection (h) of this section), and section 183(c) of the Housing and Community Development Act of 1987) such housing assistance payments are made to more than 50 percent of the units in the project" for "(other than subsection (b)(1) of such section), without regard to whether such payments are made to all or a portion of the units in the project" in par. (2) (E) and added par. (4).

Pub. L. 100-242, §181(e)(1), (g)(1), (h), redesignated former subsec. (f) as (i), designated existing provisions as par. (1), and added pars. (2) and (3).

Subsec. (j). Pub. L. 100-242, §181(g)(1), redesignated former subsec. (g) as (j).

Subsec. (k). Pub. L. 100-628, §1010(f), added subsec. (k).

1980—Subsec. (a). Pub. L. 96-399, §213(a), in par. (1) inserted provisions respecting occupation of units by low- and moderate-income persons or units vacant at the time of acquisition, and added par. (6).

Subsec. (b)(1). Pub. L. 96-399, §213(b), inserted provisions relating to the number of project units occupied by low- and moderate-income persons.

Subsec. (c)(3). Pub. L. 96-399, §213(c), added par. (3).

Subsec. (d)(2)(B), (C). Pub. L. 96-399, §213(d), inserted exception for tenants of above-moderate income.

Subsec. (f). Pub. L. 96-399, §213(e), substituted provisions respecting applicability to projects assisted or insured under this chapter, or subject to loans under section 1701q of this title or section 1452b of title 42, or projects acquired by the Secretary pursuant to any other provision of law, for provisions respecting applicability to assistance under section 1715z-1 of this title, the proviso of section 1715l(d)(5) of this title, or section 101 of the Housing and Urban Development Act of 1965, and projects insured under this chapter.

1979—Subsec. (d)(2). Pub. L. 96-153 substituted "assure for any such tenant (who continues to meet applicable qualification standards) the right" for "seek to assure the maximum opportunity for any such tenant".

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title II, §2003(c), Feb. 8, 2006, 120 Stat. 9, provided that: "The amendments made by this section [amending this section and section 1715z-11a of this title] shall not apply to any transaction that formally commences within one year prior to the enactment of this section [Feb. 8, 2006]."

REGULATIONS

Pub. L. 103–233, title I, §101(f), Apr. 11, 1994, 108 Stat. 358, provided that: "The Secretary shall issue interim regulations necessary to implement the amendments made by subsections (b) through (d) [amending this section and sections 1437d and 1437f of Title 42, The Public Health and Welfare] not later than 90 days after the date of the enactment of this Act [Apr. 11, 1994]. Such interim regulations shall take effect upon issuance and invite public comment on the interim regulations. The Secretary shall issue final regulations to implement such amendments after opportunity for such public comment, but not later than 12 months after the date of issuance of such interim regulations."

APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES

Pub. L. 109–171, title II, §§2001, 2002, Feb. 8, 2006, 120 Stat. 7, 8, provided that:

"SEC. 2001. DEFINITIONS.

"For purposes of this subtitle [subtitle A (§§2001–2003) of title II of Pub. L. 109–171, amending this section and section 1715z–11a of this title and enacting provisions set out as notes under this section], the following definitions shall apply:

"(1) The term 'affordability requirements' means any requirements or restrictions imposed by the Secretary, at the time of sale, on a multifamily real property or a multifamily loan, such as use restrictions, rent restrictions, and rehabilitation requirements.

"(2) The term 'discount sale' means the sale of a multifamily real property in a transaction, such as a negotiated sale, in which the sale price is lower than the property market value and is set outside of a competitive bidding process that has no affordability requirements.

"(3) The term 'discount loan sale' means the sale of a multifamily loan in a transaction, such as a negotiated sale, in which the sale price is lower than the loan market value and is set outside of a competitive bidding process that has no affordability requirements.

"(4) The term 'loan market value' means the value of a multifamily loan, without taking into account any affordability requirements.

"(5) The term 'multifamily real property' means any rental or cooperative housing project of 5 or more units owned by the Secretary that prior to acquisition by the Secretary was security for a loan or loans insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

"(6) The term 'multifamily loan' means a loan held by the Secretary and secured by a multifamily rental or cooperative housing project of 5 or more units that was formerly insured under title II of the National Housing Act.

"(7) The term 'property market value' means the value of a multifamily real property for its current use, without taking into account any affordability requirements.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"SEC. 2002. APPROPRIATED FUNDS REQUIREMENT FOR BELOW-MARKET SALES.

"(a) DISCOUNT SALES.—Notwithstanding any other provision of law, except for affordability requirements for the elderly and disabled required by statute, disposition by the Secretary of a multifamily real property during fiscal years 2006 through 2010 through a discount sale under sections 207(l) or 246 of the National Housing Act (12 U.S.C. 1713(l), 1715z–11), section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11), or section 204 of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a), shall be subject to the availability of appropriations to the extent that the property market value exceeds the sale proceeds. If the multifamily real property is sold, during such fiscal years, for an amount equal to or greater than the property market value then the transaction is not subject to the availability of appropriations.

"(b) DISCOUNT LOAN SALES.—Notwithstanding any other provision of law and in accordance with the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.), a discount loan sale during fiscal years 2006 through 2010 under section 207(k) of the National Housing Act (12 U.S.C. 1713(k)), section 203(k) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z–11(k)), or section 204(a) of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997 (12 U.S.C. 1715z–11a(a)), shall be subject to the availability of appropriations to the extent that the loan market value exceeds the sale proceeds. If the multifamily loan is sold, during such fiscal years, for an amount equal to or greater than the loan market value then the transaction is not subject to the availability of appropriations.

"(c) APPLICABILITY.—This section shall not apply to any transaction that formally commences within one year prior to the enactment of this section [Feb. 8, 2006]."

MULTIFAMILY HOUSING DISPOSITION

Pub. L. 103-233, title I, §101(a), Apr. 11, 1994, 108 Stat. 343, provided that: "The Congress finds that—

"(1) the portfolio of multifamily housing project mortgages insured by the FHA is severely troubled and at risk of default, requiring the Secretary to increase loss reserves from \$5,500,000,000 in 1991 to \$11,900,000,000 in 1992 to cover estimated future losses;

"(2) the inventory of multifamily housing projects owned by the Secretary has more than quadrupled since 1989, and, by the end of 1994, may exceed 69,000 units;

"(3) the cost to the Federal Government of owning and maintaining multifamily housing projects escalated to \$288,000,000 in fiscal year 1993;

"(4) the inventory of multifamily housing projects subject to mortgages held by the Secretary has increased dramatically, to more than 2,400 mortgages, and approximately half of these mortgages, with approximately 219,000 units, are delinquent;

"(5) the inventory of insured and formerly insured multifamily housing projects is deteriorating, potentially endangering tenants and neighborhoods; and

"(6) the current statutory framework governing the disposition of multifamily housing projects effectively impedes the Government's ability to dispose of properties, protect tenants, and ensure that projects are maintained over time."

Pub. L. 100-242, title I, §184, Feb. 5, 1988, 101 Stat. 1872, as amended by Pub. L. 101-625, title V, §580, Nov. 28, 1990, 104 Stat. 4245, provided for establishment of demonstration program for multifamily housing disposition partnerships, together with requirements relating to participation by State housing finance agencies in sale of such housing and cooperation between Secretary of Housing and Urban Development and such agencies, as well as termination of such program at end of Sept. 30, 1991, with certain exceptions, with report to Congress required to be submitted by Secretary not later than 6 months after Sept. 30, 1991, prior to repeal by Pub. L. 103-233, title I, §102, Apr. 11, 1994, 108 Stat. 358.

§1701z-12. Housing access

The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary which is sold on or after October 1, 1978, to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 1437f of title 42 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

(Pub. L. 95-557, title II, §204, Oct. 31, 1978, 92 Stat. 2090.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

§1701z-13. Solar energy for single-family and multifamily housing units

(a) Purpose

It is the purpose of this section to promote and extend the application of viable solar energy systems as a desirable source of energy for residential single-family and multifamily housing units.

(b) Cost-effective and economically feasible solar energy systems; "solar energy system" defined

(1) The Secretary, in carrying out programs and activities under section 1452b ¹ of title 42, section 1701q of this title, and section 1437f of title 42, shall permit the installation of solar energy systems which are cost-effective and economically feasible.

(2) For the purpose of this Act, the term "solar energy system" means any addition, alteration, or

improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.

(c) Matters considered

In carrying out subsection (b), the Secretary shall take such steps as may be necessary to encourage the installation of cost-effective and economically feasible solar energy systems in housing assisted under the programs and activities referred to in such subsection taking into account the interests of low-income homeowners and renters, including the implementation of a plan of action to publicize the availability and feasibility of solar energy systems to current or potential recipients of assistance under such programs and activities.

(d) Report to Congress

The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after October 31, 1978, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first twelve full calendar months after October 31, 1978; and

(2) an analysis of any problems and benefits related to encouraging the use of solar energy systems in the programs and activities referred to in subsection (b).

(Pub. L. 95–557, title II, §209, Oct. 31, 1978, 92 Stat. 2095; Pub. L. 98–479, title II, §204(n)(3), Oct. 17, 1984, 98 Stat. 2234.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1452b of title 42, referred to in subsec. (b)(1), was repealed by Pub. L. 101–625, title II, §289(b)(1), Nov. 28, 1990, 104 Stat. 4128.

This Act, referred to in subsec. (b)(2), is Pub. L. 95–557, Oct. 31, 1978, 92 Stat. 2080, known as the Housing and Community Development Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendments note set out under section 5301 of Title 42, The Public Health and Welfare, and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–479 substituted "conjunction" for "conjunction" in provisions preceding par. (1).

¹ [*See References in Text note below.*](#)

§1701z–14. Lower cost technology demonstration program

The Secretary of Housing and Urban Development is authorized to develop and implement a demonstration program utilizing lower cost building technology for projects located on inner-city vacant land.

(Pub. L. 97–35, title III, §339C, Aug. 13, 1981, 95 Stat. 417.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Amendments of 1981 and also as part of the Omnibus Budget Reconciliation Act of 1981, and not as part of the National Housing Act which comprises this chapter.

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.

§1701z-15. Approval of individual residential water purification or treatment units

(a) In general

When the existing water supply does not meet the minimum property standards established by the Department of Housing and Urban Development and a permanent alternative acceptable water supply is not available, a continuous supply of water may be provided through the use of approved residential water treatment equipment or a water purification unit that provides bacterially and chemically safe drinking water.

(b) Approval process

A performance-based approval of the equipment or unit and the maintenance, monitoring, and replacement plan for such equipment or unit shall be certified by field offices of the Department of Housing and Urban Development based upon general standards recognized by the Department as modified for local or regional conditions. As a part of such approved plan, a separate monthly escrow account may be required to be established through the lender to cover the cost of the approved yearly maintenance and monitoring schedule and projected replacement of the equipment or unit.

(Pub. L. 100-242, title IV, §424, Feb. 5, 1988, 101 Stat. 1915.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

§1701z-16. Energy efficient mortgages pilot program

(a) Establishment of pilot program

(1) In general

Not later than 6 months after October 24, 1992, the Secretary of Housing and Urban Development (hereafter referred to as the "Secretary") shall establish an energy efficient mortgage pilot program in 5 States, to promote the purchase of existing energy efficient residential buildings and the installation of cost-effective improvements in existing residential buildings.

(2) Pilot program

The pilot program established under this subsection shall include the following criteria, where applicable:

(A) Origination

The lender shall originate a housing loan that is insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] in accordance with the applicable requirements.

(B) Approval

The mortgagor's base loan application shall be approved if the mortgagor's income and credit record is found to be satisfactory.

(C) Costs of improvements

The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

- (i) 5 percent of the property value (not to exceed 5 percent of the limit established under section 203(b)(2)(A)) of the National Housing Act (12 U.S.C. 1709(b)(2)(A); ¹ or
- (ii) 2 percent of the limit established under section 203(b)(2)(B) of such Act [12 U.S.C. 1709(b)(2)(B)].

(D) Limitation

In any fiscal year, the aggregate number of mortgages insured pursuant to this section may not exceed 5 percent of the aggregate number of mortgages for 1- to 4-family residences insured by the Secretary of Housing and Urban Development under title II of the National Housing Act (12 U.S.C. 1707 et seq.) during the preceding fiscal year.

(3) Authority for mortgagees

In granting mortgages under the pilot program established pursuant to this subsection, the Secretary shall grant mortgagees the authority—

(A) to permit the final loan amount to exceed the loan limits established under title II of the National Housing Act [12 U.S.C. 1707 et seq.] by an amount not to exceed 100 percent of the cost of the cost-effective energy efficiency improvements, if the mortgagor's request to add the cost of such improvements is received by the mortgagee prior to funding of the base loan;

(B) to hold in escrow all funds provided to the mortgagor to undertake the energy efficiency improvements until the efficiency improvements are actually installed; and

(C) to transfer or sell the energy efficient mortgage to the appropriate secondary market agency, after the mortgage is issued, but before the energy efficiency improvements are actually installed.

(4) Promotion of pilot program

The Secretary shall encourage participation in the energy efficient mortgage pilot program by—

(A) making available information to lending agencies and other appropriate authorities regarding the availability and benefits of energy efficient mortgages;

(B) requiring mortgagees and designated lending authorities to provide written notice of the availability and benefits of the pilot program to mortgagors applying for financing in those States designated by the Secretary as participating under the pilot program; and

(C) requiring each applicant for a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.] in those States participating under the pilot program to sign a statement that such applicant has been informed of the program requirements and understands the benefits of energy efficient mortgages.

(5) Training program

Not later than 9 months after October 24, 1992, the Secretary, in consultation with the Secretary of Energy, shall establish and implement a program for training personnel at relevant lending agencies, real estate companies, and other appropriate organizations regarding the benefits of energy efficient mortgages and the operation of the pilot program under this subsection.

(6) Report

Not later than 18 months after October 24, 1992, the Secretary shall prepare and submit a report to the Congress describing the effectiveness and implementation of the energy efficient mortgage pilot program as described under this subsection, and assessing the potential for expanding the

pilot program nationwide.

(b) Expansion of program

Not later than the expiration of the 2-year period beginning on the date of the implementation of the energy efficient mortgage pilot program under this section, the Secretary of Housing and Urban Development shall expand the pilot program on a nationwide basis and shall expand the program to include new residential housing, unless the Secretary determines that either such expansion would not be practicable in which case the Secretary shall submit to the Congress, before the expiration of such period, a report explaining why either expansion would not be practicable.

(c) Definitions

For purposes of this section:

(1) The term "base loan" means any mortgage loan for a residential building eligible for insurance under title II of the National Housing Act [12 U.S.C. 1707 et seq.] or title 38 that does not include the cost of cost-effective energy improvements.

(2) The term "cost-effective" means, with respect to energy efficiency improvements to a residential building, improvements that result in the total present value cost of the improvements (including any maintenance and repair expenses) being less than the total present value of the energy saved over the useful life of the improvement, when 100 percent of the cost of improvements is added to the base loan. For purposes of this paragraph, savings and cost-effectiveness shall be determined pursuant to a home energy rating report sufficient for purposes of the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation, or by other technically accurate methods.

(3) The term "energy efficient mortgage" means a mortgage on a residential building that recognizes the energy savings of a home that has cost-effective energy saving construction or improvements (including solar water heaters, solar-assisted air conditioners and ventilators, super-insulation, and insulating glass and film) and that has the effect of not disqualifying a borrower who, but for the expenditures on energy saving construction or improvements, would otherwise have qualified for a base loan.

(4) The term "residential building" means any attached or unattached single family residence.

(d) Rule of construction

This section may not be construed to affect any other programs of the Secretary of Housing and Urban Development for energy-efficient mortgages. The pilot program carried out under this section shall not replace or result in the termination of such other programs.

(e) Regulations

The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 180-day period beginning on October 24, 1992. The regulations shall be issued after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5 (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).

(f) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this section. (Pub. L. 102-486, title I, §106, Oct. 24, 1992, 106 Stat. 2792; Pub. L. 110-289, div. B, title I, §2123, July 30, 2008, 122 Stat. 2839.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a)(2)(A), (D), (3)(A), (4)(C), and (c)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Energy Policy Act of 1992, and not as part of the National Housing Act

which comprises this chapter.

Section was formerly classified as a note under section 12712 of Title 42, The Public Health and Welfare.

AMENDMENTS

2008—Subsec. (a)(2)(C). Pub. L. 110–289, §2123(1), amended subpar. (C) generally. Prior to amendment, text read as follows: "The cost of cost-effective energy efficiency improvements shall not exceed the greater of—

"(i) 5 percent of the property value (not to exceed \$8,000); or

"(ii) \$4,000."

Subsec. (a)(2)(D). Pub. L. 110–289, §2123(2), added subpar. (D).

STATUTORY NOTES AND RELATED SUBSIDIARIES

SIMILAR PROVISIONS

Similar provisions were contained in Pub. L. 102–550, title V, §513, Oct. 28, 1992, 106 Stat. 3786.

¹ So in original. There probably should be an additional closing parenthesis.

§1701z–17. Increasing access and understanding of energy efficient mortgages

(a) Definition

As used in this section, the term "energy efficient mortgage" has the same meaning as given that term in paragraph (24) of section 12704 of title 42.

(b) Recommendations to eliminate barriers to use of energy efficient mortgages

(1) In general

Not later than 180 days after July 30, 2008, the Secretary of Housing and Urban Development, in conjunction with the Secretary of Energy and the Administrator of the Environmental Protection Agency, shall consult with the residential mortgage industry and States to develop recommendations to eliminate the barriers that exist to increasing the availability, use, and purchase of energy efficient mortgages, including such barriers as—

(A) the lack of reliable and accessible information on such mortgages, including estimated energy savings and other benefits of energy efficient housing;

(B) the confusion regarding underwriting requirements and differences among various energy efficient mortgage programs;

(C) the complex and time consuming process of securing such mortgages;

(D) the lack of publicly available research on the default risk of such mortgages; and

(E) the availability of certified or accredited home energy rating services.

(2) Report to Congress

The Secretary of Housing and Urban Development shall submit a report to Congress that—

(A) summarizes the recommendations developed under paragraph (1); and

(B) includes any recommendations for statutory, regulatory, or administrative changes that the Secretary deems necessary to institute such recommendations.

(c) Energy efficient mortgages outreach campaign

(1) In general

The Secretary of Housing and Urban Development, in consultation and coordination with the Secretary of Energy, the Administrator of the Environmental Protection Agency, and State Energy and Housing Finance Directors, shall carry out an education and outreach campaign to inform and educate consumers, home builders, residential lenders, and other real estate professionals on the availability, benefits, and advantages of—

(A) improved energy efficiency in housing; and

(B) energy efficient mortgages.

(2) Authorization of appropriations

There are authorized to be appropriated such sums as are necessary to carry out the education and outreach campaign described under paragraph (1).

(Pub. L. 110-289, div. B, title IX, §2902, July 30, 2008, 122 Stat. 2876.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Foreclosure Prevention Act of 2008, and also as part of the Housing and Economic Recovery Act of 2008, and not as part of the National Housing Act which comprises this chapter.

SUBCHAPTER I—HOUSING RENOVATION AND MODERNIZATION

§1702. Administrative provisions

The powers conferred by this chapter shall be exercised by the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary"). In order to carry out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX-B, and X, the Secretary may establish such agencies, accept and utilize such voluntary and uncompensated services, utilize such Federal officers and employees, and, with the consent of the State, such State and local officers and employees, and appoint such other officers and employees as he may find necessary, and may prescribe their authorities, duties, responsibilities, and tenure and fix their compensation. The Secretary may delegate any of the functions and powers conferred upon him under this subchapter and subchapters II, III, V, VI, VII, VIII, IX-B, and X to such officers, agents, and employees as he may designate or appoint, and may make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere, for law books and books of reference, and for paper, printing, and binding) as are necessary to carry out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX-B, and X, without regard to any other provisions of law governing the expenditure of public funds. All such compensation, expenses, and allowances shall be paid out of funds made available by this chapter: *Provided*, That notwithstanding any other provisions of law except provisions of law hereafter enacted expressly in limitation hereof, all expenses of the Department of Housing and Urban Development in connection with the examination and insurance of loans or investments under any subchapter of this chapter all properly capitalized expenditures, and other necessary expenses not attributable to general overhead in accordance with generally accepted accounting principles shall be considered nonadministrative and payable from funds made available by this chapter, except that, unless made pursuant to specific authorization by the Congress therefor, expenditures made in any fiscal year pursuant to this proviso, other than the payment of insurance claims and other than expenditures (including services on a contract or fee basis, but not including other personal services) in connection with the acquisition, protection, completion, operation, maintenance, improvement, or disposition of real or personal property of the Department acquired under authority of this chapter, shall not exceed 35 per centum of the income received by the Department of Housing and Urban Development from premiums and fees during the preceding fiscal year. Except with respect to subchapter III, for the purposes of this section, the term "nonadministrative" shall not include contract expenses that are not capitalized or routinely deducted from the proceeds of sales, and such expenses shall not be payable from funds made available by this chapter. The Secretary shall, in carrying out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX-B, and X, be authorized, in his official capacity, to sue and be sued in any court of competent jurisdiction, State or Federal.

(June 27, 1934, ch. 847, title I, §1, 48 Stat. 1246; Aug. 23, 1935, ch. 614, title III, §344(a), 49 Stat.

722; Mar. 28, 1941, ch. 31, §2, 55 Stat. 61; June 28, 1941, ch. 261, §6, 55 Stat. 365; Aug. 10, 1948, ch. 832, title IV, §402, 62 Stat. 1283; Aug. 8, 1949, ch. 403, §2, 63 Stat. 576; Oct. 25, 1949, ch. 729, §2, 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title II, §202, 65 Stat. 303; Pub. L. 89-117, title XI, §1108(bb), Aug. 10, 1965, 79 Stat. 507; Pub. L. 89-754, title X, §1020(g), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 90-19, §1(a)(1), (3), (c), May 25, 1967, 81 Stat. 17, 18; Pub. L. 98-479, title II, §202(a)(1), Oct. 17, 1984, 98 Stat. 2228; Pub. L. 100-242, title IV, §429(a), Feb. 5, 1988, 101 Stat. 1918; Pub. L. 101-235, title I, §133(d)(1), Dec. 15, 1989, 103 Stat. 2027; Pub. L. 106-74, title II, §212, Oct. 20, 1999, 113 Stat. 1073.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, 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

1999—Pub. L. 106-74 inserted before last sentence "Except with respect to subchapter III, for the purposes of this section, the term "nonadministrative" shall not include contract expenses that are not capitalized or routinely deducted from the proceeds of sales, and such expenses shall not be payable from funds made available by this chapter."

1989—Pub. L. 101-235 struck out "IX-A," after "VIII," wherever appearing.

1988—Pub. L. 100-242 struck out comma before period at end of second sentence.

1984—Pub. L. 98-479 struck out "without regard to the provisions of other laws applicable to the employment or compensation of other officers or employees of the United States" at end of second sentence.

1967—Pub. L. 90-19 substituted "Department of Housing and Urban Development" and "Secretary" for "Federal Housing Administration" and "Commissioner", respectively, wherever appearing, substituted provision for exercise of national housing powers by the Secretary of Housing and Urban Development for former authorization for creation of a Federal Housing Administration under a Federal Housing Commissioner appointed by the President with the consent of the Senate, and substituted "Department" for "Administration" in penultimate sentence.

1966—Pub. L. 89-754 inserted references to subchapter IX-B.

1965—Pub. L. 89-117 inserted references to subchapters V and IX-A.

1951—Act Sept. 1, 1951, inserted references to subchapter X.

1950—Act Apr. 20, 1950, made technical amendments to section to reflect change in title of Administrator to Commissioner and to omit provisions relating to tenure and compensation of Commissioner.

1949—Joint Res. Oct. 25, 1949, inserted proviso at end of fourth sentence.

Act Aug. 8, 1949, made provisions applicable to subchapter VIII.

1948—Act Aug. 10, 1948, substituted "subchapters II, III, VI, and VII" for "subchapters II, III, and VI".

1941—Act June 28, 1941, substituted "\$12,000" for "\$10,000".

Act Mar. 28, 1941, substituted "subchapters II, III, and VI" for "subchapters II and III".

1935—Act Aug. 23, 1935, inserted sentence at end.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1941 AMENDMENT

Amendment by act June 28, 1941, effective July 1, 1941, see section 6 of act June 28, 1941.

REPEALS

Act Aug. 10, 1948, ch. 832, title V, §501(a), 62 Stat. 1283, formerly cited as a credit to this section, was repealed by Pub. L. 89-554, §8(a), Sept. 6, 1966, 80 Stat. 655.

TRANSFER OF FUNCTIONS

Functions, powers, and duties of Federal Housing Administration and Housing and Home Finance Agency transferred to Secretary of Housing and Urban Development who was authorized to delegate such functions, powers, and duties to such officers and employees of Department of Housing and Urban Development as

Secretary may designate, see sections 3534 and 3535 of Title 42, The Public Health and Welfare.

EXECUTIVE DOCUMENTS

TRANSFER OF FUNCTIONS

Reorg. Plan No. 3 of 1947, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954, set out in the Appendix to Title 5, Government Organization and Employees, abolished office of Federal Housing Administrator and transferred functions to Federal Housing Commissioner. It also consolidated Federal Housing Administration with other agencies into Housing and Home Finance Agency and transferred functions of Federal Loan Administrator with respect to Federal Housing Administration and its functions to Housing and Home Finance Administrator. Federal Housing Administration continued as a constituent agency within Housing and Home Finance Agency. For provisions concerning appointment and compensation of Federal Housing Commissioner, see section 3 of Reorganization Plan.

Functions, powers, and duties of National Housing Agency with respect to property, funds, and other assets which were formerly under administration of Farm Security Administration and were transferred to National Housing Agency by Ex. Ord. No. 9070, Feb. 24, 1942, 7 F.R. 1529, as amended, were abolished by section 2(a)(3) of act Aug. 14, 1946, ch. 964, 60 Stat. 1063, as amended, set out as a note under sections 1001 to 1005d of Title 7, Agriculture, except with respect of housing projects and such other properties and assets in process of liquidation.

Federal Housing Administration consolidated with other agencies into National Housing Agency during World War II, see Ex. Ord. No. 9070.

Functions of National Housing Agency with respect to non-farm-housing projects and other properties remaining under its jurisdiction pursuant to section 2(a)(3) of act Aug. 14, 1946, transferred to Public Housing Commissioner by Reorg. Plan No. 3 of 1947, §4(b), eff. July 27, 1947, 12 F.R. 4983, 61 Stat. 955, set out in the Appendix to Title 5.

Federal Housing Administration to be administered by Federal Loan Administrator within Federal Loan Agency, see Reorg. Plan No. I of 1939, §402, eff. July 1, 1939, 4 F.R. 2730, 53 Stat. 1429 set out in the Appendix to Title 5.

EXECUTIVE ORDER NO. 7058

Ex. Ord. No. 7058, May 29, 1935, authorized Federal Housing Administrator to adopt a seal for Federal Housing Administration, provided that copies of any books, records, papers, documents, agreements, orders, rules, or regulations of Administration were admissible in evidence equally with originals thereof, and empowered Administrator or his designee to certify or exemplify copies of any books, records, papers, or documents of Administration.

EXECUTIVE ORDER NO. 7280

Ex. Ord. No. 7280, Jan. 28, 1936, was issued as evidence of creation of Federal Housing Administration and validated and confirmed creation thereof.

§1702a. Repealed. June 28, 1955, ch. 189, §12(c)(14), 69 Stat. 182

Section, act June 27, 1934, ch. 847, title II, §228, as added Aug. 2, 1954, ch. 649, title I, §126, 68 Stat. 809, authorized Commissioner to establish one position in GS-18, four in GS-17, and eight in GS-16 in Federal Housing Administration.

§1703. Insurance of financial institutions

(a) Authority to insure financial institutions

The Secretary is authorized and empowered upon such terms and conditions as he may prescribe, to insure banks, trust companies, personal finance companies, mortgage companies, building and loan associations, installment lending companies and other such financial institutions, which the Secretary finds to be qualified by experience or facilities and approves as eligible for credit insurance, against losses which they may sustain as a result of loans and advances of credit, and purchases of obligations representing loans and advances of credit, made by them for the purpose of

(i) financing alterations, repairs, and improvements upon or in connection with existing structures or manufactured homes, and the building of new structures, upon urban, suburban, or rural real property (including the restoration, rehabilitation, rebuilding, and replacement of such improvements which have been damaged or destroyed by earthquake, conflagration, tornado, hurricane, cyclone, flood, or other catastrophe), by the owners thereof or by lessees of such real property under a lease expiring not less than six months after the maturity of the loan or advance of credit; and for the purpose of (ii) financing the purchase of a manufactured home to be used by the owner as his principal residence or financing the purchase of a lot on which to place such home and paying expenses reasonably necessary for the appropriate preparation of such lot, including the installation of utility connections, sanitary facilities, and paving, and the construction of a suitable pad, or financing only the acquisition of such a lot either with or without such preparation by an owner of a manufactured home; and for the purpose of financing the preservation of historic structures, and, as used in this section, the term "historic structures" means residential structures which are registered in the National Register of Historic Places or which are certified by the Secretary of the Interior to conform to National Register criteria; and the term "preservation" means restoration or rehabilitation undertaken for such purposes as are approved by the Secretary in regulations issued by him, after consulting with the Secretary of the Interior. Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case shall the insurance granted by the Secretary under this section to any such financial institution on loans, advances of credit, and purchases made by such financial institution for such purposes exceed 10 per centum of the total amount of such loans, advances of credit, and purchases. With respect to any loan, advance of credit, or purchase, the amount of any claim for loss on any such individual loan, advance of credit or purchase paid by the Secretary under the provisions of this section to a lending institution shall not exceed 90 per centum of such loss.

After August 2, 1954, (i) the Secretary shall not enter into contracts for insurance pursuant to this section except with lending institutions which are subject to the inspection and supervision of a governmental agency required by law to make periodic examinations of their books and accounts, and which the Secretary finds to be qualified by experience or facilities to make and service such loans, advances or purchases, and with such other lending institutions which the Secretary approves as eligible for insurance pursuant to this section on the basis of their credit and their experience or facilities to make and service such loans, advances or purchases; (ii) only such items as substantially protect or improve the basic livability or utility of properties shall be eligible for financing under this section, and therefore the Secretary shall from time to time declare ineligible for financing under this section any item, product, alteration, repair, improvement, or class thereof which he determines would not substantially protect or improve the basic livability or utility of such properties, and he may also declare ineligible for financing under this section any item which he determines is especially subject to selling abuses; and (iii) the Secretary is authorized and directed, by such regulations or procedures as he shall deem advisable, to prevent the use of any financial assistance under this section (1) with respect to new residential structures (other than manufactured homes) that have not been completed and occupied for at least six months, or (2) which would, through multiple loans, result in an outstanding aggregate loan balance with respect to the same structure exceeding the dollar amount limitation prescribed in this subsection for the type of loan involved: *Provided*, That this clause (iii) may in the discretion of the Secretary be waived with respect to the period of occupancy or completion of any such new residential structures. The Secretary is hereby authorized and directed, with respect to manufactured homes to be financed under this section, to (i) prescribe minimum property standards to assure the livability and durability of the manufactured home and the suitability of the site on which the manufactured home is to be located; and (ii) obtain assurances from the borrower that the manufactured home will be placed on a site which complies with the standards prescribed by the Secretary and with local zoning and other applicable local requirements.

The insurance authority provided under this section may be made available with respect to any existing manufactured home that has not been insured under this section if such home was

constructed in accordance with the standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 [42 U.S.C. 5401 et seq.] and it meets standards similar to the minimum property standards applicable to existing homes insured under subchapter II.

Alterations, repairs, and improvements upon or in connection with existing structures may include the provision of fire safety equipment, energy conserving improvements, or the installation of solar energy systems. Alterations, repairs, and improvements upon or in connection with existing structures may also include the evaluation and reduction of lead-based paint hazards. As used in this section—

(1) the term "fire safety equipment" means any device or facility which is designed to reduce the risk of personal injury or property damage resulting from fire and is in conformity with such criteria and standards as shall be prescribed by the Secretary;

(2) the term "energy conserving improvements" means the purchase and installation of weatherization materials as defined in section 6862(9) of title 42; and ¹

(3) the term "solar energy system" means any addition, alteration, or improvement to an existing or new structure which is designed to utilize wind energy or solar energy either of the active type based on mechanically forced energy transfer or of the passive type based on convective, conductive, or radiant energy transfer or some combination of these types to reduce the energy requirements of that structure from other energy sources, and which is in conformity with such criteria and standards as shall be prescribed by the Secretary in consultation with the Secretary of Energy.²

(4) the terms "evaluation", "reduction", and "lead-based paint hazard" have the same meanings given those terms in section 4851b of title 42.

(b) Conditions for denial of insurance

(1) Except as provided in the last sentence of this paragraph, no insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the amount of such loan, advance of credit, or purchase exceeds—

(A)(i) \$25,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures; and

(ii) \$25,090 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;

(B) \$60,000 or an average amount of \$12,000 per family unit if made for the purpose of financing the alteration, repair, improvement, or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

(C) \$69,678 if made for the purpose of financing the purchase of a manufactured home;

(D) \$92,904 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home; and ¹

(E) \$23,226 if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan.³

(F) \$15,000 per family unit if made for the purpose of financing the preservation of an historic structure; and

(G) such principal amount as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

The Secretary shall, by regulation, annually increase the dollar amount limitations in subparagraphs (A)(ii), (C), (D), and (E) (as such limitations may have been previously adjusted under this sentence) in accordance with the index established pursuant to paragraph (9).

(2) Because of prevailing higher costs, the Secretary may, by regulation, in Alaska, Guam, or

Hawaii, increase any dollar amount limitation on manufactured homes or manufactured home lot loans contained in this subsection by not to exceed 40 per centum. In other areas, the maximum dollar amounts specified in subsections (b)(1)(D) and (b)(1)(E) may be increased on an area-by-area basis to the extent the Secretary deems necessary, but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) the dollar amount specified as increased by the same percentage by which 95 percent of the median one-family house price in the area (as determined by the Secretary) exceeds \$67,500.

(3) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it if the term to maturity of such loan, advance of credit or purchase exceeds—

(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure; and

(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;

(B) twenty years and thirty-two days if made for the purpose of financing the alteration, repair, improvement or conversion of an existing structure used or to be used as an apartment house or a dwelling for two or more families;

(C) twenty years and thirty-two days (twenty-three years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home;

(D) twenty years and thirty-two days (twenty-five years and thirty-two days in the case of a manufactured home composed of two or more modules) if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

(E) twenty years and thirty-two days if made for the purpose of financing the purchase, by the owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home;

(F) fifteen years and thirty-two days if made for the purpose of financing the preservation of an historic structure;

(G) such term to maturity as the Secretary may prescribe if made for the purpose of financing the construction of a new structure for use in whole or in part for agricultural purposes; and

(H) such term to maturity as the Secretary may prescribe if made for the purpose of financing fire safety equipment for a nursing home, extended health care facility, intermediate health care facility, or other comparable health care facility.

(4) For the purpose of this subsection—

(A) the term "developed lot" includes an interest in a condominium project (including any interest in the common areas) or a share in a cooperative association;

(B) a loan to finance the purchase of a manufactured home or a manufactured home and lot may also finance the purchase of a garage, patio, carport, or other comparable appurtenance; and

(C) a loan to finance the purchase of a manufactured home or a manufactured home and lot shall be secured by a first lien upon such home or home and lot, its furnishings, equipment, accessories, and appurtenances.

(5) No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it unless the obligation has such maturity, bears such insurance premium charges, and contains such other terms, conditions, and restrictions as the Secretary shall prescribe, in order to make credit available for the purpose of this subchapter. Any such obligation with respect to which insurance is granted under this section shall bear interest at such rate as may be agreed upon by the borrower and the financial institution.

(6)(A) Any obligation with respect to which insurance is granted under this section may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of any applicable maximum

provided for in this subsection.

(B) The owner of a manufactured home lot purchased without assistance under this section but otherwise meeting the requirements of this section may refinance such lot under this section in connection with the purchase of a manufactured home if the borrower certifies that the home and lot is or will be his or her principal residence within six months after the date of the loan.

(C) The owner-occupant of a manufactured home or a home and lot which was purchased without assistance under this section but which otherwise meets the requirements of this section may refinance such home or home and lot under this section if the home was constructed in accordance with standards established under section 604 of the National Manufactured Housing Construction and Safety Standards Act of 1974 [42 U.S.C. 5403].

(7) With respect to the financing of alterations, repairs, and improvements to existing structures or the building of new structures as authorized under clause (i) of the first sentence of subsection (a), any loan broker (as defined by the Secretary) or any other party having a financial interest in the making of such a loan or advance of credit or in providing assistance to the borrower in preparing the loan application or otherwise assisting the borrower in obtaining the loan or advance of credit who knowingly (as defined in section 1735f-14(g) of this title) submits to any such financial institution or to the Secretary false information shall be subject to a civil money penalty in the amount and manner provided under section 1735f-14 of this title with respect to mortgagees and lenders under this chapter.

(8) **INSURANCE BENEFITS FOR MANUFACTURED HOUSING LOANS.**—Any contract of insurance with respect to loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place a manufactured home (or both) for a financial institution that is executed under this subchapter after July 30, 2008, by the Secretary shall be conclusive evidence of the eligibility of such financial institution for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of the bearer from the date of the execution of such contract, except for fraud or misrepresentation on the part of such institution.

(9) **ANNUAL INDEXING OF MANUFACTURED HOUSING LOANS.**—The Secretary shall develop a method of indexing in order to annually adjust the loan limits established in subparagraphs (A)(ii), (C), (D), and (E) of this subsection. Such index shall be based on the manufactured housing price data collected by the United States Census Bureau. The Secretary shall establish such index no later than 1 year after July 30, 2008.

(10) **FINANCIAL SOUNDNESS OF MANUFACTURED HOUSING PROGRAM.**—The Secretary shall establish such underwriting criteria for loans and advances of credit in connection with a manufactured home or a lot on which to place a manufactured home (or both), including such loans and advances represented by obligations purchased by financial institutions, as may be necessary to ensure that the program under this subchapter for insurance for financial institutions against losses from such loans, advances of credit, and purchases is financially sound.

(11) **LEASEHOLD REQUIREMENTS.**—No insurance shall be granted under this section to any such financial institution with respect to any obligation representing any such loan, advance of credit, or purchase by it, made for the purposes of financing a manufactured home which is intended to be situated in a manufactured home community pursuant to a lease, unless such lease—

(A) expires not less than 3 years after the origination date of the obligation;

(B) is renewable upon the expiration of the original 3 year term by successive 1 year terms; and

(C) requires the lessor to provide the lessee written notice of termination of the lease not less than 180 days prior to the expiration of the current lease term in the event the lessee is required to move due to the closing of the manufactured home community, and further provides that failure to provide such notice to the mortgagor in a timely manner will cause the lease term, at its expiration, to automatically renew for an additional 1 year term.

(c) Handling and disposal of property

(1) Authority of Secretary

Notwithstanding any other provision of law, the Secretary may—

(A) deal with, complete, rent, renovate, modernize, insure, or assign or sell at public or

private sale, or otherwise dispose of, for cash or credit in the Secretary's discretion, and upon such terms and conditions and for such consideration as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by the Secretary, in connection with the payment of insurance heretofore or hereafter granted under this subchapter, including any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of insurance heretofore or hereafter granted under this section; and

(B) pursue to final collection, by way of compromise or otherwise, all claims assigned to or held by the Secretary and all legal or equitable rights accruing to the Secretary in connection with the payment of such insurance, including unpaid insurance premiums owed in connection with insurance made available by this subchapter.

(2) Advertisements for proposals

Section 6101 of title 41 shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$25,000.

(3) Delegation of authority

The power to convey and to execute in the name of the Secretary, deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this subchapter may be exercised by an officer appointed by the Secretary without the execution of any express delegation of power or power of attorney. Nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in the Secretary's discretion, to any officer or agent the Secretary may appoint.

(d) Authority to transfer insurance

The Secretary is authorized and empowered, under such regulations as he may prescribe, to transfer to any such approved financial institution any insurance in connection with any loans and advances of credit which may be sold to it by another approved financial institution.

(e) Authority to waive compliance with regulations

The Secretary is authorized to waive compliance with regulations heretofore or hereafter prescribed by him with respect to the interest and maturity of and the terms, conditions, and restrictions under which loans, advances of credit, and purchases may be insured under this section and section 1706a ⁴ of this title, if in his judgment the enforcement of such regulations would impose an injustice upon an insured institution which has substantially complied with such regulations in good faith and refunded or credited any excess charge made, and where such waiver does not involve an increase of the obligation of the Secretary beyond the obligation which would have been involved if the regulations had been fully complied with.

(f) Premium charges; manufactured home loans

(1) Premium charges

The Secretary shall fix a premium charge for the insurance hereafter granted under this section, but in the case of any obligation representing any loan, advance of credit, or purchase, such premium charge shall not exceed an amount equivalent to 1 per centum per annum of the net proceeds of such loan, advance of credit, or purchase, for the term of such obligation, and such premium charge shall be payable in advance by the financial institution and shall be paid at such time and in such manner as may be prescribed by the Secretary.

(2) Manufactured home loans

Notwithstanding paragraph (1), in the case of a loan, advance of credit, or purchase in connection with a manufactured home or a lot on which to place such a home (or both), the premium charge for the insurance granted under this section shall be paid by the borrower under

the loan or advance of credit, as follows:

(A) At the time of the making of the loan, advance of credit, or purchase, a single premium payment in an amount not to exceed 2.25 percent of the amount of the original insured principal obligation.

(B) In addition to the premium under subparagraph (A), annual premium payments during the term of the loan, advance, or obligation purchased in an amount not exceeding 1.0 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(C) Premium charges under this paragraph shall be established in amounts that are sufficient, but do not exceed the minimum amounts necessary, to maintain a negative credit subsidy for the program under this section for insurance of loans, advances of credit, or purchases in connection with a manufactured home or a lot on which to place such a home (or both), as determined based upon risk to the Federal Government under existing underwriting requirements.

(D) The Secretary may increase the limitations on premium payments to percentages above those set forth in subparagraphs (A) and (B), but only if necessary, and not in excess of the minimum increase necessary, to maintain a negative credit subsidy as described in subparagraph (C).

(g) Finality of payment for loss

Any payment for loss made to an approved financial institution under this section shall be final and incontestable after two years from the date the claim was certified for payment by the Secretary, in the absence of fraud or misrepresentation on the part of such institution, unless a demand for repurchase of the obligation shall have been made on behalf of the United States prior to the expiration of such two-year period.

(h) Authority to regulate

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(i) "Manufactured home" defined

For purposes of this section, the term "manufactured home" includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling.

(June 27, 1934, ch. 847, title I, §2, 48 Stat. 1246; May 28, 1935, ch. 150, §28, 49 Stat. 299; Aug. 23, 1935, ch. 614, title III, §344(b), 49 Stat. 722; Apr. 3, 1936, ch. 165, §1, 49 Stat. 1187; Apr. 17, 1936, ch. 234, §4, 49 Stat. 1234; Apr. 22, 1937, ch. 121, §2, 50 Stat. 71; Feb. 3, 1938, ch. 13, §2, 52 Stat. 9; June 3, 1939, ch. 175, §§1, 2, 53 Stat. 804, 805; June 28, 1941, ch. 261, §§1–5, 55 Stat. 364, 365; May 26, 1942, ch. 319, §13, 56 Stat. 305; Mar. 23, 1943, ch. 21, §2, 57 Stat. 43; Oct. 15, 1943, ch. 259, §§3, 4, 57 Stat. 571; June 26, 1947, ch. 152, 61 Stat. 182; Aug. 10, 1948, ch. 832, title I, §101(s), 62 Stat. 1275; July 15, 1949, ch. 338, title II, §201(1), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, §1(1), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§101(a), 122, 64 Stat. 48, 59; Mar. 10, 1953, ch. 5, §1, 67 Stat. 4; Aug. 2, 1954, ch. 649, title I, §§101(a), 102, 68 Stat. 590; June 30, 1955, ch. 251, §1(1), 69 Stat. 225; Aug. 11, 1955, ch. 783, title I, §101, 69 Stat. 635; Feb. 10, 1956, ch. 33, 70 Stat. 11; Aug. 7, 1956, ch. 1029, title I, §101, 70 Stat. 1091; Pub. L. 85–104, title I, §105, July 12, 1957, 71 Stat. 297; Pub. L. 86–372, title I, §101, Sept. 23, 1959, 73 Stat. 654; Pub. L. 86–788, §2(a), Sept. 14, 1960, 74 Stat. 1028; Pub. L. 87–70, title VI, §604(a), June 30, 1961, 75 Stat. 177; Pub. L. 88–560, title I, §101, Sept. 2, 1964, 78 Stat. 769; Pub. L. 89–117, title II, §202(a), title XI, §1108(a), Aug. 10, 1965, 79 Stat. 465, 504; Pub. L. 90–19, §1(a)(3), (d), May 25, 1967, 81 Stat. 17, 18; Pub. L. 90–448, title III, §308, Aug. 1, 1968, 82 Stat. 509; Pub. L. 91–78, §2(a), Sept. 30, 1969, 83 Stat. 125; Pub. L. 91–152, title I, §§101(a), 103(c), Dec. 24, 1969, 83 Stat. 379, 380; Pub. L. 91–432, §1(a), Oct. 2, 1970, 84 Stat. 886; Pub. L. 91–473, §1(a), Oct. 21, 1970, 84 Stat. 1064; Pub. L. 91–525, §1(a), Dec. 1, 1970, 84 Stat. 1384; Pub. L. 91–609, title I, §§101(a), 113, Dec. 31, 1970, 84 Stat. 1770, 1773; Pub. L. 92–503, §1(a), Oct. 18, 1972, 86 Stat. 906; Pub. L.

93–85, §1(a), Aug. 10, 1973, 87 Stat. 220; Pub. L. 93–117, §1(a), Oct. 2, 1973, 87 Stat. 421; Pub. L. 93–383, title III, §§309(a)–(d), 316(a), Aug. 22, 1974, 88 Stat. 680, 681, 685; Pub. L. 93–449, §4(a), Oct. 18, 1974, 88 Stat. 1366; Pub. L. 94–173, §1, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 95–60, §1(a), June 30, 1977, 91 Stat. 257; Pub. L. 95–80, §1(a), July 31, 1977, 91 Stat. 339; Pub. L. 95–128, title II, §§301(a), 306, Oct. 12, 1977, 91 Stat. 1131, 1134; Pub. L. 95–406, §1(a), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95–557, title III, §§301(a), 320, Oct. 31, 1978, 92 Stat. 2095, 2101; Pub. L. 95–619, title II, §241, Nov. 9, 1978, 92 Stat. 3228; Pub. L. 96–71, §1(a), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96–105, §1(a), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96–153, title III, §§301(a), 313(a), Dec. 21, 1979, 93 Stat. 1111, 1116; Pub. L. 96–372, §1(a), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96–399, title III, §§301(a), 308(a)–(c)(1), Oct. 8, 1980, 94 Stat. 1638, 1640; Pub. L. 97–35, title III, §§331(a), 338(a), 339B(c), Aug. 13, 1981, 95 Stat. 412, 414, 417; Pub. L. 97–289, §1(a), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98–35, §1(a), May 26, 1983, 97 Stat. 197; Pub. L. 98–109, §1(a), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98–181, title I [title IV, §§401(a), 404(b)(1), 415–417], Nov. 30, 1983, 97 Stat. 1207, 1208, 1212; Pub. L. 99–120, §1(a), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99–156, §1(a), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99–219, §1(a), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99–267, §1(a), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99–272, title III, §3007(a), Apr. 7, 1986, 100 Stat. 104; Pub. L. 99–289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99–345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100–122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100–170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100–242, title IV, §401(b), Feb. 5, 1988, 101 Stat. 1898; Pub. L. 101–235, title I, §134(a), Dec. 15, 1989, 103 Stat. 2027; Pub. L. 101–625, title III, §340(b)(1), (c), title VIII, §806(a), Nov. 28, 1990, 104 Stat. 4147, 4323; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1592, 1593; Pub. L. 102–550, title V, §503(c)(1), title X, §1012(k)(1), Oct. 28, 1992, 106 Stat. 3779, 3906; Pub. L. 106–569, title IX, §901, Dec. 27, 2000, 114 Stat. 3026; Pub. L. 110–289, div. B, title I, §§2143, 2144(a), 2145–2148(a), 2150, July 30, 2008, 122 Stat. 2844–2848.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Manufactured Housing Construction and Safety Standards Act of 1974, referred to in subsec. (a), is title VI of Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 700, which is classified generally to chapter 70 (§5401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5401 of Title 42 and Tables.

This chapter, referred to in subsec. (b)(7), 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.

Section 1706a of this title, referred to in subsec. (e), was repealed by act June 3, 1939, ch. 175, §3, 53 Stat. 805, eff. July 1, 1939.

CODIFICATION

In subsec. (c)(2), "Section 6101 of title 41" substituted for "Section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2008—Subsec. (a). Pub. L. 110–289, §2147(a), in first undesignated par., struck out "on and after July 1, 1939," after "made by them" and after "institution for such purposes" and struck out "made after August 2, 1954" after "credit, or purchase".

Pub. L. 110–289, §2143, in first undesignated par., substituted "Other than in connection with a manufactured home or a lot on which to place such a home (or both), in no case" for "In no case" and ". With" for ": *Provided*, That with".

Subsec. (b)(1). Pub. L. 110–289, §2145(c), substituted "Except as provided in the last sentence of this paragraph, no" for "No" in introductory provisions and inserted concluding provisions.

Subsec. (b)(1)(A)(ii). Pub. L. 110–289, §2145(a)(1), substituted "\$25,090" for "\$17,500".

Subsec. (b)(1)(C) to (E). Pub. L. 110–289, §2145(a)(2)–(5), realigned margins and substituted "\$69,678"

for "\$48,600" in subpar. (C), "\$92,904" for "\$64,800" in subpar. (D), and "\$23,226" for "\$16,200" in subpar. (E).

Subsec. (b)(8). Pub. L. 110-289, §2144(a), added par. (8).

Subsec. (b)(9). Pub. L. 110-289, §2145(b), added par. (9).

Subsec. (b)(10). Pub. L. 110-289, §2148(a), added par. (10).

Subsec. (b)(11). Pub. L. 110-289, §2150, added par. (11).

Subsec. (c). Pub. L. 110-289, §2147(b), amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the Secretary's powers with respect to any debt, contract, claim, personal property, or security assigned or held in connection with the payment of insurance.

Subsec. (f). Pub. L. 110-289, §2146, designated existing provisions as par. (1), inserted heading, and added par. (2).

2000—Subsec. (b)(3)(E). Pub. L. 106-569 substituted "twenty years" for "fifteen years".

1992—Subsec. (a). Pub. L. 102-550, §1012(k)(1), which directed amendment of fifth undesignated par. by inserting "Alterations, repairs, and improvements upon or in connection with existing structures may also include the evaluation and reduction of lead-based paint hazards.", and by adding par. (4), was executed to fourth undesignated par. to reflect the probable intent of Congress.

Subsec. (b)(1)(C) to (E). Pub. L. 102-550, §503(c)(1), added subpars. (C) to (E) and struck out former subpars. (C) to (E) which read as follows:

"(C) 70 percent of the median 1-family house price in the area, as determined by the Secretary under section 1709(b)(2) of this title, if made for the purpose of financing the purchase of a manufactured home;

"(D) 80 percent of the median 1-family house price in the area, as determined by the Secretary under section 1709(b)(2) of this title, if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) the greater of (i) 20 percent of the median 1-family house price in the area, as determined by the Secretary under section 1709(b)(2) of this title, or (ii) \$13,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of the owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that the owner will place the manufactured home on the lot acquired with such loan within 6 months after the date of such loan;"

Pub. L. 102-389 added subpars. (C) to (E) and struck out former subpars. (C) to (E) which read as follows:

"(C) \$40,500 if made for the purpose of financing the purchase of a manufactured home;

"(D) \$54,000 if made for the purpose of financing the purchase of a manufactured home and a suitably developed lot on which to place the home;

"(E) \$13,500, if made for the purpose of financing the purchase, by an owner of a manufactured home which is the principal residence of that owner, of a suitably developed lot on which to place that manufactured home, and if the owner certifies that he or she will place the manufactured home on the lot acquired with such loan within six months after the date of such loan;"

Subsec. (b)(2). Pub. L. 102-389 substituted "but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) the dollar amount specified as increased by the same percentage by which 95 percent of the median one-family house price in the area (as determined by the Secretary) exceeds \$67,500" for "but not to exceed the percentage by which the maximum mortgage amount of a one-family residence in the area is increased by the Secretary under section 1709(b)(2) of this title".

1990—Subsec. (b)(1)(A). Pub. L. 101-625, §340(b)(1)(A), added subpar. (A) and struck out former subpar. (A) which read as follows: "\$17,500 (\$20,000 where financing the installation of a solar energy system is involved) if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures or manufactured homes;"

Subsec. (b)(1)(B). Pub. L. 101-625, §340(b)(1)(B), substituted "\$60,000 or an average amount of \$12,000 per family unit" for "\$43,750 or an average amount of \$8,750 per family unit (\$50,000 and \$10,000, respectively, where financing the installation of a solar energy system is involved)".

Subsec. (b)(3)(A). Pub. L. 101-625, §340(c)(1), added subpar. (A) and struck out former subpar. (A) which read as follows: "fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure or manufactured home;"

Subsec. (b)(3)(B). Pub. L. 101-625, §340(c)(2), substituted "twenty years" for "fifteen years".

Subsec. (i). Pub. L. 101-625, §806(a), added subsec. (i).

1989—Subsec. (b)(7). Pub. L. 101-235 added par. (7).

1988—Subsec. (a). Pub. L. 100-242 struck out "and not later than March 15, 1988," after "made by them on or after July 1, 1939,"

1987—Subsec. (a). Pub. L. 100-200 substituted "March 15, 1988" for "December 16, 1987".

Pub. L. 100-179 substituted "December 16, 1987" for "December 2, 1987".

Pub. L. 100-170 substituted "December 2, 1987" for "November 15, 1987".

Pub. L. 100-154 substituted "November 15, 1987" for "October 31, 1987".

Pub. L. 100-122 substituted "October 31, 1987" for "September 30, 1987".

1986—Subsec. (a). Pub. L. 99-430 substituted "September 30, 1987" for "September 30, 1986".

Pub. L. 99-345 substituted "September 30, 1986" for "June 6, 1986".

Pub. L. 99-289 substituted "June 6, 1986" for "April 30, 1986".

Pub. L. 99-272 made amendment identical to Pub. L. 99-219. See 1985 Amendment note below.

Pub. L. 99-267 substituted "April 30, 1986" for "March 17, 1986".

1985—Subsec. (a). Pub. L. 99-219 substituted "not later than March 17, 1986" for "prior to December 16, 1985".

Pub. L. 99-156 substituted "December 16, 1985" for "November 15, 1985".

Pub. L. 99-120 substituted "November 15, 1985" for "October 1, 1985".

1983—Subsec. (a). Pub. L. 98-181, §415, inserted new undesignated par. authorizing insurance be made available to existing manufactured homes not insured under this section if such homes were constructed in accordance with the standards issued under the National Manufactured Housing Construction and Safety Standards Act of 1974 and meet standards similar to the minimum property standards applicable to existing homes issued under subchapter II of this chapter.

Pub. L. 98-181, §401(a), substituted "October 1, 1985" for "December 1, 1983".

Pub. L. 98-109 substituted "December 1, 1983" for "October 1, 1983".

Pub. L. 98-35 substituted "October 1, 1983" for "May 21, 1983".

Subsec. (b)(1)(C). Pub. L. 98-181, §416(a)(1), substituted "\$40,500" for "\$22,500 (\$35,000 in the case of a manufactured home composed of two or more modules)".

Subsec. (b)(1)(D). Pub. L. 98-181, §416(a)(2), substituted "\$54,000" for "\$35,000 (\$47,500 in the case of a manufactured home composed of two or more modules)".

Subsec. (b)(1)(E). Pub. L. 98-181, §416(a)(3), substituted "\$13,500" for "such an amount as may be necessary, but not exceeding \$12,500,".

Subsec. (b)(2). Pub. L. 98-181, §416(b), substituted provision authorizing the Secretary, in other areas, to increase the maximum dollar amounts specified in subsec. (b)(1)(D) and (E) on an area-by-area basis as deemed necessary, but not to exceed the percentage by which the maximum mortgage amount of a one-family residence in the area is increased by the Secretary under section 1709(b)(2) of this title for provision which authorized the Secretary, by regulation, in other areas where needed to meet the higher costs of land acquisition, etc., in connection with the purchase of a manufactured home or lot, to increase any dollar amount limitation otherwise applicable by an additional \$7,500.

Subsec. (b)(5). Pub. L. 98-181, §404(b)(1), amended par. (5) generally, substituting provision that any obligation with respect to which insurance is granted under this section bear interest at such rate as agreed upon by the borrower and the financial institution for provision that any such obligation bear interest and insurance premium charges as do not exceed an amount determined by a specified formula.

Subsec. (b)(6)(C). Pub. L. 98-181, §417, added subpar. (C).

1982—Subsec. (a). Pub. L. 97-289 substituted "May 21, 1983" for "October 1, 1982".

1981—Pub. L. 97-35, §339B(c), provided that for purposes of section 308(c)(1) of Pub. L. 96-399, the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively. See 1980 Amendment notes below.

Subsec. (a). Pub. L. 97-35, §331(a), substituted "1982" for "1981".

Subsec. (b). Pub. L. 97-35, §338(a), completely revised and reorganized provisions respecting computations, adjustments, applicability, etc., for granting of insurance to financial institutions for obligations representing loans, advances of credit, or purchases.

1980—Subsec. (a). Pub. L. 96-399, §308(c)(1), which directed substitution of "manufactured home" for "mobile home" wherever appearing, was executed by substituting "manufactured home" for "mobile home" and "manufactured homes" for "mobile homes" wherever appearing pursuant to Pub. L. 97-35, §339B(c). See 1981 Amendment note above.

Pub. L. 96-399, §301(a), substituted "October 1, 1981" for "October 16, 1980".

Pub. L. 96-372 substituted "October 16, 1980" for "October 1, 1980".

Subsec. (b). Pub. L. 96-399, §308(c)(1), which directed substitution of "manufactured home" for "mobile home" wherever appearing, was executed by substituting "manufactured home" for "mobile home" and "manufactured homes" for "mobile homes" wherever appearing pursuant to Pub. L. 97-35, §339B(c). See 1981 Amendment note above.

Pub. L. 96-399, §308(a), (b), inserted provisions respecting areas of high land costs or high set-up costs and increased amounts with respect to financing purchases of such homes from \$18,000 to \$20,000 (from \$27,000

to \$30,000 where there are two or more modules), where an undeveloped lot is concerned from \$24,000 to \$26,675 (from \$33,000 to \$36,675 where there are two or more modules), where a suitably developed lot is concerned from \$27,500 to \$30,550 (from \$36,500 to \$40,550 where there are two or more modules), and where a principal place of residence of the owner is concerned from \$6,250 to \$6,950 and \$9,375 to \$10,425, respectively, for undeveloped and developed lots.

1979—Subsec. (a). Pub. L. 96–153, §301(a), substituted "October 1, 1980" for "December 1, 1979".

Pub. L. 96–105 substituted "December 1, 1979" for "November 1, 1979".

Pub. L. 96–71 substituted "November 1, 1979" for "October 1, 1979".

Subsec. (b). Pub. L. 96–153, §313(a), substituted: in cl. (1) of first sentence of first unlettered paragraph "\$18,000 (\$27,000 in the case of a mobile home containing" for "\$16,000 (\$24,000 in the case of a mobile home composing", in subpar. (A) of second unlettered paragraph "such an amount not exceeding \$24,000 (\$33,000 in the case of a mobile home composed of two or more modules)" for "an amount not exceeding (i) the maximum amount under clause (1) of the first paragraph of this subsection, and (ii) such amount not to exceed \$5,000 as may be necessary to cover the cost of purchasing the lot", in subpar. (B) of second unlettered paragraph "twenty years and thirty-two days (twenty-five" for "fifteen years and thirty-two days (twenty-three", in subpar. (A) of third unlettered paragraph "such an amount not exceeding \$27,500 (\$36,500 in the case of a mobile home composed of two or more modules)" for "an amount not exceeding (i) the maximum amount under clause (1) of the first paragraph of this subsection, and (ii) such amount not to exceed \$7,500 as may be necessary to cover the cost of purchasing the lot", in subpar. (B) of such unlettered paragraph "twenty years and thirty-two days (twenty-five" for "fifteen years and thirty-two days (twenty-three", in subpar. (A) of the fourth unlettered paragraph "\$6,250 in the case of an undeveloped lot, or (ii) \$9,375" for "\$5,000 in the case of an undeveloped lot, or (ii) \$7,500", and in subpar. (B) of such paragraph "fifteen years and thirty-two days" for "ten years and thirty-two days".

1978—Subsec. (a). Pub. L. 95–557, §301(a), substituted "October 1, 1979" for "November 1, 1978".

Pub. L. 95–406 substituted "November 1, 1978" for "October 1, 1978".

Subsec. (a)(2). Pub. L. 95–619 defined "energy conserving improvements" in terms of purchase and installation of weatherization materials as defined in section 6862(9) of title 42 rather than additions, alterations, or improvements of an existing or new structure, designed to reduce the total energy requirements of a structure in conformity with standards prescribed by the Secretary.

Subsec. (a)(3). Pub. L. 95–619 expanded definition of "solar energy system" to include the utilization of wind energy and added the distinction between active and passive types of energy systems.

Subsec. (b). Pub. L. 95–557, §320, substituted "not in excess of \$37,500 nor an average amount of \$7,500 per family unit and having a maturity not in excess of fifteen years" for "not in excess of \$25,000 nor an average amount of \$5,000 per family unit and having a maturity not in excess of twelve years".

1977—Subsec. (a). Pub. L. 95–128, §301(a), substituted "October 1, 1978" for "October 1, 1977".

Pub. L. 95–80 substituted "October 1, 1977" for "August 1, 1977".

Pub. L. 95–60 substituted "August 1, 1977" for "June 30, 1977".

Subsec. (b). Pub. L. 95–128, §306, substituted: in cl. (1) of first sentence "\$15,000" for "\$10,000" and "\$16,000 (\$24,000" for "\$12,500 (\$20,000", and in cl. (2) "fifteen years" for "twelve years"; inserted at end of proviso in cl. (2) "(twenty-three years and thirty-two days in the case of a mobile home composed of two or more modules)"; substituted in subpar. (B) of the second and third paragraphs "twenty-three years" for "twenty years"; and inserted paragraph at end of subsec. (b) which authorized the Secretary to increase by regulation any dollar amount limitation on mobile homes or mobile home lot loans contained in this subsection by not to exceed 40 per centum.

1975—Subsec. (b). Pub. L. 94–173 substituted "\$12,500 (\$20,000" for "\$10,000 (\$15,000" in cl. 1.

1974—Subsec. (a). Pub. L. 93–449, §4(a)(1), inserted provisions relating to financing preservation of historic structures and defining "historic structures" and "preservation".

Pub. L. 93–383, §§309(b)(1), (2), (c), 316(a), substituted "June 30, 1977" for "October 1, 1974" in provisions preceding initially designated cl. (i), inserted "or mobile homes" after "in connection with existing structures" in initial cl. (i), provisions relating to the financing of the purchase of a lot on which a mobile home is to be placed and payment of reasonable expenses for the appropriate preparation of such lot, and paragraph relating to alteration, repair, and improvement upon or in connection with existing structures with respect to inclusion of fire safety equipment, etc.

Subsec. (b). Pub. L. 93–449, §4(a)(2), added par. relating to loans financing preservation of historic structures.

Pub. L. 93–383, §309(a), (b)(3), (d), in cl. (1) substituted "exceeds \$10,000" for "exceeds \$5,000", in cl. (2) substituted provisions relating to maturity of obligation in excess of twelve years and thirty-two days for provisions relating to maturity of obligation in excess of three years and thirty-two days and authorization of

increase to seven years and thirty-two days under conditions determined by the Secretary and substituted "fifteen years and thirty-two days" for "twelve years and thirty-two days (fifteen years and thirty-two days in the case of a mobile home composed of two or more modules)", in cl. (3) substituted "\$25,000" for "\$15,000", "\$5,000" for "\$2,500", and "twelve years" for "seven years", inserted provision relating to loans to finance fire safety equipment for a nursing home, etc., and inserted paragraphs relating to financing the purchase of a mobile home and an undeveloped lot on which the mobile home is to be placed, financing the purchase of a mobile home and a suitably developed lot on which the mobile home is to be placed, and financing the purchase by the owner of a mobile home of a lot on which the mobile home is to be placed.

1973—Subsec. (a). Pub. L. 93-117 substituted "October 1, 1974" for "October 1, 1973".

Pub. L. 93-85 substituted "October 1, 1973" for "June 30, 1973".

1972—Subsec. (a). Pub. L. 92-503 substituted "June 30, 1973" for "October 1, 1972".

1970—Subsec. (a). Pub. L. 91-609, §101(a), substituted "October 1, 1972" for "January 1, 1971".

Pub. L. 91-525 substituted "January 1, 1971" for "December 1, 1970".

Pub. L. 91-473 substituted "December 1, 1970" for "November 1, 1970".

Pub. L. 91-432 substituted "November 1, 1970" for "October 1, 1970".

Subsec. (b). Pub. L. 91-609, §113(1), (2), in cl. (1) prohibited insurance with respect to obligations representing a loan where loan exceeds "(\$15,000 in the case of a mobile home composed of two or more modules)", and in cl. (2) prescribed maturity date for obligation financing purchase of a mobile home of "fifteen years and thirty-two days in the case of a mobile home composed of two or more modules)".

1969—Subsec. (a). Pub. L. 91-152, §§101(a), 103(c)(1)(4), substituted "October 1, 1970" for "January 1, 1970", designated as "(i)" provisions authorizing and empowering the Secretary to insure institutions financing alterations, repairs, and improvements, etc., inserted provisions designated as "(ii)" dealing with institutions which finance the purchase of mobile homes used by the owner as his principal residence, inserted "(other than mobile homes)" after "(1) with respect to new residential structures", and inserted provisions authorizing and directing the Secretary to prescribe minimum property standards and conformance to local zoning requirements with respect to mobile homes financed by insured institutions.

Pub. L. 91-78 substituted "January 1, 1970" for "October 1, 1969".

Subsec. (b). Pub. L. 91-152, §103(c)(5), (6), in cl. (1) inserted provision excepting obligations financing the purchase of mobile homes in an amount not exceeding \$10,000, and in cl. (2) inserted proviso limiting obligations financing the purchase of mobile homes to a maturity date not in excess of twelve years and thirty-two days.

Subsec. (c)(2). Pub. L. 91-152, §103(c)(7), substituted "real or personal property" for "real property" wherever appearing.

1968—Subsec. (b). Pub. L. 90-448 substituted "\$5,000" for "\$3,500", "seven years" for "five years", "\$5.50 discount" for "\$5 discount", and "\$4.50 discount" for "\$4 discount".

1967—Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b), (c)(1), (2), and (d) to (h).

Subsec. (c)(2). Pub. L. 90-19, §1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsec. (a). Pub. L. 89-117, §202(a), substituted "October 1, 1969" for "October 1, 1965".

Subsec. (f). Pub. L. 89-117, §1108(a), struck out provisions directing the deposit of premium charges and fees and property held with respect to insurance into a United States Treasury account to be used to defray Federal Housing Administration expenses and to pay insurance claims and making allowance for transfer and merger of funds and disposition of surplus funds.

1964—Subsec. (g). Pub. L. 88-560 struck out "after December 31, 1957," after "Any payment for loss made".

1961—Subsec. (a). Pub. L. 87-70 substituted "October 1, 1965" for "October 1, 1961".

1960—Subsec. (a). Pub. L. 86-788 substituted "October 1, 1961" for "October 1, 1960", and struck out provisions limiting the aggregate amount of all loans, advances of credit, and obligations purchased, with respect to which insurance could be granted under the section, at \$1,750,000,000.

1959—Subsec. (a). Pub. L. 86-372 substituted "October 1, 1960" for "September 30, 1959".

1957—Subsecs. (g), (h). Pub. L. 85-104 added subsec. (g) and redesignated former subsec. (g) as (h).

1956—Subsec. (a). Act Aug. 7, 1956, §101(a), substituted "September 30, 1959" for "September 30, 1956" and proviso of second par. authorizing waiver of clause (iii) in discretion of Commissioner with respect to occupancy of completion of new residential structures, for former proviso providing that the clause (iii) occupancy requirement should not be mandatory with respect to new residences damaged by a major disaster.

Act Feb. 10, 1956, removed the six months' occupancy requirement with respect to new residences damaged by a major disaster.

Subsec. (b). Act Aug. 7, 1956, §101(b), (c), increased amount of loans which can be insured to \$3,500 in lieu of former provisions providing \$2,500 for improvement of existing structures and \$3,000 for construction of new structures, increased maximum term of loans which can be insured from 3 years and thirty-two days to 5 years and thirty-two days, inserted proviso limiting interest and premium charges equivalent to \$5 discount per \$100 for proceeds of loan up to \$2,500 and \$4 discount per \$100 for proceeds in excess of \$2,500, and substituted "\$15,000 nor an average amount of \$2,500 per family unit" for "\$10,000".

1955—Subsec. (a). Act Aug. 11, 1955, substituted "September 30, 1956" for "August 1, 1955".

Act June 30, 1955, substituted "August 1, 1955" for "July 1, 1955".

1954—Subsec. (a). Act Aug. 2, 1954, §101(a), in second sentence, inserted proviso restricting claims for losses on individual loans, advances of credit, and purchases to 90 per centum of loss in each such case, and added second par.

Subsec. (f). Act Aug. 2, 1954, §102, inserted last two sentences with respect to termination of the Title I Claims Account as of August 1, 1954.

1953—Subsec. (a). Act Mar. 10, 1953, increased the Subchapter I loan insurance authorization from \$1,250,000,000 to \$1,750,000,000.

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

Subsec. (a). Act Apr. 20, 1950, §101(a)(1), (2), substituted "July 1, 1955" for "Mar. 1, 1950", and limited the total amount of outstanding loans with respect to which insurance is granted under this section to \$1,250,000,000 outstanding at any one time.

Subsec. (b)(1). Act Apr. 20, 1950, §101(a)(3), substituted "\$3,000" for "\$4,500".

Subsec. (b)(2). Act Apr. 20, 1950, §101(a)(4), struck out "residential or" before "agricultural purposes".

Subsec. (f). Act Apr. 20, 1950, §101(a)(5), substituted "section" for "subchapter" wherever appearing.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted "March 1, 1950" for "November 1, 1949" in first sentence and "\$225,000,000" for "\$200,000,000" in last sentence.

Act Aug. 30, 1949, substituted "November 1, 1949" for "September 1, 1949".

Act July 15, 1949, substituted "September 1, 1949" for "July 1, 1949".

1948—Subsec. (a). Act Aug. 10, 1948, §101(s)(1), substituted "\$200,000,000" for "\$165,000,000".

Subsec. (b). Act Aug. 10, 1948, §101(s)(2)–(4), substituted "\$4,500" for "\$3,000", struck out first proviso and inserted in lieu a new proviso, and struck out last sentence.

1947—Subsec. (a). Act June 26, 1947, extended provisions of section for two years from 1947 to 1949.

1943—Subsec. (a). Act Oct. 15, 1943, substituted "1947" for "1944" in first sentence.

Act Mar. 23, 1943, substituted "1944" for "1943" in first sentence.

Subsec. (f). Act Oct. 15, 1943, §4, struck out "three-fourths of" before "1 per centum" in first sentence.

1942—Subsec. (b). Act May 26, 1942, amended provisions generally.

1941—Subsec. (a). Act June 28, 1941, §§1, 2, substituted "July 1, 1943" for "July 1, 1941" in first sentence; inserted "and other sources" after "premiums"; and substituted "\$165,000,000" for "\$100,000,000".

Subsec. (b). Act June 28, 1941, §3, substituted "made for the purpose of financing the alteration, repair, or improvement of existing structures exceeds \$2,500 (or in the case of the alteration, repair, or improvement of an existing dwelling designed or to be designed for more than one family, exceeds \$5,000), or for the purpose of financing the construction of new structures exceeds \$3,000" for "exceeds \$2,500"; substituted in cl. (2) "where the loan, advance of credit, or purchase does not exceed \$2,500, or has a maturity in excess of five years and thirty-two days, where the loan, advance of credit, or purchase exceeds \$2,500 but does not exceed \$5,000; except that such maturity limitations shall not apply if" for "unless"; and inserted proviso at end.

Subsec. (c). Act June 28, 1941, §4, designated existing provisions as par. (1), inserted "personal" before "property", and added par. (2).

Subsec. (f). Act June 28, 1941, §5, inserted "and all moneys collected by the Administrator as fees of any kind in connection with the granting of insurance as provided in this section, and all moneys derived from the sale, collection, disposition, or compromise of any evidence of debt, contract, claim, property, or security assigned to or held by the Administrator as provided in subsection (c) of this section with respect to insurance collected on and after July 1, 1939" in last sentence.

1939—Subsecs. (a), (b). Act June 3, 1939, §1, amended provisions generally.

Subsecs. (f), (g). Act June 3, 1939, §2, added subsecs. (f) and (g).

1938—Subsecs. (a), (b). Act Feb. 3, 1938, amended provisions generally.

1937—Subsec. (a). Act Apr. 22, 1937, in third sentence, limited the total liability for all insurance under this section and former section 1026a of this title, not to exceed in the aggregate \$100,000,000.

1936—Subsecs. (a) to (d). Act Apr. 3, 1936, amended provisions generally.

Subsec. (e). Act Apr. 17, 1936, added subsec. (e).

1935—Subsec. (a). Act Aug. 23, 1935, substituted "and the purchase and installation of equipment and

machinery on real property" for "including the installation of equipment and machinery" in first sentence.

Act May 28, 1935, substituted "April" for "January" in first sentence and inserted "including the installation of equipment and machinery", and amended generally the last sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–289, div. B, title I, §2144(b), July 30, 2008, 122 Stat. 2844, provided that: "The amendment made by subsection (a) [amending this section] shall only apply to loans that are registered or endorsed for insurance after the date of the enactment of this title [July 30, 2008]."

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–625, title III, §340(b)(2), Nov. 28, 1990, 104 Stat. 4147, provided that: "The amendments made by this subsection [amending this section] shall apply to loans executed on or after June 1, 1991."

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101–235, title I, §134(b), Dec. 15, 1989, 103 Stat. 2028, provided that: "The amendment made by subsection (a) [amending this section] shall apply only with respect to—

"(1) violations referred to in the amendment that occur on or after the date of the enactment of this Act [Dec. 15, 1989]; and

"(2) in the case of a continuing violation (as determined by the Secretary of Housing and Urban Development), any portion of a violation referred to in the amendment that occurs on or after such date."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 2, 1954, ch. 649, title I, §101(b), 68 Stat. 590, provided that, as used in the amendments made by such act (see 1954 Amendments note above), the words "effective date of the Housing Act of 1954 [Act Aug. 2, 1954]" mean the first day after the first full calendar month following the date of approval of such act (Aug. 2, 1954).

EFFECTIVE DATE OF 1950 AMENDMENT

Act Apr. 20, 1950, ch. 94, title I, §101(b), 64 Stat. 48, provided that "This section [amending this section] shall take effect as of March 1, 1950."

EFFECTIVE DATE OF 1949 AMENDMENT

Act July 15, 1949, ch. 338, title II, §202, 63 Stat. 421, provided that: "This title [amending this section and sections 1709 and 1738 of this title] shall take effect as of June 30, 1949."

EFFECTIVE DATE OF 1939 AMENDMENT

Act June 3, 1939, ch. 175, §4, 53 Stat. 805, provided that: "The provisions of sections 1, 2, and 3 of this Act [amending this section and repealing section 1706a of this title] shall take effect on July 1, 1939."

EFFECTIVE DATE OF 1936 AMENDMENT

Act Apr. 3, 1936, ch. 165, §1, 49 Stat. 1187, provided that the amendment made by that section is effective Apr. 1, 1936.

INCONSISTENT LAWS

Act Aug. 2, 1954, ch. 649, title VIII, §818, 68 Stat. 648, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [see 1954 Short Title note set out under section 1701 of this title], the provisions of this Act shall be controlling."

POWERS AND AUTHORITIES OF ACT AUGUST 2, 1954 AS CUMULATIVE; SEPARABILITY

Act Aug. 2, 1954, ch. 649, title VIII, §819, 68 Stat. 648, provided that: "Except as may be otherwise expressly provided in this Act [see Short Title of 1954 Amendments note set out under section 1701 of this title], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the

intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any persons or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances."

PURPOSES

Pub. L. 110-289, div. B, title I, §2142, July 30, 2008, 122 Stat. 2844, provided that: "The purposes of this subtitle [subtitle B (§§2141-2150) of title I of div. B of Pub. L. 110-289, see Short Title of 2008 Amendment note set out under section 1701 of this title] are—

"(1) to provide adequate funding for FHA-insured manufactured housing loans for low- and moderate-income homebuyers during all economic cycles in the manufactured housing industry;

"(2) to modernize the FHA title I insurance program for manufactured housing loans to enhance participation by Ginnie Mae and the private lending markets; and

"(3) to adjust the low loan limits for title I manufactured home loan insurance to reflect the increase in costs since such limits were last increased in 1992 and to index the limits to inflation."

TIMING

Pub. L. 110-289, div. B, title I, §2148(b), July 30, 2008, 122 Stat. 2847, provided that: "Not later than the expiration of the 6-month period beginning on the date of the enactment of this title [July 30, 2008], the Secretary of Housing and Urban Development shall revise the existing underwriting criteria for the program referred to in paragraph (10) of section 2(b) of the National Housing Act [12 U.S.C. 1703(b)(10)] (as added by subsection (a) of this section) in accordance with the requirements of such paragraph."

"MOBILE HOME" AND "MANUFACTURED HOME" TO INCLUDE "MOBILE HOMES" AND "MANUFACTURED HOMES"

Pub. L. 97-35, title III, §339B(c), Aug. 13, 1981, 95 Stat. 417, provided that: "For purposes of paragraphs (1) and (4) of section 308(c) of the Housing and Community Development Act of 1980 [amending sections 1703 and 1713 of this title, and section 5401 et seq. of Title 42, The Public Health and Welfare], the term 'mobile home' and the term 'manufactured home' shall be deemed to include the term 'mobile homes' and the term 'manufactured homes', respectively."

DATA COLLECTION AND REPORTING PROCEDURES RESPECTING MEAN AND MEDIAN SALES PRICES ON MANUFACTURED HOMES AND LOTS; DEVELOPMENT, CONTENTS, ETC.

Pub. L. 96-399, title III, §308(e), Oct. 8, 1980, 94 Stat. 1641, provided that: "Not later than January 1, 1982, the Secretary of Housing and Urban Development shall develop a procedure for collecting and regularly reporting data on the mean and median sales price for new manufactured homes, and, where available, data on the mean and median sales price for manufactured home lots and combination new manufactured home and lot packages. Such reports shall contain, to the maximum extent feasible, sales price information for the Nation, each census region, each State on an annual basis, and selected standard metropolitan statistical areas having sufficient activity on an annual basis."

REPORT RESPECTING OWNERSHIP OF MOBILE HOME SITES

Pub. L. 96-153, title III, §321, Dec. 21, 1979, 93 Stat. 1119, required the Secretary of Housing and Urban Development to submit a report to Congress by Mar. 31, 1980, containing recommendations for programs and policies which encourage individual ownership of mobile home lots through several methods.

REPAYMENT TO TREASURY ON CAPITAL ACCOUNT OF SUBCHAPTER I INSURANCE FUND

Act Mar. 10, 1953, ch. 5, §2, 67 Stat. 5, directed the Federal Housing Commissioner to pay out of the capital account of the Title I Insurance Fund to the Secretary of the Treasury, prior to June 30, 1954, the sum of \$8,333,313.65 either in one lump sum or in installments, except that the first payment was to be made on July 1, 1953.

¹ So in original. The word "and" probably should not appear.

² So in original. The period probably should be "; and".

³ So in original. The period probably should be a semicolon.

⁴ [See References in Text note below.](#)

§1704. Repealed. Apr. 3, 1936, ch. 165, §2, 49 Stat. 1188

Section, act June 27, 1934, ch. 847, title I, §3, 48 Stat. 1247, related to loans to financial institutions.

§1705. Allocation of funds

For the purposes of carrying out the provisions of this subchapter and subchapters II and III, the President, in his discretion, is authorized to provide such funds or any portion thereof by allotment to the Secretary from any funds that are available, or may hereafter be made available, to the President for emergency purposes.

(June 27, 1934, ch. 847, title I, §4, 48 Stat. 1247; June 30, 1947, ch. 166, title II, §206(1), 61 Stat. 208; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, §204(a)(1), Oct. 17, 1984, 98 Stat. 2231.)

EDITORIAL NOTES

AMENDMENTS

1984—Pub. L. 98-479 substituted "such" for "suuch".

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1950—Act Apr. 20, 1950, §122, substituted "Commissioner" for "Administrator".

1947—Act June 30, 1947, struck out references to Reconstruction Finance Corporation.

§1706. Repealed. Aug. 2, 1954, ch. 649, title VIII, §802(b), 68 Stat. 642

Section, acts June 27, 1934, ch. 847, title I, §5, 48 Stat. 1247; Mar. 28, 1941, ch. 31, §3, 55 Stat. 61; Aug. 10, 1948, ch. 832, title IV, §402 (part), 62 Stat. 1283; Aug. 8, 1949, ch. 403, §2 (part), 63 Stat. 576; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title II, §202 (part), 65 Stat. 303, related to reports to Congress. See section 1701o of this title.

§1706a. Repealed. June 3, 1939, ch. 175, §3, 53 Stat. 805

Section, act June 27, 1934, ch. 847, title I, §6, as added act Apr. 17, 1936, ch. 234, §3, 49 Stat. 1233; amended act Apr. 22, 1937, ch. 121, §1, 50 Stat. 70, related to insurance of financial institutions financing rehabilitation of property damaged by fires, floods, storms, etc.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective July 1, 1939, see section 4 of act June 3, 1939, set out as an Effective Date of 1939 Amendment note under section 1703 of this title.

§1706b. Taxation of real property held by Secretary

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary in connection with the payment of insurance heretofore or hereafter granted under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title I, §7, as added June 28, 1941, ch. 261, §7, 55 Stat. 365; amended Apr.

20, 1950, ch. 94 title I, §122, 64 Stat. 59; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

EDITORIAL NOTES

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator".

§1706c. Insurance of mortgages

(a) Supplemental system; limitation on amount; termination of authority

To assist in providing adequate housing for families of low and moderate income, particularly in suburban and outlying areas, this section is designed to supplement systems of mortgage insurance under other provisions of this chapter by making feasible the insurance of mortgages covering properties in areas where it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas. The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (as defined in section 1707 of this title) offered to him 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 section and outstanding at any one time shall not exceed \$100,000,000, except that with the approval of the President such aggregate amount may be increased at any time or times by additional amounts aggregating not more than \$150,000,000 upon a determination by the President, taking into account the general effect of any such increase upon conditions in the building industry and upon the national economy, that such increase is in the public interest: *And provided further*, That no mortgage shall be insured under this section after August 2, 1954, except pursuant to a commitment to insure issued on or before such date.

(b) Eligibility conditions

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 \$5,700, and not to exceed 95 per centum of the appraised value, as of the date the mortgage is accepted for insurance, of a property upon which there is located a dwelling designed principally for a single-family residence, and which is approved for mortgage insurance prior to the beginning of construction: *Provided*, That the mortgagor shall be the owner and occupant of the property at the time of insurance and shall have paid on account of the property at least 5 per centum of the Secretary's estimate of the cost of acquisition in cash or its equivalent, or shall be the builder constructing the dwelling, in which case the principal obligation shall not exceed 85 per centum of the appraised value of the property or \$5,100: *Provided further*, That the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas: *And provided further*, That, where the mortgagor is the owner and occupant of the property and establishes (to the satisfaction of the Secretary) that his home, which he occupied as an owner or as a tenant, was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm or other catastrophe, which the President, pursuant to sections 5122(2) and 5170 of title 42, has determined to be a major disaster, such maximum dollar limitation may be increased by the Secretary from \$5,700 to \$7,000, and the percentage limitation may be increased by the Secretary from 95 per centum to 100 per centum of the appraised value;

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

(4) contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary;

(5) bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed 5 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 hereinafter provided and to the service charge, if any) to amortization of the principal of the mortgage; and

(7) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, service charges, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, and other matters as the Secretary may in his discretion prescribe.

(c) Premium charge

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this section, 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 1 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 section 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 or charges so required, that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event that the principal obligation of any mortgage accepted for insurance under this section 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 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.

(d) Release of mortgagor

The Secretary may, at any time under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(e) Conclusiveness of insurance contract as to eligibility

Any contract of insurance executed by the Secretary under this section 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.

(f) Rights of mortgagee upon foreclosure

In any case in which the mortgagee under a mortgage insured under this section shall have foreclosed and taken possession of the mortgaged property in accordance with the 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 benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 203(b)(2)(D) of this Act.

(g) Applicability of other sections

Subsections (c), (d), (e), (f), (g), (h), ¹(j), and (k) ¹of section 1710 of this title shall be applicable to mortgages insured under this section except that all references therein to the Mutual Mortgage Insurance Funds or the Fund shall be construed to refer to the General Insurance Fund, and all references therein to section 1709 of this title shall be construed to refer to this section: *Provided*, That debentures issued in connection with mortgages insured under this section shall have the same tax exemption as debentures issued in connection with mortgages insured under section 1709 of this title.

(June 27, 1934, ch. 847, title I, §8, as added Apr. 20, 1950, ch. 94, title I, §102, 64 Stat. 48; amended Aug. 3, 1951, ch. 293, §1, 65 Stat. 173; June 30, 1953, ch. 170, §2, 67 Stat. 121; Aug. 2, 1954, ch. 649, title I, §103, 68 Stat. 591; Pub. L. 86–372, title I, §116(a), Sept. 23, 1959, 73 Stat. 664; Pub. L. 89–117, title XI, §1108(b), Aug. 10, 1965, 79 Stat. 504; Pub. L. 90–19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 91–606, title III, §301(b), Dec. 31, 1970, 84 Stat. 1758; Pub. L. 93–288, title VII, §702(b), formerly title VI, §602(b), May 22, 1974, 88 Stat. 163, renumbered title VII, §702(b), Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 100–707, title I, §109(e)(1), Nov. 23, 1988, 102 Stat. 4708.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in subsec. (a), 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.

Section 203(b)(2)(D) of this Act, referred to in subsec. (f), which was formerly classified to section 1709(b)(2)(D) of this title, was repealed by act Aug. 2, 1954, ch. 649, title I, §104, 68 Stat. 591.

Subsection (h) of section 1710 of this title, referred to in subsec. (g), was redesignated subsec. (i) by Pub. L. 105–276, title VI, §602(1), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (g), was repealed by Pub. L. 105–276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

The General Insurance Fund, referred to in subsec. (g), was established by section 1735c of this title.

AMENDMENTS

1988—Subsec. (b)(2). Pub. L. 100–707 substituted "5170 of title 42" for "5141 of title 42".

1974—Subsec. (b)(2). Pub. L. 93–288 substituted "sections 5122(2) and 5141 of title 42" for "section 4402(1) of title 42".

1970—Subsec. (b)(2). Pub. L. 91–606 substituted reference to section "4402(1)" for "1855a(a)" of title 42.

1967—Pub. L. 90–19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subssecs. (a), (b)(1) to (4), (6), (7), and (c) to (f).

Subsec. (b)(2). Pub. L. 90–19, §1(a)(4), substituted "Secretary's" for "Commissioner's".

1965—Subsec. (g). Pub. L. 89–117, §1108(b)(1), substituted "General Insurance Fund" for "Title I Housing Insurance Fund".

Subsec. (h). Pub. L. 89–117, §1108(b)(2), repealed subsec. (h) which created the Title I Housing Insurance Fund.

Subsec. (i). Pub. L. 89–117, §1108(b)(2), repealed subsec. (i) which dealt with the disposition of surplus funds of the Title I Housing Insurance Fund, purchase of debentures, and credits and charges to fund.

1959—Subsec. (g). Pub. L. 86–372 inserted reference to subssecs. (j) and (k) of section 1710 of this title.

1954—Subsec. (a). Act Aug. 2, 1954, inserted proviso prohibiting the insurance of mortgages under this section after Aug. 2, 1954, except pursuant to commitments to insure issued on or before such date.

1953—Subsec. (b)(2). Act June 30, 1953, raised the maximum mortgage, where the mortgagor is the owner-occupant, from \$4,750, not exceeding 95 per centum of value, to \$5,700, not exceeding 95 per centum of value; and raised the maximum mortgage, where the builder is the mortgagor, from \$4,250, not exceeding 85 per centum of value, to \$5,100, not exceeding 85 per centum of value.

1951—Subsec. (b)(2). Act Aug. 3, 1951, permitted more liberal mortgage insurance for those building low-cost homes to replace their homes lost in a flood or other major disaster.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 of Title 26, Internal Revenue Code.

REPAYMENT TO TREASURY ON CAPITAL ACCOUNT OF TITLE I INSURANCE FUND

Act Mar. 10, 1953, ch. 5, §2, 67 Stat. 5, directed the Federal Housing Commissioner to pay out of the capital account of the Title I Insurance Fund to the Secretary of the Treasury, prior to June 30, 1954, the sum of \$8,333,313.65 either in one lump sum or in installments, except that the first payment was to be made on July 1, 1953.

¹ [*See References in Text note below.*](#)

§1706d. Applicability

The provisions of sections 1703 and 1706c of this title shall be applicable in the several States and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

(June 27, 1934, ch. 847, title I, §9, as added July 14, 1952, ch. 723, §10(a)(1), 66 Stat. 603; amended 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. 91–152, title IV, §403(c)(3), Dec. 24, 1969, 83 Stat. 395; Pub. L. 98–181, title I [title IV, §407(a)], Nov. 30, 1983, 97 Stat. 1211; Pub. L. 100–242, title IV, §429(b), Feb. 5, 1988, 101 Stat. 1918.)

EDITORIAL NOTES

AMENDMENTS

1988—Pub. L. 100–242 inserted "Applicability" as section catchline.

1983—Pub. L. 98–181 inserted "American Samoa," after "Pacific Islands,".

1969—Pub. L. 91–152 inserted "the Trust Territory of the Pacific Islands," after "Guam,".

1960—Pub. L. 86–624 struck out "Hawaii," before "Puerto Rico".

1959—Pub. L. 86–70 struck out "Alaska," before "Hawaii".

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§1706e. Repealed. Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128

Section, Pub. L. 93–383, title VIII, §810, Aug. 22, 1974, 88 Stat. 734; Pub. L. 94–375, §20, Aug. 3, 1976, 90 Stat. 1077; Pub. L. 95–24, title I, §103, Apr. 30, 1977, 91 Stat. 55; Pub. L. 95–128, title II, §203, Oct. 12, 1977, 91 Stat. 1129; Pub. L. 95–557, title I, §102, Oct. 31, 1978, 92 Stat. 2083; Pub. L. 96–153, title I, §106, Dec. 21, 1979, 93 Stat. 1104; Pub. L. 96–399, title I, §116, Oct. 8, 1980, 94 Stat. 1623; Pub. L. 97–35, title III,

§312, Aug. 13, 1981, 95 Stat. 397; Pub. L. 98–181, title I [title I, §122], Nov. 30, 1983, 97 Stat. 1170; Pub. L. 98–479, title I, §101(a)(14), Oct. 17, 1984, 98 Stat. 2220; Pub. L. 100–242, title V, §517(a), (c)–(e), Feb. 5, 1988, 101 Stat. 1936, 1937; Pub. L. 101–73, title V, §501(e)(1), Aug. 9, 1989, 103 Stat. 394; Pub. L. 101–235, title I, §126(a), (b), Dec. 15, 1989, 103 Stat. 2025; Pub. L. 101–625, title IX, §914(a), (b), Nov. 28, 1990, 104 Stat. 4394, 4395, related to urban homestead program of unit of general local government, State, or designated public agency.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1991, and except with respect to projects and programs for which binding commitments have been entered into prior to Oct. 1, 1991, no new grants or loans to be made after Oct. 1, 1991, under this section, see section 12839(a)(5), (b)(1) of Title 42, The Public Health and Welfare.

§1706f. Prohibition against kickbacks and unearned fees

(a) In general

Except as provided in subsection (b), the provisions of sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall apply to each sale of a manufactured home financed with an FHA-insured loan or extension of credit, as well as to services rendered in connection with such transactions.

(b) Authority of the Secretary

The Secretary is authorized to determine the manner and extent to which the provisions of sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title may reasonably be applied to the transactions described in subsection (a), and to grant such exemptions as may be necessary to achieve the purposes of this section.

(c) Definitions

For purposes of this section—

(1) the term "federally related mortgage loan" as used in sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall include an FHA-insured loan or extension of credit made to a borrower for the purpose of purchasing a manufactured home that the borrower intends to occupy as a personal residence; and

(2) the term "real estate settlement service" as used in sections 2602, 2607, 2614, 2615, 2616, and 2617 of this title shall include any service rendered in connection with a loan or extension of credit insured by the Federal Housing Administration for the purchase of a manufactured home.

(d) Unfair and deceptive practices

In connection with the purchase of a manufactured home financed with a loan or extension of credit insured by the Federal Housing Administration under this subchapter, the Secretary shall prohibit acts or practices in connection with loans or extensions of credit that the Secretary finds to be unfair, deceptive, or otherwise not in the interests of the borrower.

(June 27, 1934, ch. 847, title I, §10, as added Pub. L. 110–289, div. B, title I, §2149, July 30, 2008, 122 Stat. 2847.)

SUBCHAPTER II—MORTGAGE INSURANCE

§1707. Definitions

As used in section 1709 of this title—

(a) The term "mortgage" means (A) a first mortgage on real estate, in fee simple, (B) a first

mortgage on a leasehold on real estate (i) under a lease for not less than ninety-nine years which is renewable, or (ii) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project; 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, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Virgin Islands.

(e) The term "family member" means, with respect to a mortgagor under such section, a child, parent, or grandparent of the mortgagor (or the mortgagor's spouse). In determining whether any of the relationships referred to in the preceding sentence exist, a legally adopted son or daughter of an individual (and a child who is a member of an individual's household, if placed with such individual by an authorized placement agency for legal adoption by such individual), and a foster child of an individual, shall be treated as a child of such individual by blood.

(f) The term "child" means, with respect to a mortgagor under such section, a son, stepson, daughter, or stepdaughter of such mortgagor.

(g) The term "real estate" means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this subchapter, that such land or property be treated as real estate for purposes of State taxation.

(June 27, 1934, ch. 847, title II, §201, 48 Stat. 1247; Feb. 3, 1938, ch. 13, §3, 52 Stat. 9; Mar. 28, 1941, ch. 31, §4(a), 55 Stat. 61; 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; Pub. L. 91-152, title IV, §403(c)(1), Dec. 24, 1969, 83 Stat. 395; Pub. L. 96-399, title III, §306, Oct. 8, 1980, 94 Stat. 1640; Pub. L. 98-181, title I [title IV, §407(b)], Nov. 30, 1983, 97 Stat. 1211; Pub. L. 104-204, title IV, §425(b), Sept. 26, 1996, 110 Stat. 2928; Pub. L. 110-289, div. B, title I, §§2117(b), (c), 2120(c), July 30, 2008, 122 Stat. 2833, 2835.)

EDITORIAL NOTES

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, §2117(b), inserted "(A)" before "a first mortgage", substituted "(B) a first mortgage on a leasehold on real estate (i) for "or on a leasehold (1)" and ", or (ii)" for "or (2)", and inserted ", or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas and facilities which serve the project" before semicolon.

Subsec. (d). Pub. L. 110-289, §2120(c), substituted "the Commonwealth of the Northern Mariana Islands" for "the Trust Territory of the Pacific Islands".

Subsec. (g). Pub. L. 110-289, §2117(c), added subsec. (g).

1996—Subsecs. (e), (f). Pub. L. 104-204 added subsecs. (e) and (f).

1983—Subsec. (d). Pub. L. 98-181 inserted "American Samoa," after "Pacific Islands,".

1980—Subsec. (a). Pub. L. 96-399 substituted "ten years to run beyond the maturity date of the mortgage" for "fifty years to run from the date the mortgage was executed".

1969—Subsec. (d). Pub. L. 91–152 inserted "the Trust Territory of the Pacific Islands" after "Guam".

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".

1941—Subsec. (a). Act Mar. 28, 1941, §4(a)(1), struck out "district, or Territory".

Subsec. (d). Act Mar. 28, 1941, §4(a)(2), added subsec. (d).

1938—Subsec. (a)(2). Act Feb. 3, 1938, struck out "upon which there is located a dwelling for not more than four families which is used in whole or in part for residential purposes, irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling" after "executed".

Subsec. (c). Act Feb. 3, 1938, added subsec. (c).

STATUTORY NOTES AND RELATED SUBSIDIARIES

IMPROVEMENT OF FINANCING FOR MULTIFAMILY HOUSING

Pub. L. 102–550, title V, subtitle C, Oct. 28, 1992, 106 Stat. 3794, which related to improvement of financing for multifamily housing and was formerly set out as a note under this section, was transferred or omitted as follows:

Section 541 of Pub. L. 102–550 was transferred and is set out as a note under section 1701 of this title;

Section 542 of Pub. L. 102–550 was transferred to section 1715z–22 of this title;

Section 543 of Pub. L. 102–550, as amended by Pub. L. 111–203, title III, §371, July 21, 2010, 124 Stat. 1565, was omitted from the Code;

Section 544 of Pub. L. 102–550 was transferred to section 1715z–22a of this title.

§1708. Federal Housing Administration operations

(a) Mutual Mortgage Insurance Fund

(1) Establishment

Subject to the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], there is hereby created a Mutual Mortgage Insurance Fund (in this subchapter referred to as the "Fund"), which shall be used by the Secretary to carry out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

(2) Limit on loan guarantees

The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

(3) Fiduciary responsibility

The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

(4) Annual independent actuarial study

The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information

and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

(5) Quarterly reports

During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

- (A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;
- (B) the types of loans insured, categorized by risk;
- (C) any significant changes between actual and projected claim and prepayment activity;
- (D) projected versus actual loss rates; and
- (E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following July 30, 2008, whichever is later.

(6) Adjustment of premiums

If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this subchapter as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

(7) Operational goals

The operational goals for the Fund are—

- (A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after July 30, 2008; and
- (B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this subchapter is designed to serve.

(b) Advisory Board

There is created a Federal Housing Administration Advisory Board ("Board") that shall review operation of the Federal Housing Administration, including the activities of the Mortgagee Review Board, and shall provide advice to the Federal Housing Commissioner with respect to the formulation of general policies of the Federal Housing Administration and such other matters as the Federal Housing Commissioner may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of chapter 10 of title 5.

(1) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in housing and mortgage lending of whom—

- (A) 9 shall be appointed by the Secretary;
- (B) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and
- (C) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Membership on the Advisory Board shall include—

- (A) not less than 4 persons with distinguished private sector careers in housing finance, lending, management, development or insurance;

(B) not less than 4 persons with outstanding reputations as licensed actuaries, experts in actuarial science, or economics related to housing;

(C) not less than 4 persons with backgrounds of leadership in representing the interests of housing consumers;

(D) not less than 1 person with significant experience and a distinguished reputation for work in the enforcement, advocacy, or development of fair housing or civil rights legislation; and

(E) not less than 1 person with a background of leadership representing rural housing interests.

(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation or every region of the country.

(4) Not more than 8 members of the Advisory Board may be from any one political party.

(5) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 3537b(c) ¹ of title 42 or employed a person for purposes that required such person to so register.

(6) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years. Their successors and all other appointees shall have terms of 3 years.

(7) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Federal Housing Commissioner. The Commissioner shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Federal Housing Administration.

(8) The Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities of the Federal Housing Administration, including the soundness of underwriting procedures, the adequacy of information systems, the appropriateness of staffing patterns, the effectiveness of the Mortgagee Review Board, and other matters related to the Federal Housing Administration's ability to serve the nation's homebuyers and renters. Such report shall contain the Board's recommendations for improvement and include any minority views.

(9) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Federal Housing Commissioner or a majority of the members. The Board shall elect a chair, vice-chair and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

(10) Subject to the provisions of section 1006 of title 5, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.

(11) The Board shall terminate on January 1, 1995.

(c) Mortgagee Review Board

(1) Establishment

There is established within the Federal Housing Administration the Mortgagee Review Board ("Board"). The Board is empowered to initiate the issuance of a letter of reprimand, the probation, suspension or withdrawal of any mortgagee found to be engaging in activities in violation of Federal Housing Administration requirements or the nondiscrimination requirements of the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or Executive Order 11063.

(2) Composition

The Board shall consist of—

(A) the Assistant Secretary of Housing/Federal Housing Commissioner;

(B) the General Counsel of the Department;

(C) the President of the Government National Mortgage Association;

(D) the Assistant Secretary for Administration;

(E) the Assistant Secretary for Fair Housing Enforcement (in cases involving violations of

nondiscrimination requirements); and

(F) the Chief Financial Officer of the Department or their designees.

(3) Actions authorized

When any report, audit, investigation, or other information before the Board discloses that a basis for an administrative action against a mortgagee exists, the Board shall take one of the following administrative actions:

(A) Letter of reprimand

The Board may issue a letter of reprimand only once to a mortgagee without taking action under subparagraphs ² (B), (C), or (D) of this section. A letter of reprimand shall explain the violation and describe actions the mortgagee should take to correct the violation.

(B) Probation

The Board may place a mortgagee on probation for a specified period of time not to exceed 6 months for the purpose of evaluating the mortgagee's compliance with Federal Housing Administration requirements, the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], Executive Order 11063, or orders of the Board. During the probation period, the Board may impose reasonable additional requirements on a mortgagee including supervision of the mortgagee's activities by the Federal Housing Administration, periodic reporting to the Federal Housing Commissioner, or submission to Federal Housing Administration audits of internal financial statements, audits by an independent certified public accountant or other audits.

(C) Suspension

The Board may issue an order temporarily suspending a mortgagee's approval for doing business with the Federal Housing Administration if (i) there exists adequate evidence of a violation or violations and (ii) continuation of the mortgagee's approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public. A suspension shall last for not less than 6 months, and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended. During the period of suspension, the Federal Housing Administration shall not commit to insure any mortgage originated by the suspended mortgagee.

(D) Withdrawal

The Board may issue an order withdrawing a mortgagee if the Board has made a determination of a serious violation or repeated violations by the mortgagee. The Board shall determine the terms of such withdrawal, but the term shall be not less than 1 year. Where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

(E) Settlements

The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an action. Agreements may include provisions such as—

- (i) cessation of any violation;
- (ii) correction or mitigation of the effects of any violation;
- (iii) repayment of any sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by the Federal Housing Administration;
- (iv) actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party;
- (v) indemnification of the Federal Housing Administration for mortgage insurance claims

on mortgages originated in violation of Federal Housing Administration requirements;

(vi) modification of the length of the penalty imposed; or

(vii) implementation of other corrective measures acceptable to the Secretary.

Material failure to comply with the provisions of a settlement agreement shall be sufficient cause for suspension or withdrawal.

(4) Notice and hearing

(A) The Board shall issue a written notice to the mortgagee at least 30 days prior to taking any action against the mortgagee under subparagraph (B), (C), or (D) of paragraph (3). The notice shall state the specific violations which have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days. If the mortgagee fails to reply during such period, the Board may make a determination without considering any comments of the mortgagee.

(B) If the Board takes action against a mortgagee under subparagraph (B), (C), or (D) of paragraph (3), the Board shall promptly notify the mortgagee in writing of the nature, duration, and specific reasons for the action. If, within 30 days of receiving the notice, the mortgagee requests a hearing, the Board shall hold a hearing on the record regarding the violations within 30 days of receiving the request. If a mortgagee fails to request a hearing within such 30-day period, the right of the mortgagee to a hearing shall be considered waived.

(C) In any case in which the notification of the Board does not result in a hearing (including any settlement by the Board and a mortgagee), any information regarding the nature of the violation and the resolution of the action shall be available to the public.

(5) Publication

The Secretary shall establish and publish in the Federal Register a description of and the cause for administrative action against a mortgagee.

(6) Cease-and-desist orders

(A) Whenever the Secretary, upon request of the Mortgage Review Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate, a law, rule or regulation or any condition imposed in writing by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Such order shall include a notice of charges in respect thereof and shall become effective upon service to the mortgagee. Such order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board with respect to such violation, unless such order is set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph. The Board shall provide the mortgagee an opportunity for a hearing on the record, as soon as practicable but not later than 20 days after the temporary cease-and-desist order has been served.

(B) Within 10 days after the mortgagee has been served with a temporary cease-and-desist order, the mortgagee may apply to the United States district court for the judicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting or suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jurisdiction to issue such injunction.

(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this paragraph, the Secretary may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the

home office of the mortgagee is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(7) "Mortgagee" defined

For purposes of this subsection, the term "mortgagee" means—

- (A) a mortgagee approved under this chapter;
- (B) a lender or a loan correspondent approved under subchapter I of this chapter;
- (C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or
- (D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.

(8) Report required

The Board, in consultation with the Federal Housing Administration Advisory Board, shall annually recommend to the Secretary such amendments to statute or regulation as the Board determines to be appropriate to ensure the long term financial strength of the Federal Housing Administration fund and the adequate support for home mortgage credit.

(9) Prohibition against limitations on Mortgagee Review Board's power to take action against mortgagees

No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.

(d) Limitations on participation in origination and mortgagee approval

(1) Requirement

Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

(2) Eligibility for approval

In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

(E) convicted of, or who has pled guilty or nolo contendere ³ to, a felony related to participation in the real estate or mortgage loan industry—

(i) during the 7-year period preceding the date of the application for licensing and registration; or

(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

(G) in violation of any other requirement as established by the Secretary.

(3) Rulemaking and implementation

The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon May 20, 2009, by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.

(e) Coordination of GNMA and FHA withdrawal action

(1) Whenever the Federal Housing Administration or Government National Mortgage Association initiates proceedings that could lead to withdrawing the mortgagee from participating in the program, the initiating agency shall—

- (A) within 24 hours notify the other agency in writing of the action taken;
- (B) provide to the other agency the factual basis for the action taken; and
- (C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(2) Within 60 days of receipt of a notification of action that could lead to withdrawal under subsection ⁴(1), the Federal Housing Administration or the Government National Mortgage Association shall—

- (A) conduct and complete its own investigation;
- (B) provide written notification to the other agency of its decision, including the factual basis for its decision; and
- (C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(f) Suspension or revocation of approval of mortgagee; notice and statement of reasons

Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this subchapter, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

- (1) the Secretary of Veterans Affairs;
- (2) the chief executive officer of the Federal National Mortgage Association;
- (3) the chief executive officer of the Federal Home Loan Mortgage Corporation;
- (4) the Secretary of Agriculture;
- (5) if the mortgagee is a national bank, a subsidiary or affiliate of such bank, a Federal savings association or a subsidiary or affiliate of a savings association, the Comptroller of the Currency;
- (6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System; and
- (7) if the mortgagee is a State bank or State savings association that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation.

(g) Appraisal standards

(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

(B) that each appraisal be a written statement used in connection with a real estate transaction that is independently an ⁵impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.

(3) DIRECT ENDORSEMENT PROGRAM.—

(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct endorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to this subsection.

(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

(4) FEE PANEL APPRAISERS.—

(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this subchapter in the same manner and on the same basis as other approved appraisers.

(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this subchapter, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.

(5) ADDITIONAL APPRAISER STANDARDS.—Beginning on July 30, 2008, any appraiser chosen or approved to conduct appraisals for mortgages under this subchapter shall—

(A) be certified—

- (i) by the State in which the property to be appraised is located; or
- (ii) by a nationally recognized professional appraisal organization; and

(B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection.

(h) Use of name

The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.

(June 27, 1934, ch. 847, title II, §202, 48 Stat. 1248; Feb. 3, 1938, ch. 13, §3, 52 Stat. 10; June 3, 1939, ch. 175, §5, 53 Stat. 805; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90–19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101–235, title I, §142, Dec. 15, 1989, 103 Stat. 2030; Pub. L. 101–625, title III, §322, Nov. 28, 1990, 104 Stat. 4134; Pub. L. 102–550, title V, §§502, 518, 519, Oct. 28, 1992, 106 Stat. 3778, 3792; Pub. L. 105–65, title V, §551, Oct. 27, 1997, 111 Stat. 1412; Pub. L. 106–377, §1(a)(1) [title II, §209(c)], Oct. 27, 2000, 114 Stat. 1441, 1441A–25; Pub. L. 110–289, div. A, title IV, §1404, div. B, title I, §§2116(1), (3), 2118(a), July 30, 2008, 122 Stat. 2810, 2832, 2833; Pub. L. 111–22, div. A, title II, §203(a), (b), May 20, 2009, 123 Stat. 1643; Pub.

L. 111–203, title III, §373, July 21, 2010, 124 Stat. 1566; Pub. L. 117–286, §4(a)(54), Dec. 27, 2022, 136 Stat. 4311.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(1), is title V of Pub. L. 93–344, as added by Pub. L. 101–508, title XIII, §13201(a), Nov. 5, 1990, 104 Stat. 1388–609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

Section 3537b(c) of title 42, referred to in subsec. (b)(5), was in the original "section 112(c) of the Department of Housing and Urban Development Reform Act of 1989", meaning section 112 of Pub. L. 101–235, which does not contain a subsec. (c), but enacted section 13 of the Department of Housing and Urban Development Act, which was classified to section 3537b of title 42 prior to repeal by Pub. L. 104–65, §11(b)(1), Dec. 19, 1995, 109 Stat. 701, and which contained a subsec. (c) relating to registration with the Secretary.

The Equal Credit Opportunity Act, referred to in subsec. (c)(1), (3)(B), is title VII of Pub. L. 90–321, as added by Pub. L. 93–495, title V, §503, Oct. 28, 1974, 88 Stat. 1521, which is classified generally to subchapter IV (§1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Fair Housing Act, referred to in subsec. (c)(1), (3)(B), is title VIII of Pub. L. 90–284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

Executive Order 11063, referred to in subsec. (c)(1), (3)(B), is set out as a note under section 1982 of Title 42.

This chapter, referred to in subsec. (c)(7)(A), 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.

The effective date of this sentence, referred to in subsec. (c)(9), is the date of enactment of Pub. L. 111–22, which enacted par. (9) and was approved May 20, 2009.

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

CODIFICATION

Section 1709(s) of this title, which was transferred and redesignated as subsec. (e) of this section by Pub. L. 110–289, div. B, title I, §2116(3), July 30, 2008, 122 Stat. 2832, was based on act June 27, 1934, ch. 847, title II, §203(s), as added Pub. L. 101–235, title I, §135, Dec. 15, 1989, 103 Stat. 2028; amended Pub. L. 108–386, §8(b), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 110–289, div. B, title I, §2116(2), July 30, 2008, 122 Stat. 2832.

AMENDMENTS

2022—Subsec. (b). Pub. L. 117–286, §4(a)(54)(A), substituted "chapter 10 of title 5." for "the Federal Advisory Committee Act." in introductory provisions.

Subsec. (b)(10). Pub. L. 117–286, §4(a)(54)(B), substituted "section 1006 of title 5," for "Section 7 of the Federal Advisory Committee Act,".

2010—Subsec. (f)(5). Pub. L. 111–203, §373(1), added par. (5) and struck out former par. (5) which read as follows: "if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;".

Subsec. (f)(6). Pub. L. 111–203, §373(2), inserted "and" at end.

Subsec. (f)(7). Pub. L. 111–203, §373(3), inserted "or State savings association" after "State bank" and substituted period for "; and" at end.

Subsec. (f)(8). Pub. L. 111–203, §373(4), struck out par. (8) which read as follows: "if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision."

2009—Subsec. (c)(2)(E). Pub. L. 111–22, §203(a)(1)(A), inserted "and" after semicolon at end.

Subsec. (c)(2)(F). Pub. L. 111–22, §203(a)(1)(B), substituted "or their designees." for "; and".

Subsec. (c)(2)(G). Pub. L. 111–22, §203(a)(1)(C), struck out subpar. (G), which read as follows: "the Director of the Enforcement Center; or their designees."

Subsec. (c)(9). Pub. L. 111–22, §203(a)(2), added par. (9).

Subsecs. (d) to (g). Pub. L. 111–22, §203(b)(1), (2), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

Subsec. (h). Pub. L. 111–22, §203(b)(3), added subsec. (h).

2008—Subsec. (a). Pub. L. 110–289, §2118(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "There is created a Mutual Mortgage Insurance Fund (hereinafter referred to as the 'Fund'), which shall be used by the Secretary as a revolving fund for carrying out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title as hereinafter provided, and there shall be allocated immediately to such Fund the sum of \$10,000,000 out of funds made available to the Secretary for the purposes of this subchapter."

Subsec. (e). Pub. L. 110–289, §2116(3), transferred subsec. (s) of section 1709 of this title and redesignated it as subsec. (e) of this section. See Codification note above. Former subsec. (e) redesignated (f).

Subsec. (e)(3)(B). Pub. L. 110–289, §2116(1)(A), made technical amendment to reference in original act which appears in text as reference to "this subsection".

Subsec. (e)(5). Pub. L. 110–289, §1404, added par. (5).

Subsec. (f). Pub. L. 110–289, §2116(1)(B), redesignated subsec. (e) as (f).

2000—Subsec. (c)(2)(E). Pub. L. 106–377, §1(a)(1) [title II, §209(c)(1)], struck out "and" at end.

Subsec. (c)(2)(F). Pub. L. 106–377, §1(a)(1) [title II, §209(c)(2)], which directed substitution of "and" for "or their designees.", was executed by inserting "and" after semicolon to reflect the probable intent of Congress, because the phrase "or their designees." appeared at end of par. (2) and did not appear in subpar. (F).

Subsec. (c)(2)(G). Pub. L. 106–377, §1(a)(1) [title II, §209(c)(3)], added subpar. (G).

1997—Subsec. (c)(3)(C). Pub. L. 105–65 inserted after first sentence "Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public."

1992—Subsec. (b)(11). Pub. L. 102–550, §502, added par. (11).

Subsec. (c)(3)(C). Pub. L. 102–550, §518, inserted "temporarily" after "order", "(i)" after "Administration if", "(ii)" after "violations and", and ", and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended" after "6 months".

Subsec. (c)(6)(D). Pub. L. 102–550, §519(1), struck out subpar. (D) which read as follows: "For purposes of this paragraph, the term 'mortgagee' means a mortgagee, a branch office or subsidiary of a mortgagee, or a director, officer, employee, agent, or other person participating in the conduct of the affairs of such mortgagee."

Subsec. (c)(7), (8). Pub. L. 102–550, §519(2), added par. (7) and redesignated former par. (7) as (8).

1990—Subsec. (e)(3), (4). Pub. L. 101–625 added pars. (3) and (4).

1989—Pub. L. 101–235 substituted "Federal Housing Administration operations" for "Mutual Mortgage Insurance Fund" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsecs. (b) to (e).

1967—Pub. L. 90–19 substituted "Secretary" for "Commissioner" wherever appearing.

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator" wherever appearing.

1939—Act June 3, 1939, substituted "created" for "create".

1938—Act Feb. 3, 1938, inserted "with respect to mortgages insured under section 1709 of this title".

STATUTORY NOTES AND RELATED SUBSIDIARIES

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111–203 effective on the transfer date, see section 351 of Pub. L. 111–203, set out as a note under section 906 of Title 2, The Congress.

EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES

Pub. L. 111–22, div. A, title II, §203(g), May 20, 2009, 123 Stat. 1648, provided that: "Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act [May 20, 2009], the Secretary of Housing and Urban Development shall—

"(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

"(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

"(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

"(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees."

¹ *See References in Text note below.*

² *So in original. Probably should be "subparagraph".*

³ *So in original. Probably should be "contendere".*

⁴ *So in original. Probably should be "paragraph".*

⁵ *So in original. Probably should be "and".*

§1709. Insurance of mortgages

(a) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him 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.

(b) Eligibility for insurance; mortgage limits

To be eligible for insurance under this section a mortgage shall comply with the following:

(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—

(A) not to exceed the lesser of—

(i) in the case of a 1-family residence, 115 percent of the median 1-family house price in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under the sixth sentence of section 1454(a)(2) of this title for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

(ii) 150 percent of the dollar amount limitation determined under the sixth sentence of such section 1454(a)(2) for a residence of applicable size;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under

this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation determined under the sixth sentence of such section 1454(a)(2) for a residence of the applicable size; and

(B) not to exceed 100 percent of the appraised value of the property.

For purposes of the preceding sentence, the term "area" means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

(5) Bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(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 hereinafter provided) to amortization of the principal of the mortgage.

(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.

(8) Repealed. Pub. L. 100-242, title IV, §406(b)(2), Feb. 5, 1988, 101 Stat. 1900.

(9) CASH INVESTMENT REQUIREMENT.—

(A) IN GENERAL.—A mortgage insured under this section shall be executed by a mortgagor who shall have paid, in cash or its equivalent, on account of the property an amount equal to not less than 3.5 percent of the appraised value of the property or such larger amount as the Secretary may determine.

(B) FAMILY MEMBERS.—For purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 1707 of this title), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, that—

(i) such lien shall be subordinate to the mortgage; and

(ii) the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.

(C) PROHIBITED SOURCES.—In no case shall the funds required by subparagraph (A) consist, in whole or in part, of funds provided by any of the following parties before, during, or after closing of the property sale:

- (i) The seller or any other person or entity that financially benefits from the transaction.
- (ii) Any third party or entity that is reimbursed, directly or indirectly, by any of the parties described in clause (i).

This subparagraph shall apply only to mortgages for which the mortgagee has issued credit approval for the borrower on or after October 1, 2008.

(c) Premium charges

(1) The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this subchapter but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 1 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: *Provided*, That premium charges fixed for insurance (1) under section 1715z-10,¹ 1715z-12, 1715z-16, 1715z-17, or 1715z-18 of this title, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsection (n) are not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 per centum per annum: *Provided*, That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. 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 debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further*, 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 or charges so required that the mortgage complies with the provisions of this section, 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 section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance 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 section 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: *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund shall be subject to the following requirements:

(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount not exceeding 3 percent of the amount of the original insured principal obligation of the mortgage. In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.75 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph, provided that the mortgagor refinances the unpaid principal obligation under this subchapter.

(B) In addition to the premium under subparagraph (A), the Secretary may establish and collect annual premium payments in an amount not exceeding 1.5 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause may be in an amount not exceeding 1.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(d) Increase in maximum amount of mortgage

(1) Except as provided in paragraph (2) of this subsection, notwithstanding ² provision of this subchapter governing maximum mortgage amounts for insuring a mortgage secured by a one- to four-family dwelling, the maximum amount of the mortgage determined under any such provision may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(2) The maximum amount of a mortgage determined under subsection (b)(2)(B) of this section may not be increased as provided in paragraph (1).

(e) Contract of insurance as evidence of eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

(f) Disclosure of other mortgage products

(1) In general

In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

(2) Notice

The notice required under paragraph (1) shall include—

(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 1454(a)(2) of this title or section 1717(b)(2) of this title, as applicable), assuming prevailing interest rates; and

(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

(g) Limitation on use of single family mortgage insurance by investors

(1) The Secretary may insure a mortgage under this subchapter that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary. In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is—

(A) a public entity, as provided in section 1715d or 1715z-12 of this title, or any other State or local government or an agency thereof;

(B) a private nonprofit or public entity, as provided in section 1715l(h) or 1715z(j) of this title, or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of title 26 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

(C) an Indian tribe, as provided in section 1715z-13 of this title;

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 1715g of this title or subsection (b)(4) or (f) of section 1715m ¹ of this title;

(E) a mortgagor or co-mortgagor under subsection (k); or

(F) a mortgagor that, pursuant to section 1715n(a)(7) of this title, is refinancing an existing mortgage insured under this chapter for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(3) For purposes of this subsection, the term "substitute mortgagor" means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.

(h) Disaster housing

Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of the applicable maximum dollar limit under subsection (b) and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe which the President, pursuant to sections 5122(2) and 5170 of title 42, has determined to be a major disaster.

(i) Repealed. Pub. L. 110–289, div. B, title I, §2120(a)(1), July 30, 2008, 122 Stat. 2835

(j) Real estate loans by national banks

Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

(k) Rehabilitation of one- to four-family structures; definitions; eligibility; refinancing and extension; General Insurance Fund

(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i),¹ and (j) of this section, except as modified by the provisions of this subsection.

(2) For the purpose of this subsection—

(A) the term "rehabilitation 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—

(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(B) the term "rehabilitation" means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project. The term "rehabilitation" may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 4851b of title 42.

(3) To be eligible for insurance under this subsection, a rehabilitation loan shall—

(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

(B) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(C) be an acceptable risk, as determined by the Secretary; and

(D) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the Mutual Mortgage Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 1710 of this title. Insurance benefits

paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 1715k(h) of this title, except that reference to "this subsection" in such paragraphs shall be construed as referring to this subsection.

(l) Repealed. Pub. L. 90-448, title I, §103(b), Aug. 1, 1968, 82 Stat. 486

(m) Repealed. Pub. L. 100-242, title IV, §406(c), Feb. 5, 1988, 101 Stat. 1902

(n) Cooperative housing projects; definitions

(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this chapter or the construction of which was completed more than a year prior to the application for the mortgage insurance. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purposes of this subsection—

(A) The terms "home mortgage" and "mortgage" include a first or subordinate mortgage or lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms "appraised value of the property", "value of the property", and "value" include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term "property" includes a dwelling unit in such a cooperative project.

(C) The term "mortgagor" includes a person or persons giving a first or subordinate mortgage or lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

(o) Repealed. Pub. L. 110-289, div. B, title I, §2120(a)(2), July 30, 2008, 122 Stat. 2835

(p) Repealed. Pub. L. 110-289, div. B, title I, §2120(a)(3), July 30, 2008, 122 Stat. 2835

(q) Repealed. Pub. L. 110-289, div. B, title I, §2120(a)(4), July 30, 2008, 122 Stat. 2835

(r) Actions to reduce losses under single family mortgage insurance program

The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this subchapter. Such actions shall include—

(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 1735f-11 of this title;

(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this subchapter be determined to be creditworthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement);

(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability; and

(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section, using the Fund to pay for such counseling.

In any case where the homeowner does not request a release from liability, the purchaser and the

homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.

(s) Transferred

(t) Disclosure regarding interest due upon mortgage prepayment

(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon November 28, 1990) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).

(u) Accountability of mortgage lenders

(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 1735f-17 of this title, provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

(2) For purposes of this subsection—

(A) the term "area" means a metropolitan statistical area as established by the Office of Management and Budget;

(B) the term "mortgage charges" includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

(C) the term "mortgage charge rate" means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.

(v) Use of FHA insurance with assistance under 42 U.S.C. 1437f

The insurance of a mortgage under this section in connection with the assistance provided under section 1437f(y) of title 42 shall be the obligation of the Mutual Mortgage Insurance Fund.

(w) Annual report

The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth—

(1) an analysis of the income groups served by the single family insurance program, including—

(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

(2) an analysis of the percentage of minority borrowers annually assisted by the program; the

percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

The report required under this subsection shall include the report required under section 1735f-18(c) of this title and the report required under section 1711(g) ¹ of this title.

(x) Management deficiencies report

(1) In general

Not later than 60 days after October 21, 1998, and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31.

(2) Contents of annual report

Each report submitted under paragraph (1) shall include—

(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).

(y) Requirements for mortgages for condominiums

(1) Project recertification requirements

Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.4 of the Condominium Project Approval and Processing Guide of the FHA, the Secretary shall streamline the project certification requirements that are applicable to the insurance under this section for mortgages for condominium projects so that recertifications are substantially less burdensome than certifications. The Secretary shall consider lengthening the time between certifications for approved properties, and allowing updating of information rather than resubmission.

(2) Commercial space requirements

Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 2.1.3 of the Condominium Project Approval and Processing Guide of the FHA, in providing for exceptions to the requirement for the insurance of a mortgage on a condominium property under this section regarding the percentage of the floor space of a condominium property that may be used for nonresidential or commercial purposes, the Secretary shall provide that—

(A) any request for such an exception and the determination of the disposition of such request may be made, at the option of the requester, under the direct endorsement lender review and approval process or under the HUD review and approval process through the applicable field office of the Department; and

(B) in determining whether to allow such an exception for a condominium property, factors relating to the economy for the locality in which such project is located or specific to project, ² including the total number of family units in the project, shall be considered.

Not later than the expiration of the 90-day period beginning on July 29, 2016, the Secretary shall issue regulations to implement this paragraph, which shall include any standards, training requirements, and remedies and penalties that the Secretary considers appropriate.

(3) Transfer fees

Notwithstanding any other law, regulation, or guideline of the Secretary, including chapter 1.8.8 of the Condominium Project Approval and Processing Guide of the FHA and section 203.41 of the Secretary's regulations (24 CFR 203.41), existing standards of the Federal Housing Finance Agency relating to encumbrances under private transfer fee covenants shall apply to the insurance of mortgages by the Secretary under this section to the same extent and in the same manner that such standards apply to the purchasing, investing in, and otherwise dealing in mortgages by the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation. If the provisions of part 1228 of the Director of the Federal Housing Finance Agency's regulations (12 CFR part 1228) are amended or otherwise changed after July 29, 2016, the Secretary of Housing and Urban Development shall adopt any such amendments or changes for purposes of this paragraph, unless the Secretary causes to be published in the Federal Register a notice explaining why the Secretary will disregard such amendments or changes within 90 days after the effective date of such amendments or changes.

(4) Owner-occupancy requirement

(A) Establishment of percentage requirement

Not later than the expiration of the 90-day period beginning on July 29, 2016, the Secretary shall, by rule, notice, or mortgagee letter, issue guidance regarding the percentage of units that must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirements, including justifications for the percentage requirements, in order for a condominium project to be acceptable to the Secretary for insurance under this section of a mortgage within such condominium property.

(B) Failure to act

If the Secretary fails to issue the guidance required under subparagraph (A) before the expiration of the 90-day period specified in such clause, the following provisions shall apply:

(i) 35 percent requirement

In order for a condominium project to be acceptable to the Secretary for insurance under this section, at least 35 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as such terms are defined by the Secretary), or must have been sold to owners who intend to meet such occupancy requirement.

(ii) Other considerations

The Secretary may increase the percentage applicable pursuant to clause (i) to a condominium project on a project-by-project or regional basis, and in determining such percentage for a project shall consider factors relating to the economy for the locality in which such project is located or specific to project,² including the total number of family units in the project.

(June 27, 1934, ch. 847, title II, §203, 48 Stat. 1248; May 28, 1935, ch. 150, §29(a), 49 Stat. 299; Aug. 23, 1935, ch. 614, title III, §344(c), 49 Stat. 722; Feb. 3, 1938, ch. 13, §3, 52 Stat. 10; June 3, 1939, ch. 175, §§6–8, 53 Stat. 805, 806; June 28, 1941, ch. 261, §8, 55 Stat. 365; Oct. 15, 1943, ch. 259, §2, 57 Stat. 571; July 1, 1946, ch. 531, 60 Stat. 408; Aug. 10, 1948, ch. 832, title I, §101(g)–(k), 62 Stat. 1272; July 15, 1949, ch. 338, title II, §201(2), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, §1(2), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§103, 104(a), 122, 64 Stat. 51, 59; June 30, 1953, ch. 170, §3, 67 Stat. 121; Aug. 2, 1954, ch. 649, title I, §§104–110, 68

Stat. 591, 592; Aug. 7, 1956, ch. 1029, title I, §§102, 104(a), 70 Stat. 1091, 1092; Pub. L. 85–104, title I, §§101, 106, July 12, 1957, 71 Stat. 294, 297; Pub. L. 85–364, §1(a), Apr. 1, 1958, 72 Stat. 73; Pub. L. 86–372, title I, §§102, 103, title VIII, §809, Sept. 23, 1959, 73 Stat. 654, 688; Pub. L. 87–70, title I, §102(b), title VI, §§604(b), 605, 606, 612(a), June 30, 1961, 75 Stat. 157, 177, 178, 180; Pub. L. 88–560, title I, §§102, 103, 105(c)(1), Sept. 2, 1964, 78 Stat. 769, 772; Pub. L. 89–117, title II, §§203–206, title XI, §1108(c), Aug. 10, 1965, 79 Stat. 466, 504; Pub. L. 89–754, title III, §§301, 302, Nov. 3, 1966, 80 Stat. 1266; Pub. L. 90–19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90–448, title I, §103(b), title III, §§317, 318, title XI, §1106(d), Aug. 1, 1968, 82 Stat. 486, 512, 567; Pub. L. 91–152, title I, §§102(a), 113(a), Dec. 24, 1969, 83 Stat. 379, 383; Pub. L. 91–606, title III, §301(c), Dec. 31, 1970, 84 Stat. 1758; Pub. L. 93–288, title VII, §702(c), formerly title VI, §602(c), May 22, 1974, 88 Stat. 163, renumbered title VII, §702(c), Pub. L. 103–337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 93–383, title III, §§302(a), 310(a), Aug. 22, 1974, 88 Stat. 676, 682; Pub. L. 93–449, §4(b), Oct. 18, 1974, 88 Stat. 1367; Pub. L. 95–128, title III, §§303(a), (g), 304(a), 305, 307, Oct. 12, 1977, 91 Stat. 1132, 1133, 1134; Pub. L. 95–557, title I, §101(c)(1), (2), Oct. 31, 1978, 92 Stat. 2082, 2083; Pub. L. 95–619, title II, §248(a), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96–153, title III, §§310, 312(a), 318, Dec. 21, 1979, 93 Stat. 1114, 1116, 1119; Pub. L. 96–399, title III, §§321, 328, 333(a), 336(a), Oct. 8, 1980, 94 Stat. 1646, 1651, 1653, 1654; Pub. L. 97–253, title II, §201(a), (b), Sept. 8, 1982, 96 Stat. 789; Pub. L. 98–63, title I, July 30, 1983, 97 Stat. 321; Pub. L. 98–181, title I [title IV, §§404(b)(2), (3), 419, 423(a), (b)(1), 424(a), 425, 447], Nov. 30, 1983, 97 Stat. 1209, 1212, 1216–1218, 1228; Pub. L. 98–479, title II, §204(a)(2), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 99–601, Nov. 5, 1986, 100 Stat. 3357; Pub. L. 100–242, title IV, §§403–405(1), 406(a)–(b)(6), (c), 407(a)(1), 422(b), 423, 429(c), Feb. 5, 1988, 101 Stat. 1899–1902, 1914, 1918; Pub. L. 100–628, title X, §§1061–1063(a), Nov. 7, 1988, 102 Stat. 3274; Pub. L. 100–707, title I, §109(e)(2), Nov. 23, 1988, 102 Stat. 4708; Pub. L. 101–144, title II, Nov. 9, 1989, 103 Stat. 852; Pub. L. 101–235, title I, §§132(a), 135, 143(a), (b), Dec. 15, 1989, 103 Stat. 2026, 2028, 2036; Pub. L. 101–402, §3, Oct. 1, 1990, 104 Stat. 866; Pub. L. 101–507, title II, Nov. 5, 1990, 104 Stat. 1369; Pub. L. 101–508, title II, §§2101–2103(a), Nov. 5, 1990, 104 Stat. 1388–17; Pub. L. 101–625, title III, §§326(a), 327, 329, 330(a), title IV, §429, Nov. 28, 1990, 104 Stat. 4137, 4138, 4171; Pub. L. 102–40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102–389, title II, Oct. 6, 1992, 106 Stat. 1591, 1593; Pub. L. 102–550, title I, §185(c)(1), title V, §§503(a), 504–506(a), 507(a), title X, §1012(k)(2), Oct. 28, 1992, 106 Stat. 3747, 3779–3782, 3907; Pub. L. 103–211, title I, Feb. 12, 1994, 108 Stat. 12; Pub. L. 103–327, title II, Sept. 28, 1994, 108 Stat. 2314; Pub. L. 104–204, title IV, §§424, 425(a), 426, Sept. 26, 1996, 110 Stat. 2927, 2928; Pub. L. 105–65, title II, §211, Oct. 27, 1997, 111 Stat. 1366; Pub. L. 105–276, title II, §§212, 224, 225(a), 228, Oct. 21, 1998, 112 Stat. 2486, 2489–2491; Pub. L. 106–74, title II, §207, Oct. 20, 1999, 113 Stat. 1072; Pub. L. 106–281, §2, Oct. 6, 2000, 114 Stat. 865; Pub. L. 106–377, §1(a)(1) [title II, §§209(a), 225], Oct. 27, 2000, 114 Stat. 1441, 1441A–25, 1441A–30; Pub. L. 106–569, title XI, §1103(f), Dec. 27, 2000, 114 Stat. 3031; Pub. L. 107–73, title II, §207(a), Nov. 26, 2001, 115 Stat. 674; Pub. L. 107–326, §2, Dec. 4, 2002, 116 Stat. 2792; Pub. L. 108–386, §8(b), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 108–447, div. I, title II, §§222, 223, Dec. 8, 2004, 118 Stat. 3321; Pub. L. 109–13, div. A, title VI, §6073, May 11, 2005, 119 Stat. 300; Pub. L. 110–289, div. B, title I, §§2112(a), (b), 2113–2115, 2116(2), (3), 2118(b)(1), 2120(a)(1)–(4), (b), 2121, July 30, 2008, 122 Stat. 2830–2832, 2834, 2835; Pub. L. 111–229, §1(a), Aug. 11, 2010, 124 Stat. 2483; Pub. L. 112–78, title IV, §402(a), (b), Dec. 23, 2011, 125 Stat. 1289; Pub. L. 114–201, title III, §301, July 29, 2016, 130 Stat. 806.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1715z–10 of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(7), July 30, 2008, 122 Stat. 2835.

Section 1715m of this title, referred to in subsec. (g)(2)(D), was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

This chapter, referred to in subsecs. (g)(2)(F) and (n)(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.

Subsection (i) of this section, referred to in subsec. (k)(1), was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(1), July 30, 2008, 122 Stat. 2835.

Section 1711(g) of this title, referred to in subsec. (w), was repealed by Pub. L. 110–289, div. B, title I, §2118(c)(1), July 30, 2008, 122 Stat. 2835.

AMENDMENTS

2016—Subsec. (y). Pub. L. 114–201 added subsec. (y).

2011—Subsec. (c)(2)(C). Pub. L. 112–78, §402(b), struck out subpar. (C) which related to requirement that the Secretary, in addition to the premiums under subpars. (A) and (B), establish and collect annual premium payments of up to 10 basis points of the remaining insured principal balance for any mortgage for which the Secretary collects an annual premium under subpar.(B). See Effective Date of 2011 Amendment note below.

Pub. L. 112–78, §402(a), added subpar. (C).

2010—Subsec. (c)(2)(B). Pub. L. 111–229, §1(a)(1), in introductory provisions, substituted "may" for "shall" and "1.5 percent" for "0.50 percent".

Subsec. (c)(2)(B)(ii). Pub. L. 111–229, §1(a)(2), substituted "may be in an amount not exceeding 1.55 percent" for "shall be in an amount not exceeding 0.55 percent".

2008—Subsec. (b)(2). Pub. L. 110–289, §2112(a)(2), which directed striking out second sentence in matter following subpar. (B) and all that followed through "section 3103A(d) of title 38", was executed in first undesignated par. after subpar. (B) by striking out "For purposes of this paragraph, the term 'average closing cost' means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages. Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38 prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction. As used herein, the term 'veteran' means any person who served on active duty in the armed forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 5303A(d) of title 38.", to reflect the probable intent of Congress and amendment by Pub. L. 102–40. See 1991 Amendment note below.

Subsec. (b)(2)(A), (B). Pub. L. 110–289, §2112(a)(1), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which related to maximum limits for principal loan obligation.

Subsec. (b)(9). Pub. L. 110–289, §2113, amended par. (9) generally. Prior to amendment, par. (9) related to requirement that mortgagors other than veterans pay on account of the property at least 3 per centum, or such larger amount as the Secretary may determine, of the Secretary's estimate of the cost of acquisition, excluding the mortgage insurance premium paid at the time the mortgage is insured, in cash or its equivalent.

Subsec. (c)(2). Pub. L. 110–289, §2114(1), in introductory provisions, struck out "or of the General Insurance Fund pursuant to subsection (v) of this section and each mortgage that is insured under subsection (k) of this section or section 1715y(c) of this title,," after "Mutual Mortgage Insurance Fund".

Subsec. (c)(2)(A). Pub. L. 110–289, §2114(2), substituted "3 percent" for "2.25 percent" and "2.75 percent" for "2.0 percent".

Subsec. (d). Pub. L. 110–289, §2112(b), substituted "Except as provided in paragraph (2) of this subsection, notwithstanding" for "Notwithstanding any", designated existing provisions as par. (1), and added par. (2).

Subsec. (i). Pub. L. 110–289, §2120(a)(1), struck out subsec. (i) which related to Secretary's authority to insure mortgages for single-family residences in suburban and outlying areas or small communities and certain farm homes.

Subsec. (k)(1). Pub. L. 110–289, §2115(1), struck out "on and after 180 days following October 31, 1978" after "financial institutions".

Subsec. (k)(5). Pub. L. 110–289, §2115(2), substituted "Mutual Mortgage Insurance Fund" for "General Insurance Fund" and struck out ", except that all references in section 1710 of this title to the Mutual

Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund" after "section 1710 of this title".

Subsec. (n)(2)(A), (C). Pub. L. 110–289, §2121, inserted "or subordinate mortgage or" before "lien".

Subsec. (o). Pub. L. 110–289, §2120(a)(2), struck out subsec. (o) which related to insurance of mortgages on owner occupied homes in communities subject to adverse economic conditions resulting from Indian claims to ownership of land and obligation of Special Risk Insurance Fund.

Subsec. (p). Pub. L. 110–289, §2120(a)(3), struck out subsec. (p) which related to insurance of mortgages in communities subject to temporary adverse economic conditions as a result of claims to ownership of land in the community by an American Indian Tribe, band, or nation.

Subsec. (q). Pub. L. 110–289, §2120(a)(4), struck out subsec. (q) which related to insurance of mortgages secured by property on certain lands leased by Seneca Nation of New York Indians.

Subsec. (s). Pub. L. 110–289, §2116(3), redesignated and transferred subsec. (s) of this section to subsec. (e) of section 1708 of this title.

Subsec. (s)(4). Pub. L. 110–289, §2116(2), added par. (4) and struck out former par. (4) which read as follows: "the Administrator of the Farmers Home Administration;"

Subsec. (u)(2)(A). Pub. L. 110–289, §2120(b), substituted "means a metropolitan statistical area as established by the Office of Management and Budget;" for "shall have the meaning given the term under subsection (b)(2) of this section;"

Subsec. (v). Pub. L. 110–289, §2118(b)(1), substituted "The" for "Notwithstanding section 1708 of this title, the" and "Mutual Mortgage Insurance Fund." for "General Insurance Fund created pursuant to section 1735c of this title. The provisions of subsections (a) through (h), (j), and (k) of section 1710 of this title shall apply to such mortgages, except that (1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 1710(f)(1) of this title shall be retained by the Secretary and credited to the General Insurance Fund."

2005—Subsec. (c)(1). Pub. L. 109–13, §6073(b)(2), struck out "or (k)" after "(2) under subsection (n)" and "charges under subsection (n)".

Pub. L. 109–13, §6073(b)(1), substituted "(2) under subsection (n)" for "(2) under subsections (n)".

Pub. L. 109–13, §6073(a), repealed Pub. L. 108–447, §222. See note below.

2004—Subsec. (c)(1). Pub. L. 108–447, §222, which directed the substitution of "subsection (n)" for "subsections (n) and (k)" and the striking out of "or (k)", was repealed by Pub. L. 109–13, §6073(a).

Subsec. (c)(2)(A). Pub. L. 108–447, §223, inserted ", provided that the mortgagor refinances the unpaid principal obligation under this subchapter" before period at end.

Subsec. (s)(5). Pub. L. 108–386 struck out "or District bank" after "national bank".

2002—Subsec. (b). Pub. L. 107–326, §2(1)(A), substituted "shall comply with the following:" for "shall—" in introductory provisions.

Subsec. (b)(2). Pub. L. 107–326, §2(1)(C), transferred text of subsec. (b)(10)(B) so as to appear as second sentence of concluding provisions in par. (2).

Pub. L. 107–326, §2(1)(B)(ii)(III), in concluding provisions, struck out the eleventh sentence through the end which read as follows: "In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a one page analysis of mortgage products offered by that lender and for which the borrower would qualify. This notice shall include: (i) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under this subsection with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 1454(a)(2) of this title or section 1717(b)(2) of this title, as applicable), assuming prevailing interest rates; and (ii) a statement regarding when the mortgagor's requirement to pay the mortgage insurance premiums for a mortgage insured under this section would terminate or a statement that the requirement will terminate only if the mortgage is refinanced, paid off, or otherwise terminated."

Pub. L. 107–326, §2(1)(B)(ii)(II), in concluding provisions, struck out seventh through ninth sentences which read as follows: "Except with respect to mortgages executed by mortgagors who are veterans, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of \$50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence,

the term 'appraised value' means the amount set forth in the written statement required under section 1715q of this title, or a similar amount determined by the Secretary if section 1715q of this title does not apply. Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage."

Pub. L. 107-326, §2(1)(B)(ii)(I), in concluding provisions, struck out second and third sentences which read as follows: "If the mortgage to be insured under this section covers property on which there is located a one- to four-family residence, and the appraised value of the property, as of the date the mortgage is accepted for insurance, does not exceed \$50,000, the principal obligation may be in an amount not to exceed 97 percent of such appraised value. If the mortgagor is a veteran, and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of \$25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of \$25,000."

Subsec. (b)(2)(A). Pub. L. 107-326, §2(1)(B)(i), realigned margins of matter that precedes cl. (ii).

Subsec. (b)(2)(B). Pub. L. 107-326, §2(1)(B)(iii), added subpar. (B) and struck out former subpar. (B) which read as follows: "except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of \$25,000 but not in excess of \$125,000; and

"(iii) 90 percent of such value in excess of \$125,000."

Subsec. (b)(10). Pub. L. 107-326, §2(1)(C), (D), transferred text of subpar. (B) so as to appear as second sentence of concluding provisions in subsec. (b)(2) and struck out headings and text of remainder of par. (10) which related to calculation of downpayment.

Subsec. (f). Pub. L. 107-326, §2(2), added subsec. (f).

2001—Subsec. (c)(1). Pub. L. 107-73, §207(a)(1), substituted "subsections (n) or (k)" for "subsections (n) and (k)" in cl. (2) of first proviso.

Subsec. (c)(2). Pub. L. 107-73, §207(a)(2), in introductory provisions, struck out "and executed on or after October 1, 1994," after "1- to 4-family dwelling" and inserted "and each mortgage that is insured under subsection (k) of this section or section 1715y(c) of this title," after "subsection (v) of this section".

2000—Subsec. (b)(10)(A). Pub. L. 106-377, §1(a)(1) [title II, §225], substituted "mortgage closed on or before December 31, 2002, involving" for "mortgage closed on or before October 30, 2000 involving" in introductory provisions.

Pub. L. 106-281 substituted "closed on or before October 30, 2000" for "executed for insurance in fiscal years 1998, 1999, and 2000" in introductory provisions.

Subsec. (s). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(2)], redesignated subsec. (s), relating to disclosure regarding interest due upon mortgage prepayment, as (t).

Subsec. (t). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(2)], redesignated subsec. (s), relating to disclosure regarding interest due upon mortgage prepayment, as (t).

Pub. L. 106-377, §1(a)(1) [title II, §209(a)(1)], redesignated subsec. (t) as (u).

Subsec. (u). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(1)], redesignated subsec. (t) as (u).

Subsec. (v). Pub. L. 106-377, §1(a)(1) [title II, §209(a)(3)], redesignated subsec. (v), relating to annual report, as (w).

Subsec. (w). Pub. L. 106-569, which directed the amendment of subsec. (v) relating to annual report by inserting concluding provisions, was executed by making the insertion in subsec. (w) to reflect the probable intent of Congress and the intervening redesignation of that subsec. (v) as (w) by Pub. L. 106-377, §1(a)(1) [title II, §209(a)(3)]. See below.

Pub. L. 106-377, §1(a)(1) [title II, §209(a)(3)], redesignated subsec. (v), relating to annual report, as (w).

1999—Subsec. (b)(2)(A)(ii). Pub. L. 106-74 inserted "the greater of the dollar amount limitation in effect under this section for the area on October 21, 1998, or" before "48 percent".

1998—Subsec. (b)(2). Pub. L. 105-276, §225(a), inserted at end undesignated par. relating to disclosure notice furnished by original lender.

Subsec. (b)(2)(A). Pub. L. 105-276, §228(a), added cl. (ii) and struck out former cl. (ii) and concluding provisions which read as follows:

"(ii) 75 percent of the dollar amount limitation determined under section 1454(a)(2) of this title for a

residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on September 28, 1994, or 38 percent of the dollar amount limitation determined under section 1454(a)(2) of this title for a residence of the applicable size; and".

Subsec. (b)(2)(B). Pub. L. 105-276, §228(b), amended first sentence of concluding provisions generally. Prior to amendment, sentence read as follows: "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount."

Subsec. (b)(10). Pub. L. 105-276, §212(1), substituted "CALCULATION OF DOWNPAYMENT" for "ALASKA AND HAWAII" in heading.

Subsec. (b)(10)(A). Pub. L. 105-276, §212(2), substituted "executed for insurance in fiscal years 1998, 1999, and 2000" for "originated in the State of Alaska or the State of Hawaii and endorsed for insurance in fiscal years 1997 and 1998,".

Subsec. (x). Pub. L. 105-276, §224, added subsec. (x).

1997—Subsec. (b)(10)(A). Pub. L. 105-65 substituted "fiscal years 1997 and 1998" for "fiscal year 1997".

1996—Subsec. (b)(9). Pub. L. 104-204, §425(a), inserted before period at end ": *Provided further*, That for purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 1707 of this title), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, such lien shall be subordinate to the mortgage and the sum of the principal obligation of the mortgage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage".

Subsec. (b)(10). Pub. L. 104-204, §426, added par. (10).

Subsec. (c)(2)(A). Pub. L. 104-204, §424, inserted after first sentence "In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.0 percent of the amount of the original insured principal obligation of the mortgage."

1994—Subsec. (b)(2)(A). Pub. L. 103-327 substituted cl. (ii) and concluding provisions for former cl. (ii) and concluding provisions which read as follows:

"(ii) 75 percent of the dollar amount limitation determined under section 1454(a)(2) of this title (as in effect on September 30, 1992) for a residence of the applicable size; except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992;".

Subsec. (h). Pub. L. 103-211, effective for 18-month period following Feb. 12, 1994, for eligible persons, substituted "Robert T. Stafford Disaster Relief and Emergency Assistance Act" for "section 5122(2) and 5170 of title 42" and inserted at end "In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 18 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 1454(a)(2) of this title for single family residence, and not in excess of 100 percent of the appraised value." See Applicability of 1994 Amendment note below.

Subsec. (k)(6). Pub. L. 103-211, effective for 18-month period following Feb. 12, 1994, for eligible persons, added par. (6) which read as follows: "The Secretary is authorized, for a temporary period not to exceed 18 months from the date on which the President has declared a major disaster to have occurred, to enter into agreements to insure a rehabilitation loan under this subsection which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 1454(a)(2) of this title for a residence of the applicable size, if such loan is secured by a structure and property that are within a jurisdiction in which the President has declared such disaster, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.], and if such loan otherwise conforms to the loan-to-value ratio and other requirements of this subsection." See Applicability of 1994 Amendment note below.

1992—Subsec. (b)(2). Pub. L. 102-550, §506(a), added undesignated par. prohibiting Secretary from insuring mortgage executed by first-time homebuyer involving principal obligation in excess of 97 percent of value of property, unless mortgagor completes approved counseling program or Secretary waives requirement.

Pub. L. 102-550, §505(a), substituted "Except with respect to mortgages executed by mortgagors who are veterans" for "Notwithstanding any other provision of this paragraph" in second undesignated par.

Pub. L. 102-550, §503(a), amended first sentence generally. Prior to amendment, first sentence read as follows: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

"(A) not to exceed the lesser of—

"(i) in the case of the 1-family residence, 95 percent of the median 1-family house price in the area (as determined by the Secretary); in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 1454(a)(2) of this title (as adjusted annually under such section) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of—

"(i) 97 percent of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of \$25,000 but not in excess of \$125,000; and

"(iii) 90 percent of such value in excess of \$125,000."

Pub. L. 102-389 amended first sentence generally. Prior to amendment, first sentence read as follows: "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 \$67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or \$76,000 in the case of a two-family residence; or \$92,000 in the case of a three-family residence, or \$107,000 in the case of a four-family residence; except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price; and (except as otherwise provided in this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum of \$25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of \$25,000."

Pub. L. 102-389 inserted at end of second undesignated par. "Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of any such approved charges and fees that may be included in the principal obligation of a mortgage."

Subsec. (b)(9). Pub. L. 102-550, §505(b), substituted "(except with respect to a mortgage executed by a mortgagor who is a veteran)" for "(except in a case to which the next to the last sentence of paragraph (2) applies)".

Subsec. (c)(2). Pub. L. 102-550, §185(c)(1)(A), inserted "or of the General Insurance Fund pursuant to subsection (v) of this section" after "Fund" in introductory provisions.

Subsec. (c)(2)(A), (B). Pub. L. 102-550, §507(a)(1), (2)(A), substituted "not exceeding" for "equal to".

Subsec. (c)(2)(B)(ii). Pub. L. 102-550, §507(a)(2)(B), substituted "not exceeding 0.55 percent" for "equal to 0.55 percent".

Subsec. (k)(2)(B). Pub. L. 102-550, §1012(k)(2), inserted at end "The term 'rehabilitation' may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 4851b of title 42."

Subsec. (v). Pub. L. 102-550, §504, added subsec. (v) relating to annual reports.

Pub. L. 102-550, §185(c)(1)(B), added subsec. (v) relating to use of FHA insurance with assistance under 42 U.S.C. 1437f.

1991—Subsec. (b)(2). Pub. L. 102-40 substituted "section 5303A(d) of title 38" for "section 3103A(d) of title 38".

1990—Subsec. (b)(2). Pub. L. 101-508, §2102, inserted at end "Notwithstanding any other provision of this paragraph, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of

the property (97.75 percent, in the case of a mortgage with an appraised value in excess of \$50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 1715q of this title, or a similar amount determined by the Secretary if section 1715q of this title does not apply."

Pub. L. 101-508, §2101, substituted "185 percent of the dollar amount specified" for "150 percent (185 percent until October 31, 1990) of the dollar amount specified" after "exceed the lesser of (A)".

Pub. L. 101-507 which directed the substitution of "(185 percent during fiscal year 1991)" for "(185 percent during fiscal year 1990)" could not be executed because "during fiscal year 1990" did not appear in text after amendment by Pub. L. 101-402. See below.

Pub. L. 101-402 substituted "until October 31, 1990" for "during fiscal year 1990".

Subsec. (b)(9). Pub. L. 101-625, §429, inserted "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act," before "the mortgagor's payment".

Subsec. (c). Pub. L. 101-508, §2103(a), designated existing provisions as par. (1), added par. (2), and struck out at end of par. (1) "In the case of any mortgage secured by a 1- to 4-family dwelling, the total premium charge shall not exceed an amount equal to 3.8 percent of the original principal obligation of the mortgage if the Secretary requires (1) a single premium charge to cover the total premium obligation of the insurance of the mortgage; or (2) a periodic premium charge over less than the term of the mortgage."

Subsec. (g)(1). Pub. L. 101-625, §326(a), inserted at end "In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary."

Subsec. (r)(4). Pub. L. 101-625, §327, added par. (4).

Subsec. (s). Pub. L. 101-625, §329, added subsec. (s) relating to disclosure regarding interest due upon mortgage prepayment.

Subsec. (t). Pub. L. 101-625, §330, added subsec. (t).

1989—Subsec. (b)(2). Pub. L. 101-144 inserted "(185 percent during fiscal year 1990)" after "(A) 150 percent".

Subsec. (g)(2). Pub. L. 101-235, §143(b), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of—

"(A) the appraised value of the dwelling;

"(B) the estimate of the Secretary of the replacement cost of the property;

"(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

"(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property, and, in the case of a property refinanced under section 1715k(d)(3)(A) of this title, any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property."

Subsec. (g)(2)(A). Pub. L. 101-235, §143(a)(1), inserted ", or any other State or local government or an agency thereof" before semicolon at end.

Subsec. (g)(2)(B). Pub. L. 101-235, §143(a)(2), inserted ", or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of title 26 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary" before semicolon at end.

Subsec. (g)(3), (4). Pub. L. 101-235, §143(b)(2), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (r). Pub. L. 101-235, §132(a)(1), amended first sentence generally, substituting "the single-family mortgage insurance programs carried out under this subchapter" for "the mortgage insurance program carried out under this section".

Subsec. (r)(2), (3). Pub. L. 101-235, §132(a)(2), amended pars. (2) and (3) generally. Prior to amendment, pars. (2) and (3) read as follows:

"(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is executed, or (B) during the 24-month period following the date on which the mortgage is executed in the case of an investor originated mortgage; and

"(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability."

Subsec. (s). Pub. L. 101-235, §135, added subsec. (s).

1988—Subsec. (b)(2). Pub. L. 100-628, §§1061, 1062(b), clarified amendments by Pub. L. 100-242, §§405(1), 406(b)(1)(B).

Pub. L. 100-242, §406(b)(1)(A), struck out "(whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes)" after "in the case of a two-family residence" in first sentence.

Pub. L. 100-242, §404, substituted "150 percent" for "1331/3 per centum" in cl. (A) of first sentence.

Pub. L. 100-242, §423, inserted definition of "area".

Pub. L. 100-242, §406(b)(1)(B), struck out "to be occupied as the principal residence of the owner" after "residence".

Pub. L. 100-242, §405(1), which directed insertion of ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38" before period at end of first undesignated paragraph, was executed by making the insertion after "other than dishonorable" at end of sentence defining "veteran", to reflect the probable intent of Congress.

Subsec. (b)(8). Pub. L. 100-242, §406(b)(2), struck out par. (8) which related to eligibility for insurance of a mortgage in the case of a mortgagor who is not occupant of the property.

Subsec. (c). Pub. L. 100-242, §403, inserted provisions at end relating to total premium charge to be fixed by Secretary in case of any mortgage secured by 1- to 4-family dwelling.

Subsec. (g). Pub. L. 100-242, §406(a), added subsec. (g).

Subsec. (g)(3)(F). Pub. L. 100-628, §1062(a), added subpar. (F).

Subsec. (h). Pub. L. 100-707, §109(e)(2), struck out "riot or civil disorder" after "hurricane, earthquake, storm," and substituted "5170" for "5141".

Pub. L. 100-242, §406(b)(3), struck out "is the owner and occupant and" after "where the mortgagor".

Subsec. (i). Pub. L. 100-242, §406(b)(4), struck out "*Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property:" after "for a single-family residence:" and substituted "*Provided*, That the Secretary" for "*Provided further*, That the Secretary".

Subsec. (k)(3)(B). Pub. L. 100-242, §429(c), substituted "borrower and the financial institution" for "mortgagor and the mortgagee".

Subsec. (m). Pub. L. 100-242, §406(c), struck out subsec. (m) which related to insurance of mortgages on dwellings that need not be designed for year-round occupancy.

Subsec. (o)(2). Pub. L. 100-242, §406(b)(5), substituted "owner" for "owner occupant" in first sentence.

Subsec. (p)(2). Pub. L. 100-242, §406(b)(6), substituted "owner" for "owner-occupant" in first sentence.

Subsec. (q)(1). Pub. L. 100-242, §422(b), substituted "Secretary shall" for "Secretary may".

Subsec. (r). Pub. L. 100-242, §407(a)(1), added subsec. (r).

Subsec. (r)(2)(A), (B). Pub. L. 100-628, §1063(a), substituted "date on which the mortgage is executed" for "date on which the mortgage is endorsed for insurance".

1986—Subsec. (q). Pub. L. 99-601 added subsec. (q).

1984—Subsec. (n)(2)(A). Pub. L. 98-479 substituted "a" for "an" before "cooperative ownership".

1983—Subsec. (b)(2). Pub. L. 98-181, §424(a), struck out "(except as provided in the next to the last sentence of this paragraph)" and inserted "(except as otherwise provided in this paragraph)" and inserted after first sentence "If the mortgage to be insured under this section covers property on which there is located a one-to four-family residence to be occupied as the principal residence of the owner, and the appraised value of the property, as of the date the mortgage is accepted for insurance, does not exceed \$50,000, the principal obligation may be in an amount not to exceed 97 percent of such appraised value."

Pub. L. 98-181, §423(b)(1), struck out ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured" after "150 per centum of such median price".

Subsec. (b)(5). Pub. L. 98-181, §404(b)(2), substituted provision that the interest rate be at such 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 if any, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

Subsec. (b)(8). Pub. L. 98-181, §425, substituted "the lesser of (A) the otherwise applicable maximum dollar amount prescribed under paragraph (2), or (B) 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance" for "85 per centum of the amount computed under the provisions of paragraph (2) of this subsection".

Subsec. (c). Pub. L. 98-181, §447, inserted "(1) under section 1715z-10, 1715z-12, 1715z-16, 1715z-17, or 1715z-18 of this title, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2)" after "fixed for insurance".

Subsec. (d). Pub. L. 98-181, §423(a), added subsec. (d).

Subsec. (h). Pub. L. 98-63 substituted "the applicable maximum dollar limit under subsection (b)" for "\$14,400".

Subsec. (k)(3)(B). Pub. L. 98-181, §404(b)(3), substituted provision that interest be at such a rate as agreed upon by the mortgagor and mortgagee for provision that interest be at a rate permitted by the Secretary for mortgages insured under this section, except that the Secretary could permit a higher rate with respect to the period beginning with the making of the loan and ending with the completion of the rehabilitation or such earlier time as determined by the Secretary.

Subsec. (n)(1). Pub. L. 98-181, §419(1), inserted "or the construction of which was completed more than a year prior to the application for the mortgage insurance" after "under this chapter".

Subsec. (n)(2)(A). Pub. L. 98-181, §419(2), struck out "nonprofit" before "cooperative".

1982—Subsec. (b)(2). Pub. L. 97-253, §201(a)(1), inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

Subsec. (b)(9). Pub. L. 97-253, §201(a)(2), inserted "(excluding the mortgage insurance premium paid at the time the mortgage is insured)" after "cost of acquisition".

Subsec. (c). Pub. L. 97-253, §201(b), inserted provision that with respect to mortgages for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

1980—Subsec. (b)(2). Pub. L. 96-399, §336(a), inserted provisions authorizing the Secretary to increase maximum dollar amounts with respect to four-family residences.

Subsec. (b)(3). Pub. L. 96-399, §333(a), struck out provisions relating to applicability to criteria of three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

Subsec. (k)(5). Pub. L. 96-399, §321, substituted provisions relating to insurance benefits paid with respect to loans secured by a first mortgage, and insured under this subsection, and those secured by a mortgage other than a first mortgage, and insured under this subsection, for provisions relating to insurance benefits paid with respect to loans insured under this subsection.

Subsec. (p). Pub. L. 96-399, §328, added subsec. (p).

1979—Subsec. (b)(2). Pub. L. 96-153, §§310, 312(a), excepted dwellings covered by a consumer protection or warranty plan acceptable to the Secretary and satisfying all requirements which would have been applicable if such dwellings had been approved for mortgage insurance prior to the beginning of construction from the limit on the maximum amount of mortgage on dwellings not approved for mortgage insurance prior to the beginning of construction, and substituted "\$67,500" for "\$60,000", "\$76,000" for "\$65,000" where it first appeared, "\$92,000" for "\$65,000" where it appeared the second time, and "\$107,000" for "\$75,000".

Subsec. (i). Pub. L. 96-153, §318, substituted "two and one-half or more acres in size adjacent to an all-weather public road" for "five or more acres in size adjacent to a public highway" in last proviso.

1978—Subsec. (b)(2). Pub. L. 95-619 inserted provision that the amount insurable under this section could be increased by up to 20 per centum if such increase were necessary to account for the increased cost of a residence due to the installation of a solar energy system.

Subsec. (c). Pub. L. 95-557, §101(c)(2), substituted "subsections (n) and (k) are not required" for "subsection (n) is not required" and "subsection (n) or (k) exceed 1 per centum" for "subsection (n) exceed 1 per centum".

Subsec. (k). Pub. L. 95-557, §101(c)(1), generally revised subsec. (k) to meet the credit needs of owners of from one-to-four family properties who can afford market rate borrowing by insuring one hundred percent of the loan amount and covering the cost of rehabilitation, rehabilitation and refinancing existing debt, or the purchase and rehabilitation of properties.

1977—Subsec. (b)(2). Pub. L. 95-128, §§303(a), 304(a), substituted "\$60,000" for "\$45,000", "\$65,000" for "\$48,750" wherever appearing, and "\$75,000" for "\$56,000" in provisions preceding cl. (i); struck out in cl. (i) following "97 per centum" parenthetical text "(but, in any case where the dwelling is not approved for

mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction, 90 per centum); substituted in first sentence "and (ii) 95 per centum of such value in excess of \$25,000" for "(ii) 90 per centum of such value in excess of \$25,000 but not in excess of \$35,000, and (iii) 80 per centum of such value in excess of \$35,000" and in second sentence "and (ii) 95 per centum of such value in excess of \$25,000" for "(ii) 90 per centum of such value in excess of \$25,000 but not in excess of \$35,000, and (iii) 85 per centum of such value in excess of \$35,000"; and inserted following the second sentence provision limiting the mortgage to 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance where the dwelling is not approved for mortgage insurance prior to the beginning of construction.

Subsec. (c). Pub. L. 95-128, §305, inserted proviso respecting premium charges for insurance under subsec. (n) of this section.

Subsec. (i). Pub. L. 95-128, §303(g), substituted provision which authorizes the Secretary to insure a mortgage hereunder which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsec. (b) of this section for prior limitation of such insurance on a mortgage which involved a principal obligation not in excess of \$16,200.

Subsec. (o). Pub. L. 95-128, §307, added subsec. (o).

1974—Subsec. (b)(2). Pub. L. 93-383, §302(a), substituted "\$45,000" for "\$33,000", "\$48,750" for "\$35,750" wherever appearing therein, and "\$56,000" for "\$41,250" in provisions preceding cl. (i).

Subsec. (b)(2)(i). Pub. L. 93-383, §310(a)(1), substituted "\$25,000" for "\$15,000" in first and second sentences.

Subsec. (b)(2)(ii). Pub. L. 93-383, §310(a)(2), substituted "\$25,000" for "\$15,000" and "\$35,000" for "\$25,000" in first and second sentences.

Subsec. (b)(2)(iii). Pub. L. 93-383, §310(a)(3), substituted "\$35,000" for "\$25,000" in first and second sentences.

Subsec. (h). Pub. L. 93-288 substituted "sections 5122(2) and 5141 of title 42" for "section 4402(1) of title 42".

Subsec. (n). Pub. L. 93-449 added subsec. (n).

1970—Subsec. (h). Pub. L. 91-606 substituted reference to section "4402(1)" for "1855a(a)" of title 42.

1969—Subsec. (b)(2). Pub. L. 91-152, §§102(a), 113(a)(1), substituted "\$25,000" for "\$20,000" wherever appearing, "\$33,000" for "\$30,000", "\$35,750" for "\$32,500" wherever appearing, and "\$41,250" for "\$37,500".

Subsec. (h). Pub. L. 91-152, §113(a)(2), substituted "\$14,400" for "\$12,000".

Subsec. (i). Pub. L. 91-152, §113(a)(3), substituted "\$16,200" for "\$13,500".

Subsec. (m). Pub. L. 91-152, §113(a)(4), substituted "\$18,000" for "\$15,000".

1968—Subsec. (h). Pub. L. 90-448, §1106(d), authorized insurance of mortgages for reconstruction of homes destroyed or damaged as a result of riot or civil disorder.

Subsec. (i). Pub. L. 90-448, §317, substituted "\$13,500" for "\$12,500".

Subsec. (l). Pub. L. 90-448, §103(b), repealed subsec. (l) which authorized insurance of mortgages in areas affected by civil disorders. See section 1715n(e) of this title.

Subsec. (m). Pub. L. 90-448, §318, added subsec. (m).

1967—Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subssecs. (a), (b)(1) to (9), (c), (e), (h), (i), and (k).

Subsec. (b)(3), (9). Pub. L. 90-19, §1(a)(4), substituted "Secretary's" for "Commissioner's".

1966—Subsec. (b)(2). Pub. L. 89-754, §301, substituted "If the mortgagor is a veteran," for "If the mortgagor is a veteran who has not received any direct, guaranteed, or insured loan under laws administered by the Veterans' Administration for the purchase, construction, or repair of a dwelling (including a farm dwelling) which was to be owned and occupied by him as his home,".

Subsec. (l). Pub. L. 89-754, §302, added subsec. (l).

1965—Subsec. (b)(2). Pub. L. 89-117, §§203, 206(a), substituted "and (except as provided in the next to the last sentence of this paragraph) not to exceed" for "and not to exceed", and "80 per centum" for "75 per centum", and inserted provisions prescribing the amount of the principal obligation for veterans and defining "veteran".

Subsec. (b)(9). Pub. L. 89-117, §§204, 206(b), inserted "(except in a case to which the next to the last sentence of paragraph (2) applies)" and "or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 1436 of title 42".

Subsec. (i). Pub. L. 89-117, §205, substituted "\$12,500" for "\$11,000".

Subsec. (k). Pub. L. 89-117, §1108(c), substituted "the General Insurance Fund" for "a separate section 203 Home Improvement Account to be maintained as hereinafter provided under the Mutual Mortgage Insurance Fund" in cl. (3) of the first sentence and "the General Insurance Fund or in debentures executed in the name of such Fund" for "the section 203 Home Improvement Account or in debentures executed in the name of such Account" in cl. (4), and removed references to section 220 Housing Insurance Fund and section 203 Home Improvement Account elsewhere in the subsec., including provisions for the funding of a special revolving fund for carrying out the provisions of the subsec.

1964—Subsec. (b)(2). Pub. L. 88-560, §102(a), increased maximum amount of the principal obligation for one-family residences from \$25,000 to \$30,000, for two-family residences from \$27,500 to \$32,500, for three-family residences from \$27,500 to \$32,500, and for four-family residences from \$35,000 to \$37,500.

Subsec. (i). Pub. L. 88-560, §102(b), increased maximum amount of the principal obligation from \$9,000 to \$11,000.

Subsec. (k). Pub. L. 88-560, §§103, 105(c)(1), substituted in cl. (2) "an acceptable risk" for "economically sound", in cl. (4) provision for payment of insurance benefits "in cash out of the Section 203 Home Improvement Account or in debentures executed in the name of such Account" for provision for such payment "in debentures executed in the name of the Section 203 Home Improvement Account", and in the third sentence "Insurance benefits paid with respect to loans insured under this subsection shall be paid" for "Debentures issued with respect to loans insured under this subsection shall be issued"; and inserted the provision that "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner.", respectively.

1961—Subsec. (a). Pub. L. 87-70, §604(b), struck out proviso which limited the aggregate amount of principal obligations of all mortgages insured under this chapter to not more than \$7,750,000,000, and which permitted additional increases in such sum by not more than \$1,250,000,000 in the aggregate.

Subsec. (b)(2). Pub. L. 87-70, §605(a), (b), increased maximum amount of the principal obligation for one-family residences from \$22,500 to \$25,000, and for two-family residences from \$25,000 to \$27,500, and substituted "\$15,000" for "\$13,500" in two places, "\$20,000" for "\$18,000" in two places, and "75 per centum" for "70 per centum".

Subsec. (b)(3). Pub. L. 87-70, §§605(c), 612(a)(1), substituted "thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage" for "thirty years from the date of the insurance of the mortgage".

Subsec. (c). Pub. L. 87-70, §606, 612(a)(2), reduced minimum premium charge from an amount equivalent to one-half of 1 per centum per annum to an amount equivalent to one-fourth of 1 per centum per annum, permitted the Commissioner to make the reduced premium charge applicable to each insured mortgage outstanding under the section or sections involved at the time the reduced charge is fixed, struck out provisos which related to premium charges for mortgages insured prior to Feb. 3, 1938, and for mortgages described in section 203(b)(2)(B) of the National Housing Act accepted for insurance prior to July 1, 1939, and substituted "particular insurance fund or account" for "particular insurance fund" in the first proviso of the second sentence.

Subsec. (e). Pub. L. 87-70, §102(b)(1), (2), substituted "eligibility of the loan or mortgage" for "eligibility of the mortgage", and "approved financial institution or approved mortgagee" for "approved mortgagee" in two places.

Subsec. (k). Pub. L. 87-70 §102(b)(3), added subsec. (k).

1959—Subsec. (b)(2). Pub. L. 86-372, §102(a), increased maximum amount of the principal obligation for one-family residences from \$20,000 to \$22,500, and for two-family residences from \$20,000 to \$25,000, increased the maximum amount of loans over \$13,500 from 85 per centum of the value in excess of \$13,500 but not in excess of \$16,000 to 90 per centum of the value in excess of \$13,500 but not in excess of \$18,000, and inserted provisions relating to dwellings approved for guaranty, insurance, or direct loan under chapter 37 of title 38 prior to the beginning of construction.

Subsec. (b)(8). Pub. L. 86-372, §102(b), inserted proviso making the 85 per centum limitation inapplicable if the mortgagor and mortgagee assume responsibility for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the 18th amortization payment of the mortgage, sold to a purchaser acceptable to the Commissioner who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

Subsec. (i). Pub. L. 86-372, §103, increased maximum amount of the principal obligation from \$8,000 to \$9,000, inserted parenthetical clause, and struck out provisions that limited the total amount of insurance outstanding at any one time for farm homes to not more than \$100,000,000.

Subsec. (j). Pub. L. 86-372, §809, added subsec. (j).

1958—Subsec. (b)(2). Pub. L. 85-364 substituted "\$13,500" for "\$10,000" in two places.

1957—Subsec. (b)(2). Pub. L. 85-104, §101(a), increased maximum amount of loan from 95 per centum of the first \$9,000 plus 75 per centum of excess above \$9,000, to 97 per centum of the first \$10,000 plus 85 per centum of the next \$6,000 and 70 per centum of the remainder, and struck out provisions authorizing President to increase former \$9,000 figure to \$10,000, eliminated provision that principal of mortgage shall not exceed 85 per centum if mortgagor is not occupant of property, and eliminated provision that mortgagor shall have paid at least 5 per centum cash payment. See subsec. (b)(8), (9).

Subsec. (b)(8), (9). Pub. L. 85-104, §101(b), added pars. (8) and (9).

Subsec. (d). Pub. L. 85-104, §106, repealed provisions which related to insurance of mortgages on farm properties.

Subsec. (i). Pub. L. 85-104, §101(c), amended provisions generally, and, among other changes, increased maximum loan from \$6,650 to \$8,000, and from 95 per centum to 97 per centum of value, and substituted provisions that mortgage obligation shall not exceed 85 per centum of value if mortgagor is not occupant, for provisions that (1) mortgagor be the owner and occupant and had paid at least 5 per centum cash, or (2) mortgagor be owner and occupant with whom a person or corporation having satisfactory credit standing had contracted to pay on his behalf all or part of downpayment, taking as security a note at not more than 4 per centum interest, and to guarantee payment of insured mortgage, or (3) to be the builder constructing the dwelling in which case principal should not exceed 85 per centum of value or \$5,950.

1956—Subsec. (b)(2). Act Aug. 7, 1956, §§102(a), 104(a), inserted "unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance" before "90 per centum" in parenthetical clause, and inserted provision that in cases where mortgagor is a person 60 years of age or older, the downpayment required could be paid by a person other than the mortgagor under conditions prescribed by the Commissioner.

Subsec. (h). Act Aug. 7, 1956, §102(b), substituted "\$12,000" for "\$7,000".

1954—Subsec. (b)(2). Act Aug. 2, 1954, §104, generally amended provisions to provide, among others, for an increase in, and equalization of, maximum mortgage amounts, with respect to new housing, substitution of a loan to value ratio of 95 per centum of the \$9,000 of value plus 75 per centum of the balance in excess of \$9,000, with Presidential authority to increase the \$9,000 figure to \$10,000 under certain conditions, and with respect to existing housing, substitution of a loan to value ratio of 90 per centum of the first \$9,000 of value plus 75 per centum of the balance in excess of \$9,000, with Presidential authority to increase the \$9,000 figure to \$10,000, and inserted a provision limiting the maximum loan to value ratio where the builder becomes the mortgagor, not to exceed 85 per centum of the mortgage loan which an owner-occupant could obtain.

Subsec. (b)(3). Act Aug. 2, 1954, §105, substituted a provision for a maximum maturity of 30 years or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser, for former provision carrying varying limits ranging from twenty to thirty years.

Subsec. (b)(5). Act Aug. 2, 1954, §106, fixed maximum statutory interest rate on mortgages at 5 per centum with authority in the Commissioner to increase the rate to not to exceed 6 per centum as he finds it necessary to meet the mortgage market; and permitted the allowance of service charges.

Subsec. (c). Act Aug. 2, 1954, §107, provided that debentures presented in payment of premium charges shall represent obligations of the particular insurance fund to which such premium charges are to be credited.

Subsec. (d). Act Aug. 2, 1954, §108, prohibited insurance of mortgages pursuant to this subsection after Aug. 2, 1954, except pursuant to commitments to insure issued on or before such date.

Subsecs. (f), (g). Act Aug. 2, 1954, §109, repealed subsec. (f) which related to refinance mortgages and subsec. (g) which related to higher loan to value ratio and longer maturity for single-family residences. See subsecs. (b)(2) and (b)(3) of this section.

Subsecs. (h), (i). Act Aug. 2, 1954, §110, added subsecs. (h) and (i).

1953—Subsec. (g). Act June 30, 1953, added subsec. (g).

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

Subsec. (a). Act Apr. 20, 1950, §103, increased statutory amount of insurance authority from \$6,750,000,000 to \$7,500,000,000 and provided that an additional \$1,250,000,000 in insurance authority could be made available with the authority of the President.

Subsec. (b)(2). Act Apr. 20, 1950, §104(a), inserted proviso to clause (A) to allow the Commissioner to increase the dollar limitation by not exceeding \$4,500 for each additional family dwelling unit, in excess of two located on such property, repealed clause (B), changed "\$9,500" to read "\$9,450", "90" to "95" in clause (C), and changed clause (D) to provide that an insured mortgage could not exceed \$6,650 in amount and not exceed 95 per centum of the appraised value, except that the Commissioner is given discretionary authority to increase such dollar amount limitation by not exceeding \$950 for each additional bedroom in excess of two,

and also to give Commissioner authority to increase the insurance limitation in any geographical area where he finds that cost levels so require.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted "\$6,000,000,000" for "\$5,500,000,000", and "\$6,750,000,000" for "\$6,000,000,000".

Act Aug. 30, 1949 substituted "\$5,500,000,000" for "\$5,300,000,000" and "\$6,000,000,000" for "\$5,500,000,000".

Act July 15, 1949, substituted "\$5,300,000,000" for "\$4,000,000,000" and "\$5,500,000,000" for "\$5,000,000,000".

1948—Subsec. (b)(2). Act Aug. 10, 1948, §101(g), (h)(1)–(3), (j)(1), substituted "\$6,300" for "\$5,400" in subpar. (B), substituted "\$9,500" for "\$8,600", "\$7,000" for "\$6,000", and "\$11,000" for "\$10,000" in subpar. (C), and added subpar. (D).

Subsec. (b)(3). Act Aug. 10, 1948, §101(i), (j)(2), substituted "on property approved for insurance prior to the beginning of construction" for "of the character described in paragraph (2)(B) of this subsection" and inserted "or not to exceed thirty years in the case of a mortgage insured under paragraph (2)(D) of this subsection", at the end thereof.

Subsec. (b)(5). Act Aug. 10, 1948, §101(j)(3), inserted "or not to exceed 4 per centum per annum in the case of a mortgage insured under paragraph (2)(D) of this subsection, or not to exceed such percentum per annum, not in excess of 5 per centum, as the Administrator finds necessary to meet the mortgage market" at the end thereof.

Subsec. (c). Act Aug. 10, 1948, §101(k)(1), (2), struck out of last sentence "under this section or section 1715a of this title" after "accepted for insurance" and "and a mortgage on the same property is accepted for insurance at the time of such payment" after "herein set forth".

1946—Subsec. (a). Act July 1, 1946, struck out second and third provisos providing for a limitation on the aggregate amount of mortgages outstanding, and limiting insuring of mortgages after July 1, 1946, respectively.

1943—Subsec. (a). Act Oct. 15, 1943, substituted "1946" for "1944" in third proviso.

1941—Subsec. (a). Act June 28, 1941, substituted "\$4,000,000,000" for "\$3,000,000,000", "\$5,000,000,000" for "\$4,000,000,000"; and affected second and third provisos.

1939—Subsec. (a). Act June 3, 1939, §6, substituted "\$3,000,000" for "\$2,000,000", "\$4,000,000" for "\$3,000,000", generally revised second proviso and inserted third proviso.

Subsec. (b)(3). Act June 3, 1939, §7, struck out "until July 1, 1939".

Subsecs. (e), (f). Act June 3, 1939, §8, added subsecs. (e) and (f).

1938—Subsecs. (a) to (d). Act Feb. 3, 1938, amended provisions generally.

1935—Subsec. (a)(1). Act Aug. 23, 1935, inserted "property and" before "project".

Subsec. (c). Act May 28, 1935, inserted part of last sentence before the semicolon.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 2011 AMENDMENT

Pub. L. 112–78, title IV, §402(b), Dec. 23, 2011, 125 Stat. 1289, provided that the amendment made by section 402(b) is effective Oct. 1, 2021.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110–289, div. B, title I, §2112(c), July 30, 2008, 122 Stat. 2831, provided that: "The amendments made by subsection (a) [amending this section] shall take effect upon the expiration of the date described in section 202(a) of the Economic Stimulus Act of 2008 (Public Law 110–185; 122 Stat. 620) [Dec. 31, 2008]."

EFFECTIVE DATE OF 2004 AMENDMENTS

Pub. L. 108–447, div. I, title II, §223, Dec. 8, 2004, 118 Stat. 3321, provided in part that: "This provision [amending this section] shall apply to loans that become insured on or after date of enactment of this Act [Dec. 8, 2004]."

Amendment by Pub. L. 108–386 effective Oct. 30, 2004, and, except as otherwise provided, applicable with respect to fiscal year 2005 and each succeeding fiscal year, see sections 8(i) and 9 of Pub. L. 108–386, set out as notes under section 321 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107–73, title II, §207(b), Nov. 26, 2001, 115 Stat. 675, provided that: "The amendments made by subsection (a) [amending this section] shall—

"(1) apply only to mortgages that are executed on or after the date of enactment of this Act [Nov. 26, 2001]; and

"(2) be implemented in advance of any necessary conforming changes to regulations."

APPLICABILITY OF 1994 AMENDMENT

Pub. L. 103-211, title I, Feb. 12, 1994, 108 Stat. 12, provided in part that: "For higher mortgage limits and improved access to mortgage insurance for victims of the January 1994 earthquake in Southern California, title II of the National Housing Act, as amended [12 U.S.C. 1707 et seq.], is further amended, as follows:

"(1) [Amended this section.]

"(2) [Amended this section.]

"(3) [Amended section 1715y of this title.]

"Eligibility for loans made under the authority granted by the preceding paragraph [amending this section and section 1715y of this title] shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: *Provided*, That the provisions under this heading [amending this section and section 1715y of this title] shall be effective only for the 18-month period following the date of enactment of this Act [Feb. 12, 1994]."

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-550, title V, §503(b), Oct. 28, 1992, 106 Stat. 3779, provided that: "The amendment made by subsection (a) [amending this section] shall apply only to mortgages executed on or after January 1, 1993."

Pub. L. 102-550, title V, §506(b), Oct. 28, 1992, 106 Stat. 3781, provided that: "The amendment made by subsection (a) [amending this section] shall apply to mortgages for which commitments for insurance are issued after the expiration of the 12-month period beginning on the date of the enactment of this Act [Oct. 28, 1992]."

EFFECTIVE DATE OF 1990 AMENDMENTS

Pub. L. 101-625, title III, §326(b), Nov. 28, 1990, 104 Stat. 4137, provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990]; or

"(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Amendment by Pub. L. 101-402 deemed to have taken effect as if enacted September 29, 1990, see section 1(a) of Pub. L. 101-494, set out as an Effective Date of Temporary Extension of Emergency Low Income Housing Preservation Act of 1987 and Correction of Any Repeal note under section 1715l of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-235, title I, §132(b), Dec. 15, 1989, 103 Stat. 2027, provided that: "The amendments made by subsection (a) [amending this section] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act [Dec. 15, 1989]; or

"(B) in accordance with the direct endorsement program (24 C.F.R. 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Pub. L. 101-235, title I, §143(c), Dec. 15, 1989, 103 Stat. 2036, provided that: "The amendments made by this section [amending this section] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act [Dec. 15, 1989]; or

"(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100–242, title IV, §406(d), Feb. 5, 1988, 101 Stat. 1902, provided that: "The amendments made by this section [amending this section and sections 1715d, 1715g, 1715k, 1715l, 1715m, 1715n, 1715y, and 1715z of this title] shall apply only with respect to—

"(1) mortgages insured—

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act [Feb. 5, 1988]; or

"(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a) [amending this section], if the original mortgagor was subject to such amendment."

Pub. L. 100–242, title IV, §407(a)(2), Feb. 5, 1988, 101 Stat. 1902, as amended by Pub. L. 100–628, title X, §1063(b), Nov. 7, 1988, 102 Stat. 3274, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to each mortgage originated pursuant to an application for commitment for insurance signed by the applicant on or after December 1, 1986."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–181, title I [title IV, §424(b)], Nov. 30, 1983, 97 Stat. 1217, provided that: "The amendment made by subsection (a) [amending this section] shall take effect only if the Secretary finds and reports to the Congress that such amendment, taking into account the higher loan-to-value ratio resulting from the advance payment of mortgage insurance premiums, will not adversely affect the actuarial soundness of the Federal Housing Administration mortgage insurance program." [For finding and report by Secretary and rule implementing the amendments effective June 24, 1985, see 49 F.R. 39686 and 50 F.R. 19924.]

Pub. L. 98–181, title I [title IV, §423(c)], Nov. 30, 1983, 97 Stat. 1217, provided that: "The amendments made by this section [amending this section and sections 1715e, 1715l, 1715y, and 1715z of this title] shall take effect only if the Secretary of Housing and Urban Development determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by such sections, is actuarially sound." [For determination by Secretary and rule implementing the amendments effective May 10, 1984, see 49 F.R. 12693.]

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–557, title I, §104, Oct. 31, 1978, 92 Stat. 2084, provided that: "The amendments made by this title [enacting section 5319 of Title 42, The Public Health and Welfare, and amending this section, sections 1706e and 1717 of this title, and sections 1452b, 5304, 5305, 5307, and 5318 of Title 42] shall become effective October 1, 1978."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–606 effective Dec. 31, 1970, see section 304 of Pub. L. 91–606, set out as a note under section 165 of Title 26, Internal Revenue Code.

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.

REGULATIONS

Pub. L. 105–276, title II, §225(b), Oct. 21, 1998, 112 Stat. 2490, provided that: "The Secretary of Housing and Urban Development shall develop the disclosure notice under subsection (a) [amending this section] within 150 days of the enactment [Oct. 21, 1998] through notice and comment rulemaking."

IMPLEMENTATION

Pub. L. 111–229, §1(b), Aug. 11, 2010, 124 Stat. 2483, provided that: "The Secretary may adjust the amount of any initial or annual premium charged pursuant to subsection (a) [amending this section] through notice published in the Federal Register or mortgagee letter. Such notice or mortgagee letter shall establish the effective date of any premium adjustment therein."

TEMPORARY EXTENSION OF FHA MORTGAGE LIMIT

Pub. L. 101-494, §4, Oct. 31, 1990, 104 Stat. 1185, provided that:

"(a) EXTENSION.—If upon enactment of this Act [see Effective Date of 1990 Amendments note above], section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) provides for an increase in the maximum dollar amount limitations on the principal obligations of mortgages insured under such section until October 31, 1990, then notwithstanding such section, such maximum dollar amount limitations may be increased (to the percent specified in such section) until November 30, 1990.

"(b) LIMITATIONS.—If upon enactment of this Act such section 203(b)(2) [12 U.S.C. 1709(b)(2)] provides for an increase in the maximum dollar amount limitations (referred to in subsection (a)) until a date other than October 31, 1990, this section shall not apply. This section shall not apply with respect to any amendment to section 203(b)(2) of the National Housing Act made after the date of the enactment of this Act [Oct. 31, 1990]."

TRANSITION PROVISIONS OF 1990 AMENDMENTS

Pub. L. 101-625, title III, §326(c), Nov. 28, 1990, 104 Stat. 4137, provided that: "Any mortgage insurance provided under title II of the National Housing Act [this subchapter] before the expiration of the 60-day period beginning on the date of the enactment of this Act [Nov. 28, 1990], shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act [12 U.S.C. 1709(g)(1)], as such provisions existed before the date of the enactment of this Act."

Pub. L. 101-508, title II, §2103(b), (c), Nov. 5, 1990, 104 Stat. 1388-18, 1388-19, as amended by Pub. L. 102-550, title I, §185(c)(3), title V, §507(b), Oct. 28, 1992, 106 Stat. 3748, 3782, provided that:

"(b) TRANSITION PROVISIONS.—Notwithstanding section 203(c) of the National Housing Act [12 U.S.C. 1709(c)] (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act shall be subject to the following requirements:

"(1) 1991 AND 1992.—For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

"(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount not exceeding 3.80 percent of the amount of the original insured principal obligation of the mortgage.

"(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

"(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

"(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

"(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

"(2) 1993 AND 1994.—For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

"(A) UP-FRONT.—At the time of insurance, a single premium payment in an amount not exceeding 3.00 percent of the amount of the original insured principal obligation of the mortgage.

"(B) ANNUAL.—In addition to the premium under subparagraph (A), annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is—

"(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

"(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

"(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

"(3) REFUNDS.—With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

"(c) REGULATIONS.—The Secretary shall issue regulations to carry out this section and the amendments

made by this section [amending this section] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Nov. 5, 1990]."

TRANSITION PROVISIONS OF 1989 AMENDMENT

Pub. L. 101–235, title I, §132(c), Dec. 15, 1989, 103 Stat. 2027, provided that: "Any mortgage insurance provided under title II of the National Housing Act [this subchapter] as it existed immediately before the date of the enactment of this Act [Dec. 15, 1989], shall continue to be governed (to the extent applicable) by the provisions of section 203(r) of the National Housing Act [12 U.S.C. 1709(r)], as such section existed immediately before such date."

Pub. L. 101–235, title I, §143(d), Dec. 15, 1989, 103 Stat. 2036, provided that: "Any mortgage insurance provided under title II of the National Housing Act [this subchapter], as it existed immediately before the date of the enactment of this Act [Dec. 15, 1989], shall continue to be governed (to the extent applicable) by the provisions amended by subsections (a) and (b) [amending this section] as such provisions existed immediately before such date."

TRANSITION PROVISIONS OF 1988 AMENDMENT

Pub. L. 100–242, title IV, §406(e), Feb. 5, 1988, 101 Stat. 1902, provided that: "Any mortgage insurance provided under title II of the National Housing Act [this subchapter], as it existed immediately before the date of the enactment of this Act [Feb. 5, 1988], shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c) [this section and sections 1715d, 1715g, 1715k, 1715l, 1715m, 1715n, 1715y, 1715z of this title], as such provisions existed immediately before such date."

IMPLEMENTATION OF 1982 AMENDMENT

Pub. L. 97–253, title II, §201(g), Sept. 8, 1982, 96 Stat. 790, provided that: "The amendments made by this section [amending this section and sections 1715e, 1715l, 1715y, and 1715z of this title], other than by subsection (b) [amending subsec. (c) of this section], may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound."

EFFECT OF REPEAL OF SUBSEC. (B)(2)(B) OF THIS SECTION

Act Apr. 20, 1950, ch. 94, title I, §104(b), 64 Stat. 52, provided that: "The repeal of section 203(b)(2)(B) of said Act [former subsection (b)(2)(B) of this section], as provided by subsection (a) of this section, shall not affect the right of the Commissioner to insure under said section any mortgage (1) for the insurance of which application has been filed prior to the effective date of this Act [Apr. 20, 1950], or (2) with respect to a property covered by a mortgage insured under any section of the National Housing Act, as amended [this chapter]."

LIMITATION ON MORTGAGE INSURANCE PREMIUM INCREASES

Pub. L. 110–289, div. B, title I, §2130, July 30, 2008, 122 Stat. 2842, provided that:

"(a) IN GENERAL.—Notwithstanding any other provision of law, including any provision of this title [see Short Title of 2008 Amendment note set out under section 1701 of this title] and any amendment made by this title—

"(1) for the period beginning on the date of the enactment of this title [July 30, 2008] and ending on October 1, 2009, the premiums charged for mortgage insurance under multifamily housing programs under the National Housing Act [12 U.S.C. 1701 et seq.] may not be increased above the premium amounts in effect under such program on October 1, 2006, unless the Secretary of Housing and Urban Development determines that, absent such increase, insurance of additional mortgages under such program would, under the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], require the appropriation of new budget authority to cover the costs (as such term is defined in section 502 of the Federal Credit Reform Act of 1990 [2 U.S.C. 661a]) of such insurance; and

"(2) a premium increase pursuant to paragraph (1) may be made only if not less than 30 days prior to such increase taking effect, the Secretary of Housing and Urban Development—

"(A) notifies the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives of such increase; and

"(B) publishes notice of such increase in the Federal Register.

"(b) WAIVER.—The Secretary of Housing and Urban Development may waive the 30-day notice requirement under subsection (a)(2), if the Secretary determines that waiting 30-days before increasing premiums would cause substantial damage to the solvency of multifamily housing programs under the National Housing Act [12 U.S.C. 1701 et seq.]."

MUTUAL MORTGAGE INSURANCE FUND PREMIUMS

Pub. L. 103-66, title III, §3005, Aug. 10, 1993, 107 Stat. 340, provided that: "To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act [Aug. 10, 1993]). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate."

REPORT ON HOME EQUITY CONVERSION MORTGAGES FOR THE ELDERLY

Pub. L. 98-181, title I [title IV, §448], Nov. 30, 1983, 97 Stat. 1228, directed Secretary of Housing and Urban Development to evaluate existing use of home equity conversion mortgages for the elderly and, not later than the expiration of the 1-year period following Nov. 30, 1983, submit to Congress a report setting forth the results of such evaluation. Such report to include an evaluation of whether use of such mortgages improves financial situation, or otherwise meets special needs, of elderly homeowners; an evaluation of any risks incurred by mortgagors as a result of use of such mortgages, and any recommendations of Secretary for appropriate safeguards to be included in such mortgages to minimize such risks; an evaluation of the potential for acceptance of such mortgages in the private market; and any recommendations of Secretary for establishment of a Federal program of insuring such mortgages.

STUDIES OF MORTGAGE INSURANCE PREMIUMS AND ALTERNATIVES TO STATUTORY MORTGAGE AMOUNTS

Pub. L. 96-153, title III, §309, Dec. 21, 1979, 93 Stat. 1114, directed Secretary of Housing and Urban Development to (a) conduct a study of the relative risks of loss for various classes of mortgages which may be insured under sections 1709(b) and 213 of this title, for the purpose of making recommendations on the advisability of reducing mortgage insurance premiums, and transmit the recommendations to Congress within 18 months from Dec. 21, 1979, and (b) conduct a study of alternatives to the present system of fixed statutory maximum amounts for mortgages insured under subchapters I and II of this chapter and report to Congress on the results of the study together with recommendations for legislative, by Mar. 1, 1980.

INSURANCE PROGRAM OR HOMEOWNERS TO MEET MORTGAGE PAYMENTS IN TIMES OF PERSONAL ECONOMIC ADVERSITY

Pub. L. 90-448, §109, authorized Secretary of Housing and Urban Development to develop a plan of insurance to help homeowners meet mortgage payments in times of personal economic adversity, i.e., death, disability, illness, and unemployment; required the program to be actuarially sound through the use of premiums, fees, extended or increased payment schedules, or other similar methods in conjunction with federal participation as necessary; directed the Secretary to report to Congress within 6 months of Aug. 1, 1968 and to recommend legislation, authorizing him to contract with companies, corporations, or joint enterprises formed to provide home mortgage insurance protection for the purpose of reinsuring insurance reserve funds, subsidizing premium payments for lower income mortgagors, or otherwise making possible insurance protection of homeowners; and authorized the Secretary, in preparing his recommendations, to consult with other agencies or instrumentalities of the United States which insure or guarantee home mortgages in order that any recommended legislation afford equal benefits to mortgagors participating in their programs.

¹ [*See References in Text note below.*](#)

² [*So in original.*](#)

§1709-1. Repealed. Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208

Section, Pub. L. 90-301, §3(a), May 7, 1968, 82 Stat. 113; Pub. L. 90-448, title III, §315, Aug. 1, 1968, 82 Stat. 512; Pub. L. 91-78, §3, Sept. 30, 1969, 83 Stat. 125; Pub. L. 91-152, title IV, §401, Dec. 24, 1969, 83 Stat. 394; Pub. L. 91-351, title VI, §601, July 24, 1970, 84 Stat. 461; Pub. L. 92-213, §1, Dec. 22, 1971, 85

Stat. 775; Pub. L. 92-335, §1, July 1, 1972, 86 Stat. 405; Pub. L. 93-85, §2, Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, §3, Oct. 2, 1973, 87 Stat. 422; Pub. L. 93-234, title II, §208, Dec. 31, 1973, 87 Stat. 984; Pub. L. 93-383, title III, §§309(e), 317, Aug. 22, 1974, 88 Stat. 682, 685; Pub. L. 95-60, §2, June 30, 1977, 91 Stat. 257; Pub. L. 95-80, §2, July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, §302, Oct. 12, 1977, 91 Stat. 1131; Pub. L. 95-406, §2, Sept. 30, 1978, 92 Stat. 880; Pub. L. 95-557, title III, §302, Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96-71, §2, Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §2, Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title III, §302, Dec. 21, 1979, 93 Stat. 1112; Pub. L. 96-372, §3, Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96-399, title III, §§302, 332, Oct. 8, 1980, 94 Stat. 1639, 1652; Pub. L. 97-35, title III, §332, Aug. 13, 1981, 95 Stat. 413; Pub. L. 97-289, §2, Oct. 6, 1982, 96 Stat. 1231; Pub. L. 98-35, §2, May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §2, Oct. 1, 1983, 97 Stat. 746, authorized the Secretary, until Dec. 1, 1983, to set the maximum interest rates for certain mortgage insurance programs, notwithstanding the authority of the Secretary of Housing and Urban Development to establish such rates, specified the criteria to be considered in establishing such rates, authorized the Secretary to provide that the interest rate applicable under section 1709(b) of this title be the negotiated interest rate specified in the commitment agreement, limited the amount of mortgages with such negotiated interest rates which may be insured and prohibited such negotiated interest rates with respect to mortgages subject to section 1715z-10 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

MORTGAGE CREDIT INTEREST RATES

Pub. L. 90-301, §4, May 7, 1968, 82 Stat. 114, as amended by Pub. L. 90-565, Oct. 12, 1968, 82 Stat. 1001; Pub. L. 91-9, Apr. 11, 1969, 83 Stat. 7; Pub. L. 91-38, July 1, 1969, 83 Stat. 43, which established a Commission to study mortgage interest rates and to make recommendations to assure the availability of an adequate supply of mortgage credit at a reasonable cost to the consumer, directed the Commission to make an interim report not later than July 1, 1969, and a final report of its study and recommendations not later than August 1, 1969, to enable the President, Congress, and the Secretary of Housing and Urban Development to take necessary action before October 1, 1969, when the authorization for the increase in interest rates above present statutory ceilings will expire, and provided that the Commission cease to exist sixty days after the submission of its final report, was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

§1709-1a. State constitutional and legal limits upon interest chargeable on loans, mortgages, or other interim financing arrangements; applicability; covered arrangements

(a) The provisions of the constitution of any State expressly limiting the amount of interest which may be charged, taken, received, or reserved by certain classes of lenders and the provisions of any law of that State expressly limiting the amount of interest which may be charged, taken, received, or reserved shall not apply to—

(1) any loan or mortgage which is secured by a one- to four-family dwelling and which is (A) insured under title I or II [12 U.S.C. 1702 et seq. or 1707 et seq.] of the National Housing Act, or (B) insured, guaranteed, or made under chapter 37 of title 38; or

(2) any temporary construction loan or other interim financing if at the time such loan is made or financing is arranged, the intention to obtain permanent financing substantially by means of loans or mortgages so insured, guaranteed, or made is declared.

(b) The provisions of this section shall apply to such loans, mortgages, or other interim financing made or executed in any State until the effective date (after June 30, 1976) of a provision of law of that State limiting the amount of interest which may be charged, taken, received, or reserved on such loans, mortgages, or financing.

(Pub. L. 94-324, §8, June 30, 1976, 90 Stat. 722.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246. Titles I and II of the National Housing Act are classified generally to subchapters I (§1702 et seq.) and II (§1707 et seq.), respectively, of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Veterans Housing Amendments Act of 1976, and not as part of the National Housing Act which comprises this chapter.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE

Section effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of Title 38, Veterans' Benefits.

§1709–2. Equity skimming; penalty; persons liable; one dwelling exemption

Whoever, with intent to defraud, willfully engages in a pattern or practice of—

(1) purchasing one- to four-family dwellings (including condominiums and cooperatives) which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Department of Veterans Affairs, or the loan is made by the Department of Veterans Affairs,

(2) failing to make payments under the mortgage or deed of trust as the payments become due, regardless of whether the purchaser is obligated on the loan, and

(3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

(Pub. L. 91-609, title IX, §912, Dec. 31, 1970, 84 Stat. 1814; Pub. L. 100-242, title IV, §416(a), Feb. 5, 1988, 101 Stat. 1907; Pub. L. 102-54, §13(d)(1), June 13, 1991, 105 Stat. 274.)

EDITORIAL NOTES

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1991—Par. (1). Pub. L. 102-54 substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places.

1988—Pub. L. 100-242 inserted parenthetical reference to condominiums and cooperatives in par. (1), substituted "due, regardless of whether the purchaser is obligated on the loan" for "due" in par. (2), and substituted "\$250,000" for "\$5,000" and "5" for "three" in closing provisions.

§1709a. Determination of loan-to-value ratios

The Secretary of Housing and Urban Development, in establishing maximum loan-to-value ratios for mortgages insured by him under the National Housing Act [12 U.S.C. 1701 et seq.], as amended by sections 101, 102, and 103 of this Act, shall determine that such ratios are in the public interest

after taking into consideration (1) the effect of such ratios on the national economy and on conditions in the building industry, and (2) the availability or unavailability of residential mortgage credit assisted under the Servicemen's Readjustment Act of 1944, as amended.

(Pub. L. 85–104, title I, §104, July 12, 1957, 71 Stat. 296; Pub. L. 90–19, §14(a), May 25, 1967, 81 Stat. 24.)

EDITORIAL NOTES

REFERENCES IN TEXT

The National Housing Act, referred to in text, 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.

Amendments by sections 101, 102, and 103 of this act, referred to in text, refers to amendment of sections 1709(b), (i), 1715k(d)(3), and 1715m(b) of this title by Pub. L. 85–104. Section 1709(i) of this title was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(1), July 30, 2008, 122 Stat. 2835. Section 1715m of this title was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, 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 which 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 Act of 1957, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

§1709b. Repealed. Pub. L. 85–364, §6, Apr. 1, 1958, 72 Stat. 77

Section, Pub. L. 85–104, title VI, §605, July 12, 1957, 71 Stat. 305, authorized Federal Housing Commissioner and Administrator of Veterans' Affairs to fix reasonable limits on charges, fees, and discounts imposed upon builders, sellers, or purchasers.

§1710. Payment of insurance

(a) In general

(1) Authorized claims procedures

The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 1709 of this title through any of the following methods:

(A) Assignment of mortgage

The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

- (i) all rights and interests arising under the mortgage;
- (ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;
- (iii) title evidence satisfactory to the Secretary; and

(iv) such records relating to the mortgage transaction as the Secretary may require.

(B) Conveyance of title to property

The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

(i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and

(ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

(C) Claim without conveyance of title

The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

(D) Preforeclosure sale

The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

(i) the sale of the mortgaged property has been approved by the Secretary;

(ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and

(iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

(2) Payment for loss mitigation

The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default or faces imminent default, as defined by the Secretary (including but not limited to actions such as special forbearance, loan modification, support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section subsection ¹(a)(1)(A) or section 1715u(c) of this title). No actions taken under this paragraph, nor any failure to act under this paragraph, by the Secretary or by a mortgagee shall be subject to judicial review.

(3) Determination of claims procedure

The Secretary shall publish guidelines for determining which of the procedures for payment of insurance under paragraph (1) are available to a mortgagee when it claims insurance benefits. At least one of the procedures for payment of insurance benefits specified in paragraph (1)(A) or (1)(B) shall be available to a mortgagee with respect to a mortgage, but the same procedure shall not be required to be available for all of the mortgages held by a mortgagee.

(4) Servicing of assigned mortgages

If a mortgage is assigned to the Secretary under paragraph (1)(A), the Secretary may permit the assigning mortgagee or its servicer to continue to service the mortgage for reasonable

compensation and on terms and conditions determined by the Secretary. Neither the Secretary nor any servicer of the mortgage shall be required to forbear from collection of amounts due under the mortgage or otherwise pursue loss mitigation measures.

(5) Calculation of insurance benefits

Insurance benefits shall be paid in accordance with section 1735d of this title and shall be equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of—

- (A) assignment of the mortgage to the Secretary;
- (B) the institution of foreclosure proceedings;
- (C) the acquisition of the property after default other than by foreclosure; or
- (D) sale of the mortgaged property by the mortgagor.

(6) Forbearance and recasting after default

The mortgagee may, upon such terms and conditions as the Secretary may prescribe—

(A) extend the time for the curing of the default and the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, to such time as the mortgagee determines is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent foreclosure or acquisition of the property by other means the Secretary may include in the amount of insurance benefits an amount equal to any unpaid mortgage interest; or

(B) provide for a modification of the terms of the mortgage for the purpose of recasting, over the remaining term of the mortgage or over such longer period pursuant to guidelines as may be prescribed by the Secretary, the total unpaid amount then due, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered the "original principal obligation of the mortgage" for purposes of paragraph (5).

(7) Termination of premium obligation

The obligation of the mortgagee to pay the premium charges for insurance shall cease upon fulfillment of the appropriate requirements under which the Secretary may pay insurance benefits, as described in paragraph (1). The Secretary may also terminate the mortgagee's obligation to pay mortgage insurance premiums upon receipt of an application filed by the mortgagee for insurance benefits under paragraph (1), or in the event the contract of insurance is terminated pursuant to section 1715t of this title.

(8) Effect on payment of insurance benefits under section 1715u

Nothing in this section shall limit the authority of the Secretary to pay insurance benefits under section 1715u of this title.

(9) Treatment of mortgage assignment program

Notwithstanding any other provision of law, or the Amended Stipulation entered as a consent decree on November 8, 1979, in *Ferrell v. Cuomo*, No. 73 C 334 (N.D. Ill.), or any other order intended to require the Secretary to operate the program of mortgage assignment and forbearance that was operated by the Secretary pursuant to the Amended Stipulation and under the authority of section 1715u of this title, prior to its amendment by section 407(b) of The Balanced Budget Downpayment Act, I (Public Law 104–99; 110 Stat. 45), no mortgage assigned under this section may be included in any mortgage foreclosure avoidance program that is the same or substantially equivalent to such a program of mortgage assignment and forbearance.

(b) Consent to release of mortgagor or property

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(c) Debentures; form and amounts

Debentures issued under this section—

- (1) shall be in such form and amounts;
- (2) shall be subject to such terms and conditions;
- (3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and
- (4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(d) Debentures; issuance; negotiability; terms; tax exemptions

The debentures issued under this section to any mortgagee ² with respect to mortgages insured under section 1709 of this title shall be issued in the name of the Mutual Mortgage Insurance Fund as obligor and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default: *Provided*, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages insured under section 1709 or section 1713 of this title prior to February 3, 1938 shall be subject only to such Federal, State, and local taxes as the mortgages in exchange for which they are issued would be subject to in the hands of the holder of the debentures and shall be a liability of the Mutual Mortgage Insurance Fund, but such debentures shall be fully and unconditionally guaranteed as to principal and interest by the United States; but any mortgagee entitled to receive any such debentures may elect to receive in lieu thereof a cash adjustment and debentures issued as hereinafter provided and bearing the current rate of interest. Such debentures as are issued in exchange for property covered by the mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; and such debentures shall be paid out of the Mutual Mortgage Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event that the Mutual Mortgage Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this section, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(e) Certificate of claim

(1) Subject to paragraph (2), the certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f).

(2) A certificate of claim shall not be issued and the provisions of paragraph (1) of this subsection shall not be applicable in the case of a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964.

(f) Division of excess proceeds; settlement of certificates of claims and refunds to mortgagors

(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amount realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 1709 of this title: *Provided*, That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim, together with the accrued interest increment thereon, shall be retained by the Secretary and credited to the applicable insurance fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is authorized, with respect to mortgages insured pursuant to commitments for insurance issued after August 11, 1955, and, with the consent of the mortgagee or mortgagor, as the case may be, with respect to mortgages insured pursuant to commitments issued prior to such date, to effect the settlement of certificates of claim and refunds to mortgagors at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: *Provided*, That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificates of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized, without awaiting the final liquidation of the Secretary's interest in the property, to settle any certificate of claim issued pursuant to subsection (e), with respect to which settlement had not been effected prior to September 2, 1964, by making payment in cash to the holder thereof of such amount not exceeding the face amount of the certificate of claim, together with the accrued interest thereon, as the Secretary may consider appropriate: *Provided*, That in any case where the certificate of claim is settled in accordance with the provisions of this paragraph, any amounts realized after September 2, 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

(g) Handling and disposal of property; settlement of claims

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this section: *Provided*, That section 6101 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$1,000. The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to

the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided*, That nothing in this subsection shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint: *And provided further*, That a conveyance or transfer of title to real or personal property or an interest therein to the Secretary of Housing and Urban Development, his successors and assigns, without identifying the Secretary therein, shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally named in such conveyance or transfer. The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe.

(h) Disposition of assets in revitalization areas

(1) In general

The purpose of this subsection is to require the Secretary to carry out a program under which eligible assets (as such term is defined in paragraph (2)) shall be made available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of revitalization areas. Notwithstanding the authority under the last sentence of subsection (g), the Secretary shall dispose of all eligible assets under the program and shall establish the program in accordance with the requirements under this subsection.

(2) Eligible assets

For purposes of this subsection, the term "eligible asset" means any of the following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land):

(A) Properties

Any property that—

- (i) is designed as a dwelling for occupancy by 1 to 4 families;
- (ii) is located in a revitalization area;
- (iii) was previously subject to a mortgage insured under the provisions of this chapter; and
- (iv) is owned by the Secretary pursuant to the payment of insurance benefits under this chapter.

(B) Mortgages

Any mortgage that—

- (i) is an interest in a property that meets the requirements of clauses (i) and (ii) of subparagraph (A);
- (ii) was previously insured under the provisions of this chapter except for mortgages insured under or made pursuant to sections 1715z, 1715z-12, or 1715z-20 of this title; and
- (iii) is held by the Secretary pursuant to the payment of insurance benefits under this chapter.

For purposes of this subsection, an asset under this subparagraph shall be considered to be located in a revitalization area, or in the asset control area of a preferred purchaser, if the property described in clause (i) is located in such area.

(3) Revitalization areas

The Secretary shall designate areas as revitalization areas for purposes of this subsection. Before designation of an area as a revitalization area, the Secretary shall consult with affected units of general local government, States, and Indian tribes and interested nonprofit organizations. The Secretary may designate as revitalization areas only areas that meet one of the following requirements:

(A) Very-low income area

The median household income for the area is less than 60 percent of the median household income for—

- (i) in the case of any area located within a metropolitan area, such metropolitan area; or
- (ii) in the case of any area not located within a metropolitan area, the State in which the area is located.

(B) High concentration of eligible assets

A high rate of default or foreclosure for single family mortgages insured under this chapter has resulted, or may result, in the area—

- (i) having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas; or
- (ii) being detrimentally impacted by eligible assets in the vicinity of the area.

(C) Low home ownership rate

The rate for home ownership of single family homes in the area is substantially below the rate for homeownership in the metropolitan area.

(4) Preference for sale to preferred purchasers

The Secretary shall provide a preference, among prospective purchasers of eligible assets, for sale of such assets to any purchaser who—

(A) is—

- (i) the unit of general local government, State, or Indian tribe having jurisdiction with respect to the area in which are located the eligible assets to be sold; or
- (ii) a nonprofit organization;

(B) in making a purchase under the program under this subsection—

- (i) establishes an asset control area, which shall be an area that consists of part or all of a revitalization area; and
- (ii) purchases all assets of the Secretary in the category or categories of eligible assets set forth in the sale agreement required under paragraph (7) that, at any time during the period which shall be set forth in the sale agreement—
 - (I) are or become eligible for purchase under this subsection; and
 - (II) are located in the asset control area of the purchaser; and

(C) has the capacity to carry out the purchase of the category or categories of eligible assets set forth in the sale agreement under the program under this subsection and under the provisions of this paragraph.

(5) Agreements required for purchase

(A) Preferred purchasers

Under the program under this subsection, the Secretary may sell an eligible asset as provided in paragraph (4) to a preferred purchaser only pursuant to a binding agreement by the preferred purchaser that the eligible asset will be used in conjunction with a home ownership plan that provides as follows:

- (i) The plan has as its primary purpose the expansion of home ownership in, and the revitalization of, the asset control area, established pursuant to paragraph (4)(B)(i) by the purchaser, in which the eligible asset is located.
- (ii) Under the plan, the preferred purchaser has established, and agreed to meet, specific performance goals for increasing the rate of home ownership for eligible assets in the asset control area that are under the purchaser's control. The plan shall provide that the Secretary may waive or modify such goals or deadlines only upon a determination by the Secretary that a good faith effort has been made in complying with the goals through the homeownership plan and that exceptional neighborhood conditions prevented attainment of the goal.
- (iii) Under the plan, the preferred purchaser has established rehabilitation standards that

meet or exceed the standards for housing quality established under subparagraph (B)(iii) by the Secretary, and has agreed that each asset property for an eligible asset purchased will be rehabilitated in accordance with such standards.

(B) Non-preferred purchasers

Under the program under this subsection, the Secretary may sell an eligible asset to a purchaser who is not a preferred purchaser only pursuant to a binding agreement by the purchaser that complies with the following requirements:

(i) The purchaser has agreed to meet specific performance goals established by the Secretary for home ownership of the asset properties for the eligible assets purchased by the purchaser, except that the Secretary may, by including a provision in the sale agreement required under paragraph (7), provide for a lower rate of home ownership in sales involving exceptional circumstances.

(ii) The purchaser has agreed that each asset property for an eligible asset purchased will be rehabilitated to comply with minimum standards for housing quality established by the Secretary for purposes of the program under this subsection.

(6) Discount for preferred purchasers

(A) In general

For the purpose of providing a public purpose discount for the bulk sales of eligible assets made under the program under this subsection by preferred purchasers, each eligible asset sold through the program under this subsection to a preferred purchaser shall be sold at a price that is discounted from the value of the asset, as based on the appraised value of the asset property (as such term is defined in paragraph (8)).

(B) Appraisals

The Secretary shall require that each appraisal of an eligible asset under this paragraph is based upon—

(i) the market value of the asset property in its "as is" physical condition, which shall take into consideration age and condition of major mechanical and structural systems; and

(ii) the value of the property appraised for home ownership.

(C) Discounts

The Secretary, in the sole discretion of the Secretary, shall establish the discount under this paragraph for an eligible asset. In determining the discount, the Secretary may consider the condition of the asset property, the extent of resources available to the preferred purchaser, the comprehensive revitalization plan undertaken by such purchaser, the financial safety and soundness of the Mutual Mortgage Insurance Fund, and any other circumstances the Secretary considers appropriate ³

(7) Sale agreement

The Secretary may sell an eligible asset under this subsection only pursuant to a sale agreement entered into under this paragraph with the purchaser, which shall include the following provisions:

(A) Assets

The sale agreement shall identify the category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser.

(B) Revitalization area and asset control area

The sale agreement shall identify—

(i) the boundaries of the specific revitalization areas (or portions thereof) in which are located the eligible assets that are covered by the agreement; and

(ii) in the case of a preferred purchaser, the asset control area established pursuant to

paragraph (4)(B)(i) that is covered by the agreement.

(C) Financing

The sale agreement shall identify the sources of financing for the purchase of the eligible assets.

(D) Binding agreements

The sale agreement shall contain binding agreements by the purchaser sufficient to comply with—

(i) in the case of a preferred purchaser, the requirements under paragraph (5)(A), which agreements shall provide that the eligible assets purchased will be used in conjunction with a home ownership plan meeting the requirements of such paragraph, and shall set forth the terms of the homeownership plan, including—

(I) the goals of the plan for the eligible assets purchased and for the asset control area subject to the plan;

(II) the revitalization areas (or portions thereof) in which the homeownership plan is operating or will operate;

(III) the specific use or disposition of the eligible assets under the plan; and

(IV) any activities to be conducted and services to be provided under the plan; or

(ii) in the case of a purchaser who is not a preferred purchaser, the requirements under paragraph (5)(B).

(E) Purchase price and discount

The sale agreement shall establish the purchase price of the eligible assets, which in the case of a preferred purchaser shall provide for a discount in accordance with paragraph (6).

(F) Housing quality

The sale agreement shall provide for compliance of the eligible assets purchased with the rehabilitation standards established under paragraph (5)(A)(iii) or the minimum standards for housing quality established under paragraph (5)(B)(ii), as applicable, and shall specify such standards.

(G) Performance goals and sanctions

The sale agreement shall set forth the specific performance goals applicable to the purchaser, in accordance with paragraph (5), shall set forth any sanctions for failure to meet such goals and deadlines, and shall require the purchaser to certify compliance with such goals.

(H) Period covered

The sale agreement shall establish—

(i) in the case of a preferred purchaser, the time period referred to in paragraph (4)(B)(ii); and

(ii) in the case of a purchaser who is not a preferred purchaser, the time period for purchase of eligible assets that may be covered by the purchase.

(I) Other terms

The agreement shall contain such other terms and conditions as may be necessary to require that eligible assets purchased under the agreement are used in accordance with the program under this subsection.

(8) Definitions

For purposes of this subsection, the following definitions shall apply:

(A) Asset control area

The term "asset control area" means the area established by a preferred purchaser pursuant to paragraph (4)(B)(i).

(B) Asset property

The term "asset property" means—

- (i) with respect to an eligible asset that is a property, such property; and
- (ii) with respect to an eligible asset that is a mortgage, the property that is subject to the mortgage.

(C) Eligible asset

The term "eligible asset" means an asset described in paragraph (2).

(D) Nonprofit organization

The term "nonprofit organization" means a private organization that—

- (i) is organized under State or local laws;
- (ii) has no part of its net earnings inuring to the benefit of any member, shareholder, founder, contributor, or individual; and
- (iii) complies with standards of financial responsibility that the Secretary may require.

(E) Preferred purchaser

The term "preferred purchaser" means a purchaser described in paragraph (4).

(F) Unit of general local government

The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State, and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection.

(G) State

The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to provisions of this subsection.⁴

(H) Indian tribe

The term "Indian tribe" has the same meaning as in section 1715z-13(i)(I) ⁵ of this title.

(9) Secretary's discretion

The Secretary shall have the authority to implement and administer the program under this subsection in such manner as the Secretary may determine. The Secretary may, in the sole discretion of the Secretary, enter into contracts to provide for the proper administration of the program with such public or nonprofit entities as the Secretary determines are qualified.

(10) Regulations

The Secretary shall issue regulations to implement the program under this subsection through rulemaking in accordance with the procedures established under section 553 of title 5 regarding substantive rules. Such regulations shall take effect not later than the expiration of the 2-year period beginning on October 21, 1998.

(i) Mortgagee's or mortgagor's interest in property or claim conveyed

No mortgagee or mortgagor shall have, and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

(j) Foreclosure; payment and cessation of obligation

In the event that any mortgagee under a mortgage insured under section 1709 of this title (other than a mortgagee receiving insurance benefits under clause (1)(A) of the second sentence of subsection (a)) forecloses on the mortgaged property but does not convey such property to the

Secretary in accordance with this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of section 1709(c) of this title, and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

(k) Repealed. Pub. L. 105–276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673

(l) Nullification of right of redemption of single family mortgagors

(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(A) In the case of a judicial foreclosure in any Federal or State court, there shall be included in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(3) For purposes of this subsection:

(A) The term "contract mortgagee" means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

(B) the ⁶ term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(C) The term "Secretary-held single family mortgage" means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

(i) was formerly insured by the Secretary under any section of this subchapter; or

(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this subchapter.

(D) the term "single-family mortgage" means a mortgage that covers property on which is located a 1-to-4 family residence.

(June 27, 1934, ch. 847, title II, §204, 48 Stat. 1249; May 28, 1935, ch. 150, §29(c), 49 Stat. 300; Feb. 19, 1937, ch. 12, 50 Stat. 20; Feb. 3, 1938, ch. 13, §3, 52 Stat. 12; June 3, 1939, ch. 175, §§9, 10, 53 Stat. 806; June 28, 1941, ch. 261, §9, 55 Stat. 365; Oct. 14, 1943, ch. 258, §1, 57 Stat. 570; Aug. 10, 1948, ch. 832, title I, §101(l), (q), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§105,

122, 64 Stat. 52, 59; Sept. 1, 1951, ch. 378, title VI, §604(a), 65 Stat. 314; Aug. 2, 1954, ch. 649, title I, §§111, 112(a), 113, 68 Stat. 593, 594; Aug. 11, 1955, ch. 783, title I, §102(a), 69 Stat. 635; Pub. L. 85–104, title I, §§107, 108(a), July 12, 1957, 71 Stat. 297; Pub. L. 86–372, title I, §§114(b), 117, Sept. 23, 1959, 73 Stat. 662, 664; Pub. L. 87–70, title VI, §612(b), (c), June 30, 1961, 75 Stat. 180; Pub. L. 88–560, title I, §§104(a), 105(a), Sept. 2, 1964, 78 Stat. 769, 770; Pub. L. 89–117, title XI, §1108(d), Aug. 10, 1965, 79 Stat. 504; Pub. L. 90–19, §1(a)(2), (3), (4), (d), May 25, 1967, 81 Stat. 17, 18; Pub. L. 98–181, title I [title IV, §426], Nov. 30, 1983, 97 Stat. 1218; Pub. L. 100–242, title V, §569, Feb. 5, 1988, 101 Stat. 1948; Pub. L. 100–628, title X, §1064(a), (b), Nov. 7, 1988, 102 Stat. 3275; Pub. L. 101–235, title I, §136, Dec. 15, 1989, 103 Stat. 2028; Pub. L. 102–550, title V, §516(a), Oct. 28, 1992, 106 Stat. 3790; Pub. L. 104–99, title IV, §407(a), Jan. 26, 1996, 110 Stat. 45; Pub. L. 104–134, title I, §101(e) [title II, §221(a)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–290; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105–276, title VI, §§601(a), (c), (d), 602, Oct. 21, 1998, 112 Stat. 2670, 2673, 2674; Pub. L. 108–447, div. I, title II, §221, Dec. 8, 2004, 118 Stat. 3320; Pub. L. 111–22, div. A, title II, §203(c), May 20, 2009, 123 Stat. 1644.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing Amendments of 1955, referred to in subsec. (f)(2), is act Aug. 11, 1955, ch. 783, 69 Stat. 635. For complete classification of this Act to the Code, see Short Title of 1955 Amendments note set out under section 1701 of this title and Tables.

This chapter, referred to in subsecs. (g) and (h), 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.

CODIFICATION

In subsec. (g), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111–22, §203(c)(3), substituted "subsection (a)(1)(A) or section 1715u(c) of this title" for "paragraph (1)(A)".

Pub. L. 111–22, §203(c)(1), (2), inserted "or faces imminent default, as defined by the Secretary" after "default" and "support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale," after "loan modification,".

2004—Subsec. (h)(2). Pub. L. 108–447, §221(1)(A), substituted "following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land)" for "following assets of the Secretary" in introductory provisions.

Subsec. (h)(2)(B)(ii). Pub. L. 108–447, §221(1)(B), inserted "except for mortgages insured under or made pursuant to sections 1715z, 1715z–12, or 1715z–20 of this title" after "chapter".

Subsec. (h)(2)(C). Pub. L. 108–447, §221(1)(C), struck out heading and text of subpar. (C). Text read as follows: "Any contingent future interest of the Secretary in an asset described in subparagraph (A) or (B)."

Subsec. (h)(3). Pub. L. 108–447, §221(2), inserted ", States, and Indian tribes" after "government" in second sentence.

Subsec. (h)(4)(A)(i). Pub. L. 108–447, §221(3)(A), inserted ", State, or Indian tribe" after "government".

Subsec. (h)(4)(B)(ii). Pub. L. 108–447, §221(3)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "purchases all interests of the Secretary in all assets of the Secretary that, at any time during the period which shall be set forth in the sale agreement required under paragraph (7)—

"(I) are or become eligible assets; and

"(II) are located in the asset control area of the purchaser; and".

Subsec. (h)(4)(C). Pub. L. 108–447, §221(3)(C), substituted "purchase of the category or categories of eligible assets set forth in the sale agreement under" for "purchase of eligible assets under".

Subsec. (h)(6)(C). Pub. L. 108–447, §221(4)(A), amended heading and text of subpar. (C) generally. Prior to amendment, subpar. (C) set out discount classes, including standard, deep, and minimal discounts.

Subsec. (h)(6)(D). Pub. L. 108–447, §221(4)(B), struck out heading and text of subpar. (D). Text read as

follows: "The Secretary shall, in the sole discretion of the Secretary, establish a method for determining which discount under clause (i) or (ii) subparagraph (C) shall be provided for an eligible asset that is described in such clause (i) and sold to a preferred purchaser. The method may result in the assignment of discounts on any basis consistent with subparagraph (C) that the Secretary considers appropriate to carry out the purposes of this subsection."

Subsec. (h)(7)(A). Pub. L. 108-447, §221(5), substituted "category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser" for "eligible assets to be purchased and the interests sold".

Subsec. (h)(8)(F). Pub. L. 108-447, §221(6)(A), inserted ", and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection" after "State".

Subsec. (h)(8)(G), (H). Pub. L. 108-447, §221(6)(B), added subpars. (G) and (H).

1998—Subsec. (a). Pub. L. 105-276, §601(a), inserted heading and amended text generally, substituting present provisions for provisions which authorized mortgagee of foreclosed property to receive insurance benefit upon conveyance to Secretary of title and assignment of claims, or upon foreclosure sale or approved sale after default where at least fair market value was received, set maintenance of property as condition of receipt of benefit, provided that obligation to pay premium would cease upon conveyance and assignment and debentures would issue having par value equal to value of mortgage, and set forth provisions detailing amounts to be included in debentures or cash payment and provisions authorizing extension or modification of mortgage where default was due to circumstances beyond control of mortgagor.

Subsec. (g). Pub. L. 105-276, §601(d), inserted at end "The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe."

Subsecs. (h), (i). Pub. L. 105-276, §602, added subsec. (h) and redesignated former subsec. (h) as (i).

Subsec. (k). Pub. L. 105-276, §601(c), struck out subsec. (k) which read as follows: "Notwithstanding any other provision of this section or of section 1739 or 1750c of this title and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Secretary after September 23, 1959 in accordance with such sections, the Secretary may (1) include in debentures reasonable payments made by the mortgagee with the approval of the Secretary for the purpose of protecting, operating, or preserving the property, and taxes imposed upon any deed or any other instrument by which the property was acquired by the mortgagee and transferred or conveyed to the Secretary; (2) include in debentures as a portion of foreclosure costs (to the extent that foreclosure costs may be included in such debentures by any other provision of this chapter) payments made by the mortgagee for the cost of acquiring the property and conveying and evidencing title to the property to the Secretary; and (3) terminate the mortgagee's obligation to pay mortgage insurance premiums upon receipt of an application for debentures filed by the mortgagee, or in the event the contract of insurance is terminated pursuant to section 1715t of this title."

1996—Subsec. (a). Pub. L. 104-134, in penultimate proviso of last sentence, substituted "special forbearance" for "special foreclosure".

Pub. L. 104-99 inserted ": *And provided further*, That the Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for its actions to provide an alternative to the foreclosure of a mortgage that is in default, which actions may include special foreclosure, loan modification, and deeds in lieu of foreclosure, all upon terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion, within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review." before period at end of last sentence.

1992—Subsec. (a). Pub. L. 102-550, §516(a)(1), in fifth sentence, substituted "issue to the mortgagee debentures having a par value" for ", subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value".

Subsec. (c). Pub. L. 102-550, §516(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "Debentures issued under this section shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed \$350, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the Mutual Mortgage Insurance Fund."

Subsec. (d). Pub. L. 102-550, §516(a)(3), (4), in first sentence, substituted "issued in the name of" for

"executed in the name of" and "and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations" for ", shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable" and in fifth sentence, substituted "and, in the case of debentures issued in certificated registered form, such guaranty" for "and such guaranty".

1989—Subsec. (a). Pub. L. 101-235, §136(a), inserted after third sentence "As a condition of the receipt of such benefits, the mortgagee shall maintain or assure the maintenance of the mortgaged property (in such manner as the Secretary shall by regulation provide) during the period beginning on the taking of the possession or other acquisition of the mortgaged property by the mortgagee and ending on conveyance to the Secretary or other disposition of the mortgaged property in accordance with this section, and funds expended by the mortgagee in meeting such obligation shall be included, to the extent provided in this subsection or in subsection (k) of this section, in debentures or other insurance payment pursuant to this section."

Subsec. (g). Pub. L. 101-235, §136(b), inserted after first sentence "The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program."

1988—Subsec. (a). Pub. L. 100-628, §1064(a)(1), (2), in second sentence, substituted "(1)(A) upon sale" for "(1) upon sale", inserted cl. (B), and substituted "; and (2)" for ", and (2)".

Pub. L. 100-628, §1064(b)(1), in third sentence, substituted "November 30, 1983 (on or after November 7, 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence)," for "the effective date of this sentence".

Pub. L. 100-628, §1064(b)(2)(A), in fifth sentence, struck out "foreclosure" before "sale of the property: *Provided*".

Subsec. (j). Pub. L. 100-628, §1064(b)(2)(B), inserted "clause (1)(A) of" before "the second sentence".

Subsec. (l). Pub. L. 100-242 added subsec. (l).

1983—Subsec. (a). Pub. L. 98-181, §426(a), inserted provision authorizing the Secretary to make the benefit of the insurance available to the mortgagee upon sale of the insured property at foreclosure and assignment of all claims to the Secretary and provision relating to payment of benefits pursuant to a commitment to insure issued on or after the effective date of this sentence [Nov. 30, 1983], and substituted "any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates, and, in the case of insurance benefits paid in accordance with the second sentence of this section, any amount received upon the foreclosure sale of the property" for "and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates".

Subsec. (j). Pub. L. 98-181, §426(b), inserted "(other than a mortgagee receiving insurance benefits under the second sentence of subsection (a))" after "section 1709 of this title".

1967—Pub. L. 90-19, §1(a)(2), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in subsec. (g).

Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (d), (e)(1), (f)(1), (f)(1)(i), (ii), (f)(2), (3), (g), (h), (j), and (k).

Subsec. (f)(3). Pub. L. 90-19, §1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing.

Subsec. (g). Pub. L. 90-19, §1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsec. (a). Pub. L. 89-117, §1108(d)(1), struck out reference to section 1715a of this title after reference to section 1709 of this title in first sentence.

Subsec. (c). Pub. L. 89-117, §1108(d)(2), substituted "Mutual Mortgage Insurance Fund" for "Fund as to mortgages insured under section 1709 of this title and from the Housing Fund as to mortgages insured under section 1715a of this title".

Subsec. (d). Pub. L. 89-117, §1108(d)(3)-(6), removed all references to debentures issued with respect to mortgages insured under section 1715a of this title and to the Housing Insurance Fund and substituted Mutual Mortgage Insurance Fund for Fund wherever appearing.

Subsec. (f). Pub. L. 89-117, §1108(d)(7), struck out provision of subpar. (1)(i) calling for retention of excess by Commissioner and credit to the Housing Insurance Fund in the case of mortgages insured under section 1713 of this title.

1964—Subsec. (a). Pub. L. 88-560, §§104(a), 105(a)(1)-(3), (6)(B), amended provisions as follows; section 104(a), in proviso reading "*And provided further*, That with respect to any mortgage covering a one-, two-, three-, or four-family residence", struck out "and it is probable that the mortgage will be restored to good standing within a reasonable period of time" after "control of the mortgagor", substituted "upon such terms and conditions" for "under such regulations and conditions", incorporated authority of Commissioner to "extend the time for curing default and enter into an agreement with the mortgage providing that if the

mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures" in cl. (1), and provided for remainder of cl. (1), cl. (2) and consideration of the principal amount of the mortgage, as modified, as the "original principal obligation of the mortgage" for purpose of computing total face value of debentures to be issued or cash payment to be made by Commissioner to a mortgagee; section 105(a)(1) substituted in third sentence "charges for the administration, operation, maintenance and repair of community-owned property or the maintenance and repair of the mortgaged property, the obligation for which arises out of a covenant filed for record and approved by the Commissioner prior to the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums" for "insurance on the mortgaged property, and any mortgage insurance premiums paid after either of such dates"; section 105(a)(2) inserted provisos reading "*And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964, the Commissioner may include in debentures or in the cash payment on amount not to exceed the foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner" and "*And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the Commissioner may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e)), included in debentures or in the cash payment, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee:"; section 105(a)(3) struck out from proviso reading "*And provided further*, That with respect to mortgages to which the provisions of sections 532 and 536 of Appendix To Title 50 apply" the words "and the payment of insurance premiums" after "on account of interest on debentures" and inserted after such proviso "*And provided further*, That where the claim is paid in cash there shall be included in the cash payment an amount equivalent to the compensation for loss of debenture interest that would be included in computing debentures if such claim were being paid in debentures"; and section 105(a)(6)(B) substituted "and (subject to subsection (e)(2) of this section) a certificate of claim" for "and a certificate of claim" in second sentence.

Subsec. (c). Pub. L. 88-560, §105(a)(4), increased limitation on the difference between the value of the mortgage and the aggregate face value of the debentures issued from \$50 to \$350.

Subsec. (d). Pub. L. 88-560, §105(a)(5), substituted ": *Provided*, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Commissioner, in his discretion, may establish by regulation. The debentures" for ", except that debentures issued pursuant to the provisions of section 1715k(f), 1715l(g), and 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner, and" in second sentence.

Subsec. (e). Pub. L. 88-560, §105(a)(6)(A), designated existing provisions as par. (1), substituted "Subject to paragraph (2), the certificate" for "The certificate", and added par. (2).

Subsec. (f). Pub. L. 88-560, §105(a)(7)-(11), designated introductory par. as par. (1) and substituted "If, after deducting (in such manner and amount as the Commissioner shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Commissioner, the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith exceed the face value" for "If the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith, after deducting all expenses incurred by the Commissioner in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value"; redesignated former par. (1) as (i) and inserted proviso; redesignated former par. (2) as (ii); designated concluding par. as par. (2) and inserted proviso; and added par. (3), respectively.

1961—Subsec. (d). Pub. L. 87-70, §612(b), permitted debentures issued pursuant to provisions of section 1715k(f), 1715l(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

Subsec. (g). Pub. L. 87-70, §612(c), included instruments relating to personal property, and inserted proviso requiring that a conveyance or transfer of title to real or personal property or an interest therein to the Federal Housing Commissioner, his successors and assigns, without identifying the Commissioner therein, shall be deemed a proper conveyance or transfer.

1959—Subsec. (a). Pub. L. 86-372, §114(b), authorized the Commissioner, with respect to any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, if he finds after notice of default, that the default was due to circumstances beyond the control of the mortgagor and it is probable that the mortgage will be restored to good standing within a reasonable period of time, to extend the time for

curing default and to enter into an agreement with the mortgagee providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures.

Subsec. (k). Pub. L. 86-372, §117, substituted "and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Commissioner after September 23, 1959 in accordance with such section" for "with respect to any debentures issued pursuant to this section or section 1739 or 1750c of this title", and inserted provisions authorizing inclusion as a portion of the foreclosure costs payments made by the mortgagee for the cost of acquiring the property and conveying the evidencing title to the property to the Commissioner, and permitting the termination of the mortgagee's obligation to pay mortgage insurance premiums in the event the contract of insurance is terminated pursuant to section 1715t of this title.

1957—Subsec. (d). Pub. L. 85-104, §108(a), substituted "established by the Commissioner pursuant to section 1715o of this title" for "determined by the Commissioner, with the approval of the Secretary of the Treasury, at the time the mortgage was offered for insurance, but not to exceed 3 per centum per annum" in second sentence.

Subsec. (k). Pub. L. 85-104, §107, added subsec. (k).

1955—Subsec. (f). Act Aug. 11, 1955, authorized the Commissioner to effect the settlement of certificates of claim and refunds to mortgagors.

1954—Subsec. (a). Act Aug. 2, 1954, §111(l), permitted a mortgagee to receive in debentures amounts paid by it for Federal taxes imposed on a deed to it and on a deed to the Commissioner; (2) substituted, in second proviso, "or under section 1715e of this title, or with respect to any mortgage accepted for insurance under section 1709 of this title on or after August 2, 1954," for "or under section 1715e of this title"; and (3) inserted proviso permitting direct conveyances to the Commissioner.

Subsec. (d). Act Aug. 2, 1954, §112(a), substituted provision for a straight 20-year maturity on debentures for former provision that the debentures should mature "three years after the 1st day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued, except that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures" in second sentence.

Subsec. (j). Act Aug. 2, 1954, §113, added subsec. (j).

1951—Subsec. (d). Sept. 1, 1951, inserted in second sentence the provision that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures.

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

Subsec. (a). Act Apr. 20, 1950, §105, inserted "or under section 1715e of this title" in second proviso.

1948—Subsec. (a). Act Aug. 10, 1948, §101(l)(1), (2), struck out "prior to July 1, 1944" in first proviso and inserted second proviso.

Subsec. (f). Act Aug. 10, 1948, §101(q), inserted "if the mortgage was insured under section 1709 of this title and shall be retained by the Administrator and credited to the Housing Insurance Fund if the mortgage was insured under section 1713 of this title" before the colon in par. (1).

1943—Subsec. (a). Act Oct. 14, 1943, inserted proviso.

1941—Subsec. (a). Act June 28, 1941, substituted "July 1, 1944" for "July 1, 1941" in last sentence.

1939—Subsec. (a). Act June 3, 1939, §9, amended last sentence generally.

Subsec. (g). Act June 3, 1939, §10, inserted last sentence.

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally.

Subsecs. (g), (h). Act Feb. 3, 1938, added subsecs. (g) and (h).

1937—Subsec. (b). Act Joint Res. Feb. 19, 1937, substituted "July 1, 1939" for "July 1, 1937".

1935—Subsec. (a). Act May 28, 1935, amended last sentence generally.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title VI, §601(b), Oct. 21, 1998, 112 Stat. 2673, provided that: "The Secretary shall publish a notice in the Federal Register stating the effective date of the terms and conditions prescribed by the Secretary under section 204(a)(1) of the National Housing Act [12 U.S.C. 1710(a)(1)], as amended by subsection (a) of this section. Subsections (a) and (k) of section 204 of the National Housing Act [12 U.S.C. 1710(a), (k)], as in effect immediately before such effective date, shall continue to apply to any mortgage insured under section 203 of the National Housing Act [12 U.S.C. 1709] before such effective date, except that the Secretary may, at the request of the mortgagee, pay insurance benefits as provided in subparagraphs

(A) and (D) of section 204(a)(1) of such Act [12 U.S.C. 1710(a)(1)(A), (D)] to calculate insurance benefits in accordance with section 204(a)(5) of such Act [12 U.S.C. 1710(a)(5)]."

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104–99, title IV, §407(c), Jan. 26, 1996, 110 Stat. 46, as amended by Pub. L. 104–134, title I, §101(e) [title II, §221(d)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–291; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104–204, title II, §203, Sept. 26, 1996, 110 Stat. 2894; Pub. L. 105–33, title II, §2002(1), Aug. 5, 1997, 111 Stat. 257, provided that: "Except as provided in subsection (e) [110 Stat. 46, repealed by Pub. L. 105–33, §2002(2)], the amendments made by subsections (a) and (b) [amending this section and section 1715u of this title] shall apply with respect to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.] that are executed before, on, or after October 1, 1997."

EFFECTIVE DATE OF 1954 AMENDMENT

Act Aug. 2, 1954, ch. 649, title I, §112(e), 68 Stat. 593, provided that: "This section [amending this section and sections 1713, 1748b, and 1750c of this title] shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to the effective date of the Housing Act of 1954 [Aug. 2, 1954]."

REGULATIONS

Pub. L. 104–134, title I, §101(e) [title II, §221(c)(1)], Apr. 26, 1996, 110 Stat. 1321–291, provided that: "Not later than 30 days after the date of enactment of this Act [Apr. 26, 1996], the Secretary of Housing and Urban Development shall issue interim regulations to implement section 407 of the Balanced Budget Downpayment Act, I [Pub. L. 104–99, amending this section and section 1715u of this title and enacting provisions set out as a note above], and the amendments to the National Housing Act made by that section."

Pub. L. 104–99, title IV, §407(d), Jan. 26, 1996, 110 Stat. 46, which directed the Secretary of Housing and Urban Development to issue interim regulations to implement section 407 of Pub. L. 104–99 and amendments made by that section (amending this section and section 1715u of this title and enacting provisions set out as a note above) not later than 60 days after Jan. 26, 1996, was repealed by Pub. L. 104–134, title I, §101(e) [title II, §221(c)(2)], Apr. 26, 1996, 110 Stat. 1321–257, 1321–291; renumbered title I, Pub. L. 104–140, §1(a), May 2, 1996, 110 Stat. 1327.

Pub. L. 100–628, title X, §1064(c), Nov. 7, 1988, 102 Stat. 3275, provided that: "In developing regulations to carry out the amendments made by this section [amending this section], the Secretary of Housing and Urban Development may delegate to mortgagees the authority to make determinations on behalf of the Secretary, and the Secretary shall rely on certifications and post audit reviews to the greatest extent possible."

HOMEOWNERSHIP PRESERVATION

Pub. L. 110–289, div. B, title I, §2125, July 30, 2008, 122 Stat. 2840, provided that: "The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

"(1) develop and implement a plan to improve the Federal Housing Administration's loss mitigation process; and

"(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives."

ASSET CONTROL AREA DEMONSTRATION PROGRAM AGREEMENTS, CONTRACTS, AND REGULATIONS

Pub. L. 107–206, title I, §1303, Aug. 2, 2002, 116 Stat. 897, provided that: "The Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105–276 [amending this section] not later than September 15, 2002: *Provided*, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602: *Provided further*, That the Department shall develop proposed regulations for this program not later than September 15, 2002."

TRANSFER OF HUD ASSETS IN REVITALIZATION AREAS

Pub. L. 106–554, §1(a)(7) [title I, §142], Dec. 21, 2000, 114 Stat. 2763, 2763A–618, provided that: "In carrying out the program under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)), upon the request of the chief executive officer of a county or the government of appropriate jurisdiction and not later than 60 days after such request is made, the Secretary of Housing and Urban Development shall designate as a

revitalization area all portions of such county that meet the criteria for such designation under paragraph (3) of such section."

**SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND
VETERANS' ADMINISTRATION ASSISTED HOUSING; STUDY AND
RECOMMENDATIONS TO CONGRESS ON REDUCTION AND STANDARDIZATION OF
COSTS**

Pub. L. 91-351, title VII, §701, July 24, 1970, 84 Stat. 461, provided that:

"(a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act [this chapter] or under chapter 37 of title 38, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

"(1) be established after consultation between the Secretary and the Administrator;

"(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

"(3) be based on the Secretary's and the Administrator's estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

"(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act [July 24, 1970] with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas."

¹ *So in original.*

² *So in original. Probably should be "mortgagee".*

³ *So in original. There probably should be a period.*

⁴ *So in original. Probably should be "subsection."*

⁵ *So in original. Probably should be section "1715z-13(i)(1)".*

⁶ *So in original. Probably should be capitalized.*

§1711. General Surplus and Participating Reserve Accounts

(a) Establishment; abolishment of General Reinsurance Account

The Secretary shall establish as of July 1, 1954, in the Mutual Mortgage Insurance Fund a General Surplus Account and a Participating Reserve Account. All of the assets of the General Reinsurance Account shall be transferred to the General Surplus Account whereupon the General Reinsurance Account shall be abolished. There shall be transferred from the various group accounts to the Participating Reserve Account as of July 1, 1954, an amount equal to the aggregate amount which would have been distributed under the provisions of this section in effect on June 30, 1954, if all outstanding mortgages in such group accounts had been paid in full on said date. All of the remaining balances of said group accounts shall as of said date be transferred to the General Surplus Account whereupon all of said group accounts shall be abolished.

(b) Credits and charges

The aggregate net income thereafter received or any net loss thereafter sustained by the Mutual Mortgage Insurance Fund in any semiannual period shall be credited or charged to the General Surplus Account and/or the Participating Reserve Account in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice.

(c) Distribution of funds to terminating mortgagors

Upon termination of the insurance obligation of the Mutual Mortgage Insurance Fund by payment of any mortgage insured thereunder, the Secretary is authorized to distribute to the mortgagor a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That, in no event, shall any such distributable share exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance. The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.

(d) Rights and liabilities

No mortgagor or mortgagee of any mortgage insured under section 1709 of this title shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Fund and the determination of the Secretary as to the amount to be paid by him to any mortgagor shall be final and conclusive.

(e) Actuarial status of entire Fund

In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.

(f) Capital ratio for Mutual Mortgage Insurance Fund

(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after November 5, 1990, and maintains such ratio thereafter, subject to paragraph (2).

(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after November 5, 1990, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

(3) Upon the expiration of the 24-month period beginning on November 5, 1990, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

(4) For purposes of this subsection:

(A) The term "capital" means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 1735f-16 of this title.

(B) The term "capital ratio" means the ratio of capital to unamortized insurance-in-force.

(C) The term "economic net worth" means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

(D) The term "unamortized insurance-in-force" means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

(June 27, 1934, ch. 847, title II, §205, 48 Stat. 1250; May 28, 1935, ch. 150, §29(b), 49 Stat. 300; Feb. 3, 1938, ch. 13, §3, 52 Stat. 15; June 3, 1939, ch. 175, §11, 53 Stat. 807; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; June 30, 1953, ch. 170, §4, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, §114, 68 Stat. 594; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101-508, title II, §§2104, 2105, Nov. 5, 1990, 104 Stat. 1388-19; Pub. L. 102-550, title V, §508(a), Oct. 28, 1992, 106 Stat. 3782; Pub. L. 110-289, div. B, title I, §2118(c)(1), July 30, 2008, 122 Stat. 2835.)

AMENDMENTS

2008—Subsecs. (g), (h). Pub. L. 110–289 struck out subsecs. (g) and (h) which related to annual independent audit of Mutual Mortgage Insurance Fund and adjustment of premiums, respectively.

1992—Subsec. (c). Pub. L. 102–550 inserted at end "The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account."

1990—Subsec. (e). Pub. L. 101–508, §2104, added subsec. (e).

Subsecs. (f) to (h). Pub. L. 101–508, §2105, added subsecs. (f) to (h).

1967—Pub. L. 90–19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (d) of this section.

1954—Act Aug. 2, 1954, amended section generally to eliminate the former group accounts and substitute therefor a general surplus account and participating reserve account.

1953—Subsec. (c). Act June 30, 1953, inserted sentence relating to semi-annual transfer of group accounts, and, in remainder of section, changed the provisions relating to settlement of accounts.

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator" wherever appearing.

1939—Subsec. (b). Act June 3, 1939, inserted "prior to July 1, 1939".

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally, and among other changes, struck out subsec. (f).

1935—Subsec. (f). Act May 28, 1935, substituted "annual premium charge" for "premium charge" in first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EXCEPTION TO STATUTE OF LIMITATIONS

Pub. L. 102–550, title V, §508(b), Oct. 28, 1992, 106 Stat. 3782, provided that: "Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act [12 U.S.C. 1711(c)], the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act [Oct. 28, 1992] in accordance with procedures in effect on such date."

§1712. Investment of funds

Moneys in the Fund not needed for the current operations of the Department of Housing and Urban Development related to insurance under section 1709 of this title shall be deposited with the Treasurer of the United States to the credit of the 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 under the provisions of section 1710 of this title. 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, and the several group accounts to which such debentures have been charged shall be charged with the amounts used in making such purchases.

(June 27, 1934, ch. 847, title II, §206, 48 Stat. 1252; Feb. 3, 1938, ch. 13, §3, 52 Stat. 16; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90–19, §1(a)(1), (3), (e), May 25, 1967, 81 Stat. 17, 18; Pub. L. 91–609, title I, §117(a), Dec. 31, 1970, 84 Stat. 1774.)

EDITORIAL NOTES

AMENDMENTS

1970—Pub. L. 91–609 provided for guarantee as to principal and interest by any agency of the United States and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1967—Pub. L. 90–19 substituted "Department of Housing and Urban Development" and "Secretary" for "Federal Housing Administration" and "Commissioner", respectively, and inserted "related to insurance under section 1709 of this title" before "shall be deposited".

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator".

1938—Act Feb. 3, 1938, among other changes, inserted "or in bonds or other obligations guaranteed as to principal and interest by" in first sentence, and inserted third sentence.

§1712a. Indexing of FHA multifamily housing loan limits

(a) Method of indexing

The dollar amounts set forth in—

- (1) section 1713(c)(3)(A) of this title;
- (2) section 1715e(b)(2)(A) of this title;
- (3) section 1715k(d)(3)(B)(iii)(I) of this title;
- (4) section 1715l(d)(3)(ii)(I) of this title;
- (5) section 1715l(d)(4)(ii)(I) of this title;
- (6) section 1715v(c)(2)(A) of this title; and
- (7) section 1715y(e)(3)(A) of this title;

(collectively hereinafter referred to as the "Dollar Amounts") shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board's adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI–U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

(b) Notification

The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.

(June 27, 1934, ch. 847, title II, §206A, as added Pub. L. 107–326, §5(a), Dec. 4, 2002, 116 Stat. 2794.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Home Ownership and Equity Protection Act of 1994, referred to in subsec. (a), is subtitle B (§§151–158) of title I of Pub. L. 103–325, Sept. 23, 1994, 108 Stat. 2190, which enacted sections 1639 and 1648 of Title 15, Commerce and Trade, amended sections 1602, 1604, 1610, 1640, 1641, and 1647 of Title 15, and enacted provisions set out as notes under sections 1601 and 1602 of Title 15. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 1601 of Title 15 and Tables.

§1713. Rental housing insurance

(a) Definitions

As used in this section—

- (1) The term "mortgage" means a first mortgage on real estate in fee simple, or on the interest of

either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable or (B) under a lease having a period of not less than fifty years to run from the date the mortgage was executed, upon which there is located or upon which there is to be constructed a building or buildings designed principally for residential use, or upon which there is located or to be constructed facilities for manufactured homes, and the term "first mortgage" means such classes of first liens as are commonly given to secure advances (including but not being limited to advances during construction) 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 instrument or instruments, if any, secured thereby, and may be in the form of trust mortgages or mortgage indentures or deeds of trust securing notes, bonds, or other credit instruments.

(2) The term "mortgagee" means the original lender under a mortgage, and its successors and assigns, and includes the holders of credit instruments issued under a trust mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

(3) The term "mortgagor" means the original borrower under a mortgage and its successors and assigns.

(4) The term "maturity date" means the date on which the mortgage indebtedness would be extinguished if paid in accordance with the periodic payments provided for in the mortgage.

(5) The term "slum or blighted area" means any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light or sanitation facilities, or any combination of these factors, are detrimental to safety, health, or morals.

(6) The term "rental housing" means housing, the occupancy of which is permitted by the owner thereof in consideration of the payment of agreed charges, whether or not, by the terms of the agreement, such payment over a period of time will entitle the occupant to the ownership of the premises or space in a manufactured home court or park properly arranged and equipped to accommodate manufactured homes.

(7) The term "State" includes the several States, and Puerto Rico, the District of Columbia, Guam, the Trust Territory of the Pacific Islands, American Samoa, and the Virgin Islands.

(b) Insurance of additional mortgages

In addition to mortgages insured under section 1709 of this title, the Secretary is authorized to insure mortgages as defined in this section (including advances on such mortgages during construction) which cover property held by—

(1) Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations restricted by Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation; or

(2) any other mortgagor approved by the Secretary. The Secretary may, in the Secretary's discretion, require any such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation so as to provide reasonable rentals to tenants and a reasonable return on the investment. Any such regulations or restrictions shall continue for such period or periods as the Secretary, in the Secretary's discretion, may require, including until the termination of all obligations of the Secretary under the insurance and during such further period of time as the Secretary shall be the owner, holder, or reinsurer of the mortgage. The Secretary may make such contracts with and acquire, for not to exceed \$100, such stock or interest in the mortgagor as he may deem necessary to render effective any such regulations or restrictions. The stock or interest acquired by the Secretary shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

The insurance of mortgages under this section is intended to facilitate particularly the production of rental accommodations, at reasonable rents, of design and size suitable for family living. The Secretary is, therefore, authorized in the administration of this section to take action, by regulation or otherwise, which will direct the benefits of mortgage insurance hereunder primarily to those projects

which make adequate provision for families with children, and in which every effort has been made to achieve moderate rental charges.

Notwithstanding any other provisions of this section, the Secretary may not insure any mortgage under this section (except a mortgage with respect to a manufactured home park designed exclusively for occupancy by elderly persons) 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 certification to be filed with the Secretary. Violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed \$500.

(c) Eligibility for insurance; mortgage limits

To be eligible for insurance under this section a mortgage on any property or project shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, §304(a)(1), Aug. 22, 1974, 88 Stat. 677.

(2) Not to exceed 90 per centum of the estimated value of the property or project (when the proposed improvements are completed): *Provided*, That this limitation shall not apply to mortgages on housing in Alaska or in Guam, but such a mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the value of the property or project as such term is used in this paragraph may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest accruing during construction, and other miscellaneous charges incident to construction and approved by the Secretary): *And provided further*, That nothing contained in this section shall preclude the insurance of mortgages covering existing construction located in slum or blighted areas, as defined in paragraph (5) of subsection (a) of this section, and the Secretary may require such repair or rehabilitation work to be completed as is, in his discretion, necessary to remove conditions detrimental to safety, health, or morals; and

(3)(A) Not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$38,025 per family unit without a bedroom, \$42,120 per family unit with one bedroom, \$50,310 per family unit with two bedrooms, \$62,010 per family unit with three bedrooms, and \$70,200 per family unit with four or more bedrooms, or not to exceed \$17,460 per space; except that as to projects to consist of elevator type structures the Secretary may in his discretion, increase the dollar amount limitations per family unit to not to exceed \$43,875 per family unit without a bedroom, \$49,140 per family unit with one bedroom, \$60,255 per family unit with two bedrooms, \$75,465 per family unit with three bedrooms, and \$85,328 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design;

(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 ¹ of this title (as such section existed immediately before November 30, 1983) is involved. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42) ¹ in cases where the Secretary determines that such measures are in addition

to those required under the minimum property standards and will be cost-effective over the life of the measure.

The mortgage shall provide for complete amortization by periodic payments (unless otherwise approved by the Secretary) within such term as the Secretary shall prescribe, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release. No mortgage shall be accepted for insurance under this section or section 1715a ¹ of this title unless the Secretary finds that the property or project, with respect to which the mortgage is executed, is economically sound. Such property or project may include five or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(d) Premium, appraisal, and inspection charges

The Secretary shall collect a premium charge for the insurance of mortgages under this section which shall be payable annually in advance by the mortgagee, either in cash or in debentures issued by the Secretary under any subchapter and section of this chapter, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund at par plus accrued interest. In addition to the premium charge herein provided for the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the appraisal of a property or project offered for insurance and for the inspection of such property or project during construction: *Provided*, That such charges for appraisal and inspection shall not aggregate more than 1 per centum of the original principal face amount of the mortgage.

(e) Adjusted premium charge on payment of mortgage

In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date, the Secretary is 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 until such maturity date.

(f) Repealed. Pub. L. 89-117, title XI, §1108(e)(3), Aug. 10, 1965, 79 Stat. 504

(g) Payment of insurance after default

The failure of the mortgagor to make any payment due under or provided to be paid by the terms of a mortgage insured under this section shall be considered a default under such mortgage and, if such default continues for a period of thirty days, the mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided, upon assignment, transfer, and delivery to the Secretary, within a period and in accordance with rules and regulations to be prescribed by the Secretary of (1) all rights and interests arising under the mortgage so in default; (2) all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transactions; (3) all policies of title or other insurance or surety bonds or other guaranties and any and all claims thereunder; (4) any balance of the mortgage loans not advanced to the mortgagor; (5) any cash or property held by the mortgagee, or to which it is entitled, as deposits made for the account of the mortgagor and which have not been applied in reduction of the principal of the mortgage indebtedness; and (6) all records, documents, books, papers, and accounts relating to the mortgage transactions. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for mortgage insurance shall cease, and the Secretary shall issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value equal to the original principal face amount of the mortgage plus such amount as the mortgagee may have paid for (A) taxes, special assessments, and water rates, which are liens prior to the mortgage; (B) insurance on the property; and (C) reasonable expenses for the completion and preservation of the property and any mortgage insurance premiums paid after default, less the sum of (i) that part of the amount of the principal obligation that has been repaid by the mortgagor, (ii) an amount equivalent to 1 per centum of the

unpaid amount of such principal obligation, and (iii) any net income received by the mortgagee from the property: *Provided*, That the mortgagee in the event of a default under the mortgage may, at its option and in accordance with regulations of, and in a period to be determined by, the Secretary, proceed to foreclose on and obtain possession of or otherwise acquire such property from the mortgagor after default, and receive the benefits of the insurance as herein provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of the rules and regulations of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner prescribed by such rules and regulations, and (2) the assignment to him of all claims of the mortgagee against the mortgagor or others, arising out of the mortgage transaction or foreclosure proceedings, except such claims that may have been released with the consent of the Secretary. Upon such conveyance and assignment, the obligation of the mortgagee to pay the premium charges for insurance shall cease and the mortgagee shall be entitled to receive the benefits of the insurance as provided in this subsection, except that in such event the 1 per centum deduction, set out in (ii) hereof, shall not apply. Notwithstanding any other provision of this chapter, upon receipt, after September 2, 1964, of an application for insurance benefits on a mortgage insured under this chapter, the Secretary may terminate the mortgagee's obligation to pay premium charges on the mortgage.

(h) Certificate of claim; division of excess proceeds

The certificate of claim issued under this section shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, on the date of the assignment, transfer and delivery to the Secretary provided for in subsection (g), the mortgagor had extinguished the mortgage indebtedness by payment in full of all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. If the net amount realized from the mortgage, and all claims in connection therewith, so assigned, transferred, and delivered, and from the property covered by such mortgage and all claims in connection with such property, after deducting all expenses incurred by the Secretary in handling, dealing with, acquiring title to, and disposing of such mortgage and property and in collecting such claims, exceeds the face value of the debentures issued and the cash adjustment paid to the mortgagee plus all interest paid on such debentures, such excess shall be divided as follows:

(1) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be retained by the Secretary and credited to the General Insurance Fund; and

(2) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(i) Debentures; execution; negotiability; terms; tax exemptions

Debentures issued under this section shall be executed in the name of the General Insurance Fund as obligor, shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations, and shall be dated as of the date of default as determined in subsection (g) of this section, except that debentures issued pursuant to the provisions of section 1715k(f), section 1715l(g), and section 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Secretary and shall bear interest from such date. They shall bear interest at a rate established by the Secretary pursuant to section 1715o of this title payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any

Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amount so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

(j) Debentures; form and amounts

Debentures issued under this section—

- (1) shall be in such form and amounts;
- (2) shall be subject to such terms and conditions;
- (3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and
- (4) may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(k) Acquisition of property by conveyance or foreclosure

The Secretary is authorized either to (1) acquire possession of and title to any property, covered by a mortgage insured under this section and assigned to him, by voluntary conveyance in extinguishment of the mortgage indebtedness, or (2) institute proceedings for foreclosure on the property covered by any such insured mortgage and prosecute such proceedings to conclusion. The Secretary at any sale under foreclosure may, in his discretion, for the protection of the General Insurance Fund, bid any sum up to but not in excess of the total unpaid indebtedness secured by the mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses, and may become the purchaser of the property at such sale. In determining the amount to be bid, the Secretary shall act consistently with the goal established in section 1701z-11(a)(1) of this title. The Secretary is authorized to pay from the General Insurance Fund such sums as may be necessary to defray such taxes, insurance, costs, fees, and other expenses in connection with the acquisition or foreclosure of property under this section. Pending such acquisition by voluntary conveyance or by foreclosure, the Secretary is authorized, with respect to any mortgage assigned to him under the provisions of subsection (g), to exercise all the rights of a mortgagee under such mortgage, including the right to sell such mortgage, and to take such action and advance such sums as may be necessary to preserve or protect the lien of such mortgage.

(l) Handling and disposal of property; settlement of claims

Notwithstanding any other provisions of law relating to the acquisition, handling, or disposal of real and other property by the United States, the Secretary shall also have power, for the protection of the interests of the General Insurance Fund, to pay out of the General Insurance Fund all expenses or charges in connection with, and to deal with, complete, reconstruct, rent, renovate, modernize, insure, make contracts for the management of, or establish suitable agencies for the management of, or sell for cash or credit or lease in his discretion, any property acquired by him under this section, and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims assigned and transferred to him in connection with the assignment, transfer, and delivery provided for in this section, and at any time, upon default, to foreclose on any property secured by any mortgage assigned and transferred to or held by him: *Provided*, That section 6101 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$1,000.

(m) Repealed. Pub. L. 89-117, title XI, §1108(e)(3), Aug. 10, 1965, 79 Stat. 504

(n) Default or payment; rights of parties

In the event that a mortgage insured under this section becomes in default through failure of the mortgagor to make any payment due under or provided to be paid by the terms of the mortgage and such mortgage continues in default for a period of thirty days, but the mortgagee does not foreclose on or otherwise acquire the property, or does not assign and transfer such mortgage and the credit instrument secured thereby to the Secretary, in accordance with subsection (g), and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of subsection (e), and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay the annual premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

(o) Reissue of prior insurance

The Secretary, with the consent of the mortgagee and the mortgagor of a mortgage insured under this section prior to February 3, 1938, shall be empowered to reissue such mortgage insurance in accordance with the provisions of this section as amended by the National Housing Act Amendments of 1938, and any such insurance not so reissued shall not be affected by the enactment of such Act.

(p) Repealed. Pub. L. 89–117, title XI, §1108(e)(3), Aug. 10, 1965, 79 Stat. 504

(q) Repealed. Pub. L. 85–104, title I, §111, July 12, 1957, 71 Stat. 297

(r) Service charge for mortgages assigned to and held by the Secretary

Notwithstanding any other provision of this chapter, the Secretary is authorized to include in any mortgage insured under any subchapter of this chapter after September 23, 1959, a provision requiring the mortgagor to pay a service charge to the Secretary in the event such mortgage is assigned to and held by the Secretary. Such service charge shall not exceed the amount prescribed by the Secretary for mortgage insurance premiums applicable to such mortgage.

(June 27, 1934, ch. 847, title II, §207, 48 Stat. 1252; Aug. 23, 1935, ch. 614, title III, §344(d), 49 Stat. 722; Feb. 3, 1938, ch. 13, §3, 52 Stat. 16; June 3, 1939, ch. 175, §12, 53 Stat. 807; Mar. 28, 1941, ch. 31, §4(b), 55 Stat. 62; July 1, 1948, ch. 784, §6, 62 Stat. 1209; Aug. 10, 1948, ch. 832, title I, §101 (m–p, r), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§106–112, 122, 64 Stat. 52–54, 59; Sept. 1, 1951, ch. 378, title VI, §§604(b), 605, 65 Stat. 314; July 14, 1952, ch. 723, §10(a)(2), 66 Stat. 603; June 30, 1953, ch. 170, §5, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, §§112(b), 115–117, 68 Stat. 593–595; Aug. 11, 1955, ch. 783, title I, §102(b), (c), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, §§103, 104(b), (c), 70 Stat. 1092; Pub. L. 85–104, title I, §§108(b), 109–111, July 12, 1957, 71 Stat. 297; Pub. L. 86–70, §10(a), (b), June 25, 1959, 73 Stat. 142; Pub. L. 86–372, title I, §104, Sept. 23, 1959, 73 Stat. 655; Pub. L. 86–624, §6, July 12, 1960, 74 Stat. 411; Pub. L. 87–70, title VI, §607, June 30, 1961, 75 Stat. 178; Pub. L. 88–560, title I, §§105(b), 106, 107(a), 108, Sept. 2, 1964, 78 Stat. 772, 774, 776; Pub. L. 89–117, title II, §207(a), title XI, §1108(e), Aug. 10, 1965, 79 Stat. 467, 504; Pub. L. 90–19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90–301, §3(b), May 7, 1968, 82 Stat. 114; Pub. L. 91–152, title I, §§103(a), (b), 113(b), title IV, §403(c)(2), Dec. 24, 1969, 83 Stat. 380, 383, 395; Pub. L. 93–383, title III, §§303(a), 304(a), Aug. 22, 1974, 88 Stat. 676, 677; Pub. L. 94–173, §3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94–375, §8(a), (b)(1), Aug. 3, 1976, 90 Stat. 1071; Pub. L. 95–557, title III, §311(a), Oct. 31, 1978, 92 Stat. 2098; Pub. L. 95–619, title II, §248(b), Nov. 9, 1978, 92 Stat. 3235; Pub. L. 96–153, title III, §§313(b), 314, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96–399, title III, §§308(c)(1), 310(a), Oct. 8, 1980, 94 Stat. 1640, 1641; Pub. L. 97–35, title III, §§338(b), 339B(a), (c), Aug. 13, 1981, 95 Stat. 416, 417; Pub. L. 97–377, title I, §101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98–181, title I [title IV, §§404(b)(4), 407(c), 431(a), 435, 446(a)], Nov. 30, 1983, 97 Stat. 1209, 1211, 1220, 1222, 1228; Pub. L. 98–479, title II, §204(a)(3), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 100–242, title I, §182, title IV, §426(a), (h), Feb. 5, 1988, 101 Stat. 1871, 1915, 1916; Pub. L. 102–550, title V, §§509(a), 516(b), Oct. 28, 1992, 106 Stat. 3782, 3790; Pub. L. 103–233, title III, §306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 107–73, title II, §213(a),

Nov. 26, 2001, 115 Stat. 676; Pub. L. 107–326, §5(b)(1), Dec. 4, 2002, 116 Stat. 2794; Pub. L. 108–186, title III, §302(b),(c)(1), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110–161, div. K, title II, §221(1), Dec. 26, 2007, 121 Stat. 2436.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1715a of this title, referred to in subsec. (c), which related to additional housing insurance, was repealed by act June 3, 1939, ch. 175, §13, 53 Stat. 807.

Section 1720 of this title, referred to in subsec. (c)(3)(B), was repealed by Pub. L. 98–181, title I [title IV, §483(a)], Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (c)(3)(B), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

This chapter, referred to in subsecs. (d), (g) and (r), 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.

The National Housing Act Amendments of 1938, referred to in subsec. (o), is act Feb. 3, 1938, ch. 13, 42 Stat. 8, section 3 of which amended this section generally. For complete classification of this Act to the Code, see section 1701a of this title and Tables.

CODIFICATION

In subsec. (l), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111–350, §6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

AMENDMENTS

2007—Subsec. (c)(3)(B). Pub. L. 110–161 substituted "170 percent" for "140 percent" after "not to exceed" in two places and "215 percent in high cost areas" for "170 percent in high cost areas".

2003—Subsec. (c)(3)(A). Pub. L. 108–186, §302(c)(1), substituted "\$17,460" for "\$11,250".

Subsec. (c)(3)(B). Pub. L. 108–186, §302(b), substituted "140 percent in" for "110 percent in" and inserted ", or 170 percent in high cost areas," after "and by not to exceed 140 percent".

2002—Subsec. (c)(3). Pub. L. 107–326, §5(b)(1)(B), which directed substitution of "(B) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for "and accept that the Secretary" through "in this paragraph", was executed by making the substitution for "and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph", to reflect the probable intent of Congress.

Pub. L. 107–326, §5(b)(1)(A), inserted subpar. (A) designation after "(3)".

2001—Subsec. (c)(3). Pub. L. 107–73 substituted "\$38,025", "\$42,120", "\$50,310", "\$62,010", and "\$70,200" for "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$56,160", respectively, "\$11,250" for "\$9,000", and "\$43,875", "\$49,140", "\$60,255", "\$75,465", and "\$85,328" for "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

1994—Subsec. (c)(3). Pub. L. 103–233 substituted "\$56,160" for "\$59,160".

1992—Subsec. (c)(3). Pub. L. 102–550, §509(a), substituted "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160" for "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800", respectively, and "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262" for "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885", respectively.

Subsec. (g). Pub. L. 102–550, §516(b)(1), in second sentence, substituted "issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a par value" for ", subject to the cash adjustment provided for in subsection (j), issue to the mortgagee a certificate of claim as provided in subsection (h), and debentures having a total face value".

Subsec. (i). Pub. L. 102–550, §516(b)(2), (3), in first sentence, substituted "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations" for "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable", and in fourth sentence substituted "and, in the case of debentures issued in certificated registered form, such guaranty" for "and such guaranty".

Subsec. (j). Pub. L. 102–550, §516(b)(4), added subsec. (j) and struck out former subsec. (j) which read as follows: "Debentures issued under this section shall be in such form and denominations in multiples of \$50,

shall be subject to such terms and conditions, and shall include such provision for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the amount of debentures to which the mortgagee is entitled under this section, and the aggregate face value of the debentures issued, not to exceed \$50, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund."

1988—Subsec. (c)(3). Pub. L. 100-242, §426(a), (h), substituted "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" for "\$19,500", "\$21,600", "\$25,800", "\$31,800", and "\$36,000", respectively, and "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" for "\$22,500", "\$25,200", "\$30,900", "\$38,700", and "\$43,758", respectively, and substituted "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area."

Subsec. (k). Pub. L. 100-242, §182, inserted provisions after second sentence directing the Secretary to act consistently with the goal established in section 1701z-11(a)(1) of this title in determining the amount to be bid.

1984—Subsec. (i). Pub. L. 98-479 substituted "section 1715k(f), section 1715l(g), and section 1715x of this title" for "section 1715k(f), 1715l(g), and section 1715x of this title".

1983—Subsec. (a)(7). Pub. L. 98-181, §407(c), inserted "American Samoa," after "Pacific Islands,".

Subsec. (b). Pub. L. 98-181, §431(a)(3), in first undesignated par. following par. (2) struck out "and directed" after "therefore, authorized".

Pub. L. 98-181, §435, in second undesignated par. following par. (2) substituted "the Secretary may not insure any mortgage under this section (except a mortgage with respect to a manufactured home park designed exclusively for occupancy by elderly persons)" for "no mortgage shall be insured hereunder".

Subsec. (b)(2). Pub. L. 98-181, §431(a)(1), (2), substituted provision permitting the Secretary discretionary authority to regulate rents and other charges for such period or periods as the Secretary, in his discretion, may require for provision which required the Secretary to regulate rents and other charges until the termination of all obligations of the Secretary under the insurance and during such further time as the Secretary was owner, holder, or reinsurer of the mortgage, and substituted "any such regulations and restrictions" for "the regulations and restrictions".

Subsec. (c). Pub. L. 98-181, §446(a), which directed that "(unless otherwise approved by the Secretary)" be inserted after "periodic payments" in first undesignated par. of par. (3), was executed to the undesignated par. following par. (3) to reflect the probable intent of Congress.

Pub. L. 98-181, §404(b)(4), which directed the substitution of provision that the interest rate for the mortgage be such a rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest, exclusive of premium charges for insurance, not exceed $5\frac{1}{4}$ per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum per annum as the Secretary finds necessary to meet the mortgage market in first undesignated par. of par. (3), was executed to the undesignated par. following par. (3) to reflect the probable intent of Congress.

1982—Subsec. (c)(3). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

1981—Subsec. (a)(1), (6). Pub. L. 97-35, §339B(c), provided that for purposes of section 308(c)(1) of Pub. L. 96-399, the terms "mobile home" and "manufactured home" shall be deemed to include the terms "mobile homes" and "manufactured homes", respectively. See 1980 Amendment note below.

Subsec. (c)(3). Pub. L. 97-35, §§338(b), 339B(a), substituted "\$9,000" for "\$8,000" and made minor changes in nomenclature.

1980—Subsec. (a)(1), (6). Pub. L. 96-399, §308(c)(1), which directed substitution of "manufactured home" for "mobile home" wherever appearing, was executed by substituting "manufactured home" for "mobile home" and "manufactured homes" for "mobile homes" wherever appearing pursuant to Pub. L. 97-35,

§339B(c). See 1981 Amendment note above.

Subsec. (c)(3). Pub. L. 96-399, §310(a), inserted provisions relating to residential energy conservation measures.

1979—Subsec. (c)(3). Pub. L. 96-153, §§313(b), 314, in first sentence of first unnumbered par. substituted "\$8,000" for "\$3,900", "75 per centum" for "50 per centum" and inserted exception that where the Secretary determines it necessary on a project by project basis, the dollar amount limitations may be exceeded by not to exceed 90 per centum in such an area.

1978—Subsec. (c). Pub. L. 95-557 substituted "may include five" for "may include eight" in concluding par.

Subsec. (c)(3). Pub. L. 95-619 provided that the amount insurable under this section could be increased by up to 20 per centum if such increase were necessary to account for the increased cost of a residence due to the installation of a solar energy system.

1976—Subsec. (c)(3). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$19,500" for "\$13,000", "\$21,600" for "\$18,000", "\$25,800" for "\$21,500", "\$31,800" for "\$26,500", "\$36,000" for "\$30,000", "\$3,900" for "\$3,250", "\$22,500" for "\$15,000", "\$25,200" for "\$21,000", "\$30,900" for "\$25,750", "\$38,700" for "\$32,250", and "\$43,758" for "\$36,465".

1975—Subsec. (c)(3). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93-383, §304(a)(1), struck out par. (1) which set forth limits on principal obligation of not to exceed \$20,000,000, or not to exceed \$50,000,000 if executed by a mortgagor under subsec. (b)(1) of this section.

Subsec. (c)(3). Pub. L. 93-383, §§303(a), 304(a)(2), substituted "\$3,250" for "\$2,500", "\$13,000" for "\$9,900", "\$15,000" for "\$11,550", "\$18,000" for "\$13,750", "\$21,000" for "\$16,500", "\$21,500" for "\$16,500", "\$25,750" for "\$19,800", "\$26,500" for "\$20,350", "\$30,000" for "\$23,100", "\$32,250" for "\$24,750", and "\$36,465" for "\$28,050", and struck out limitation of \$1,000,000 per mortgage for trailer courts or parks.

1969—Subsec. (a)(1). Pub. L. 91-152, §103(a)(1)(A), substituted "mobile homes" for "trailer coach mobile dwellings".

Subsec. (a)(6). Pub. L. 91-152, §103(a)(1)(B), (C), substituted "mobile home court" for "trailer court" and "mobile homes" for "trailer coach mobile dwellings".

Subsec. (a)(7). Pub. L. 91-152, §403(c)(2), inserted "the Trust Territory of the Pacific Islands," after "Guam,".

Subsec. (c)(3). Pub. L. 91-152, §§103(a)(2), (b), 113(b)(1), (2), substituted "\$2,500 per space or \$1,000,000 per mortgage for mobile home courts or parks" for "\$1,800 per space or \$500,000 per mortgage for trailer courts or parks", "\$9,900" for "\$9,000", "\$11,550" for "\$10,500", "\$13,750" for "\$12,500", "\$16,500" from "\$15,000" wherever appearing therein, "\$19,800" for "\$18,000", "\$20,350" for "\$18,500", "\$23,100" for "\$21,000", "\$24,750" for "\$22,500", and "\$28,050" for "\$25,500".

1968—Subsec. (c)(3). Pub. L. 90-301 limited interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (b)(2), (c)(2), (3), (d), (e), (g), (h), (h)(1), (h)(2), (h)(2)(i), (j) to (l), (n), (o), and (r).

1965—Subsec. (b). Pub. L. 89-117, §1108(e)(4), substituted "General Insurance Fund" for "Housing Fund".

Subsec. (c)(3). Pub. L. 89-117, §207(a), substituted "\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms" for "and \$18,500 per family unit with three or more bedrooms" and "\$22,500 per family unit with three bedrooms, and \$25,000 per family unit with four or more bedrooms" for "and \$22,500 per family unit with three or more bedrooms".

Subsec. (d). Pub. L. 89-117, §1108(e)(1), (2), removed reference to collection of premium charges for the insurance of mortgages under section 1715a of this title and substituted "debentures issued by the Commissioner under any subchapter and section of this chapter, except debentures of the Mutual Mortgage Insurance Fund, or of the Cooperative Management Housing Insurance Fund" for "debentures of the Housing Insurance Fund issued by the Commissioner under this subchapter".

Subsec. (f). Pub. L. 89-117, §1108(e)(3), repealed subsec. (f) which created the Housing Insurance Fund.

Subsecs. (h) to (l). Pub. L. 89-117, §1108(e)(4), substituted "General Insurance Fund" for "Housing Insurance Fund" and "Housing Fund" wherever appearing.

Subsec. (m). Pub. L. 89-117, §1108(e)(3), repealed subsec. (m) which provided for credits and charges in the Housing Insurance Fund.

Subsec. (p). Pub. L. 89-117, §1108(e)(3), repealed subsec. (p) which provided for the disposition of surplus moneys in the Housing Insurance Fund and the investment of such moneys.

1964—Subsec. (c)(2). Pub. L. 88-560, §106, substituted "*Provided*, That this limitation shall not apply" for "*Provided*, That except with respect to a mortgage executed by a mortgagor coming within the provisions of subsection (b)(1) of this section or a mortgage on a trailer court or park, such mortgage shall not exceed the amount which the Commissioner estimates will be the cost of the completed physical improvements on the property or project exclusive of public utilities and streets and organization and legal expenses: *Provided*, *further*, That this limitation shall not apply" before "to mortgages on housing in Alaska."

Subsec. (c)(3). Pub. L. 88-560, §107(a), changed limits on mortgages for property or project attributable to dwelling use from "\$2,500 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "\$9,000 per family unit without a bedroom, \$12,500 per family unit with one bedroom, \$15,000 per family unit with two bedrooms, and \$18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of \$2,500 per room to not exceed \$3,000 per room and the dollar amount limitation of \$9,000 per family unit to not exceed \$9,400 per family unit" to dollar amount limitations "per family unit to not to exceed \$10,500 per family unit without a bedroom, \$15,000 per family unit with one bedroom, \$18,000 per family unit with two bedrooms, and \$22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed \$1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (g). Pub. L. 88-560, §105(b), inserted provision for termination of mortgagee's obligation to pay premium charges on the mortgage.

Subsec. (k). Pub. L. 88-560, §108, struck out second sentence providing for mandatory acquisition or foreclosure within one year of multifamily project in default.

1961—Subsec. (b)(2). Pub. L. 87-70, §607(1), struck out provisions from first paragraph which limited the Commissioner's authority to insure mortgages to property held by private corporations, associations, cooperative societies which are legal agents of owner-occupants, or trusts formed or created for the purpose of rehabilitating slum or blighted areas, or providing housing for rent or sale.

Subsec. (c)(3). Pub. L. 87-70, §607(2), (3), inserted "(excluding exterior land improvements as defined by the Commissioner)" and substituted "\$1,800 per space" for "\$1,500 per space".

Subsec. (i). Pub. L. 87-70, §607(4), permitted debentures issued pursuant to the provisions of section 1715k(f), 1715l(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

1960—Subsec. (a)(7). Pub. L. 86-624 struck out "Hawaii," before "Puerto Rico".

1959—Subsec. (a)(7). Pub. L. 86-70, §10(a), struck out "Alaska," before "Hawaii".

Subsec. (b). Pub. L. 86-372, §104(e)(1), struck out exceptions that related to housing for elderly persons from the two unnumbered paragraphs following par. (2).

Subsec. (c). Pub. L. 86-372, §104(c), (e)(2), struck out provisions that authorized insurance of mortgages not more than \$8,100 if the entire property or project was specially designed for the use and occupancy of elderly persons and the mortgagor is a financially qualified nonprofit organization, and substituted in the unnumbered paragraph following par. (3) "5¼ per centum per annum" for "4½ per centum per annum".

Subsec. (c)(1). Pub. L. 86-372, §104(a), substituted "\$20,000,000" for "\$12,500,000".

Subsec. (c)(2). Pub. L. 86-70, §10(b), substituted "Alaska" for "the Territory of Alaska".

Subsec. (c)(3). Pub. L. 86-372, §104(b), substituted "\$2,500" for "\$2,250" in two places, "\$9,000" for "\$8,100" in two places, "\$3,000" for "\$2,700", "\$9,400" for "\$8,400", "\$1,250 per room" for "\$1,000 per room", "\$1,500 per space" for "\$1,000 per space", and "\$500,000" for "\$300,000".

Subsec. (f). Pub. L. 86-372, §104(e)(3), substituted "sections 1715a, 1715e, 1715v, and 1715w of this title" for "sections 1715a and 1715e of this title" in two places.

Subsec. (r). Pub. L. 86-372, §104(d), added subsec. (r).

1957—Subsec. (c). Pub. L. 85-104, §110, inserted in unnumbered paragraph following par. (3), "(or \$8,400 per family unit in the case of projects to consist of elevator-type structures)" and "and may permit single elderly persons to use and occupy such units".

Subsec. (c)(3). Pub. L. 85-104, §109, struck out "per room" after "limitations", and inserted "without regard to the number of rooms being less than four, or four or more,".

Subsec. (i). Pub. L. 85-104, §108(b), substituted in second sentence, "established by the Commissioner pursuant to section 1715o of this title" for "determined by the Commissioner, with the approval of the Secretary of the Treasury, at the time the mortgage was insured, but not to exceed 3 per centum per annum".

Subsec. (q). Pub. L. 85-104, §111, repealed provisions which related to insurance of mortgages by Federal

National Mortgage Association. See section 1715e of this title.

1956—Subsec. (b). Act Aug. 7, 1956, §104(b), inserted "(except provisions relating to housing for elderly persons)" before "to take" in paragraph following par. (2), and inserted "(except with respect to housing designed for elderly persons, with occupancy preference therefor, as provided in the paragraph following paragraph (3) of subsection (c) of this section)" after "hereunder" in second unnumbered par. following par. (2).

Subsec. (c). Act Aug. 7, 1956, §104(c), substituted provisions of unnumbered par. following par. (3) that in certain housing for elderly persons, the mortgage may involve a principal obligation of \$8,100 per family unit and 90 percent of the replacement cost, for former provisions that if the number of bedrooms is equal or exceeds two per family unit, and the principal obligation does not exceed \$7,200 per family unit, the mortgage may involve a principal obligation not in excess of 90 percent of the value of the property.

Subsec. (c)(2). Act Aug. 7, 1956, §103(a), substituted "90 per centum" for "80 per centum".

Subsec. (c)(3). Act Aug. 7, 1956, §103(b), increased limits on mortgages from \$2,000 per room to \$2,250 per room, from \$7,200 to \$8,100 where the number of rooms in the project is less than 4 per family unit, from \$2,400 to \$2,700 per room and \$7,500 to \$8,400 per family unit for elevator type structures, and inserted provision allowing Commissioner to increase dollar amount limitations by not to exceed \$1,000 per room.

1955—Subsec. (a). Act Aug. 11, 1955, §102(b)(1), (2), inserted provisions relating to trailer coach mobile dwellings in par. (1)(B), and included space in a trailer court or park in the definition of "rental housing" in par. (6).

Subsec. (c). Act Aug. 11, 1955, §102(b)(5), amended last paragraph to authorize insurance of mortgages on rental properties having eight or more family units.

Subsec. (c)(1). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on the maximum amount of a mortgage.

Subsec. (c)(2). Act Aug. 11, 1955, §102(b)(3), inserted "or mortgage on a trailer court or park".

Subsec. (c)(3). Act Aug. 11, 1955, §102(b)(4), inserted "or not to exceed \$1,000 per space or \$300,000 per mortgage for trailer courts or parks".

1954—Subsec. (c)(2). Act Aug. 2, 1954, §115(1), (2), inserted the proviso relating to mortgage insurance with respect to construction in slum or blighted areas, and inserted the reference to Guam.

Subsec. (c)(3). Act Aug. 2, 1954, §115(3), struck out the \$10,000 per family-unit limitation, and inserted provisions permitting an increase in the limitations of \$2,000 per room and \$7,200 per family unit (less than four rooms) to \$2,400, and \$7,500, respectively, for elevator-type structures.

Subsec. (d). Act Aug. 2, 1954, §116, inserted in first sentence "of the Housing Insurance Fund" after "debentures".

Subsec. (h). Act Aug. 2, 1954, §117, at end of first sentence, inserted provision relating to inclusion of foreclosure costs, costs of acquisition, and costs of conveyance to the Commissioner.

Subsec. (i). Act Aug. 2, 1954, §112(b), substituted in second sentence a twenty-year period for the ten-year period, with respect to the maturity of debentures.

1953—Subsec. (c). Act June 30, 1953, §5(a), added par. following par. (3).

Subsec. (c)(2). Act June 30, 1953, §5(a), substituted "80 per centum of the estimated value of the property or project (when the proposed improvements are completed)" for limitation of 90 per centum of value attributable to dwelling use up to \$7,000 per family unit, 60 per centum of such value over \$7,000 and up to \$10,000, and 90 per centum of value attributable to non-dwelling use.

Subsec. (c)(3). Act June 30, 1953, §5(a), substituted provisions for maximum mortgage amount of \$2,000 per room (or \$7,200 per family unit if the number of rooms does not equal or exceed four per family unit), up to \$10,000 per family unit, for provisions which fixed a limitation of \$8,100 per family unit (or \$7,200 if the number of rooms was less than four per family unit), provided for amortization of the mortgage and rate of interest, provided for consent to release of part of mortgaged property, prohibited acceptance of mortgages on properties not economically sound, and provided for inclusion with mortgaged properties adequate commercial and community facilities.

Subsec. (i). Act June 30, 1953, §5(b), substituted in second sentence, "ten" years for "twenty" years.

1952—Subsec. (a)(7). Act July 14, 1952, inserted "Guam," after "District of Columbia,".

1951—Subsec. (c)(2). Act Sept. 1, 1951, §605, in cl. (i), substituted "of the property or project attributable to dwelling use" for "of the property or project"; in cl. (ii), inserted "and" after "unit"; and added cl. (iii).

Subsec. (c)(3). Act Sept. 1, 1951, §605, substituted "four per family unit" for "four and one-half per family unit".

Subsec. (i). Act Sept. 1, 1951, §604(b), substituted in second sentence the provision that such debentures shall mature twenty years after the date thereof, for the provision that they should mature three years after the first day of July following the maturity date of the mortgage in exchange for which the debentures were

issued.

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

Subsec. (b). Act Apr. 20, 1950, §106, added last two unnumbered pars.

Subsec. (c)(2). Act Apr. 20, 1950, §107(1), provided that the mortgage would not exceed 90% of the first \$7,000 estimated value of the property and 60% of such estimated value in excess of \$7,000 and not in excess of \$10,000.

Subsec. (c)(3). Act Apr. 20, 1950, §107(2), (3), provided a dollar mortgage limitation of \$8,100 per family unit or \$7,200 per family unit if the number of rooms did not equal or exceed four and one-half per family unit, and struck out ", except that with respect to mortgages insured under the provisions of the second proviso of paragraph (2) of this subsection, which mortgages are authorized to have a maturity of not exceeding forty years from the date of insurance of the mortgage, such interest rate shall not exceed 4 per centum per annum" in first sentence of last par.

Subsec. (d). Act Apr. 20, 1950, §108, struck out "one-half of" before "1 per centum" in proviso.

Subsec. (f). Act Apr. 20, 1950, §109, inserted "and section 1715e" before "of this title" wherever appearing.

Subsec. (g). Act Apr. 20, 1950, §110, inserted "and any mortgage insurance premiums paid after default" after "preservation of the property" in cl. (C) of last sentence, and substituted proviso of last sentence for the one reading "That the mortgagee in event of a default under the mortgage, may, at its option and in accordance with rules and regulations to be prescribed by the Commissioner, proceed to foreclose on or otherwise acquire the property as provided in the case of a mortgage which is in default under section 1715a of this title and receive the benefits of the insurance as provided in such section".

Subsec. (h). Act Apr. 20, 1950, §111, substituted "under this section" after "claim issued" in first sentence for "by the Commissioner to any mortgagee upon the assignment of the mortgage to the Commissioner".

Subsec. (i). Act Apr. 20, 1950, §112, struck out first sentence and substituted "Debentures issued under this section shall be executed in the name of the Housing Insurance Fund as obligor, shall be signed by the Commissioner by either his written or engraved signature, shall be negotiable, and shall be dated as of the date of default as determined in subsection (g) of this section and shall bear interest from such date".

1948—Subsec. (b)(1) Act Aug. 10, 1948, §101(m), substituted "restricted by Federal or State laws or regulations of State banking or insurance departments" for "formed under and restricted by Federal or State housing laws".

Subsec. (c). Act Aug. 10, 1948, §101(n)(1)–(3), amended first sentence generally, inserted "except that with respect to mortgages insured under the provisions of the second proviso of paragraph numbered (2) of this subsection, which mortgages are hereby authorized to have a maturity of not exceeding forty years from the date of the insurance of the mortgage, such interest rate shall not exceed 4 per centum per annum" at end of second sentence, and inserted last sentence.

Act July 1, 1948, inserted proviso.

Subsec. (g). Act Aug. 10, 1948, §101(o), substituted, in cl. (ii), "(1)" for "(2)".

Subsec. (h). Act Aug. 10, 1948, §101(p), substituted "retained by the Housing Administrator and credited to the Housing Insurance Fund" for "paid to the mortgagor of such property".

Subsec. (q). Act Aug. 10, 1948, §101(r), added subsec. (q).

1941—Subsec. (a)(1). Act Mar. 28, 1941, §4(b)(1), struck out "district or territory".

Subsec. (a)(7). Act Mar. 28, 1941, §4(b)(2), added par. (7).

1939—Subsec. (c). Act June 3, 1939, amended first sentence generally.

1938—Act of Feb. 3, 1938, amended section generally.

1935—Act Aug. 23, 1935, inserted "property" before "project" in last sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98–181, title I [title IV, §431(c)], Nov. 30, 1983, 97 Stat. 1220, provided that: "The amendments made in this section [amending this section and section 1715y of this title] shall not apply with respect to mortgages insured by the Secretary of Housing and Urban Development before the date of the enactment of this Act [Nov. 30, 1983]."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 112(b) of act Aug. 2, 1954, as not applicable in any case where the mortgage involved was insured or the commitment for the insurance was issued prior to Aug. 2, 1954, see section 112(e) of that act, set out as a note under section 1710 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, §3(b), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

REGULATIONS

Pub. L. 102-550, title V, §509(h), Oct. 28, 1992, 106 Stat. 3783, provided that: "The Secretary of Housing and Urban Development shall issue regulations necessary to carry out the amendments made by subsections (a) through (g) [amending this section and sections 1715e, 1715k, 1715l, 1715v, and 1715y of this title], which shall take effect not later than the expiration of the 1-year period beginning on the date of the enactment of this Act [Oct. 28, 1992]."

DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Pub. L. 101-625, title III, §328, Nov. 28, 1990, 104 Stat. 4138, as amended by Pub. L. 102-242, title II, §226, Dec. 19, 1991, 105 Stat. 2307, provided that:

"(a) **AUTHORITY.**—Not later than the expiration of the 60-day period beginning on the date of enactment this Act [Nov. 28, 1990], the Secretary of Housing and Urban Development shall implement a system of mortgage insurance for mortgages insured under section 207, 221, 223, 232, or 241 of the National Housing Act [12 U.S.C. 1713, 1715l, 1715n, 1715w, 1715z-6] that delegates processing functions to selected approved mortgagees or other individuals and entities expressly approved by the Department of Housing and Urban Development. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

"(b) **FULL INSURANCE PROGRAM.**—Notwithstanding subsection (a), the Secretary shall maintain a viable system for full insurance programs under such Act [this chapter] under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development."

LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

Pub. L. 98-181, title I [title IV, §446(f)], Nov. 30, 1983, 97 Stat. 1228, provided that: "The aggregate number of dwelling units included in properties covered by mortgages insured pursuant to the authority granted in the amendments made by this section [amending sections 1713, 1715k, 1715l, and 1715v of this title] in any fiscal year may not exceed 10,000."

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Pub. L. 88-560, title I, §107(g), Sept. 2, 1964, 78 Stat. 776, as amended by Pub. L. 90-19, §21(a), May 25, 1967, 81 Stat. 25, provided that if the Secretary of Housing and Urban Development determined that it would be inequitable to apply the provisions of the National Housing Act as amended by section 107 [amending sections 1713, 1715e, 1715k, 1715l, 1715v, and 1748h-2 of this title] to a project which had been submitted for his consideration prior to Sept. 2, 1964, such provisions could be applied to such project without regard to the amendments made by section 107.

EXECUTIVE DOCUMENTS

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

¹ [*See References in Text note below.*](#)

§1714. Taxation

Nothing in this subchapter shall be construed to exempt any real property acquired and held by the Secretary under this subchapter from taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(June 27, 1934, ch. 847, title II, §208, 48 Stat. 1252; Feb. 3, 1938, ch. 13, §3, 52 Stat. 22; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

EDITORIAL NOTES

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner".

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator".

1938—Act Feb. 3, 1938, corrected error in spelling of "subdivision".

§1715. Statistical and economic surveys

The Secretary shall cause to be made in connection with the insurance programs such statistical surveys and legal and economic studies as he shall deem useful to guide the development of housing and the creation of a sound mortgage market in the United States, and shall publish from time to time the results of such surveys and studies. Expenses of such studies and surveys, and expenses of publication and distribution of the results of such studies and surveys, shall be charged as a general expense of such insurance fund or funds, as the Secretary shall determine.

(June 27, 1934, ch. 847, title II, §209, 48 Stat. 1252; Feb. 3, 1938, ch. 13, §3, 52 Stat. 22; Mar. 28, 1941, ch. 31, §4(c), 55 Stat. 62; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 87-70, title VI, §612(d), June 30, 1961, 75 Stat. 181; Pub. L. 89-117, title XI, §1108(f), Aug. 10, 1965, 79 Stat. 504; Pub. L. 90-19, §1(a)(3), (f), May 25, 1967, 81 Stat. 17, 18.)

EDITORIAL NOTES

AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing and inserted "in connection with the insurance programs" after "made".

1965—Pub. L. 89-117 struck out "or account or accounts," after "fund or funds,".

1961—Pub. L. 87-70 substituted "shall be charged as a general expense of such insurance fund or funds, or account or accounts, as the Commissioner shall determine" for "shall be charged as a general expense of the Fund, the Housing Fund, and the Defense Housing Insurance Fund in such proportion as the Commissioner shall determine".

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator" wherever appearing.

1941—Act Mar. 28, 1941, substituted "Fund, the Housing Fund, and the Defense Housing Insurance Fund" for "Fund and the Housing Fund".

1938—Act Feb. 3, 1938, inserted "and the Housing Fund in such proportion as the Administrator shall determine" after "Fund".

§1715a. Repealed. June 3, 1939, ch. 175, §13, 53 Stat. 807

Section, act June 27, 1934, ch. 847, title II, §210, as added by act Feb. 3, 1938, ch. 13, §3, 52 Stat. 22, related to additional housing insurance.

STATUTORY NOTES AND RELATED SUBSIDIARIES

APPLICATIONS PRIOR TO REPEAL

Act June 3, 1939, ch. 175, §13, 53 Stat. 807, which repealed this section, also provided: "That the

Administrator is authorized to insure under said section [this section] any mortgage for the insurance of which an application has been filed with him prior to the effective date of this act [June 3, 1939]."

§1715b. Rules and regulations

The Secretary is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this subchapter.

(June 27, 1934, ch. 847, title II, §211, as added Feb. 3, 1938, ch. 13, §3, 52 Stat. 23; amended Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90–19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

EDITORIAL NOTES

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary" for "Commissioner".

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator".

STATUTORY NOTES AND RELATED SUBSIDIARIES

REGULATIONS

Pub. L. 98–479, title I, §104(f), Oct. 17, 1984, 98 Stat. 2226, required Secretary of Housing and Urban Development, not later than Oct. 31, 1984, to issue regulations to carry out amendments made to section 1715z–7 of this title by section 436 of Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98–181, title I [titles I–V].

§1715c. Labor standards

(a) The Secretary shall not insure under section 1713 or section 1715a of this title or under section 1743 of this title pursuant to any application for insurance filed subsequent to the effective date of this section, or under section 1715e of this title, or under subchapter VII pursuant to any application filed subsequent to sixty days after April 20, 1950, or under section 1748b or 1748h–2 of this title, or under section 1750g of this title, a mortgage or investment which covers property on which there is or is to be located a dwelling or dwellings, or a housing project, the construction of which was or is to be commenced subsequent to such date, unless the principal contractor files a certificate or certificates (at such times, in course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of the dwelling or dwellings or the housing project involved have been paid not less than the wages prevailing in the locality in which the work was performed for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor, in accordance with sections 3141–3144, 3146, and 3147 of title 40, prior to the beginning of construction and after the date of the filing of the application for insurance. The provisions of this section shall also apply to the insurance of any loan or mortgage under section 1715k or section 1715x of this title which covers property on which there is located a dwelling or dwellings designed principally for residential use for twelve or more families. The provisions of this section shall apply to the insurance under section 1715l of this title of any mortgage described in subsection (d)(3) or (d)(4) and (deeming the term "construction" as used in the first sentence of this subsection to mean rehabilitation) of any mortgage described in subsection (h)(1) or section 1715z(j)(1) of this title which covers property on which there is located a dwelling or dwellings designed principally for residential use for more than eight families; except that compliance with such provisions may be waived by the Secretary—

(1) with respect to mortgages described in such subsection (d)(3) or (d)(4), in cases or classes of cases where laborers or mechanics (not otherwise employed at any time in the construction of the

project) voluntarily donate their services without compensation for the purpose of lowering their housing costs in a cooperative housing project and the Secretary determines that any amounts saved thereby are fully credited to the cooperative undertaking the construction, and

(2) with respect to mortgages described in such subsection (h)(1) or section 1715z(j)(1) of this title, in cases or classes of cases where prospective owners of such dwellings, voluntarily donate their services without compensation, or other persons (not otherwise employed at any time in the rehabilitation of the property) voluntarily donate their services without compensation, and the Secretary determines that any amounts saved thereby are fully credited to the nonprofit organization undertaking the rehabilitation.

The provisions of this section shall also apply to the insurance of any mortgage under sections 1715v, 1715w, or 1715z-1 of this title except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without full compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction. The provisions of this section shall also apply to the insurance of any mortgage under section 1715y(d) of this title. The provisions of this section shall also apply to the insurance of any mortgage under section 1715z-7 of this title, except that compliance with such provisions may be waived by the Secretary in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without compensation for the purpose of lowering the costs of construction and the Secretary determines that any amounts thereby saved are fully credited to the nonprofit corporation, association, or other organization undertaking the construction; and each laborer or mechanic employed on any facility covered by a mortgage insured under section 1715z-7 of this title shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be. The provisions of this section shall also apply to the insurance of any mortgage under subchapter IX-B; and each laborer or mechanic employed on any facility covered by a mortgage insured under such subchapter IX-B shall receive compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be.

(b) The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(c) There is authorized to be appropriated for the remainder of the fiscal year ending June 30, 1939, and for each fiscal year thereafter, a sum sufficient to meet all necessary expenses of the Department of Labor in making the determinations provided for in subsection (a).

(June 27, 1934, ch. 847, title II, §212, as added June 3, 1939, ch. 175, §14, 53 Stat. 807; amended May 26, 1942, ch. 319, §10, 56 Stat. 303; Aug. 8, 1949, ch. 403, §3, 63 Stat. 576; Apr. 20, 1950, ch. 94, title I, §§113, 122, 64 Stat. 54, 59; Sept. 1, 1951, ch. 378, title II, §203, 65 Stat. 303; Aug. 2, 1954, ch. 649, title I, §118, 68 Stat. 595; Pub. L. 86-372, title I, §110(f), title II, §201(b), title VII, §704(c), Sept. 23, 1959, 73 Stat. 661, 667, 686; Pub. L. 87-70, title VI, §612(e), June 30, 1961, 75 Stat. 181; Pub. L. 88-349, §3, July 2, 1964, 78 Stat. 239; Pub. L. 88-560, title I, §119(b), Sept. 2, 1964, 78 Stat. 782; Pub. L. 89-117, title I, §102(c), title II, §201(b)(4), Aug. 10, 1965, 79 Stat. 454, 465; Pub. L. 89-754, title III, §311, title V, §503, Nov. 3, 1966, 80 Stat. 1270, 1277; Pub. L. 90-19, §1(a) (3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §101(d), title II, §201(b)(1), title XV, §1502, Aug. 1, 1968, 82 Stat. 484, 501, 600; Pub. L. 91-609, title I, §110(c), Dec. 31, 1970, 84 Stat. 1772; Pub. L. 101-235, title I, §133(d)(2), Dec. 15, 1989, 103 Stat. 2027.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1715a of this title, referred to in subsec. (a), which related to additional housing insurance, was

repealed by section 13 of act June 3, 1939, ch. 175, 53 Stat. 807.

Effective date of this section, referred to in subsec. (a), probably means June 3, 1939, the date of enactment of act June 3, 1939.

Subsections (d)(3), (d)(4), and (h)(1), referred to in subsec. (a), are references to such subsections in section 1715l of this title.

CODIFICATION

"Sections 3141–3144, 3146, and 3147 of title 40" substituted in subsec. (a) for "the Davis-Bacon Act, as amended" on authority of Pub. L. 107–217, §5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

AMENDMENTS

1989—Subsec. (a). Pub. L. 101–235 struck out seventh sentence which read as follows: "The provisions of this section shall also apply to insurance under subchapter IX–A of this chapter with respect to laborers and mechanics employed in land development financed with the proceeds of any mortgage insured under that subchapter."

1970—Subsec. (a). Pub. L. 91–609 inserted reference to other organization in sixth sentence.

1968—Subsec. (a). Pub. L. 90–448 inserted references to sections 1715z(j)(1) and 1715z–1 of this title, and made provisions of this section applicable to the insurance of mortgages under section 1715z–7 of this title, permitted waiver of compliance in cases or classes of cases where laborers or mechanics, not otherwise employed on the project, voluntarily donate their services without compensation for the purpose of lowering costs and savings are fully credited to the nonprofit corporation or association, and required payment of overtime to laborers or mechanics employed on facilities covered by a mortgage insured under section 1715z–7 of this title.

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted "Secretary" for "Commissioner" wherever appearing.

1966—Subsec. (a). Pub. L. 89–754 defined "construction" in third sentence, made provisions of this section applicable to mortgage described in subsec. (h)(1) covering property improved with residential dwellings for use by more than eight families, provided for waiver of requirement of compliance with respect to mortgages described in subsec. (d)(3) or (d)(4) and subsec. (h)(1), made the provisions of this section applicable to insurance of mortgage under subchapter IX–B of this chapter, and provided for overtime compensation for work on group practice facilities covered by mortgage insurance under such subchapter IX–B.

1965—Subsec. (a). Pub. L. 89–117 substituted "described in subsection (d)(3) or (d)(4)" for "described in subsection (d)(3) in the case of a cooperative or a limited profit mortgagor, or in subsection (d)(4) thereof", and applied provisions of this section to insurance under subchapter IX–A of this chapter with respect to laborers and mechanics employed in land development financed with the proceeds of any mortgage insured under that subchapter.

1964—Subsec. (a). Pub. L. 88–560 inserted provision that this section shall also apply to the insurance of any mortgage under section 1715y(d) of this title.

Pub. L. 88–349 inserted "in accordance with the Davis-Bacon Act, as amended".

1961—Subsec. (a). Pub. L. 87–70 made section applicable to the insurance of mortgages under section 1715x of this title and to insurance under section 1715l of this title of mortgages described in subsec. (d)(3) thereof in the case of a cooperative or a limited profit mortgagor.

1959—Subsec. (a). Pub. L. 86–372 substituted "or under section 1748b or 1748h–2 of this title" for "or under subchapter VIII of this chapter", and inserted provisions making this section applicable to the insurance under section 1715 of this title of any mortgage described in subsection (d)(4) thereof, and to the insurance of any mortgage under section 1715v or 1715w of this title.

1954—Subsec. (a). Act Aug. 2, 1954, inserted sentence making section applicable to insurance of any mortgage under section 1715k of this title which covers property on which is located a dwelling or dwellings designed principally for residential use for twelve or more families.

1951—Subsec. (a). Act Sept. 1, 1951, inserted reference to section 1750g of this title after "subchapter VIII of this chapter,".

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

Subsec. (a). Act Apr. 20, 1950, §113, substituted "or under section 213 of this title, or under title VII pursuant to any application filed subsequent to sixty days after the date of enactment of the Housing Act of 1950, or under title VIII, a mortgage or investment" for "or under subchapter VIII of this chapter".

1949—Subsec. (a). Act Aug. 8, 1949, inserted ", or under subchapter VIII of this chapter" after "effective date of this section".

1942—Subsec. (a). Act May 26, 1942, inserted reference to section 1743 of this title.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-349, §4, July 2, 1964, 78 Stat. 240, provided that: "The amendments made by this Act [amending this section, section 276a of former Title 40, Public Buildings, Property, and Works, and section 1114 of former Title 49, Transportation] shall take effect on the ninetieth day after the date of enactment of this Act [July 2, 1964], but shall not affect any contract in existence on such effective date or made thereafter pursuant to invitations for bids outstanding on such effective date and the rate of payments specified by section 1(b)(2) of the Act of March 3, 1931, as amended by this Act [now 40 U.S.C. 3141(2)(B)], shall, during a period of two hundred and seventy days after such effective date, become effective only in those cases and reasonable classes of cases as the Secretary of Labor, acting as rapidly as practicable to make such rates of payments fully effective, shall by rule of regulation provide."

ENFORCEMENT OF LABOR STANDARDS

Labor standards under provisions of this section to be prescribed and enforced by Secretary of Labor, see Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, set out in the Appendix to Title 5, Government Organization and Employees.

§1715d. Insurance of mortgages on property in Alaska, Guam, Hawaii, and Virgin Islands

If the Secretary of Housing and Urban Development finds that, because of higher costs prevailing in Alaska, Guam, Hawaii, or the Virgin Islands, it is not feasible to construct dwellings or manufactured home courts or parks on property located in Alaska, Guam, Hawaii, or the Virgin Islands without sacrifice of sound standards of construction, design, or livability, within the limitations as to maximum or maxima mortgage amounts provided in this chapter, the Secretary may, by regulations or otherwise, prescribe, with respect to dollar amount, a higher maximum or maxima for the principal obligation of mortgages insured under this chapter covering property located in Alaska, Guam, Hawaii, or the Virgin Islands in such amounts as he shall find necessary to compensate for such higher costs but not to exceed, in any event, the maximum or maxima otherwise applicable (including increased mortgage amounts in geographical areas where cost levels so require) by more than one-half thereof. No mortgage with respect to a project or property in Alaska, Guam, Hawaii, or the Virgin Islands shall be accepted for insurance under this chapter unless the Secretary finds that the project or property is an acceptable risk giving consideration to the acute housing shortage in Alaska, Guam, Hawaii, or the Virgin Islands: *Provided*, That any such mortgage may be insured or accepted for insurance without regard to any requirement in any other section of this chapter that the Secretary find the project or property to be economically sound or an acceptable risk. Notwithstanding any of the provisions of this chapter or any other law, the Alaska Housing Authority or the Government of Guam, the Virgin Islands, or Hawaii or any agency or instrumentality thereof shall be eligible as mortgagor or mortgagee, as the case may be, for any of the purposes of mortgage insurance under the provisions of this chapter. Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2) where the Alaska Housing Authority or the Government of Guam, the Virgin Islands, or Hawaii or any agency or instrumentality thereof is the mortgagor or mortgagee, for the insurance of a mortgage under any provisions of this chapter, the Secretary is authorized to insure the mortgage (including advances thereon where otherwise authorized), and to make commitments for the insuring of any such mortgages prior to the date of their execution or disbursement thereon, under such provision (and this section) without regard to any requirement that the mortgagor shall have paid a prescribed amount on account of such property. Without limiting the authority of the Secretary under any other provision of law, the Secretary is authorized, with respect to any mortgagor in such case (except where the Alaska Housing Authority is the mortgagor or mortgagee), to require the

mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such an extent and in such manner as the Secretary determines advisable to provide reasonable rentals and sales prices and a reasonable return on the investment.

(June 27, 1934, ch. 847, title II, §214, as added Apr. 23, 1949, ch. 89, §2(a), 63 Stat. 57; amended Sept. 1, 1951, ch. 378, title VI, §606, 65 Stat. 315; July 14, 1952, ch. 723, §10(a)(3), 66 Stat. 603; June 30, 1953, ch. 170, §25(a), (c), 67 Stat. 128; Pub. L. 86-70, §10(c), June 25, 1959, 73 Stat. 142; Pub. L. 86-372, title I, §106, Sept. 23, 1959, 73 Stat. 657; Pub. L. 90-19, §1(a)(2), (3), May 25, 1967, 81 Stat. 17; Pub. L. 91-152, title IV, §418(e), Dec. 24, 1969, 83 Stat. 402; Pub. L. 96-399, title III, §308(c)(1), Oct. 8, 1980, 94 Stat. 1640; Pub. L. 98-479, title II, §204(a)(4), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 100-242, title IV, §406(b)(7), Feb. 5, 1988, 101 Stat. 1901; Pub. L. 101-625, title III, §333, Nov. 28, 1990, 104 Stat. 4141.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, 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.

CODIFICATION

Section is comprised of section 214 of act June 27, 1934, as added by section 2(a) of act Apr. 23, 1949, which insofar as Alaska, Hawaii, and Guam individually are concerned, was, formerly, also set out as sections 484d, 723, and 1425 of Title 48, Territories and Insular Possessions. Section 2(b) of act Apr. 23, 1949, which was formerly classified to sections 484e, 724 and 1426 of Title 48, was repealed by act Aug. 2, 1954, ch. 649, title II, §205, 68 Stat. 622.

AMENDMENTS

1990—Pub. L. 101-625 amended section catchline generally, inserting reference to Virgin Islands, substituted "Alaska, Guam, Hawaii, or the Virgin Islands," for "Alaska, Guam, or Hawaii," after "costs prevailing in", "Alaska, Guam, Hawaii, or the Virgin Islands" for "Alaska or in Guam or Hawaii" wherever appearing, and inserted ", the Virgin Islands," after "Government of Guam" wherever appearing.

1988—Pub. L. 100-242 struck out "shall be the owner and occupant of the property or" before "shall have paid a prescribed amount" in fourth sentence.

1984—Pub. L. 98-479 substituted "Insurance of mortgages on property in Alaska, Guam, and Hawaii" for "Construction of dwellings or mobile home courts or parks in Alaska, Guam, and Hawaii; increased maximum for mortgage insurance; conditions and limitations" in section catchline, and substituted "Notwithstanding" for "Nowwithstanding" at beginning of third sentence.

1980—Pub. L. 96-399 substituted "manufactured" for "mobile".

1969—Pub. L. 91-152 extended to mobile home courts or parks the special provisions applicable to properties located in Alaska, Guam, or Hawaii.

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" and "Secretary" for "Commissioner", respectively, wherever appearing.

1959—Pub. L. 86-372 inserted "(including increased mortgage amounts in geographical areas where cost levels so require)" after "maximum or maxima otherwise applicable".

Pub. L. 86-70 substituted "Alaska, Guam," for "the Territory of Alaska or in Guam".

1953—Act June 30, 1953, §25(a), inserted "or Hawaii" after "Guam" wherever appearing.

Act June 30, 1953, §25(c), substituted in fourth sentence "Upon application by the mortgagee (1) where the mortgagor is regulated or restricted pursuant to the last sentence of this section or (2)" for "Upon application by the mortgagee,"; and inserted sentence beginning "Without limiting the authority".

1952—Act July 14, 1952, inserted "or in Guam" after "Alaska" wherever appearing, inserted "or maxima" after "maximum," and inserted "or the Government of Guam or any agency or instrumentality thereof" after "Alaska Housing Authority" wherever appearing.

1951—Act Sept. 1, 1951, substituted "one-half" for "one-third" in first sentence.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100–242, set out as a note under section 1709 of this title.

STUDY AND REPORT RESPECTING UTILIZATION OF FACTORY-BUILT AND OTHER APPROPRIATE TYPES OF HOUSING FOR INDIAN, ETC., HOUSING PROGRAMS

Pub. L. 96–399, title III, §323, Oct. 8, 1980, 94 Stat. 1647, directed Secretary of Housing and Urban Development to study feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Natives, and not later than eighteen months after Oct. 8, 1980, to transmit a report to Congress containing the findings and conclusions of such study, including a comparison of costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used.

TERMINATION OF PURCHASES OF OBLIGATIONS

No additional notes or obligations to be purchased after June 24, 1954, from funds appropriated pursuant to the Alaska Housing Act, as amended, which is classified, in part, to this section, see section 1701g–5 of this title, and References in Text note thereunder.

REVOLVING FUND

Establishment of revolving fund under which to account for assets and liabilities in connection with notes and other obligations purchased pursuant to the Alaska Housing Act, as amended, which is classified, in part, to this section, see section 1701g–5 of this title, and References in Text note thereunder.

EXECUTIVE DOCUMENTS

ADMISSION OF ALASKA AND HAWAII TO STATEHOOD

Alaska was admitted into the Union on Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, and Hawaii was admitted into the Union on Aug. 21, 1959, on issuance of Proc. No. 3309, Aug. 21, 1959, 24 F.R. 6868. 73 Stat. c74. For Alaska Statehood Law, see Pub. L. 85–508, July 7, 1958, 72 Stat. 339, set out as a note preceding section 21 of Title 48, Territories and Insular Possessions. For Hawaii Statehood Law, see Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 4, set out as a note preceding section 491 of Title 48.

§1715e. Cooperative housing insurance

(a) Projects insurable

In addition to mortgages insured under section 1713 of this title, the Secretary is authorized to insure mortgages as defined in section 1713(a) of this title (including advances on such mortgages during construction), which cover property held by—

(1) a nonprofit cooperative ownership housing corporation or nonprofit cooperative ownership housing trust, the permanent occupancy of the dwellings of which is restricted to members of such corporation or to beneficiaries of such trust;

(2) a nonprofit corporation or nonprofit trust organized for the purpose of construction of homes for members of the corporation or for beneficiaries of the trust; or

(3) a mortgagor, approved by the Secretary which (A) has certified to the Secretary, as a condition of obtaining the insurance of a mortgage under this section, that upon completion of the property or project covered by such mortgage it intends to sell such property or project to a nonprofit corporation or nonprofit trust of the character described in paragraph (1) of this subsection at the actual cost of such property or project as certified pursuant to section 1715r of this title and will faithfully and diligently make and carry out all reasonable efforts to consummate such sale, and (B) shall be regulated or restricted by the Secretary as to rents, charges, capital structure, rate of return, and methods of operation during any period while it holds the mortgaged property or project; and for such purpose the Secretary may make such contracts with, and acquire

for not to exceed \$100 such stock or interest in, any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulation, such stock or interest to be paid for out of the Cooperative Management Housing Insurance Fund and to be redeemed by such mortgagor at par upon the sale of such property or project to such nonprofit corporation or nonprofit trust;

which corporations or trusts referred to in paragraphs (1) and (2) of this subsection are regulated or restricted for the purposes and in the manner provided in paragraphs (1) and (2) of subsection (b) of section 1713 of this title: *Provided*, That as applied to mortgages the mortgage insurance for which is the obligation of the Management Fund, the reference to the General Insurance Fund in section 1713(b)(2) of this title shall be construed to refer to the Management Fund. Nothing in this section may be construed to prevent membership in a nonprofit housing cooperative from being held in the name of a trust, the beneficiary of which shall occupy the dwelling unit in accordance with rules and regulations prescribed by the Secretary.

(b) Eligibility conditions for projects under subsection (a)(1) of this section

To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of this section shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93-383, title III, §304(b), Aug. 22, 1974, 88 Stat. 678.

(2)(A) not to exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$41,207 per family unit without a bedroom, \$47,511 per family unit with one bedroom, \$57,300 per family unit with two bedrooms, \$73,343 per family unit with three bedrooms, and \$81,708 per family unit with four or more bedrooms, and not to exceed 98 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed: *Provided*, That as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$43,875 per family unit without a bedroom, \$49,710 per family unit with one bedroom, \$60,446 per family unit with two bedrooms, \$78,197 per family unit with three bedrooms, and \$85,836 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720¹ of this title (as such section existed immediately before November 30, 1983) is involved; and (ii) in the case of a mortgagor of the character described in paragraph (3) of subsection (a) the mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed physical improvements are completed; and (iii) upon the sale of a property or project by a mortgagor of the character described in paragraph (3) of subsection (a) to a nonprofit cooperative ownership housing corporation or trust within two years after the completion of such property or project the mortgage given to finance such sale shall involve a principal obligation in an amount not to exceed the maximum amount computed in accordance with this subparagraph (B)(i)..²

(c) Eligibility conditions for projects under subsection (a)(2) of this section

To be eligible for insurance under this section a mortgage on any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of this section shall involve a principal obligation in an amount not to exceed a sum computed on the basis of a separate mortgage for each single-family dwelling (irrespective of whether such dwelling has a party wall or

is otherwise physically connected with another dwelling or dwellings) comprising the property or project, equal to the total of each of the maximum principal obligations of such mortgages which would meet the requirements of section 1709(b)(2) of this title if the mortgagor were the owner and occupant who had made any required payment on account of the property prescribed in such paragraph.

(d) Amortization; release from mortgage lien; individual insurance; commercial and community facilities

Any mortgage insured under this section shall provide for complete amortization by periodic payments within such term as the Secretary may prescribe but not to exceed 40 years from the beginning of amortization of the mortgage, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and a mortgage on any project of a corporation or trust of the character described in paragraph (2) of subsection (a) of this section may provide that, at any time after the completion of the construction of the project, such mortgage may be replaced, in whole or in part, by individual mortgages covering each individual dwelling in the project in amounts not to exceed the unpaid balance of the blanket mortgage allocable to the individual property. Each such individual mortgage may be insured under this section. Property covered by a mortgage, insured under this section, on a property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of this section may include five or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants. Property held by a corporation or trust of the character described in paragraph numbered (2) of subsection (a) of this section which is covered by a mortgage insured under this section may include such community facilities, and property held by a mortgagor of the character described in paragraph numbered (3) of subsection (a) of this section which is covered by a mortgage insured under this section may include such commercial and community facilities, as the Secretary deems adequate to serve the occupants.

(e) Applicability of sections 1710 and 1713 of this title

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall be applicable to mortgages insured under this section except individual mortgages insured pursuant to subsection (d) of this section covering the individual dwellings in the project, and as to such individual mortgages the provisions of subsections (a), (c), (d), (e), (f), (g), (h), ¹(j), and (k) ¹of section 1710 of this title shall be applicable: *Provided*, That as applied to mortgages or loans the insurance for which is the obligation of the Management Fund (1) all references to the General Insurance Fund shall be construed to refer to the Management Fund, and (2) all references to section 1713 of this title shall be construed to refer to subsections (a)(1), (a)(3) (if the project involved is acquired by a cooperative corporation), (i), and (j) of this section.

(f) Technical advice and assistance

The Secretary is authorized, with respect to mortgages insured or to be insured under this section, to furnish technical advice and assistance in the organization of corporations or trusts of the character described in subsection (a) of this section and in the planning, development, construction, and operation of their housing projects.

(g) Housing projects designed for single person occupancy

Nothing in this chapter shall be construed to prevent the insurance of a mortgage under this section covering a housing project designed for occupancy by single persons, and dwelling units in such a project shall constitute family units within the meaning of this section.

(h) Failure to sell to a nonprofit organization

In the event that a mortgagor of the character described in paragraph (3) of subsection (a) obtains an insured mortgage loan pursuant to this section and fails to sell the property or project covered by such mortgage to a nonprofit housing corporation or nonprofit housing trust of the character

described in paragraph (1) of subsection (a), the Secretary is authorized to refuse, for such period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsor type mortgage loans made to such mortgagor or to any other investor-sponsor mortgagor where, in the determination of the Secretary, any of its stockholders were identified with such mortgagor.

(i) Mortgages executed by consumer cooperatives covering existing structures

Nothing in this chapter shall be construed to prevent the insurance of a mortgage executed by a mortgagor of the character described in paragraph (1) of subsection (a) of this section covering property upon which dwelling units and related facilities have been constructed prior to the filing of the application for mortgage insurance hereunder: *Provided*, That the Secretary determines that the consumer interest is protected and that the mortgagor will be a consumer cooperative. In the case of properties other than new construction, the limitations in this section upon the amount of the mortgage shall be based upon the appraised value of the property for continued use as a cooperative rather than upon the Secretary's estimate of the replacement cost. As to any project on which construction was commenced after September 23, 1959, the mortgage on such project shall be eligible for insurance under this section only in those cases where the construction was subject to inspection by the Secretary and where there was compliance with the provisions of section 1715c of this title. As to any project on which construction was commenced prior to September 23, 1959, such inspection, and compliance with the provisions of section 1715c of this title, shall not be a prerequisite.

(j) Insurance of supplementary cooperative loans

(1) With respect to any property covered by a mortgage insured under this section (or any cooperative housing project covered by a mortgage insured under section 1713 of this title as in effect prior to April 20, 1950), the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. The Secretary is further authorized to make commitments to insure and to insure supplementary cooperative loans (including advances during construction or improvement) with respect to any property purchased from the Federal Government by a nonprofit corporation or trust of the character described in paragraph (1) of subsection (a), if the property is covered by an uninsured mortgage representing a part of the purchase price. As used in this subsection "supplementary cooperative 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 any of the following:

- (A) Improvements or repairs of the property covered by such mortgage;
- (B) Community facilities necessary to serve the occupants of the property; or
- (C) Cooperative purchases and resales of memberships in order to provide necessary refinancing for resales of memberships which involve increases in equity; but in such resales by the cooperative the downpayments by the new members shall not be less than those made on the original sales of such memberships.

(2) To be eligible for insurance under this subsection, a supplementary cooperative loan shall—

(A) be limited to an amount which, when added to the outstanding mortgage indebtedness on the property, creates a total outstanding indebtedness which does not exceed the original principal obligation of the mortgage; except that, in the case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsection (b);

(B) have a maturity satisfactory to the Secretary but not to exceed the remaining term of the mortgage; except that, in the case of repairs or improvements to a property covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of

such property, the loan may have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage;

(C) be secured in such manner as the Secretary may require;

(D) contain such other terms, conditions, and restrictions as the Secretary may prescribe; and

(E) represent the obligation of a borrower of the character described in paragraph (1) of subsection (a).

(k) Cooperative Management Housing Insurance Fund

There is hereby created a Cooperative Management Housing Insurance Fund (hereinafter referred to as the "Management Fund"). The Management Fund shall be used by the Secretary as a revolving fund for carrying out the provisions of this section with respect to mortgages or loans insured, on or after August 10, 1965, under subsections (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), and (j). The Management Fund shall also be used as a revolving fund for mortgages, loans, and commitments transferred to it pursuant to subsection (m). The Secretary is directed to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsection (m) minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans, plus such other amounts as the Secretary determines to be necessary and appropriate. General expenses of operation of the Department of Housing and Urban Development relating to mortgages or loans which are the obligation of the Management Fund may be charged to the Management Fund.

(l) General Surplus Account; Participating Reserve Account

The Secretary shall establish in the Management Fund, as of August 10, 1965, a General Surplus Account and a Participating Reserve Account. The aggregate net income thereafter received or any net loss thereafter sustained by the Management Fund, in any semiannual period, shall be credited or charged to the General Surplus Account or the Participating Reserve Account or both in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice. Upon termination of the insurance obligation of the Management Fund by payment of any mortgage or loan insured under this section, and at such time or times prior to such termination as the Secretary may determine, the Secretary is authorized to distribute to the mortgagor or borrower a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That in no event shall the amount of the distributable share exceed the aggregate scheduled annual premiums of the mortgagor or borrower to the year of payment of the share less the total amount of any share or shares previously distributed by the Secretary to the mortgagor or borrower: *And provided further*, That in no event may a distributable share be distributed until any funds transferred from the General Insurance Fund to the Management Fund pursuant to subsection (o) have been repaid in full to the General Insurance Fund. No mortgagor, mortgagee, borrower, or lender shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Management Fund. The determination of the Secretary as to the amount to be paid by him to any mortgagor or borrower shall be final and conclusive.

(m) Transfer of insurance to Management Fund

The Secretary is authorized to transfer to the Management Fund commitments for insurance issued under subsections (a)(1), (i), and (j) prior to August 10, 1965, and to transfer to the Management Fund the insurance of any mortgage or loan insured prior to August 10, 1965, under subsection (a)(1), (a)(3) (if the project is acquired by a cooperative corporation), (i), or (j): *Provided*, That the insurance of any mortgage or loan shall not be transferred under the provisions of this subsection if on August 10, 1965, the mortgage or loan is in default and the mortgagee or lender has notified the Secretary in writing of its intention to file an insurance claim. Any insurance or commitment not so transferred shall continue to be an obligation of the General Insurance Fund.

(n) Payment of premium charges in debentures

Notwithstanding the limitations contained in other provisions of this chapter, premium charges for

mortgages or loans the insurance of which is the obligation of either the Management Fund or the General Insurance Fund may be payable in debentures issued in connection with mortgages or loans transferred to the Management Fund or in connection with mortgages or loans insured pursuant to commitments transferred to the Management Fund, as provided in subsection (m) of this section. Premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund may be payable in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

(o) Transfer of funds between Management Fund and General Insurance Fund; investment of monies

Notwithstanding any other provision of this chapter the Secretary is authorized to transfer funds between the Cooperative Management Housing Insurance Fund and the General Insurance Fund in such amounts and at such times as he may determine, taking into consideration the requirements of each such Fund, to assist in carrying out effectively the insurance programs for which such Funds were respectively established. Moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the Cooperative Management Housing Insurance 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 which are the obligations of the Cooperative Management Housing 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 subsection. Debentures so purchased shall be canceled and not reissued.

(p) Increase in maximum mortgage amounts for solar energy systems and energy conservation measures

Notwithstanding any other provision of this section, the project mortgage amounts which may be insured under this section may be increased by up to 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42) ¹ in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(June 27, 1934, ch. 847, title II, §213, as added Apr. 20, 1950, ch. 94, title I, §114, 64 Stat. 54; amended Oct. 26, 1951, ch. 577, §4, 65 Stat. 648; June 30, 1953, ch. 170, §6, 67 Stat. 123; Aug. 2, 1954, ch. 649, title I, §§119, 120, 68 Stat. 595, 596; Aug. 11, 1955, ch. 783, title I, §102(c)–(e), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, §105(a)–(c), 70 Stat. 1093, 1094; Pub. L. 85–104, title I, §112, July 12, 1957, 71 Stat. 297; Pub. L. 86–372, title I, §§105, 116(b), Sept. 23, 1959, 73 Stat. 655, 664; Pub. L. 87–70, title VI, §608, June 30, 1961, 75 Stat. 179; Pub. L. 88–560, title I, §§107(b), 109(a), Sept. 2, 1964, 78 Stat. 774, 777; Pub. L. 89–117, title II, §§207(b), 208, title XI, §1108(g), Aug. 10, 1965, 79 Stat. 467, 468, 505; Pub. L. 89–754, title III, §§303, 304, Nov. 3, 1966, 80 Stat. 1266, 1267; Pub. L. 90–19, §1(a)(1), (3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90–301, §3(c), May 7, 1968, 82 Stat. 114; Pub. L. 90–488, title III, §313, title XVII, §1722(e), Aug. 1, 1968, 82 Stat. 511, 610; Pub. L. 91–152, title I, §113(c), Dec. 24, 1969, 83 Stat. 383; Pub. L. 91–609, title I, §117(b), Dec. 31, 1970, 84 Stat. 1774; Pub. L. 93–383, title III, §§303(b), 304(b), (c), 311(b), Aug. 22, 1974, 88 Stat. 677, 678, 683; Pub. L. 94–173, §3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94–375, §8(a), (b)(2), Aug. 3, 1976, 90 Stat. 1071; Pub. L. 96–153, title III, §314, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96–399, title III, §310(b), Oct. 8, 1980, 94 Stat. 1642; Pub. L. 97–35, title III, §339B(a), Aug. 13, 1981, 95 Stat. 417; Pub. L. 97–253, title II, §201(c), Sept. 8, 1982, 96 Stat. 789; Pub. L. 97–377, title I, §101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98–181, title I [title IV, §404(b)(5), 423(b)(2)], Nov. 30, 1983, 97 Stat. 1209, 1216; Pub. L. 100–242, title IV, §426(b), (h), Feb. 5, 1988, 101 Stat. 1915, 1916; Pub. L. 102–550, title V, §509(b), Oct. 28, 1992, 106 Stat. 3783; Pub. L. 103–233, title

III, §306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 106–74, title II, §221, Oct. 20, 1999, 113 Stat. 1076; Pub. L. 107–73, title II, §213(b), Nov. 26, 2001, 115 Stat. 676; Pub. L. 107–326, §5(b)(2), Dec. 4, 2002, 116 Stat. 2794; Pub. L. 108–186, title III, §302(b), (c)(2), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110–161, div. K, title II, §221(1), Dec. 26, 2007, 121 Stat. 2436.)

EDITORIAL NOTES

REFERENCES IN TEXT

Section 1720 of this title, referred to in subsec. (b)(2)(B)(i), was repealed by Pub. L. 98–181, title I [title IV, §483(a)], Nov. 30, 1983, 97 Stat. 1240.

Subsection (h) of section 1710 of this title, referred to in subsec. (e), was redesignated subsec. (i) by Pub. L. 105–276, title VI, §602(1), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (e), was repealed by Pub. L. 105–276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

This chapter, referred to in subssecs. (g), (i), (n) and (o), 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.

Section 8211 of title 42, referred to in subsec. (p), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

AMENDMENTS

2007—Subsec. (b)(2)(B)(i). Pub. L. 110–161 substituted "170 percent" for "140 percent" after "not to exceed" in two places and "215 percent in high cost areas" for "170 percent in high cost areas".

2003—Subsec. (b)(2)(A). Pub. L. 108–186, §302(c)(2), substituted "\$41,207", "\$47,511", "\$57,300", "\$73,343", "\$81,708", "\$49,710", "\$60,446", "\$78,197", and "\$85,836" for "\$38,025", "\$42,120", "\$50,310", "\$62,010", "\$70,200", "\$49,140", "\$60,255", "\$75,465", and "\$85,328", respectively.

Subsec. (b)(2)(B)(i). Pub. L. 108–186, §302(b), substituted "140 percent in" for "110 percent in" and inserted ", or 170 percent in high cost areas," after "and by not to exceed 140 percent".

2002—Subsec. (b)(2). Pub. L. 107–326 inserted subpar. (A) designation after "(2)" and substituted "; (B)(i) the Secretary may, by regulation, increase any of the dollar amount limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for ": *Provided further*, That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph", "; and (ii) in the case of a mortgagor" for ": *Provided further*, That in the case of a mortgagor", "; and (iii) upon the sale of a property" for ": *And provided further*, That upon the sale of a property", and "with this subparagraph (B)(i)." for "with this subsection without regard to the preceding proviso".

2001—Subsec. (b)(2). Pub. L. 107–73 substituted "\$38,025", "\$42,120", "\$50,310", "\$62,010", and "\$70,200" for "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$56,160", respectively, and "\$43,875", "\$49,140", "\$60,255", "\$75,465", and "\$85,328" for "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

1999—Subsec. (a). Pub. L. 106–74 inserted at end "Nothing in this section may be construed to prevent membership in a nonprofit housing cooperative from being held in the name of a trust, the beneficiary of which shall occupy the dwelling unit in accordance with rules and regulations prescribed by the Secretary."

1994—Subsec. (b)(2). Pub. L. 103–233 substituted "\$56,160" for "\$59,160".

1992—Subsec. (b)(2). Pub. L. 102–550 substituted "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160" for "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800", respectively, and "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262" for "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885", respectively.

1988—Subsec. (b)(2). Pub. L. 100–242 substituted "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" for "\$19,500", "\$21,600", "\$25,800", "\$31,800", and "\$36,000", respectively, and "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" for "\$22,500", "\$25,200", "\$30,900", "\$38,700", and "\$43,758", respectively, and substituted "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any

geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area".

1983—Subsec. (b)(2). Pub. L. 98-181, §423(b)(2), struck out ": *Provided further*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured" after "involved) in such area".

Subsec. (d). Pub. L. 98-181, §404(b)(5), substituted provision that the interest rate for the mortgage be such a rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest, exclusive of premium charges for insurance, not exceed $5\frac{1}{4}$ per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum per annum as the Secretary finds necessary to meet the mortgage market.

1982—Subsec. (b)(2). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

Pub. L. 97-253 inserted provision that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

1981—Subsec. (p). Pub. L. 97-35 inserted "therein" after "installation" and struck out "therein" after "measure".

1980—Subsec. (p). Pub. L. 96-399 added subsec. (p).

1979—Subsec. (b)(2). Pub. L. 96-153 in second proviso substituted "75 per centum" for "50 per centum", and inserted exception that the dollar amount limitations may be exceeded not to exceed 90 per centum where the Secretary determines it necessary.

1976—Subsec. (b)(2). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$19,500" for "\$13,000", "\$21,600" for "\$18,000", "\$25,800" for "\$21,500", "\$31,800" for "\$26,500", "\$36,000" for "\$30,000", "\$22,500" for "\$15,000", "\$25,200" for "\$21,000", "\$30,900" for "\$25,750", "\$38,700" for "\$32,250", and "\$43,758" for "\$36,465".

1975—Subsec. (b)(2). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (b)(1). Pub. L. 93-383, §304(b), struck out par. (1) which set forth limits on principal obligation of not to exceed \$20,000,000, or not to exceed \$25,000,000 if mortgage is executed by a mortgagor regulated under Federal, State, local laws.

Subsec. (b)(2), Pub. L. 93-383, §§303(b), 311(b), substituted "\$13,000" for "\$9,900", "\$15,000" for "\$11,550", "\$18,000" for "\$13,750", "\$21,000" for "\$16,500", "\$21,500" for "\$16,500", "\$25,750" for "\$19,800", "\$26,500" for "\$20,350", "\$30,000" for "\$23,100", "\$32,250" for "\$24,750", "\$36,465" for "\$28,050", and "98 per centum" for "97 per centum".

Subsec. (c). Pub. L. 93-383, §304(c), struck out "not to exceed \$12,500,000 and" after "an amount".

1970—Subsec. (o). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1969—Subsec. (b)(2). Pub. L. 91-152 substituted "\$9,900" for "\$9,000", "\$11,550" for "\$10,500", "\$13,750" for "\$12,500", "\$16,500" for "\$15,000" wherever appearing, "\$19,800" for "\$18,000", "\$20,350" for "\$18,500", "\$23,100" for "\$21,000", "\$24,750" for "\$22,500", and "\$28,050" for "\$25,500".

1968—Subsec. (d). Pub. L. 90-301 substituted provisions limiting interest rate on mortgages to such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market for former provisions limiting the rate to $5\frac{3}{4}$ per centum per annum on individual mortgages covering individual dwellings in the project.

Subsec. (j)(1). Pub. L. 90-448, §313(1), authorized the Secretary to make commitments to insure and to insure supplementary cooperative loans with respect to any property purchased from the Federal Government by a nonprofit corporation or trust of the character described in subsec. (a) (1) of this section, if the property is covered by an uninsured mortgage representing a part of the purchase price.

Subsec. (j)(2)(B). Pub. L. 90-448, §313(2), permitted the loan to have a maturity date up to ten years in excess of the remaining term of the uninsured mortgage in the case of repairs or improvements to a property

covered by an uninsured mortgage dated more than twenty years prior to the date of the commitment to insure, of such magnitude that the Secretary deems them to be a major rehabilitation or modernization of such property.

Subsec. (o). Pub. L. 90-448, §1722(e), required deposit with the Treasurer or investment in bonds or other obligations of, or in bonds or obligations guaranteed as to principal and interest by, the United States, of moneys in the Cooperative Management Housing Insurance Fund not needed for current operations of the fund, authorized purchase in the open market of debentures which are obligations of the fund, and directed that debentures so purchased be canceled and not reissued.

1967—Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (a)(3), (b)(2), (d), (f), (h), (i), (j)(1), (2)(B), (C), (k) to (m), and (o).

Subsec. (i). Pub. L. 90-19, §1(a)(4), substituted "Secretary's" for "Commissioner's".

Subsec. (k). Pub. L. 90-19, §1(a)(1), substituted "Department of Housing and Urban Development" for "Federal Housing Administration".

1966—Subsec. (j)(2)(A). Pub. L. 89-754, §304, provided that, in case of improvements or additional community facilities, the outstanding indebtedness may be increased by an amount equal to 97 per centum of the amount which the Secretary estimates will be the value of such improvements or facilities, and the new outstanding indebtedness may exceed the original principal obligation of the mortgage if such new outstanding indebtedness does not exceed the limitations imposed by subsec. (b) of this section.

Subsec. (k). Pub. L. 89-754, §303(c)(1), directed the Secretary rather than the Commissioner to transfer to the Management Fund from the General Insurance Fund an amount equal to the total of the premium payments theretofore made with respect to the insurance of mortgages and loans transferred to the Management Fund pursuant to subsec. (m) of this section minus the total of any administrative expenses theretofore incurred in connection with such mortgages and loans.

Subsec. (l). Pub. L. 89-754, §303(c)(2), struck out reference to subsec. (k) in second proviso.

Subsec. (m). Pub. L. 89-754, §303(a), struck out before the proviso ", but only in cases where the consent of the mortgagee or lender to the transfer is obtained or a request by the mortgagee or lender for the transfer is received by the Commissioner within such period of time after August 10, 1965, as the Commissioner shall prescribe".

Subsec. (n). Pub. L. 89-754, §303(b), substituted "the insurance of which is the obligation of either the Management Fund or the General Insurance Fund" for "insured under this section and sections 1713, 1715v and 1715w of this title" and inserted provision for payment of premium charges on the insurance of mortgages or loans transferred to the Management Fund or insured pursuant to commitments transferred to the Management Fund in debentures which are the obligation of either the Management Fund or the General Insurance Fund.

1965—Subsec. (a). Pub. L. 89-117, §§208(b)(1), 1108(g)(1), inserted proviso construing reference to General Insurance Fund in section 1713(b)(2) of this title as a reference to Management Fund and substituted "Cooperative Management Housing Insurance Fund" for "Housing Fund" in par. (3).

Subsec. (b)(2). Pub. L. 89-117, §207(b)(1), substituted "\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms" for "and \$18,500 per family unit with three or more bedrooms" and "\$22,500 per family unit with three bedrooms, and \$25,500 per family unit with four or more bedrooms" for "and \$22,500 per family unit with three or more bedrooms".

Subsec. (c). Pub. L. 89-117, §207(b)(2), struck out limitation which prohibited the principal obligation from exceeding a sum equal to the maximum amount which does not exceed either of the limitations on the amount of the principal obligations of the mortgage prescribed by par. (2) of subsec. (b) of this section.

Subsec. (e). Pub. L. 89-177, §§208(b)(2), 1108(g)(2), inserted proviso construing all references to General Insurance Fund as references to Management Fund and all references to section 1713 of this title as references to subsecs. (a)(1), (a)(3), (i) and (j) of this section and struck out reference to subsecs. (m) and (p) of section 1713 of this title.

Subsecs. (k) to (o). Pub. L. 89-117, §208(a), added subsecs. (k) to (o).

1964—Subsec. (b)(2). Pub. L. 88-560, §107(b), changed limits on mortgages for property or project attributable to dwelling use from "\$2,500 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "\$9,000 per family unit without a bedroom, \$12,500 per family unit with one bedroom, \$15,000 per family unit with two bedrooms, and \$18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of \$2,500 per room to not exceed \$3,000 per room and the dollar amount limitation of \$9,000 per family unit to not exceed \$9,400 per family unit" to dollar amount limitations "per family unit to not to exceed \$10,500 per family unit without a bedroom, \$15,000 per family unit with one bedroom, \$18,000 per family unit with two bedrooms, and \$22,500 per family unit with three or more bedrooms", and substituted provision

authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed \$1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (j)(1)(C). Pub. L. 88-560, §109(a), added cl. (C).

1961—Subsec. (b)(2). Pub. L. 87-70, §608(a)(1), inserted "(excluding exterior land improvements as defined by the Commissioner)".

Subsec. (d). Pub. L. 87-70, §608(a)(2), substituted "five or more family units" for "eight or more family units".

Subsec. (h). Pub. L. 87-70, §608(a)(3), substituted "the Commissioner is authorized to refuse, for such period of time as he shall deem appropriate under the circumstances, to insure under this section any additional investor-sponsor type mortgage loans made to such mortgagor or to any other investor-sponsor mortgagor where, in the determination of the Commissioner, any of its stockholders were identified with such mortgagor" for "such mortgagor shall not thereafter be eligible by reason of such paragraph (3) for insurance of any additional mortgage loans pursuant to this section".

Subsec. (j). Pub. L. 87-70, §608(b), added subsec. (j).

1959—Subsec. (b)(1). Pub. L. 86-372, §105(a), substituted "\$20,000,000" for "\$12,500,000".

Subsec. (b)(2). Pub. L. 86-372, §105(b), increased mortgage limits per room from \$2,250 to \$2,500 and per family unit from \$8,100 to \$9,000 for elevator type structures from \$2,700 to \$3,000 per room and from \$8,400 to \$9,400 per family unit, maximum amount of loan from 90 per centum to 97 per centum of replacement cost and in case of a mortgagor of character described in subsec. (a)(3) of this section from 85 per centum to 90 per centum of replacement cost, changed authorization of Commissioner to increase dollar amount limitation per room where cost levels so require by increasing room limit from \$1,000 to \$1,250, and struck out provisions which authorized a loan of 95 per centum of replacement cost if 50 per centum of membership consisted of veterans.

Subsec. (d). Pub. L. 86-372, §105(c), (d), substituted "5¼ per centum" for "4½ per centum" and "5¾ per centum", for "5 per centum", and inserted provisions permitting property held by a corporation or trust of the character described in subsec. (a)(2) of this section which is covered by a mortgage insured under this section to include such community facilities, and property held by a mortgagor of the character described in subsec. (a)(3) of this section which is covered by a mortgage insured under this section to include such commercial and community facilities, as the Commissioner deems adequate to serve the occupants.

Subsec. (e). Pub. L. 86-372, §116(b), inserted reference to subsec. (k) of section 1710 of this title.

Subsec. (i). Pub. L. 86-372, §105(e), added subsec. (i).

1957—Subsec. (e). Pub. L. 85-104 substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

1956—Subsec. (a). Act Aug. 7, 1956, §105(a), struck out "or" at end of par. (1), inserted "or" at end of par. (2), added par. (3), and inserted "referred to in paragraphs (1) and (2) of this subsection" after "which corporations or trusts" in provisions following par. (3).

Subsec. (b)(2). Act Aug. 7, 1956, §105(b), substituted "50 per centum" for "65 per centum", inserted for purposes of defining "veteran"; service from Apr. 6, 1917, to Nov. 12, 1918, substituted service prior to Feb. 1, 1955, for former provision leaving determination of date to President, and inserted provision authorizing Commissioner to increase dollar limits per room by not to exceed \$1,000 per room.

Subsec. (h). Act Aug. 7, 1956, §105(c), added subsec. (h).

1955—Subsec. (b)(1). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on maximum amount of a mortgage.

Subsec. (b)(2). Act Aug. 11, 1955, §102(d), provided that maximum amount of a mortgage to be insured may be determined on basis of estimated replacement cost.

Subsec. (c). Act Aug. 11, 1955, §102(c), increased from \$5,000,000 to \$12,500,000 the limitation on maximum amount of a mortgage.

Subsec. (d). Act Aug. 11, 1955, §102(e), authorized mortgage insurance for structures consisting of eight or more family units.

1954—Subsec. (b)(1). Act Aug. 2, 1954, §119(a), permitted insured cooperative housing mortgages to be as high as \$25,000,000 in amount if the mortgagor cooperative is regulated or supervised by Federal or State law as to rents, charges, and methods of operations.

Subsec. (b)(2). Act Aug. 2, 1954, amended par. (2) generally, to:

1. Change, with respect to nonveteran projects, the per family or per room mortgage amount limitations from \$8,100 per family unit or \$1,800 per room, to \$2,250 per room and with a per family unit limitation of \$8,100 applicable only if the number of rooms is less than four;
2. Provide for changing from a cost basis to a valuation basis;

3. Change the basis for allowing increases for veteran membership so that in all cases such increases would be made only if 65 per cent of members are veterans, instead of making such increases on the basis of percentage allowances for percentage of veteran membership; and

4. Authorize an increase to the per room and per family mortgage amount limitation for elevator-type structures.

Subsec. (c)(1). Act Aug. 2, 1954, §119(b), with respect to the reference to section 1709(b)(2) of this title, struck out the reference to "paragraph (A), paragraph (C), or paragraph (D)" of the section, the paragraph designations having been struck out by another section of the same act.

Subsec. (f). Act Aug. 2, 1954, §120, struck out sentence providing for the appointment of an Assistant Commissioner.

1953—Subsec. (d). Act June 30, 1953, substituted, in first sentence, "4½ per centum per annum, except that individual mortgages insured pursuant to this subsection covering the individual dwellings in the project may bear interest at not to exceed 5 per centum per annum," for "4 per centum per annum".

1951—Subsec. (b)(2). Act Oct. 26, 1951, struck out "of World War II" wherever appearing and inserted proviso thus making section applicable to veterans of Korean war.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1983 AMENDMENT

For effective date of amendment by section 423(b)(2) of Pub. L. 98–181, see section 423(c) of Pub. L. 98–181, set out as a note under section 1709 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 to be implemented only if the Secretary determines that the program of advance payment of insurance premiums, considering the effect of said amendment, is actuarially sound, see section 201(g) of Pub. L. 97–253, set out as a note under section 1709 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 90–301, §3(c), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98–181, title I [title IV, §404(a)], Nov. 30, 1983, 97 Stat. 1208.

SPECIAL ASSISTANT FOR COOPERATIVE HOUSING

Act Aug. 11, 1955, ch. 783, title I, §102(h), 69 Stat. 636, as amended by Pub. L. 89–754, title X §1020(h), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 94–375, §18, Aug. 3, 1976, 90 Stat. 1077, provided that: "In the performance of, and with respect to, the functions, powers, and duties vested in him by section 213 of the National Housing Act [this section], section 221(d)(3), section 235, section 236, section 241, section 243, section 246, and section 203(n) of the National Housing Act [sections 1715l(d)(3), 1715z, 1715z–1, 1715z–6, 1715z–8, 1715z–11, and 1709(n) of this title], and section 101 of the Housing and Urban Development Act of 1965 [section 1701s of this title] or section 8 of the United States Housing Act of 1937 [section 1437f of Title 42, The Public Health and Welfare] (insofar as the provisions of such sections relate to cooperative housing), the Secretary of Housing and Urban Development, notwithstanding the provisions of any other law, shall appoint a Special Assistant for Cooperative Housing, and provide the Special Assistant with adequate staff, whose sole responsibility will be to expedite operations under such sections and to eliminate obstacles to the full utilization of such sections under the direction and supervision of the Commissioner and Assistant Secretary for Housing Management. The person so appointed shall be fully sympathetic with the purposes of such sections."

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (b)(2) of this section by section 107(b) of Pub. L. 88–560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of

Pub. L. 88-560, set out as a note under section 1713 of this title.

¹ [*See References in Text note below.*](#)

² [*So in original.*](#)

§1715f. Process of applications and issuance of commitments

The Secretary is authorized to process applications and issue commitments with respect to insurance of mortgages under section 1706c of this title and subchapter II, VI, VIII, or X of this chapter, even though the permanent mortgage financing may not be insured under this chapter, and in the event the mortgage is not so insured the Secretary is authorized to charge an additional application fee determined by him to be reasonable. The Secretary is authorized to make such rules and regulations as may be necessary to carry out the provisions of this section.

(June 27, 1934, ch. 847, title II, §215, as added Apr. 20, 1950, ch. 94, title I, §115, 64 Stat. 56; amended Sept. 1, 1951, ch. 378, title II, §204, 65 Stat. 303; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, 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

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

1951—Act Sept. 1, 1951, inserted a reference to subchapter X of this chapter.

§1715g. Insurance of mortgage where mortgagor is not occupant of property

The Secretary is hereby authorized to insure any mortgage otherwise eligible for insurance under any of the provisions of this chapter without regard to any requirement with respect to the occupancy of the mortgagor of the property at the time of insurance, where the Secretary is satisfied that the inability of the mortgagor to meet such requirement is by reason of his entry on active duty in a uniformed service subsequent to the filing of an application for insurance and the mortgagor expresses an intent to meet such requirement upon his release from active duty.

(June 27, 1934, ch. 847, title II, §216, as added Sept. 1, 1951, ch. 378, title VI, §607, 65 Stat. 315; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 91-621, §7(a), Dec. 31, 1970, 84 Stat. 1865; Pub. L. 100-242, title IV, §406(b)(8), Feb. 5, 1988, 101 Stat. 1901.)

EDITORIAL NOTES

REFERENCES IN TEXT

This chapter, referred to in text, 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

1988—Pub. L. 100-242 substituted "with respect to the occupancy of the mortgagor" for "that the mortgagor be the occupant" and "meet such requirement" for "occupy the property" wherever appearing.

1970—Pub. L. 91-621 substituted "on active duty in a uniformed service" and "release from active duty"

for "into military service" and "discharge from military service".

1967—Pub. L. 90–19 substituted "Secretary" for "Commissioner" wherever appearing.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100–242, set out as a note under section 1709 of this title.

§1715h. Repealed. Pub. L. 100–242, title IV, §401(a)(1), Feb. 5, 1988, 101 Stat. 1898

Section, act June 27, 1934, ch. 847, title II, §217, as added Sept. 1, 1951, ch. 378, title VI, §607, 65 Stat. 315; amended July 14, 1952, ch. 723, §2, 66 Stat. 601; June 30, 1953, ch. 170, §7, 67 Stat. 123; Aug. 2, 1954, ch. 649, title I, §121, 68 Stat. 596; Mar. 11, 1955, ch. 10, 69 Stat. 11; Aug. 11, 1955, ch. 783, title I, §102(f), 69 Stat. 636; Aug. 7, 1956, ch. 1029, title I, §106, 70 Stat. 1094; June 4, 1958, Pub. L. 85–442, 72 Stat. 176; Sept. 23, 1959, Pub. L. 86–372, title I, §107, 73 Stat. 657; May 25, 1961, Pub. L. 87–38, 75 Stat. 85; June 30, 1961, Pub. L. 87–70, title VI, §604(c), 75 Stat. 177; Aug. 10, 1965, Pub. L. 89–117, title II, §202(b), 79 Stat. 465; Sept. 30, 1969, Pub. L. 91–78, §2(b), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, §101(b), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91–432, §1(b), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91–473, §1(b), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91–525, §1(b), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, §101(b), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92–503, §1(b), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, §1(b), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, §1(b), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title III, §316(b), 88 Stat. 685; June 30, 1977, Pub. L. 95–60, §1(b), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, §1(b), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, §301(b), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95–406, §1(b), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, §301(b), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, §1(b), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, §1(b), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, §301(b), 93 Stat. 1111; Oct. 3, 1980, Pub. L. 96–372, §1(b), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, §301(b), 94 Stat. 1638; Aug. 13, 1981, Pub. L. 97–35, title III, §331(b), 95 Stat. 412; Oct. 6, 1982, Pub. L. 97–289, §1(b), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, §1(b), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, §1(b), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title I [title IV, §401(b)], 97 Stat. 1207; Oct. 17, 1984, Pub. L. 98–479, title II, §204(a)(5), 98 Stat. 2232; Oct. 8, 1985, Pub. L. 99–120, §1(b), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, §1(b), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, §1(b), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, §1(b), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, §3007(b), 100 Stat. 104; May 2, 1986, Pub. L. 99–289, §1(b), 100 Stat. 412; June 24, 1986, Pub. L. 99–345, §1, 100 Stat. 673; Sept. 30, 1986, Pub. L. 99–430, 100 Stat. 986; Sept. 30, 1987, Pub. L. 100–122, §1, 101 Stat. 793; Nov. 5, 1987, Pub. L. 100–154, 101 Stat. 890; Nov. 17, 1987, Pub. L. 100–170, 101 Stat. 914; Dec. 3, 1987, Pub. L. 100–179, 101 Stat. 1018; Dec. 21, 1987, Pub. L. 100–200, 101 Stat. 1327, prohibited (except with respect to insurance of a loan or mortgage pursuant to section 1703, 1715l, 1715z, 1715z–1, 1715z–9, or 1715z–10 of this title or subchapter VIII, IX–A, or IX–B of this chapter (subject to any limitations thereunder on the time of such insurance)) the insurance of any loan or mortgage under this chapter after Mar. 15, 1988, except pursuant to a commitment to insure before such date.

§1715i. Repealed. Pub. L. 86–372, title I, §108, Sept. 23, 1959, 73 Stat. 657

Section, act June 27, 1934, ch. 847, title II, §218, as added July 14, 1952, ch. 723, §8, 66 Stat. 603, authorized a credit for application fees paid in cases where an application for mortgage insurance under section 1743 of this title was received on or before March 1, 1950, and the mortgagee applied for insurance of a mortgage under section 1713 of this title with respect to the same property or project.

§1715j. Repealed. Pub. L. 89–117, title XI, §1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title II, §219, as added June 30, 1953, ch. 170, §8, 67 Stat. 123;

amended Aug. 2, 1954, ch. 649, title I, §122, 68 Stat. 596; July 12, 1957, Pub. L. 85-104, title I, §113, 71 Stat. 298; June 30, 1961, Pub. L. 87-70, title VI, §612(f), 75 Stat. 181, authorized the Commissioner to transfer funds from one or more to one or more of the following funds and accounts as he deems necessary to carry out programs for which such funds and accounts were established: Title I Insurance Account, Title I Housing Insurance Fund, Section 203 Home Improvement Account, Housing Insurance Fund, War Housing Insurance Fund, Housing Investment Insurance Fund, Armed Services Housing Mortgage Insurance Fund, National Defense Housing Insurance Fund, Section 220 Housing Insurance Fund, Section 220 Home Improvement Account, Section 221 Housing Insurance Fund, Experimental Housing Insurance Fund, Apartment Unit Insurance Fund, and the Servicemen's Mortgage Insurance Fund.

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

§1715k. Rehabilitation and neighborhood conservation housing insurance

(a) Purpose of section

The purpose of this section is to aid in the elimination of slums and blighted conditions and the prevention of the deterioration of residential property by supplementing the insurance of mortgages under sections 1709 and 1713 of this title with a system of loan and mortgage insurance designed to assist the financing required for the rehabilitation of existing dwelling accommodations and the construction of new dwelling accommodations where such dwelling accommodations are located in an area referred to in paragraph (1) of subsection (d) of this section.

(b) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure, as hereinafter provided, any mortgage (including advances during construction on mortgages covering property of the character described in paragraph (3)(B) of subsection (d) of this section) which is eligible for insurance as hereinafter provided, and, upon such terms and conditions as he may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Definitions

As used in this section, the terms "mortgage", "first mortgage", "mortgagee", "mortgagor", "maturity date", and "State" shall have the same meaning as in section 1707 of this title.

(d) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall—

(A) be located in (i) the area of a slum clearance and urban redevelopment project covered by a Federal-aid contract executed or a prior approval granted, pursuant to title I of the Housing Act of 1949 [42 U.S.C. 1450 et seq.] before August 2, 1954, or (ii) an urban renewal area (as defined in title I of the Housing Act of 1949, as amended), or (iii) the area of an urban renewal project assisted under section 111 of the Housing Act of 1949 [42 U.S.C. 1462], or (iv) an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468], or (v) an area, designated by the Secretary, where concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation, or preservation: *Provided*, That, in the case of an area within the purview of clause (i) or (ii) of this subparagraph, a redevelopment plan or an urban renewal plan (as defined in title I of the Housing Act of 1949, as amended), as the case may be, has been approved for such area by the governing body of the locality involved and by the Secretary of Housing and Urban Development, and the Secretary has determined that such plan conforms to a general plan for the locality as a whole and that there exist the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan: *And provided further*, That, in the case of an area within the purview of clause (iii) of this subparagraph, an urban renewal plan (as required for projects assisted under such

section 111 [42 U.S.C. 1462]) has been approved for such area by such governing body and by the Secretary, and the Secretary has determined that such plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements, and that there exist the necessary authority and financial capacity to assure the completion of such urban renewal plan, and

(B) meet such standards and conditions as the Secretary shall prescribe to establish the acceptability of such property for mortgage insurance under this section.

(2) The mortgaged property shall be held by—

(A) a mortgagor approved by the Secretary, and the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed \$100 stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restriction or regulations. Such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance; or

(B) by Federal or State instrumentalities, municipal corporate instrumentalities of one or more States, or limited dividend or redevelopment or housing corporations or other legal entities restricted by or under Federal or State laws or regulations of State banking or insurance departments as to rents, charges, capital structure, rate of return, or methods of operation.

(3) The mortgage shall—

(A)(i) 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 the applicable maximum principal obligation which may be insured in the area under section 1709(b) of this title; or in the case of a dwelling designed principally for residential use for more than four families (but not exceeding such additional number of family units as the Secretary may prescribe) the applicable maximum principal obligation secured by a four-family residence which may be insured in the area under section 1709(b) of this title plus not to exceed \$9,165 for each additional family unit in excess of four located on such property; and not to exceed an amount equal to the sum of (1) 97 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, 90 per centum) of \$25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of \$25,000: *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That if the mortgagor is a veteran and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (1) 100 per centum of \$25,000 of the Secretary's estimate of replacement cost of the property, as of the date the mortgage is accepted for insurance and (2) 95 per centum of such value in excess of \$25,000. As used herein, the term "veteran" means any person who served on active duty in the Armed Forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extrahazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 5303A(d) of title 38; and

(ii) in no case involving refinancing have a principal obligation in an amount exceeding the

sum of the estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property or project, plus any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property; or

(B)(i) Repealed. Pub. L. 93-383, title III, §304(d), Aug. 22, 1974, 88 Stat. 678.

(ii) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost of the property or project may include the land, the proposed physical improvements, utilities within the boundaries of the property or project, architect's fees, taxes, and interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided*, That in the case of properties other than new construction, the foregoing limitations upon the amount of the mortgage shall be based upon the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation rather than upon the Secretary's estimate of the replacement cost: *Provided further*, That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949 [42 U.S.C. 1460(c)(8)], and, in such case the foregoing limitations upon the amount of the mortgage shall be based upon the appraised value of the property as of the date the mortgage is accepted for insurance;

(iii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$38,025 per family unit without a bedroom, \$42,120 per family unit with one bedroom, \$50,310 per family unit with two bedrooms, \$62,010 per family unit with three bedrooms, and \$70,200 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$43,875 per family unit without a bedroom, \$49,140 per family unit with one bedroom, \$60,255 per family unit with two bedrooms, \$75,465 per family unit with three bedrooms, and \$85,328 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; and (II) with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the dollar amount limitations in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title) which are applicable to units with two, three, or four or more bedrooms; (III) the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 ¹ of this title (as such section existed immediately before November 30, 1983) is involved; (IV) That nothing contained in this ² subparagraph (B)(iii)(I) shall preclude the insurance of mortgages covering existing multifamily dwellings to be rehabilitated or reconstructed for the purposes set forth in subsection (a) of this section; (V) the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42) ¹ in cases where the Secretary determines that such

measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure; and

(iv) include such nondwelling facilities as the Secretary deems desirable and consistent with the urban renewal plan or, where appropriate, with the locally developed strategy for neighborhood improvement, conservation or preservation: *Provided*, That the project shall be predominantly residential and any nondwelling facility included in the mortgage shall be found by the Secretary to contribute to the economic feasibility of the project, and the Secretary shall give due consideration to the possible effect of the project on other business enterprises in the community.

(4) The mortgage shall provide for complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of paragraph (3)(A) of this subsection not to exceed the maximum maturity prescribed by the provisions of section 1709(b)(3) of this title. The mortgage shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee and contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, 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 the Secretary's discretion prescribe.

(e) Release of mortgagor or part of property

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(f) Entitlement of mortgagee to benefits; payment in cash or debentures; acquisition of mortgages; applicability of other provisions

The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (3)(A) of subsection (d) of this section as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h), ¹(j), and (k) ¹of section 1710 of this title shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 1709 of this title shall be construed to refer to this section;

(2) as to mortgages meeting the requirements of paragraph (3)(B) of subsection (d) of this section, as provided in section 1713(g) of this title with respect to mortgages insured under said section 1713, and the provisions of subsections (h), (i), (j), (k), and (l) of section 1713 of this title shall be applicable to such mortgages insured under this section, and all references therein to the Housing Insurance Fund or the Housing Fund shall be construed to refer to the General Insurance Fund; or

(3) as to mortgages meeting the requirements of this section that are insured or initially endorsed for insurance on or after June 30, 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage. After the acquisition of the mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the

Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(g) Repealed. Pub. L. 89-117, title XI, §1108(h)(3), Aug. 10, 1965, 79 Stat. 505

(h) Home improvement loans; eligibility; conditions; refinancing; premium charge; defaults; debentures; exception; limitation

(1) To assist further in the conservation, improvement, repair, and rehabilitation of property located in the area of an urban renewal project or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 117 of the Housing Act of 1949 [42 U.S.C. 1468], as provided in paragraph (1) of subsection (d) of this section, the Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure home improvement loans (including advances during construction or improvement) made by financial institutions on and after June 30, 1961. As used in this subsection—

(A) the term "home improvement loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made—

(i) for the purpose of financing the improvement of an existing structure (or in connection with an existing structure) which was constructed not less than ten years prior to the making of such loan, advance of credit, or purchase, and which is used or will be used primarily for residential purposes: *Provided*, That a home improvement loan shall include a loan, advance, or purchase with respect to the improvement of a structure which was constructed less than ten years prior to the making of such loan, advance, or purchase if the proceeds are or will be used primarily for major structural improvements, or to correct defects which were not known at the time of the completion of the structure or which were caused by fire, flood, windstorm, or other casualty; or

(ii) for the purpose of enabling the borrower to pay that part of the cost of the construction or installation of sidewalks, curbs, gutters, street paving, street lights, sewers, or other public improvements, adjacent to or in the vicinity of property owned by him and used primarily for residential purposes, which is assessed against him or for which he is otherwise legally liable as the owner of such property;

(B) the term "improvement" means conservation, repair, restoration, rehabilitation, conversion, alteration, enlargement, or remodeling; and

(C) 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.

(2) To be eligible for insurance under this subsection, a home improvement loan shall—

(i) not exceed the Secretary's estimate of the cost of improvement, or \$12,000 per family unit, whichever is the lesser, and be limited as required by paragraph (11): *Provided*, That the Secretary may, by regulation, increase such amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require;

(ii) 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 limits provided in subsection (d)(3) for properties (of the same type) other than new construction;

(iii) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

- (iv) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan;
- (v) comply with such other terms, conditions, and restrictions as the Secretary may prescribe; and
- (vi) represent the obligation of a borrower who is the owner of the property improved, or a lessee of the property under a lease for not less than 99 years which is renewable or under a lease having an expiration date in excess of 10 years later than the maturity date of the loan.

(3) Any home improvement loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term in excess of the maximum provided for in this subsection.

(4) Repealed. Pub. L. 89-117, title XI, §1108(h)(3), Aug. 10, 1965, 79 Stat. 505.

(5) The Secretary is authorized to fix a premium charge for the insurance of home improvement loans under this subsection but in the case of any such loan 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 1 per centum per annum of the amount of the principal obligation of the loan outstanding at any time, without taking into account delinquent payments or prepayments. Such premium charges shall be payable by the financial institution either in cash or in debentures (at par plus accrued interest) issued by the Secretary as obligations of the General Insurance Fund, in such manner as may be prescribed by the Secretary, and the Secretary may require the payment of one or more such premium charges at the time the loan is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the loan. If the Secretary finds upon presentation of a loan for insurance and the tender of the initial premium charge or charges so required that the loan complies with the provisions of this subsection, such loan may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe. In the event the principal obligation of any loan accepted for insurance under this subsection is paid in full prior to the maturity date, the Secretary is authorized to refund to the financial institution for the account of the borrower all, or such portions as he shall determine to be equitable, of the current unearned premium charges theretofore paid.

(6) In cases of defaults on loans insured under this subsection, upon receiving notice of default, the Secretary, in accordance with such regulations as he may prescribe, may acquire the loan and any security therefor upon payment to the financial institution in cash or in debentures (as provided in the loan insurance contract) of a total amount equal to the unpaid principal balance of the loan, plus any accrued interest, any advances approved by the Secretary made previously by the financial institution under the provisions of the loan instruments, and reimbursement for such collection costs, court costs, and attorney fees as may be approved by the Secretary. If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(7) Debentures issued under this subsection shall be executed in the name of the General Insurance Fund as obligor, shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations, and shall be dated as of the date the loan is assigned to the Secretary and shall bear interest from that date. They shall bear interest at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature ten years after their date of issuance. They shall be exempt from taxation as provided in section 1713(i) of this title with respect to debentures issued under that section. They shall be paid out of the General Insurance Fund which shall be primarily liable therefor and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, the guaranty shall be expressed on the face of the debentures. In the event the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures so guaranteed, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon, to the extent of the amounts so paid, the Secretary of the Treasury shall succeed to all the rights of the holders of such debentures.

Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations.

(8) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to home improvement loans insured under this subsection, and for the purposes of this subsection references in subsections (c), (d), and (h) of section 1703 of this title to "this section" or "this subchapter" shall be construed to refer to this subsection.

(9)(A) Notwithstanding any other provisions of this chapter, no home improvement loan executed in connection with the improvement of a structure for use as rental accommodations for five or more families shall be insured under this subsection unless the borrower has agreed (i) to certify, upon completion of the improvement and prior to final endorsement of the loan, either that the actual cost of improvement equaled or exceeded the proceeds of the home improvement loan, or the amount by which the proceeds of the loan exceed the actual cost, as the case may be, and (ii) to pay forthwith to the financial institution, for application to the reduction of the principal of the loan, the amount, if any, certified to be in excess of the actual cost of improvement. Upon the Secretary's approval of the borrower's certification as required under this paragraph, the certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the borrower.

(B) As used in subparagraph (A), the term "actual cost" means the cost to the borrower of the improvement, including the amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus a reasonable allowance for builder's profit if the borrower is also the builder, as defined by the Secretary, and excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the improvement.

(10) Notwithstanding any other provision of this chapter, the Secretary is authorized and empowered (i) to make expenditures and advances out of funds made available by this chapter to preserve and protect his interest in any security for, or the lien or priority of the lien securing, any loan or other indebtedness owing to, insured by, or acquired by the Secretary or by the United States under this subsection, or section 1703 or 1709(k) of this title; and (ii) to bid for and to purchase at any foreclosure or other sale or otherwise acquire property pledged, mortgaged, conveyed, attached, or levied upon to secure the payment of any loan or other indebtedness owing to or acquired by the Secretary or by the United States under this subsection or section 1703 or 1709(k) of this title. The authority conferred by this paragraph may be exercised as provided in the last sentence of section 1710(g) of this title.

(11) Notwithstanding any other provision of this chapter, no home improvement loan made in whole or in part for the purpose specified in clause (A)(ii) of the second sentence of paragraph (1) shall be insured under this subsection if such loan (or the portion thereof which is attributable to such purpose), when added to the aggregate principal balance of any outstanding loans insured under this subsection or section 1709(k) of this title which were made to the same borrower for the purpose so specified (or the portion of such aggregate balance which is attributable to such purpose), would exceed \$10,000 or such additional amount as the Secretary has by regulation prescribed in any geographical area where he finds cost levels so require pursuant to the authority vested in him by the proviso in paragraph (2)(i) of this subsection.

(June 27, 1934, ch. 847, title II, §220, as added Aug. 2, 1954, ch. 649, title I, §123, 68 Stat. 596; amended Aug. 11, 1955, ch. 783, title I, §102(c), (g), 69 Stat. 635, 636; Aug. 7, 1956, ch. 1029, title I, §107, title III, §307(b), 70 Stat. 1094, 1102; Pub. L. 85-10, §3, Mar. 27, 1957, 71 Stat. 8; Pub. L. 85-104, title I, §§102, 112, July 12, 1957, 71 Stat. 295, 297; Pub. L. 85-364, §1(b), Apr. 1, 1958, 72 Stat. 73; Pub. L. 86-372, title I, §§109, 116(b), Sept. 23, 1959, 73 Stat. 657, 664; Pub. L. 87-70, title I, §102(a), title VI, §§609, 612(g), June 30, 1961, 75 Stat. 154, 179, 181; Pub. L. 88-560, title I, §§105(c)(1), 107(c), 110-113, Sept. 2, 1964, 78 Stat. 772, 775, 777, 778; Pub. L. 89-117, title II, §§207(c), 209-211, title III, §311(c), (d), title XI, §1108(h), Aug. 10, 1965, 79 Stat. 467, 469, 470,

478, 505; Pub. L. 89-754, title III, §§305, 306, Nov. 3, 1966, 80 Stat. 1267; Pub. L. 90-19, §1(a)(3), (4), (g), May 25, 1967, 81 Stat. 17, 18; Pub. L. 90-448, title III, §311(a), title XVII, §1722(g), Aug. 1, 1968, 82 Stat. 510, 611; Pub. L. 91-152, title I, §§102(b), 104, 113(d), Dec. 24, 1969, 83 Stat. 380, 381, 384; Pub. L. 93-383, title III, §§302(b), 303(c), 304(d), 310(b), Aug. 22, 1974, 88 Stat. 676-678, 682; Pub. L. 94-173, §3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, §8(a), (b)(3), Aug. 3, 1976, 90 Stat. 1071, 1072; Pub. L. 95-24, title I, §105(b), Apr. 30, 1977, 91 Stat. 56; Pub. L. 95-128, title III, §§303(b), 304(b), Oct. 12, 1977, 91 Stat. 1132, 1133; Pub. L. 96-153, title III, §§312(b), 314, Dec. 21, 1979, 93 Stat. 1116, 1117; Pub. L. 96-399, title III, §§310(c), 311, 333(b), 336(b), Oct. 8, 1980, 94 Stat. 1642, 1643, 1653, 1654; Pub. L. 97-35, title III, §339B(a), Aug. 13, 1981, 95 Stat. 417; Pub. L. 97-377, title I, §101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §404(b)(6), (7), 432(a), 446(c)], Nov. 30, 1983, 97 Stat. 1209, 1220, 1228; Pub. L. 100-242, title IV, §§405(2), 406(b)(9), 426(c), (h), Feb. 5, 1988, 101 Stat. 1899, 1901, 1916; Pub. L. 102-40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-550, title V, §§509(c), 516(c), Oct. 28, 1992, 106 Stat. 3783, 3791; Pub. L. 103-233, title III, §306, Apr. 11, 1994, 108 Stat. 373; Pub. L. 107-73, title II, §213(c), Nov. 26, 2001, 115 Stat. 676; Pub. L. 107-326, §5(b)(3), Dec. 4, 2002, 116 Stat. 2795; Pub. L. 108-186, title III, §302(b),(d), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 108-213, §2, Apr. 1, 2004, 118 Stat. 571; Pub. L. 110-161, div. K, title II, §221(2), Dec. 26, 2007, 121 Stat. 2436.)

EDITORIAL NOTES

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in subsecs. (d)(1)(A), (B)(ii), and (h)(1), is act July 15, 1949, ch. 338, 63 Stat. 413. Title I of the Housing Act of 1949, which was classified generally to subchapter II (§1450 et seq.) of chapter 8A of Title 42, The Public Health and Welfare, including sections 110, 111, and 117 [42 U.S.C. 1460, 1462, 1468], was omitted from the Code pursuant to section 5316 of Title 42 which terminated the authority to make loans or grants under such title I after Jan. 1, 1975. For complete classification of this Act to the Code, see Short Title note set out under section 1441 of Title 42 and Tables.

Section 1720 of this title, referred to in subsec. (d)(3)(B)(iii)(III), was repealed by Pub. L. 98-181, title I [title IV, §483(a)], Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (d)(3)(B)(iii)(V), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

Subsection (h) of section 1710 of this title, referred to in subsec. (f)(1), was redesignated subsec. (i) by Pub. L. 105-276, title VI, §602(1), Oct. 21, 1998, 112 Stat. 2674.

Subsection (k) of section 1710 of this title, referred to in subsec. (f)(1), was repealed by Pub. L. 105-276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

This chapter, referred to in subsec. (h)(9) to (11), 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

2007—Subsec. (d)(3)(B)(iii)(III). Pub. L. 110-161 substituted "section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis" for "section 1712a of this title)) by not to exceed 140 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent, or 170 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis".

2004—Subsec. (d)(3)(B)(iii)(V). Pub. L. 108-213 struck out "with respect to rehabilitation projects involving not more than five family units," after "(V)".

2003—Subsec. (d)(3)(B)(iii). Pub. L. 108-186 substituted "; (III)" for "with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II)," , redesignated subcls. (III) and (IV) as (IV) and (V), respectively, substituted "140 percent in" for "110 percent in", and inserted ", or 170 percent in high cost areas," after "and by not to exceed 140 percent".

2002—Subsec. (d)(3)(B)(iii). Pub. L. 107-326 inserted subcl. (I) designation after "(iii)" and substituted "design; and (II)" for "design; and except that", "any of the dollar amount limitations in subparagraph

(B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for "any of the foregoing dollar amount limitations contained in this clause", "with respect to dollar amount limitations applicable to rehabilitation projects described in subclause (II), the Secretary may, by regulation, increase the dollar amount limitations contained in subparagraph (B)(iii)(I) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for ": *Provided*, That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause (as determined after the application of the preceding proviso", "; (III)" for ": *Provided further*," "subparagraph (B)(iii)(I) shall preclude" for "subparagraph shall preclude", and "; (IV) with respect to rehabilitation projects involving not more than five family units, the Secretary may further increase any of the dollar limitations which would otherwise apply to such projects" for ": *And provided further*, That the Secretary may further increase any of the dollar amount limitations which would otherwise apply for the purpose of this clause".

2001—Subsec. (d)(3)(B)(iii). Pub. L. 107–73 substituted "\$38,025", "\$42,120", "\$50,310", "\$62,010", and "\$70,200" for "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$56,160", respectively, and "\$43,875", "\$49,140", "\$60,255", "\$75,465", and "\$85,328" for "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262", respectively.

1994—Subsec. (d)(3)(B)(iii). Pub. L. 103–233 substituted "\$56,160" for "\$59,160".

1992—Subsec. (d)(3)(B)(iii). Pub. L. 102–550, §509(c), substituted "\$30,420", "\$33,696", "\$40,248", "\$49,608", and "\$59,160" for "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800", respectively, and "\$35,100", "\$39,312", "\$48,204", "\$60,372", and "\$68,262" for "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885", respectively.

Subsec. (h)(7). Pub. L. 102–550, §516(c), in first sentence, substituted "shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations" for "shall be signed by the Secretary, by either his written or engraved signature, shall be negotiable", in fourth sentence, substituted "and, in the case of debentures issued in certificated registered form, the guaranty" for "and the guaranty", inserted after fifth sentence "Debentures issued under this subsection shall be in such form and amounts; shall be subject to such terms and conditions; and shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and may be in book entry or certificated registered form, or such other form as the Secretary of Housing and Urban Development may prescribe in regulations." and struck out at end "Debentures issued under this subsection shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and they may be in coupon or registered form. Any difference between the amount of the debentures to which the financial institution is entitled, and the aggregate face value of the debentures issued, not to exceed \$50, shall be adjusted by the payment of cash by the Secretary to the financial institution from the General Insurance Fund."

1991—Subsec. (d)(3)(A)(i). Pub. L. 102–40 substituted "section 5303A(d) of title 38" for "section 3103A(d) of title 38".

1988—Subsec. (d)(3)(A)(i). Pub. L. 100–242, §405(2), inserted before semicolon at end ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38".

Subsec. (d)(3)(A)(ii) to (iv). Pub. L. 100–242, §406(b)(9), redesignated former cl. (iv) as (ii) and struck out "(except as provided in cl. (iii))", and struck out former cls. (ii) and (iii) which read as follows:

"(ii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, have a principal obligation in an amount not to exceed 93 per centum of the amount computed under the provisions of clause (i);

"(iii) in a case where the mortgagor is not the occupant of the property and intends to hold the property for the purpose of sale, have a principal obligation in an amount not to exceed 85 per centum of the amount computed under the provisions of clause (i), or in the alternative, in an amount equal to the amount computed under the provisions of clause (i) if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof, or by such greater amount as may be required to meet the limitations of clause (iv), in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness; and".

Subsec. (d)(3)(B)(iii). Pub. L. 100–242, §426(c), (h), substituted "\$25,350", "\$28,080", "\$33,540", "\$41,340", and "\$46,800" for "\$19,500", "\$21,600", "\$25,800", "\$31,800", and "\$36,000", respectively, and "\$29,250", "\$32,760", "\$40,170", "\$50,310", and "\$56,885" for "\$22,500", "\$25,200", "\$30,900", "\$38,700", and "\$43,758", respectively, and substituted "not to exceed 110 percent in any geographical area where the

Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area".

1983—Subsec. (d)(3)(B)(ii). Pub. L. 98-181, §432(a), struck out proviso that in no case involving refinancing would the mortgage exceed the estimated cost of repair and rehabilitation and the amount, as determined by the Secretary, required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(4). Pub. L. 98-181, §404(b)(6), substituted provision that the interest rate be at such rate as agreed upon by the mortgagor and mortgagee for provision that the interest rate, exclusive of premium charges for insurance and service charges if any, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

Pub. L. 98-181, §446(c), inserted "(unless otherwise approved by the Secretary)" after "periodic payments".

Subsec. (h)(2)(iii). Pub. L. 98-181, §404(b)(7), substituted provision that the rate of interest be such rate as agreed upon by the mortgagor and mortgagee for provision that the rate of interest not exceed the rate prescribed by the Secretary, but not in excess of 6 per centum per annum of the amount of the principal obligation outstanding at any time, and such other charges as approved by the Secretary.

1982—Subsec. (d)(3)(B)(iii). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

1981—Subsec. (d)(3)(B)(iii). Pub. L. 97-35 inserted "therein" after "installation" and struck out "therein" after "measure".

1980—Subsec. (d)(1)(A)(v). Pub. L. 96-399, §311(a), added cl. (v).

Subsec. (d)(3)(A)(i). Pub. L. 96-399, §336(b), substituted provisions relating to the applicable maximum principal obligation which may be insured in the area under section 1709(b) of this title, for provisions setting forth dollar amounts of \$67,500 for one-family property, \$76,000 for two-family, \$92,000 for three-family, and \$107,000 for four-family or more than four-family, and substituted "\$9,165" for "\$8,250".

Subsec. (d)(3)(B)(iii). Pub. L. 96-399, §310(c), inserted proviso relating to increases in dollar amount limitations.

Subsec. (d)(3)(B)(iv). Pub. L. 96-399, §311(b), inserted provisions relating to locally developed strategy for neighborhood improvement, etc.

Subsec. (h)(2)(iv). Pub. L. 96-399, §333(b), struck out "or three-quarters of the remaining economic life of the structure, whichever is the lesser" after "loan".

1979—Subsec. (d)(3)(A)(i). Pub. L. 96-153, §312(b), substituted "\$67,500" for "\$60,000", "\$76,000" for "\$65,000" where it first appeared, "\$92,000" for "\$65,000" where it appeared the second time, "\$107,000" for "\$75,000", and "\$8,250" for "\$7,700".

Subsec. (d)(3)(B)(iii). Pub. L. 96-153, §314, in first proviso substituted "75 per centum" for "50 per centum" and inserted exception that the dollar amount limitations may be exceeded not to exceed 90 per centum where the Secretary determines it to be necessary.

1977—Subsec. (d)(1)(A)(ii). Pub. L. 95-24 struck out "in a community respecting which the Secretary of Housing and Urban Development has made the determination provided for by section 101(c) of the Housing Act of 1949, as amended" after "(as defined in title I of the Housing Act of 1949, as amended)".

Subsec. (d)(3)(A). Pub. L. 95-128 substituted "\$60,000" for "\$45,000", "\$65,000" for "\$48,750" and "\$75,000" for "\$56,000" wherever appearing in provisions preceding cl. (1); substituted in text preceding first proviso "and (2) 95 per centum of such value in excess of \$25,000" for ", (2) 90 per centum of such replacement cost in excess of \$25,000 but not in excess of \$35,000, (3) 80 per centum of such replacement cost in excess of \$35,000" and in second proviso "and (2) 95 per centum of such value in excess of \$25,000" for ", (2) 90 per centum of such replacement cost in excess of \$25,000 but not in excess of \$35,000, and (3) 85 per centum of such replacement cost in excess of \$35,000".

1976—Subsec. (d)(3)(B)(iii). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75

per centum in any geographical area", "\$19,500" for "\$13,000", "\$21,600" for "\$18,000", "\$25,800" for "\$21,500", "\$31,800" for "\$26,500", "\$36,000" for "\$30,000", "\$22,500" for "\$15,000", "\$25,200" for "\$21,000", "\$30,900" for "\$25,750", "\$38,700" for "\$32,250", and "\$43,758" for "\$36,465".

1975—Subsec. (d)(3)(B)(iii). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (d)(3)(A)(i). Pub. L. 93-383, §302(b), substituted "\$45,000" for "\$33,000", "\$48,750" for "\$35,750", and "\$56,000" for "\$41,250" wherever appearing in provisions preceding cl. (1).

Subsec. (d)(3)(A)(i)(1). Pub. L. 93-383, §310(b)(1), substituted "\$25,000" for "\$15,000".

Subsec. (d)(3)(A)(i)(2). Pub. L. 93-383, §310(b)(2), substituted "\$25,000" for "\$15,000" and "\$35,000" for "\$25,000".

Subsec. (d)(3)(A)(i)(3). Pub. L. 93-383, §310(b)(3), substituted "\$35,000" for "\$25,000".

Subsec. (d)(3)(B)(i). Pub. L. 93-383, §304(d), struck out cl. (i) which set forth mortgage ceiling of \$50,000,000.

Subsec. (d)(3)(B)(iii). Pub. L. 93-383, §303(c), substituted "\$13,000" for "\$9,900", "\$15,000" for "\$11,550", "\$18,000" for "\$13,750", "\$21,000" for "\$16,500", "\$21,500" for "\$16,500", "\$25,750" for "\$19,800", "\$26,500" for "\$20,350", "\$30,000" for "\$23,100", "\$32,250" for "\$24,750", and "\$36,465" for "\$28,050".

1969—Subsec. (d)(3)(A)(i). Pub. L. 91-152, §§102(b), 113(d)(1), substituted "\$7,700" for "\$7,000", "\$25,000" for "\$20,000" wherever appearing, "\$33,000" for "\$30,000", "\$35,750" for "\$32,500", and "\$41,250" for "\$37,500" wherever appearing.

Subsec. (d)(3)(B)(i). Pub. L. 91-152, §104, substituted provisions that the mortgage not exceed \$50,000,000 for provisions that the mortgage not exceed \$30,000,000, or, if executed by a mortgagor within subsec. (d)(2)(B) of this section, not exceed \$50,000,000.

Subsec. (d)(3)(B)(iii). Pub. L. 91-152, §113(d)(2), (3), substituted "\$9,900" for "\$9,000", "\$11,550" for "\$10,500", "\$13,750" for "\$12,500", "\$16,500" for "\$15,000" wherever appearing, "\$19,800" for "\$18,000", "\$20,350" for "\$18,500", "\$23,100" for "\$21,000", "\$24,750" for "\$22,500", and "\$28,050" for "\$25,000".

Subsec. (h)(2)(i). Pub. L. 91-152, §113(d)(4), substituted "\$12,000" for "\$10,000".

1968—Subsec. (d)(2)(B). Pub. L. 90-448, §1722(g), substituted "corporations or other legal entities restricted by or under" for "corporations restricted by".

Subsec. (d)(3)(B)(ii). Pub. L. 90-448, §311(a), inserted proviso to permit the mortgage to involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 1460(c)(8) of Title 42.

1967—Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (b), (d)(1)(B), (d)(2)(A), (d)(3)(A)(i), (iii), (iv), (d)(3)(B)(ii) to (iv), (d)(4), (e), (f)(3), (h)(1), (h)(1)(C), (h)(2)(i) to (v), (h)(3), (5) to (7), (h)(9)(B), and (h)(10), (11).

Pub. L. 90-19, §1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing in subsecs. (d)(3)(A)(i)(B), (ii) and (h)(2)(i), (9)(A).

Subsec. (d)(1)(A). Pub. L. 90-19, §1(g)(1)-(4), substituted "Secretary of Housing and Urban Development" and "Secretary" for "Housing and Home Finance Administrator" and "Administrator" wherever appearing, "determination" for "certification to the Commissioner", and "determined" for "certified to the Commissioner" wherever appearing, respectively.

1966—Subsec. (d)(3)(A)(i). Pub. L. 89-754, §305, increased the rate in cl. (3) from 75 to "80 per centum of such replacement cost in excess of \$20,000" and inserted proviso respecting mortgage limits of a mortgagor who is a veteran and the mortgage to be insured covers property upon which there is located a dwelling designed principally for a one-family residence and definition of "veteran".

Subsec. (d)(3)(B)(iii). Pub. L. 89-754, §306, provided that with respect to rehabilitation projects involving not more than five family units, the Secretary may by regulation increase by 25 per centum any of the dollar amount limitations contained in this clause which are applicable to units with two, three, or four or more bedrooms, inserted "as determined after the application of the preceding proviso" before "by not to exceed 45 per centum", and substituted "Provided further, That nothing" for "Provided, That nothing".

1965—Subsec. (d)(1)(A). Pub. L. 89-117, §311(c), inserted cl. (iv).

Subsec. (d)(2). Pub. L. 89-117, §1108(h)(1), substituted "the General Insurance Fund" for "the section 220 Housing Insurance Fund" wherever appearing.

Subsec. (d)(3)(A)(i). Pub. L. 89-117, §209(1), struck out a second proviso which, in a case involving refinancing, prohibited the mortgage to exceed the estimated cost of repair and rehabilitation and the amount required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(3)(A)(ii). Pub. L. 89-117, §209(2), substituted provisions prohibiting the mortgage, in a case where the mortgagor is not the occupant of the property and intends to hold the property for rental purposes, to

have a principal obligation in an amount in excess of 93 per centum of the amount computed under the provisions of cl. (i) for provisions which prohibited the mortgage, in a case where a mortgagor is not the occupant of the property, to have a principal obligation in excess of an amount equal to 85 per centum of the amount computed under cl. (i).

Subsec. (d)(3)(A)(iii), (iv). Pub. L. 89-117, §209(2), added cls. (iii) and (iv).

Subsec. (d)(3)(B)(iii). Pub. L. 89-117, §207(c), substituted "\$18,500 per family unit with three bedrooms, and \$21,000 per family unit with four or more bedrooms" for "and \$18,500 per family unit with three or more bedrooms" and "\$22,500 per family unit with three bedrooms, and \$25,500 per family unit with four or more bedrooms" for "and \$22,500 per family unit with three or more bedrooms".

Subsec. (d)(3)(B)(iv). Pub. L. 89-117, §210, substituted "desirable and consistent with the urban renewal plan" for "adequate to serve the needs of the occupants of the property and of other housing in the neighborhood", and inserted proviso.

Subsec. (f). Pub. L. 89-117, §1108(h)(1), (2), substituted "the General Insurance Fund" for "the section 220 Housing Insurance Fund" wherever appearing and, in par. (3), struck out provision that, as to mortgages acquired hereunder, all references in section 1713 of this title to the Housing Insurance Fund, the Housing Fund, or the Fund shall be construed to refer to the section 220 Housing Insurance Fund.

Subsec. (g). Pub. L. 89-117, §1108(h)(3), repealed subsec. (g) which created the section 220 Housing Insurance Fund, provided for transfer of funds thereto, and authorized purchase and cancellation of debentures and the receipt and payment of charges and fees.

Subsec. (h)(1). Pub. L. 89-117, §311(d), inserted "or in an area in which a program of concentrated code enforcement activities is being carried out pursuant to section 1468 of title 42".

Subsec. (h)(2)(i). Pub. L. 89-117, §211(a), inserted proviso permitting the Commissioner by regulation to increase the amount by not to exceed 45 per centum in any geographical area where he finds that cost levels so require.

Subsec. (h)(4). Pub. L. 89-117, §1108(h)(3), repealed par. which created the Home Improvement Account and provided for the transfer of funds thereto, credit and charges to such Account, and disposition of surplus moneys.

Subsec. (h)(5), (7). Pub. L. 89-117, §1108(h)(4), substituted "General Insurance Fund" for "section 220 Home Improvement Account" wherever appearing.

Subsec. (h)(11). Pub. L. 89-117, §211(b), inserted "or such additional amount as the Commissioner has by regulation prescribed in any geographical area where he finds cost levels so require pursuant to the authority vested in him by proviso in paragraph (2)(i) of this subsection".

1964—Subsec. (d)(3)(A)(i). Pub. L. 88-560, §110, increased the maximum amount of the principal obligation for one-family residences from \$25,000 to \$30,000, for two-family residences from \$27,500 to \$32,500, for three-family residences from \$30,000 to \$32,500, for four-family residences from \$35,000 to \$37,500, and for more-than-four-family residences from \$35,000 to \$37,500.

Subsec. (d)(3)(B)(i). Pub. L. 88-560, §111, substituted "\$30,000,000" for "\$20,000,000".

Subsec. (d)(3)(B)(iii). Pub. L. 88-560, §107(c), changed limits on mortgages for property or project attributable to dwelling use from "\$2,500 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "\$9,000 per family unit without a bedroom, \$12,500 per family unit with one bedroom, \$15,000 per family unit with two bedrooms, and \$18,500 per family unit with three or more bedrooms", changed such mortgage limits on project consisting of elevator-type structures from a sum "of \$2,500 per room to not exceed \$3,000 per room and the dollar amount limitation of \$9,000 per family unit to not exceed \$9,400 per family unit" to dollar amount limitations "per family unit to not to exceed \$10,500 per family unit without a bedroom, \$15,000 per family unit with one bedroom, \$18,000 per family unit with two bedrooms, and \$22,500 per family unit with three or more bedrooms", and substituted provision authorizing an increase "by not to exceed 45 per centum" of any of such limits because of cost levels for former provision authorizing such an increase "by not to exceed \$1,250 per room without regard to the number of rooms being less than four, or four or more".

Subsec. (f)(3). Pub. L. 88-560, §105(c)(1), inserted "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

Subsec. (h)(1). Pub. L. 88-560, §112(a), designated definitions of "home improvement loan", "improvement", and "financial institution" in second sentence as cls. (A)(i), (B), and (C), respectively, and added cl. (A)(ii) to definition of "home improvement loan".

Subsec. (h)(2)(i). Pub. L. 88-560, §112(b), inserted ", and be limited as required by paragraph (11) of this subsection".

Subsec. (h)(2)(vi). Pub. L. 88-560, §113, substituted "an expiration date in excess of 10 years later than the

maturity date of the loan" for "a period of not less than 50 years to run from the date of the loan".

Subsec. (h)(6). Pub. L. 88-560, §105(c)(1), inserted "If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Commissioner".

Subsec. (h)(11). Pub. L. 88-560, §112(c), added par. (11).

1961—Subsec. (a). Pub. L. 87-70, §102(a)(2), substituted "loan and mortgage insurance" for "mortgage insurance".

Subsec. (d)(3)(A)(i). Pub. L. 87-70, §§102(a)(1), 609, increased the maximum amount of the principal obligation for one-family residences from \$22,500 to \$25,000, and for two-family residences from \$25,000 to \$27,500, substituted "\$15,000" for "\$13,500" in two places, "\$20,000" for "\$18,000" in two places, "75 per centum" for "70 per centum", and "shall be based upon the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation rather than upon the Commissioner's estimate of the replacement cost" for "shall be based upon appraised value rather than upon the Commissioner's estimate of the replacement cost" in proviso relating to limitations upon the amount of the mortgage in the case of properties other than new construction, and inserted proviso which limits, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project.

Subsec. (d)(3)(B)(ii). Pub. L. 87-70, §102(a)(1), substituted "shall be based upon the sum of the estimated cost of repair and rehabilitation and the Commissioner's estimate of the value of the property before repair and rehabilitation rather than upon the Commissioner's estimate of the replacement cost" for "shall be based upon appraised value rather than upon the Commissioner's estimate of the replacement cost" in proviso relating to limitations upon the amount of the mortgage in the case of properties other than new construction, and inserted the proviso which limits, in cases involving refinancing, the amount of the mortgage to not more than the estimated cost of repair and rehabilitation and the amount (as determined by the Commissioner) required to refinance existing indebtedness secured by the property or project.

Subsec. (f)(3). Pub. L. 87-70, §612(g), added par. (3).

Subsec. (h). Pub. L. 87-70, §102(a)(3), added subsec. (h).

1959—Subsec. (d)(3)(A)(i). Pub. L. 86-372, §109(a)(1), (2), increased the maximum amount of the principal obligation for one-family residences from \$20,000 to \$22,500, for two-family residences from \$20,000 to \$25,000, and for three-family residences from \$27,500 to \$30,000, and increased the maximum amount of loans over \$13,500 from 85 percent of the value in excess of \$13,500 but not in excess of \$16,000 to 90 percent of the value in excess of \$13,500 but not in excess of \$18,000.

Pub. L. 86-372, §109(a)(3), inserted proviso in subsec. (d)(3)(A)(ii) making the 85 per centum limitation inapplicable if the mortgagor and mortgagee assume responsibility for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the 18th amortization payment of the mortgage, sold to a purchaser acceptable to the Commissioner who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness.

Subsec. (d)(3)(B)(i). Pub. L. 86-372, §109(b), substituted "\$20,000,000" for "\$12,500,000".

Subsec. (d)(3)(B)(iii). Pub. L. 86-372, §109(c)–(e), inserted "(excluding exterior land improvements as defined by the Commissioner)" after "dwelling use", and substituted "\$2,500" for "\$2,250" in two places, "\$9,000" for "\$8,100" in two places, "\$3,000" for "\$2,700", "\$9,400" for "\$8,400", and "\$1,250" for "\$1,000".

Subsec. (d)(3)(B)(iv). Pub. L. 86-372, §109(e), added cl. (iv).

Subsec. (f)(1). Pub. L. 86-372, §116(b), inserted reference to subsec. (k) of section 1710 of this title.

1958—Subsec. (d)(3)(A)(i). Pub. L. 85-364 substituted "\$13,500" for "\$10,000" in two places.

1957—Subsec. (d)(3). Pub. L. 85-104, §102, amended provisions generally, and, among other changes, raised maximum mortgage obligation from 95 to 97 percent, inserted "unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance", and as to estimated replacement cost, raised figure from \$9,000 to \$10,000 and provided for 85 percent of such replacement cost in excess of \$10,000 and 70 percent in excess of \$16,000, in lieu of former provisions allowing 75 percent of such cost in excess of \$9,000 with Presidential authority to increase dollar amounts to \$10,000.

Subsec. (d)(3)(B)(iii). Pub. L. 85-10 substituted "without regard to the number of rooms being less than four, or four or more" for "or per family unit, as the case may be", in second proviso.

Subsec. (f)(1). Pub. L. 85-104, §112, substituted "(h), and (j) of section 1710 of this title" for "and (h) of section 1710 of this title".

1956—Subsec. (d)(1)(A). Act Aug. 7, 1956, §307(b), provided mortgage insurance assistance for urban renewal areas under section 1462 of this title without requiring the programs required of areas in cl. (i) or cl.

(ii).

Subsec. (d)(3)(B)(ii). Act Aug. 7, 1956, §107(a), inserted ", and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Commissioner, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage" after "approved by the Secretary".

Subsec. (d)(3)(B)(iii). Act Aug. 7, 1956, §107(b), substituted "*Provided further*" for "except", substituted "any of the foregoing dollar amount limitations" for "the foregoing limits" and inserted "or per family unit, as the case may be," after "\$1,000 per room".

1955—Subsec. (d)(3)(A). Act Aug. 11, 1955, §102(g)(1), provided that the maximum amount of a mortgage to be insured may be determined on the bases of estimated replacement cost, and required determination upon appraised value in case of properties other than new construction.

Subsec. (d)(3)(B). Act Aug. 11, 1955, §102(c), (g)(2), increased from \$5,000,000 to \$12,500,000 the limitation on the maximum amount of a mortgage, provided that the maximum amount of a mortgage to be insured may be determined on the bases of estimated replacement cost, and required determination upon appraised value in case of properties other than new construction.

STATUTORY NOTES AND RELATED SUBSIDIARIES

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(9) of Pub. L. 100–242 applicable only with respect to mortgages insured pursuant to conditional commitment issued on or after Feb. 5, 1988, or in accordance with direct endorsement program (24 CFR 200.163), if approved underwriter of mortgagee signs appraisal report for property on or after Feb. 5, 1988, see section 406(d) of Pub. L. 100–242, set out as a note under section 1709 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–35 effective Oct. 1, 1981, see section 371 of Pub. L. 97–35, set out as an Effective Date note under section 3701 of this title.

LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

For limitation on the number of dwelling units with mortgages not providing for complete amortization pursuant to authority granted by amendment to subsec. (d)(4) by section 446 of Pub. L. 98–181, see section 446(f) of Pub. L. 98–181, set out as a note under section 1713 of this title.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendments to subsec. (d)(3)(B)(iii) of this section by section 107(c) of Pub. L. 88–560 or pre-amended provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88–560, set out as a note under section 1713 of this title.

LABOR STANDARDS

Application of section 1715c of this title, relating to labor standards, to certain mortgage insurance under this section, see subsec. (a) of section 1715c.

¹ [*See References in Text note below.*](#)

² [*So in original. The word "this" probably should not appear.*](#)

§1715l. Housing for moderate income and displaced families

(a) Purpose

This section is designed to assist private industry in providing housing for low and moderate income families and displaced families.

(b) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure under this section as hereinafter provided any mortgage (including advances during construction on mortgages covering property of the character described in paragraphs (3) and (4) of subsection (d) of this section) which is eligible for insurance as provided herein and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Definitions

As used in this section, the terms "mortgage", "first mortgage", "mortgagee", "mortgagor", "maturity date" and "State" shall have the same meaning as in section 1707 of this title.

(d) Eligibility for insurance; conditions; limits

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) be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Secretary under subsection (f) of this section, and meeting the requirements of all State laws, or local ordinances or regulations, relating to the public health or safety, zoning, or otherwise, which may be applicable thereto, and shall involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount (A) not to exceed (i) \$31,000 (or \$36,000, if the mortgagor's family includes five or more persons) in the case of a property upon which there is located a dwelling designed principally for a single-family residence, (ii) \$35,000 in the case of a property upon which there is located a dwelling designed principally for a two-family residence, (iii) \$48,600 in the case of a property upon which there is located a dwelling designed principally for a three-family residence, or (iv) \$59,400 in the case of a property upon which there is located a dwelling designed principally for a four-family residence, except that the Secretary may increase the foregoing amounts to not to exceed \$36,000 (or \$42,000 if the mortgagor's family includes five or more persons), \$45,000, \$57,600, and \$68,400, respectively, in any geographical area where he finds that cost levels so require; and (B) not to exceed the appraised value of the property (as of the date the mortgage is accepted for insurance): *Provided*, That (i)(1) in the case of a displaced family, he shall have paid on account of the property at least \$200 in the case of a single-family dwelling, \$400 in the case of a two-family dwelling, \$600 in the case of a three-family dwelling, and \$800 in the case of a four-family dwelling, or (2) in the case of any other family, he shall have paid on account of the property at least 3 per centum of the Secretary's estimate of its acquisition cost (excluding the mortgage insurance premium paid at the time the mortgage is insured), in cash or its equivalent; which amount in either instance may include amounts to cover settlement costs and initial payments for taxes, hazard insurance, and other prepaid expenses; or (ii) in the case of repair and rehabilitation, the amount of the mortgage shall not exceed the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation, except that in no case involving refinancing shall such mortgage exceed such estimated cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property: *Provided further*, That the mortgagor shall to the maximum extent feasible be given the opportunity to contribute the value of his labor as equity in such dwelling; or

(3) if executed by a mortgagor which is a public body or agency (and, except with respect to a project assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], which certifies that it is not receiving financial assistance from the United States exclusively pursuant to such Act [42 U.S.C. 1437 et seq.]) a cooperative (including an investor-sponsor who meets such requirements as the Secretary may impose to assure that the consumer interest is protected), or a limited dividend corporation (as defined by the Secretary), or a private nonprofit corporation or association, or other mortgagor approved by the Secretary, and regulated or supervised under Federal or State laws or by political subdivisions of States, or

agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as in the opinion of the Secretary will effectuate the purposes of this section—

(i) Repealed. Pub. L. 93–383, title III, §304(e)(1), Aug. 22, 1974, 88 Stat. 678.

(ii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary) \$42,048 per family unit without a bedroom, \$48,481 per family unit with one bedroom, 58,469 ¹ per family unit with two bedrooms, \$74,840 per family unit with three bedrooms, and \$83,375 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$44,250 per family unit without a bedroom, \$50,724 per family unit with one bedroom, \$61,680 per family unit with two bedrooms, \$79,793 per family unit with three bedrooms, and \$87,588 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (II) the Secretary may, by regulation, increase any of the dollar amount limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 ² of this title (as such section existed immediately before November 30, 1983) is involved; and

(iii) not exceed (1) in the case of new construction, the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary), or (2) in the case of repair and rehabilitation, the sum of the estimated cost of repair and rehabilitation and the Secretary's estimate of the value of the property before repair and rehabilitation: *Provided*, That the mortgage may involve the financing of the purchase of property which has been rehabilitated by a local public agency with Federal assistance pursuant to section 110(c)(8) of the Housing Act of 1949 [42 U.S.C. 1460(c)(8)], and, in such case, the amount of the mortgage shall not exceed the appraised value of the property as of the date the mortgage is accepted for insurance: *Provided further*, That in the case of any mortgagor other than a nonprofit corporation or association, cooperative (including an investor-sponsor), or public body, or a mortgagor meeting the special requirements of subsection (e)(1), the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section: *Provided further*, That such property or project, when constructed, or repaired and rehabilitated, shall be for use as a rental or cooperative project, and low and moderate income families or displaced families shall be eligible for occupancy in accordance with such regulations and procedures as may be prescribed by the Secretary and the Secretary may adopt such requirements as he determines to be desirable regarding consultation with local public officials where such consultation is appropriate by reason of the relationship of such project to projects under other local programs; or

(4) if executed by a mortgagor and which is approved by the Secretary—

(i) Repealed. Pub. L. 93–383, title III, §304(e)(2), Aug. 22, 1974, 88 Stat. 678.

(ii)(I) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$37,843 per family unit without a bedroom, \$42,954 per family unit with one bedroom, \$51,920 per family unit with two bedrooms, \$65,169 per family unit with three bedrooms, and \$73,846 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the

Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$40,876 per family unit without a bedroom, \$46,859 per family unit with one bedroom, \$56,979 per family unit with two bedrooms, \$73,710 per family unit with three bedrooms, and \$80,913 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (II) the Secretary may, by regulation, increase any of the dollar limitations in subclause (I) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 ² of this title (as such section existed immediately before November 30, 1983) is involved;

(iii) not exceed (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items, except the land, unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage); and

(iv) not exceed 90 per centum of the sum of the estimated cost of repair and rehabilitation (including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 4851b of title 42) and the Secretary's estimate of the value of the property before repair and rehabilitation if the proceeds of the mortgage are to be used for the repair and rehabilitation of a property or project: *Provided*, That the Secretary may, in his discretion, require the mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation, and for such purpose the Secretary may make such contracts with and acquire for not to exceed \$100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations, with such stock or interest being paid for out of the General Insurance Fund and being required to be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; and contain such terms and provisions with respect to the application of the mortgagor's periodic payment to amortization of the principal of the mortgage, 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: *Provided*, That a mortgage insured under the provisions of subsection (d)(3) shall bear interest (exclusive of any premium charges for insurance and service charge, if any) at not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined, from time to time by the Secretary of the Treasury at the request of the Secretary, by estimating the average market yield to maturity on all outstanding marketable obligations of the United States, and by adjusting such yield to the nearest one-eighth of 1 per centum, and there shall be no differentiation in the rate of interest charged under this proviso as between mortgagors under subsection (d)(3) on the basis of differences in the types or classes of such mortgagors, and

(6) provide for complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary may prescribe, but as to mortgages coming within the provisions of subsection (d)(2) not to exceed from the date of the beginning of amortization of the mortgage (i) 40 years in the case of a displaced family, (ii) 35 years in the case of any other

family if the mortgage is approved for insurance prior to construction, except that the period in such case may be increased to not more than 40 years where the mortgagor is not able, as determined by the Secretary, to make the required payments under a mortgage having a shorter amortization period, and (iii) 30 years in the case of any other family where the mortgage is not approved for insurance prior to construction.

(e) "Mortgagor" defined; release of mortgagor or part of property

(1) A mortgagor which may be approved by the Secretary as provided in subsection (d)(3) includes a mortgagor which, as a condition of obtaining insurance of the mortgage and prior to the submission of its application for such insurance, has entered into an agreement (in form and substance satisfactory to the Secretary) with a private nonprofit corporation eligible for an insured mortgage under the provisions of subsection (d)(3), that the mortgagor will sell the project when it is completed to the corporation at the actual cost of the project, as certified pursuant to section 1715r of this title. The mortgagor to whom the property is sold shall be regulated or supervised by the Secretary as provided in subsection (d)(3) to effectuate its purposes.

(2) The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

(f) Compliance with standards; nondwelling facilities in projects in urban renewal areas; number of family units; premium charges; housing for low-income purchasers; expiration of mortgage insurance authority; "family" defined; single occupants in subsection (d)(3) housing; use of certain housing facilities for classroom purposes; return of advances for capital improvements

The property or project shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants: *Provided*, That in the case of any such property or project located in an urban renewal area, the provisions of section 1715k(d)(3)(B)(iv) of this title shall apply with respect to the nondwelling facilities which may be included in the mortgage: *Provided further*, That, in the case of a mortgage which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5), the provisions of section 1715k(d)(3)(B)(iv) of this title shall only apply if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

A property or project covered by a mortgage insured under the provisions of subsection (d)(3) or (d)(4) shall include five or more family units: *Provided*, That such units, in the case of a project designed primarily for occupancy by displaced, elderly, or handicapped families, need not, with the approval of the Secretary, contain kitchen facilities, and such projects may include central dining and other shared facilities. The Secretary is authorized to adopt such procedures and requirements as he determines are desirable to assure that the dwelling accommodations provided under this section are available to displaced families. Notwithstanding any provision of this chapter, the Secretary, in order to assist further the provision of housing for low and moderate income families, in his discretion and under such conditions as he may prescribe, may insure a mortgage which meets the requirements of subsection (d)(3) of this section as in effect after June 30, 1961, or which meets the requirements of subsection (h), (i), or (j) with no premium charge, with a reduced premium charge, or with a premium charge for such period or periods during the time the insurance is in effect as the Secretary may determine, and there is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to reimburse the General Insurance Fund for any net losses in connection with such insurance. Any person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q ² of this title, or who is a displaced person, shall be deemed to be a family within the meaning of the terms "family" and "families" as those terms are used in this section. Low- and moderate-income persons who are less than 62 years of age shall be eligible for occupancy of dwelling units in a project financed with a mortgage insured under subsection (d)(3). In any case in which it is determined in accordance with

regulations of the Secretary that facilities in existence or under construction on December 31, 1970, which could appropriately be used for classroom purposes are available in any such property or project and that public schools in the community are overcrowded due in part to the attendance at such schools of residents of the property or project, such facilities may be used for such purposes to the extent permitted in such regulations (without being subject to any of the requirements of the proviso in section 1715k(d)(3)(B)(iv) of this title except the requirement that the project be predominantly residential).

As used in this section the terms "displaced family", "displaced families", and "displaced person" shall mean a family or families, or a person, displaced from an urban renewal area, or as a result of governmental action, or as a result of a major disaster as determined by the President pursuant to the Disaster Relief and Emergency Assistance Act [42 U.S.C. 5121 et seq.].

In order to induce advances by owners for capital improvements (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine. Any resulting increase in rent contributions shall be—

(A) to a level not exceeding the lower of 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937 [42 U.S.C. 1437f(c)];

(B) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(C) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

Assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

(g) Entitlement of mortgagee to benefits; applicability of other provisions; debentures; "going Federal rate" defined; transfer of original credit instrument

The mortgagee shall be entitled to receive the benefits of the insurance as hereinafter provided—

(1) as to mortgages meeting the requirements of paragraph (2) of subsection (d) of this section, paragraph (5) of subsection (h) of this section, or paragraph (2) of subsection (i) of this section, as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title, and the provisions of subsections (b), (c), (d), (e), (f), (g), (h),² (j), and (k) ² of section 1710 of this title shall be applicable to such mortgages insured under this section, except that all references therein to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund and all references therein to section 1709 of this title shall be construed to refer to this section; or

(2) as to mortgages meeting the requirements of paragraph (3) or (4) of subsection (d) of this section, paragraph (1) of subsection (h) of this section, or paragraph (2) of subsection (j) of this section as provided in section 1713(g) of this title with respect to mortgages insured under said section 1713, and the provisions of subsections (h), (i), (j), (k), and (l) of section 1713 of this title shall be applicable to such mortgages insured under this section; or

(3) as to mortgages meeting the requirements of this section which are insured or initially endorsed for insurance on or after June 30, 1961, notwithstanding the provisions of paragraphs (1) and (2) of this subsection, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such paragraphs in cash or in debentures (as provided in the mortgage insurance contract), or may acquire a mortgage loan that is in default and the security therefor upon payment to the mortgagee in cash or in debentures (as provided in the

mortgage insurance contract) of a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made previously by the mortgagee under the provisions of the mortgage, and after the acquisition of any such mortgage by the Secretary the mortgagee shall have no further rights, liabilities, or obligations with respect to the loan or the security for the loan. The appropriate provisions of sections 1710 and 1713 of this title relating to the issuance of debentures shall apply with respect to debentures issued under this paragraph, and the appropriate provisions of sections 1710 and 1713 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when he has acquired an insured mortgage under this paragraph, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purposes appropriate and effective) which shall be prescribed by the Secretary, except that as applied to mortgages so acquired (A) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (B) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to this section. If the insurance is paid in cash, there shall be added to such payment an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(4)(A) in the event any mortgage insured under this section pursuant to a commitment to insure entered into before November 30, 1983, is not in default at the expiration of twenty years from the date the mortgage was endorsed for insurance, the mortgagee shall, within a period thereafter to be determined by the Secretary, have the option to assign, transfer, and deliver to the Secretary the original credit instrument and the mortgage securing the same and receive the benefits of the insurance as hereinafter provided in this paragraph, upon compliance with such requirements and conditions as to the validity of the mortgage as a first lien and such other matters as may be prescribed by the Secretary at the time the loan is endorsed for insurance. Upon such assignment, transfer, and delivery the obligation of the mortgagee to pay the premium charges for insurance shall cease, and the Secretary shall issue to the mortgagee debentures having a par value equal to the amount of the original principal obligation of the mortgage which was unpaid on the date of the assignment, plus accrued interest to such date. Debentures issued pursuant to this paragraph shall be issued in the same manner and subject to the same terms and conditions as debentures issued under paragraph (1) of this subsection, except that the debentures issued pursuant to this paragraph shall be dated as of the date the mortgage is assigned to the Secretary, shall mature ten years after such date, and shall bear interest from such date at the going Federal rate determined at the time of issuance. The term "going Federal rate" as used herein means the annual rate of interest which the Secretary of the Treasury shall specify as applicable to the six-month period (consisting of January through June or July through December) which includes the issuance date of such debentures, which applicable rate for each such six-month period shall be determined by the Secretary of the Treasury by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the month of May or the month of November, as the case may be, next preceding such six-month period, on all outstanding marketable obligations of the United States having a maturity date of eight to twelve years from the first day of such month of May or November (or, if no such obligations are outstanding, the obligation next shorter than eight years and the obligation next longer than twelve years, respectively, shall be used), and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum. The Secretary shall have the same authority with respect to mortgages assigned to him under this paragraph as contained in sections 1713(k) and 1713(l) of this title as to mortgages insured by the Secretary and assigned to him under section 1713 of this title.

(B) In processing a claim for insurance benefits under this paragraph, the Secretary may direct the mortgagee to assign, transfer, and deliver the original credit instrument and the mortgage securing it directly to the Government National Mortgage Association in lieu of assigning, transferring, and delivering the credit instrument and the mortgage to the Secretary. Upon the assignment, transfer, and delivery of the credit instrument and the mortgage to the Association, the mortgage insurance contract shall terminate and the mortgagee shall receive insurance benefits as

provided in subparagraph (A). The Association is authorized to accept such loan documents in its own name and to hold, service, and sell such loans as agent for the Secretary. The mortgagor's obligation to pay a service charge in lieu of a mortgage insurance premium shall continue as long as the mortgage is held by the Association or by the Secretary. The Secretary shall have the same authority with respect to mortgages assigned to the Secretary or the Association under this subparagraph as provided by section 1715n(c) of this title.

(C)(i) In lieu of accepting assignment of the original credit instrument and the mortgage securing the credit instrument under subparagraph (A) in exchange for receipt of debentures, the Secretary shall arrange for the sale of the beneficial interests in the mortgage loan through an auction and sale of the (I) mortgage loans, or (II) participation certificates, or other mortgage-backed obligations in a form acceptable to the Secretary (in this subparagraph referred to as "participation certificates"). The Secretary shall arrange the auction and sale at a price, to be paid to the mortgagee, of par plus accrued interest to the date of sale. The sale price shall also include the right to a subsidy payment described in clause (iii).

(ii)(I) The Secretary shall conduct a public auction to determine the lowest interest rate necessary to accomplish a sale of the beneficial interests in the original credit instrument and mortgage securing the credit instrument.

(II) A mortgagee who elects to assign a mortgage shall provide the Secretary and persons bidding at the auction a description of the characteristics of the original credit instrument and mortgage securing the original credit instrument, which shall include the principal mortgage balance, original stated interest rate, service fees, real estate and tenant characteristics, the level and duration of applicable Federal subsidies, and any other information determined by the Secretary to be appropriate. The Secretary shall also provide information regarding the status of the property with respect to the provisions of the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act with respect to eligibility to prepay the mortgage, a statement of whether the owner has filed a notice of intent to prepay or a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, and the details with respect to incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act in lieu of exercising prepayment rights.

(III) The Secretary shall, upon receipt of the information in subclause (II), promptly advertise for an auction and publish such mortgage descriptions in advance of the auction. The Secretary may conduct the auction at any time during the 6-month period beginning upon receipt of the information in subclause (II) but under no circumstances may the Secretary conduct an auction before 2 months after receiving the mortgagee's written notice of intent to assign its mortgage to the Secretary.

(IV) In any auction under this subparagraph, the Secretary shall accept the lowest interest rate bid for purchase that the Secretary determines to be acceptable. The Secretary shall cause the accepted bid to be published in the Federal Register. Settlement for the sale of the credit instrument and the mortgage securing the credit instrument shall occur not later than 30 business days after the date winning bidders are selected in the auction, unless the Secretary determines that extraordinary circumstances require an extension (not to exceed 60 days) of the period.

(V) If no bids are received, the bids that are received are not acceptable to the Secretary, or settlement does not occur within the period under subclause (IV), the mortgagee shall retain all rights (including the right to interest, at a rate to be determined by the Secretary, for the period covering any actions taken under this subparagraph) under this section to assign the mortgage loan to the Secretary.

(iii) As part of the auction process, the Secretary shall agree to provide a monthly interest subsidy payment from the General Insurance Fund to the purchaser under the auction of the original credit instrument or the mortgage securing the credit instrument (and any subsequent holders or assigns who are approved mortgagees). The subsidy payment shall be paid on the first day of each month in an amount equal to the difference between the stated interest due on the mortgage loan and the lowest interest rate necessary to accomplish a sale of the mortgage loan or participation certificates (less the servicing fee, if appropriate) for the then unpaid principal

balance plus accrued interest at a rate determined by the Secretary. Each interest subsidy payment shall be treated by the holder of the mortgage as interest paid on the mortgage. The interest subsidy payment shall be provided until the earlier of—

- (I) the maturity date of the loan;
- (II) prepayment of the mortgage loan in accordance with the Emergency Low Income Housing Preservation Act of 1987 or any subsequent Act, where applicable; or
- (III) default and full payment of insurance benefits on the mortgage loan by the Federal Housing Administration.

(iv) The Secretary shall require that the mortgage loans or participation certificates presented for assignment are auctioned as whole loans with servicing rights released and also are auctioned with servicing rights retained by the current servicer.

(v) To the extent practicable, the Secretary shall encourage State housing finance agencies, nonprofit organizations, and organizations representing the tenants of the property securing the mortgage, or a qualified mortgagee participating in a plan of action under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act to participate in the auction.

(vi) The Secretary shall implement the requirements imposed by this subparagraph within 30 days from November 5, 1990, and not be subject to the requirement of prior issuance of regulations in the Federal Register. The Secretary shall issue regulations implementing this section within 6 months of November 5, 1990.

(vii) Nothing in this subparagraph shall diminish or impair the low income use restrictions applicable to the project under the original regulatory agreement or the revised agreement entered into pursuant to the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, if any, or other agreements for the provision of Federal assistance to the housing or its tenants.

(viii) This subparagraph shall not apply after December 31, 2002, except that this subparagraph shall continue to apply if the Secretary receives a mortgagee's written notice of intent to assign its mortgage to the Secretary on or before such date. Not later than January 31 of each year (beginning in 1992), the Secretary shall submit to the Congress a report including statements of the number of mortgages auctioned and sold and their value, the amount of subsidies committed to the program under this subparagraph, the ability of the Secretary to coordinate the program with the incentives provided under the Emergency Low Income Housing Preservation Act of 1987 or subsequent Act, and the costs and benefits derived from the program for the Federal Government.

(ix) The authority of the Secretary to conduct multifamily auctions under this paragraph shall be effective for any fiscal year only to the extent and in such amounts as are approved in appropriations Acts for the costs of loan guarantees (as defined in section 661a of title 2), including the cost of modifying loans.

(h) Insurance of mortgages to finance purchase and rehabilitation by nonprofit organizations of housing for resale to low-income purchasers, and insurance of mortgages executed for the purpose of financing rehabilitation or improvement of dwellings owned and occupied by mortgagors who purchased from nonprofit organizations

(1) In addition to mortgages insured under the other provisions of this section, the Secretary is authorized, upon application by the mortgagee, to insure under this subsection as hereinafter provided any mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization to finance the purchase and rehabilitation of deteriorating or substandard housing for subsequent resale to low-income home purchasers and, upon such terms and conditions as the Secretary may prescribe, to make commitments for the insurance of such mortgages prior to the date of their execution or disbursement thereon.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit corporation or association, approved by the Secretary, for financing the purchase and rehabilitation (with the intention of subsequent resale) of property comprising one or more tracts or parcels, whether or not contiguous, upon which there is located

deteriorating or substandard housing consisting of (i) four or more single-family dwellings of detached, semidetached, or row construction, or (ii) four or more one-family units in a structure or structures for which a plan of family unit ownership approved by the Secretary is established;

(B) be secured by the property which is to be purchased and rehabilitated with the proceeds thereof;

(C) be in a principal amount not exceeding the appraised value of the property at the time of its purchase under the mortgage plus the estimated cost of the rehabilitation;

(D) bear interest (exclusive of premium charges for insurance and service charge, if any) at the rate in effect under the proviso in subsection (d)(5) at the time of execution;

(E) provide for complete amortization (subject to paragraph (5)(E)) by periodic payments within such term as the Secretary may prescribe; and

(F) provide for the release of individual single-family dwellings from the lien of the mortgage upon the sale of the rehabilitated dwellings in accordance with paragraph (5).

(3) No mortgage shall be insured under paragraph (1) unless the mortgagor shall have demonstrated to the satisfaction of the Secretary that (A) the property to be rehabilitated is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the rehabilitation to be carried out by the mortgagor plus its related activities and the activities of other owners of housing in the neighborhood, together with actions to be taken by public authorities, will be of such scope and quality as to give reasonable promise that a stable environment will be created in the neighborhood.

(4) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed \$50,000,000.

(5)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement (in form and substance satisfactory to the Secretary) that it will offer to sell the dwellings involved, upon completion of their rehabilitation, to individuals or families (hereinafter referred to as "low-income purchasers") determined by the Secretary to have incomes below the maximum amount specified (with respect to the area involved) in section 1701s(c)(1) of this title.

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to low-income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount equal to that portion of the unpaid balance of the principal mortgage covering the property (insured under paragraph (1)) which is allocable to the individual dwelling involved; and

(ii) bear interest at the same rate as the principal mortgage or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the purchaser's income is sufficiently low to justify the lower rate, and provide for complete amortization within a term equal to the remaining term (determined without regard to subparagraph (E)) of such principal mortgage: *Provided*, That, if the rate of interest initially prescribed is less than the rate borne by the principal mortgage and the purchaser's income (as determined on the basis of periodic review) subsequently rises, the rate of interest so prescribed shall be increased (but not above the rate borne by such principal mortgage), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide.

(C) The price for which any individual dwelling is sold to a low-income purchaser under this paragraph shall be the amount of the mortgage covering the sale as determined under subparagraph (B), except that the purchaser shall in addition thereto be required to pay on account of the property at the time of purchase such amount (which shall not be less than \$200, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate in the circumstances.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the principal mortgage, and such mortgage shall thereupon be replaced by an individual mortgage insured under this paragraph to the extent of the portion of its unpaid balance