

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.

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

Section 407(c) of Pub. L. 104-99, 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title II, §2002(1), Aug. 5, 1997, 111 Stat. 257, provided that: “Except as provided in subsection (e) [110 Stat. 46, repealed by Pub.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

Section 112(e) of act Aug. 2, 1954, 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

Section 101(e) [title II, §221(c)(1)] of Pub. L. 104-134 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.”

Section 407(d) of Pub. L. 104-99, 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.

Section 1064(c) of Pub. L. 100-628 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.”

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.”

§ 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 Gen-

eral 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 semi-annual 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.

(g) Annual independent audit of Mutual Mortgage Insurance Fund

The Secretary shall provide for an independent actuarial study of the Mutual Mortgage Insurance Fund to be conducted annually and shall report annually to the Congress regarding the financial status of the Fund.

(h) Adjustment of premiums

(1) If, pursuant to the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (g) of this section, the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 1709(c) of this title or section 2103(b) of the Omnibus Budget Reconciliation Act of 1990. Upon determining that a premium change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Any such premium change shall not take effect before the expiration of the 90-day period beginning upon such notification.

(2) The operational goals referred to in paragraph (1) shall be—

(A) maintaining an adequate capital ratio;

(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit;

- (C) minimizing the risk to the Fund and to homeowners from homeowner default; and
 (D) avoiding adverse selection.

(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.)

REFERENCES IN TEXT

Section 2103(b) of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101-508], referred to in subsec. (h)(1), is set out as a note under section 1709 of this title.

AMENDMENTS

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.

EXCEPTION TO STATUTE OF LIMITATIONS

Section 508(b) of Pub. L. 102-550 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.)

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