

§ 3706. Escrow of deposits and downpayments

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Secretary has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment from the claims of creditors of the seller. The failure of the seller or the seller's agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 3704(b) of this title.

(b) If an eligible veteran contracts for the construction of a property in a project on which the Secretary has issued a Certificate of Reasonable Value and such construction is to be financed with the assistance of a construction loan to be guaranteed, insured, or made under the provisions of this chapter, it may be considered an unfair marketing practice under section 3704(b) of this title if any deposit or downpayment of the veteran is not maintained in a special trust account by the recipient until it is either (1) applied on behalf of the veteran to the cost of the land or to the cost of construction or (2), if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract.

(Added Pub. L. 86-665, §6(a), July 14, 1960, 74 Stat. 532, §1806; amended Pub. L. 94-324, §7(10), June 30, 1976, 90 Stat. 721; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3706 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, §1201(e)(13), Nov. 2, 1994, 108 Stat. 4685.)

AMENDMENTS

1994—Pub. L. 103-446, which directed the substitution of “of this title” for “of this chapter” the second and third places appearing, was executed by making the substitution the second and fourth places appearing to reflect the probable intent of Congress.

1991—Pub. L. 102-83, §5(a), renumbered section 1806 of this title as this section.

Pub. L. 102-83, §5(c)(1), substituted “3704(b)” for “1804(b)” in subsecs. (a) and (b).

1989—Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

1976—Subsec. (a). Pub. L. 94-324 substituted “the seller’s” for “his”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

§ 3707. Adjustable rate mortgages

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993 through 2008 for the purpose of guaranteeing loans in a manner similar to the man-

ner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

(b) Interest rate adjustment provisions of a mortgage guaranteed under this section shall—

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to mortgagors from generally available published sources;

(2) be made by adjusting the monthly payment on an annual basis;

(3) be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and

(4) be limited, over the term of the mortgage, to a maximum increase of 5 percentage points above the initial contract interest rate.

(c) The Secretary shall promulgate underwriting standards for loans guaranteed under this section, taking into account—

(1) the status of the interest rate index referred to in subsection (b)(1) and available at the time an underwriting decision is made, regardless of the actual initial rate offered by the lender;

(2) the maximum and likely amounts of increases in mortgage payments that the loans would require;

(3) the underwriting standards applicable to adjustable rate mortgages insured under title II of the National Housing Act; and

(4) such other factors as the Secretary finds appropriate.

(d) The Secretary shall require that the mortgagee make available to the mortgagor, at the time of loan application, a written explanation of the features of the adjustable rate mortgage, including a hypothetical payment schedule that displays the maximum potential increases in monthly payments to the mortgagor over the first five years of the mortgage term.

(Added Pub. L. 102-547, §3(a)(1), Oct. 28, 1992, 106 Stat. 3634; amended Pub. L. 103-78, §7, Aug. 13, 1993, 107 Stat. 769; Pub. L. 108-454, title IV, §404, Dec. 10, 2004, 118 Stat. 3616.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (c)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Title II of the Act is classified generally to subchapter II (§1707 et seq.) of chapter 13 of Title 12, Banks and Banking. Section 251 of the Act is classified to section 1715z-16 of Title 12. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-454 substituted “during fiscal years 1993 through 2008” for “during fiscal years 1993, 1994, and 1995”.

1993—Subsec. (b)(2). Pub. L. 103-78 struck out before semicolon at end “on the anniversary of the date on which the loan was closed”.

ANNUAL REPORTS ON ADJUSTABLE RATE MORTGAGES GUARANTEED UNDER THIS SECTION

Section 3(b) of Pub. L. 102-547 directed Secretary of Veterans Affairs to transmit adjustable rate mortgage report to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31,