

§ 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.)

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 equiva-

lent 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 bene-

fits 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)¹ of 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.)

REFERENCES IN TEXT

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.

¹ See References in Text note below.

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.

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

Section 2 of act Mar. 10, 1953, ch. 5, 67 Stat. 5, required Federal Housing Commissioner prior to June 30, 1954, to pay out of capital account of Title I Insurance Fund to Secretary of the Treasury amount of \$8,333,313.65 which constituted Government investment in capital account of Title I Insurance Fund.

§ 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. 86-654, § 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 IV, § 407(a), Nov. 30, 1983, 97 Stat. 1211; Pub. L. 100-242, title IV, § 429(b), Feb. 5, 1988, 101 Stat. 1918.)

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”.

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, § 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.

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.

SUBCHAPTER II—MORTGAGE INSURANCE

§ 1707. Definitions

As used in section 1709 of this title—

(a) The term “mortgage” means a first mortgage on real estate, in fee simple, or on a leasehold (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 ten years to run beyond the maturity date of the mortgage; 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 Trust Territory of the Pacific 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.

(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,