

retary as the result of a default of a loan made under this chapter to use the properties to provide shelter for homeless veterans and their families, or (2) convey such properties to entities for use in job training programs for property rehabilitation and later sale to homeless veterans. Authority to carry out the programs terminated on Oct. 1, 1990.

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY;
REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95-202, title III, §311, Nov. 23, 1977, 91 Stat. 1449, directed Administrator of Veterans' Affairs, in consultation with Secretary of Energy and Secretary of Housing and Urban Development, to conduct a study to determine the most effective methods of using the programs carried out under, or amending provisions of, this chapter in order to aid and encourage present and prospective veteran homeowners to install solar heating and cooling in their homes and to apply residential energy conservation measures and that a report on such study be submitted to Congress not later than Mar. 1, 1978.

WAIVER OF INDEBTEDNESS; REPORT TO CONGRESS

Section 2 of Pub. L. 88-151 provided that: "The Administrator of Veterans' Affairs shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Veterans' Affairs of the House of Representatives, not later than December 31 of each year, a written report concerning each case in which a waiver of indebtedness has been made under the authority of the amendment made by the first section of this Act [amending subsec. (a)(4) of this section]. Such report shall include, together with such other information as the Administrator deems appropriate, the name and address of each person with respect to which a waiver of indebtedness has been made and the total amount of such waiver."

ADMINISTRATION OF TRUSTS BY FEDERAL NATIONAL
MORTGAGE ASSOCIATION

Provision for participation sales and administration of trusts by Federal National Mortgage Association not to be construed as a repeal or modification of the provisions of subsection (e) of this section respecting the authority of the Administrator of Veterans' Affairs, see section 6(a) of Pub. L. 89-429, set out as a note under section 1717 of Title 12, Banks and Banking.

§ 3721. Incontestability

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Secretary shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, §1821; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3721, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1821 of this title as this section.

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

§ 3722. Veterans Housing Benefit Program Fund

(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund (hereinafter in this section referred to as the "Fund").

(b) The Fund shall be available to the Secretary, without fiscal year limitation, for all housing loan operations under this chapter, other than administrative expenses, consistent with the Federal Credit Reform Act of 1990.

(c) There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

(1) Any amount appropriated to the Fund.

(2) Amounts paid into the Fund under section 3729 of this title or any other provision of law or regulation established by the Secretary imposing fees on persons or other entities participating in the housing loan programs under this chapter.

(3) All other amounts received by the Secretary on or after October 1, 1998, incident to housing loan operations under this chapter, including—

(A) collections of principal and interest on housing loans made by the Secretary under this chapter;

(B) proceeds from the sale, rental, use, or other disposition of property acquired under this chapter;

(C) proceeds from the sale of loans pursuant to sections 3720(h) and 3733(a)(3) of this title; and

(D) penalties collected pursuant to section 3710(g)(4)(B) of this title.

(d) Amounts deposited into the Fund under paragraphs (2) and (3) of subsection (c) shall be deposited in the appropriate financing or liquidating account of the Fund.

(e) For purposes of this section, the term "housing loan" shall not include a loan made pursuant to subchapter V of this chapter.

(Added Pub. L. 105-368, title VI, §602(a)(2), Nov. 11, 1998, 112 Stat. 3345; amended Pub. L. 107-14, §8(a)(16), June 5, 2001, 115 Stat. 35.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (b), 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.

PRIOR PROVISIONS

Prior to renumbering of sections 1801 to 1851 of this chapter as sections 3701 to 3751 by Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406, section 1822 of this chapter, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1214; Pub. L. 89-358, §5(c), Mar. 3, 1966, 88 Stat. 26; Pub. L. 89-623, §1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 90-301, §2(b), May 7, 1968, 82 Stat. 113, which provided for bringing of an action in district court, by veteran or Attorney General, against one who knowingly participated in sale of property to a veteran for consideration in excess of reasonable value of property, was repealed by Pub. L. 93-569, §§7(a), 10, Dec. 31, 1974, 88 Stat. 1866, 1867, effective Dec. 31, 1974.

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-14 substituted "hereinafter" for "hereafter".

EFFECTIVE DATE

Section effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

TRANSFERS OF AMOUNTS INTO VETERANS HOUSING BENEFIT PROGRAM FUND

Pub. L. 105-368, title VI, §602(b), Nov. 11, 1998, 112 Stat. 3346, provided that: "All amounts in the following funds are hereby transferred to the Veterans Housing Benefit Program Fund:

"(1) The Direct Loan Revolving Fund, as such fund was continued under section 3723 of title 38, United States Code (as such section was in effect on the day before the effective date of this title [Nov. 11, 1998]).

"(2) The Department of Veterans Affairs Loan Guaranty Revolving Fund, as established by section 3724 of such title (as such section was in effect on the day before the effective date of this title).

"(3) The Guaranty and Indemnity Fund, as established by section 3725 of such title (as such section was in effect on the day before the effective date of this title)."

[[§ 3723 to 3725. Repealed. Pub. L. 105-368, title VI, §602(a)(1), Nov. 11, 1998, 112 Stat. 3345]

Section 3723, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1214, §1823; Pub. L. 86-73, §4, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, §4, July 14, 1960, 74 Stat. 532; Pub. L. 87-84, §3, July 6, 1961, 75 Stat. 202; Pub. L. 88-274, Feb. 29, 1964, 78 Stat. 147; Pub. L. 88-560, title VII, §701(e)(2), Sept. 2, 1964, 78 Stat. 801; Pub. L. 94-324, §§6, 7(27), June 30, 1976, 90 Stat. 721, 722; Pub. L. 97-295, §4(68), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 97-452, §2(e)(2), Jan. 12, 1983, 96 Stat. 2479; Pub. L. 99-576, title IV, §405, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 101-237, title III, §313(b)(1), (8), (9), Dec. 18, 1989, 103 Stat. 2077, 2078; renumbered §3723 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to direct loan revolving fund. See section 3722 of this title.

Section 3724, added Pub. L. 86-665, §7(a), July 14, 1960, 74 Stat. 532, §1824; amended Pub. L. 94-324, §7(28), June 30, 1976, 90 Stat. 722; Pub. L. 97-72, title III, §303(j), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 98-369, div. B, title V, §2511(b), July 18, 1984, 98 Stat. 1117; Pub. L. 99-322, §2(a), May 23, 1986, 100 Stat. 494; Pub. L. 100-689, title III, §303, Nov. 18, 1988, 102 Stat. 4177; Pub. L. 101-237, title III, §302(a)(2), (3)(A), (c), 313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2070, 2071, 2077; renumbered §3724 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406, related to Loan Guaranty Revolving Fund. See section 3722 of this title.

Section 3725, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1215, §1824; renumbered §1825, Pub. L. 86-665, §7(a), July 14, 1960, 74 Stat. 532; amended Pub. L. 94-324, §7(29), June 30, 1976, 90 Stat. 722; Pub. L. 101-237, title III, §302(a)(1), Dec. 18, 1989, 103 Stat. 2069; Pub. L. 102-54, §15(a)(2), June 13, 1991, 105 Stat. 289; renumbered §3725 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §2(b)(2), Oct. 28, 1992, 106 Stat. 3634, related to Guaranty and Indemnity Fund. See section 3722 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as an Effective Date of 1998 Amendment note under section 2106 of this title.

§ 3726. Withholding of payments, benefits, etc.

(a) No officer, employee, department, or agency of the United States shall set off against, or otherwise withhold from, any veteran or the surviving spouse of any veteran any payments (other than benefit payments under any law administered by the Department of Veterans Affairs) which such veteran or surviving spouse

would otherwise be entitled to receive because of any liability to the Secretary allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such veteran or surviving spouse under this chapter, unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title.

(b) If the Secretary does not waive the entire amount of the liability, the Secretary shall then determine whether the veteran or surviving spouse should be released from liability under section 3713(b) of this title.

(c) If the Secretary determines that the veteran or surviving spouse should not be released from liability, the Secretary shall notify the veteran or surviving spouse of that determination and provide a notice of the procedure for appealing that determination, unless the Secretary has previously made such determination and notified the veteran or surviving spouse of the procedure for appealing the determination.

(Added Pub. L. 89-358, §5(f)(1), Mar. 3, 1966, 80 Stat. 26, §1826; amended Pub. L. 94-324, §7(30), June 30, 1976, 90 Stat. 722; Pub. L. 97-66, title V, §504, Oct. 17, 1981, 95 Stat. 1033; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered §3726, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-33, title VIII, §8033(a), Aug. 5, 1997, 111 Stat. 669.)

AMENDMENTS

1997—Pub. L. 105-33 designated existing provisions as subsec. (a), substituted "unless the Secretary provides such veteran or surviving spouse with notice by certified mail with return receipt requested of the authority of the Secretary to waive the payment of indebtedness under section 5302(b) of this title." for "unless (1) there is first received the consent in writing of such veteran or surviving spouse, as the case may be, or (2) such liability and the amount thereof was determined by a court of competent jurisdiction in a proceeding to which such veteran or surviving spouse was a party.", and added subsecs. (b) and (c).

1991—Pub. L. 102-83 renumbered section 1826 of this title as this section.

1989—Pub. L. 101-237 substituted "Secretary" and "Department of Veterans Affairs" for "Administrator" and "Veterans' Administration", respectively.

1981—Pub. L. 97-66 struck out subsec. (a) which provided that the Administrator could not, unless the Administrator had first obtained the consent in writing of an individual, set off against, or otherwise withhold from, such individual any benefits payable to such individual under any law administered by the Veterans' Administration because of liability allegedly arising out of any loan made to, assumed by, or guaranteed or insured on account of, such individual under this chapter, and struck out designation "(b)" before "No officer, employee, department, or agency of the United States".

1976—Subsec. (a), Pub. L. 94-324 substituted "the Administrator" for "he".

Subsec. (b), Pub. L. 94-324 substituted "surviving spouse" for "widow" wherever appearing.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 8033(c) of Pub. L. 105-33 provided that: "The amendments made by this section [amending this section and section 5302 of this title] shall apply with respect to any indebtedness to the United States arising pursuant to chapter 37 of title 38, United States Code, before, on, or after the date of enactment of this Act [Aug. 5, 1997]."