(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.)

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.)

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.''

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This chapter is referred to in sections 1441a, 1831k, 1843, 3204, 3401 of this title; title 18 section 433; title 41 section 22.

§ 1461. Short title

This chapter may be cited as the ''Home Owners' Loan Act.''

(June 13, 1933, ch. 64, § 1, 48 Stat. 128; Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 277.)

AMENDMENTS

1989—Pub. L. 101–73 amended section generally, striking out ''of 1933'' after ''Act''.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 305(c) of Pub. L. 101–73 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 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) Director

The term ''Director'' means the Director of the Office of Thrift Supervision.

(2) Corporation

The term ''Corporation'' means the Federal Deposit Insurance Corporation.

(3) Office

The term ''Office'' means the Office of Thrift Supervision.

(4) 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.

(5) 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.

(6) 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].

(7) 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.

(8) State

The term ''State'' has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(9) 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.

(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; Nov. 10, 1978, Pub. L. 95–630, title XII, § 1201, 92 Stat. 3710; Oct. 15, 1982, Pub. L. 97–320, title I, § 114(a), 96 Stat. 1475; Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 277.)

AMENDMENTS

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''.

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 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.

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. Director of Office of Thrift Supervision

(a) Establishment of Office

There is established the Office of Thrift Supervision, which shall be an office in the Department of the Treasury.

(b) Establishment of position of Director

(1) In general

There is established the position of the Director of the Office of Thrift Supervision, who shall be the head of the Office of Thrift Supervision and shall be subject to the general oversight of the Secretary of the Treasury.

(2) Authority to prescribe regulations

The Director may prescribe such regulations and issue such orders as the Director may determine to be necessary for carrying out this chapter and all other laws within the Director's jurisdiction.

(3) Autonomy of Director

The Secretary of the Treasury may not intervene in any matter or proceeding before the Director (including agency enforcement actions) unless otherwise specifically provided by law.

(4) Banking agency rulemaking

The Secretary of the Treasury may not delay or prevent the issuance of any rule or the promulgation of any regulation by the Director.

(c) Appointment; term

(1) Appointment

The Director shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who are citizens of the United States.

(2) Term

The Director shall be appointed for a term of 5 years.

(3) Vacancy

A vacancy in the position of Director which occurs before the expiration of the term for which a Director was appointed shall be filled in the manner established in paragraph (1) and the Director appointed to fill such vacancy shall be appointed only for the remainder of such term.

(4) Service after end of term

An individual may serve as Director after the expiration of the term for which appointed until a successor Director has been appointed.

(5) Transitional provision

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 [Aug. 9, 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.

(d) Prohibition on financial interests

The Director shall not have a direct or indirect financial interest in any insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(e) Powers of Director

The Director 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.

(f) State homestead provisions

No provision of this chapter or any other provision of law administered by the Director 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.

(g) Annual report required

The Director shall make an annual report to the Congress. Such report shall include—

(1) a description of any changes the Director has made or is considering making in the district offices of the Office, including a description of the geographic allocation of the Office's resources and personnel used to carry out examination and supervision functions; and

(2) a description of actions taken to carry out section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

(h) Staff

(1) Appointment and compensation

The Director shall fix the compensation and number of, and appoint and direct, all employees of the Office of Thrift Supervision notwithstanding section 301(f)(1) of title 31. Such compensation shall be paid without regard to the provisions of other laws applicable to officers or employees of the United States.

(2) Rates of basic pay

Rates of basic pay for employees of the Office may be set and adjusted by the Director without regard to the provisions of chapter 51 or subchapter III of chapter 53 of title 5.

(3) Additional compensation and benefits

The Director may provide additional compensation and benefits to employees of the Office if the same type of compensation or benefits are then being provided by any Federal banking agency or, if not then being provided, could be provided by such an agency under applicable provisions of law, rule, or regulation. In setting and adjusting the total amount of compensation and benefits for employees of the Office, the Director shall consult, and seek to maintain comparability with, the Federal banking agencies.

(4) Delegation authority

(A) In general

The Director may—

(i) designate who shall act as Director in the Director's absence; and

(ii) delegate to any employee, representative, or agent any power of the Director.

(B) Limitations

Notwithstanding subparagraph (A)(ii), the Director shall not, directly or indirectly—

(i) after October 10, 1989, delegate to any Federal home loan bank or to any officer, director, or employee of a Federal home loan bank, any power involving examining, supervising, taking enforcement action with respect to, or otherwise regulating any savings association, savings and loan holding company, or other person subject to regulation by the Director; or

(ii) delegate the Director's authority to serve as a member of the Corporation's Board of Directors.

(i) Funding through assessments

The compensation of the Director and other employees of the Office and all other expenses thereof may be paid from assessments levied under this chapter.

(j) GAO audit

The Director shall make available to the Comptroller General of the United States all books and records necessary to audit all of the activities of the Office of Thrift Supervision.

(June 13, 1933, ch. 64, §3, as added Aug. 9, 1989, Pub. L. 101–73, title III, §301, 103 Stat. 278; amended Sept. 23, 1994, Pub. L. 103–325, title III, §331(c), 108 Stat. 2232; Sept. 29, 1994, Pub. L. 103–328, title I, §102(b)(5), 108 Stat. 2352.)

REFERENCES IN TEXT

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989, referred to in subsecs. (c)(5), (e), and (g)(2), is Pub. L. 101–73, Aug. 9, 1989, 103 Stat. 183. Section 308 of the Act is set out as a note under section 1463 of this title. 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

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1 of this title; title 31 section 309.

§ 1463. Supervision of savings associations

(a) Federal savings associations

(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.

(3) Safe and sound housing credit to be encouraged

The Director shall exercise all powers granted to the Director 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 Director 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;

(B) allow for no deviation from full compliance with such standards as are in effect after December 31, 1993; and

(C) 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).

(3) Authority to prescribe more stringent accounting standards

The Director may at any time prescribe accounting standards more stringent than required under paragraph (2) if the Director determines that the more stringent standards are necessary to ensure the safe and sound operation of savings associations.

(c) Stringency of standards

All regulations and policies of the Director 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 of the Currency 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 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.

(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 Director 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 Director, the savings association shall report to the Director 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 Director, or

(2) issue any securities the form of which has not been approved by the Director.

(June 13, 1933, ch. 64, §4, as added Aug. 9, 1989, Pub. L. 101–73, title III, §301, 103 Stat. 280.)

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.

PRESERVING MINORITY OWNERSHIP OF MINORITY FINANCIAL INSTITUTIONS

Section 308 of Pub. L. 101–73 provided that:

''(a) CONSULTATION ON METHODS.—The Secretary of the Treasury shall consult with the Director of the Office of Thrift Supervision 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.''

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 Director is authorized, under such regulations as the Director 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 Director, 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—

(i) pay interest on a demand account; or

(ii) 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 Director, 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 Director 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 Director. Except as authorized in writing by the Director, 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 Director 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 Director.

(2) Other liabilities

To such extent as the Director may authorize in writing, a Federal savings association may borrow, may give security, may be surety as defined by the Director 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 Director 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) of this section 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 1¾ percent per annum the interest rate paid to the State mortgage finance agency on the obligations issued to obtain the funds so borrowed.

(4) Credit cards

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.

(5) Mutual capital certificates

In accordance with regulations issued by the Director, 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) of this section to the extent permitted by the Director. 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 Director, 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 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.

(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

[1] See References in Text note below.

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 [15 U.S.C. 77d(5)]; 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 Director 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 Director 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.

(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 under this paragraph shall not exceed 10 percent of the assets of the Federal savings association.

(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) of this section.

(ii) Exception

The Director may permit a savings association to exceed the limitation set forth in clause (i) if the Director 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 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.

(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 Director. 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) Education loans

Loans made for the payment of educational expenses.

(B) 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.

(C) 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.

(D) 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) of this section 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],[3] 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)] 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.

(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)], a savings association acquires all or substantially all of the assets of a bank that is a member of the Bank Insurance Fund, the Director 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 Director may extend the 2-year period described in subparagraph (A) for not more

[2] So in original.

[3] See References in Text note below.

than 1 year at a time and not more than 2 years in the aggregate, if the Director determines that the extension is consistent with the purposes of this chapter.

(6) Definitions

As used in this subsection—

(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 Director) 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 Director 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 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. Except as otherwise provided, the Director 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 Director 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 Director 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 Director, 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 Director 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 Director 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 Director may—

(I) administer oaths and affirmations and examine and to[4] 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 subpenas 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 subpena.

(vi) In any proceeding under this section, the Director may administer oaths and affirmations, take depositions, and issue subpenas. The Director 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 re-

[4] So in original.

sides or carries on business, for enforcement of any subpena 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 subpenaed 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 Director 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 Director of the Office of Thrift Supervision may appoint a conservator or receiver for any insured savings association if the Director determines, in the Director's discretion, 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 Director shall have exclusive power and jurisdiction to appoint a conservator or receiver for a Federal savings association. If, in the opinion of the Director, a ground for the appointment of a conservator or receiver for a savings association exists, the Director 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 Director to remove such conservator or receiver, and the court shall upon the merits dismiss such action or direct the Director 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 Director 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 Director, 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 Director.

(ii) FDIC or RTC as conservator or receiver

Except as provided in section 21A of the Federal Home Loan Bank Act [12 U.S.C. 1441a], the Director, at the Director's discretion, may appoint the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, as conservator for a savings association. The Director shall appoint only the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, as appropriate, 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 Director 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 Director may, by regulation or otherwise, pro-

vide for the exercise of functions by members, stockholders, directors, or officers of a savings association during conservatorship and receivership.

(B) FDIC or RTC as conservator or receiver

In any case where the Federal Deposit Insurance Corporation or the Resolution Trust Corporation is the conservator or receiver, any regulations prescribed by the Director 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 Director 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 Director 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 Director 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 Director 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 Director,

the Director 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.

(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 Director 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

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 [12 U.S.C. 1421 et seq.] with respect to other members.

(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 Director 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 Director

(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 Director.

(B) Any aggrieved person may obtain review of a final action of the Director 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 Director, 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 Director 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 Director 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 Director 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 Director, 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.

(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 trust-

ee 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 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 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 Director, 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 Director as a branch within the meaning of such sentence.

(n) Trusts

(1) Permits

The Director 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 Director, 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 Director 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 Director.

(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 Director 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 Director 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 Director 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 Director, 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 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 Director, such Federal savings association (i) shall no longer be subject to the provisions of this section or the regulations of the Director 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 Director 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 Director, 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 Director 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) of this section, 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 Director 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 Director shall find that any allegation specified in the notice of charges has been established, the Director 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 Director or a reviewing court.

(*o*) Conversion of State savings banks

(1) Subject to the provisions of this subsection and under regulations of the Director, the Director may authorize the conversion of a State-chartered savings bank that is a Bank Insurance Fund member 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 a Bank Insurance Fund member until such time as it changes its status to a Savings Association Insurance Fund member.

(B) The Director 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 Director's determination 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 Director, 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 Director 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 Director, 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 Director 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 Director.

(2) Authorizations under this subsection may be made only—

(A) if the Director 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 Director 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.

(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)[5] of that section on institutions seeking so to qualify. 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).

(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 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

(D) the branch was operated lawfully as a branch under State law prior to the association's conversion to a Federal charter.

(3) The Director, 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 Director 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 Director determines to be appropriate.

(2) Minimum capital levels may be determined by Director case-by-case

The Director may, consistent with subsection (t) of this section, establish the minimum level of capital for a savings association at such amount or at such ratio of capital-to-assets as the Director 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 Director's discretion, the Director may treat the failure of any savings association to maintain capital at or above the minimum level required by the Director under this subsection or subsection (t) of this section 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 Director may issue a directive requiring any savings association which fails to maintain capital at or above the minimum level required by the Director to submit and adhere to a plan for increasing capital which is acceptable to the Director.

(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 Director 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 Director's approval 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 Director; and

(B) disapprove any proposal referred to in subparagraph (A) if the Director 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 Director 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.

[5] So in original. Probably should be subparagraph ''(C)''.

(D) Deadline for regulations

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.

(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) Transition rule

(A) Certain qualifying supervisory goodwill included in calculating core capital

Notwithstanding paragraph (9)(A), an eligible savings association may include qualifying supervisory goodwill in calculating core capital. The amount of qualifying supervisory goodwill that may be included may not exceed the applicable percentage of total assets set forth in the following table:

For the following period:	The applicable percentage is:
Prior to January 1, 1992	1.500 percent
January 1, 1992–December 31, 1992	1.000 percent
January 1, 1993–December 31, 1993	0.750 percent
January 1, 1994–December 31, 1994	0.375 percent
Thereafter	0 percent

(B) Eligible savings associations

For purposes of subparagraph (A), a savings association is an eligible savings association so long as the Director determines that—

(i) the savings association's management is competent;

(ii) the savings association is in substantial compliance with all applicable statutes, regulations, orders, and supervisory agreements and directives; and

(iii) 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.

(4) Special rules for purchased mortgage servicing rights

(A) In general

Notwithstanding paragraphs (1)(C) and (9), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the leverage limit and risk-based capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

(B) Tangible capital requirement

Notwithstanding paragraphs (1)(C) and (9)(C), the standards prescribed under paragraph (1) may permit a savings association to include in calculating capital for the purpose of the tangible capital requirement prescribed under paragraph (1), on terms no less stringent than under both the capital standards applicable to State nonmember banks and (except as to the amount that may be included in calculating capital) the capital standards applicable to national banks, 90 percent of the fair market value of readily marketable purchased mortgage servicing rights.

(C) Percentage limitation prescribed by FDIC

Notwithstanding paragraph (1)(C) and subparagraphs (A) and (B) of this paragraph—

(i) for the purpose of subparagraph (A), the maximum amount of purchased mortgage servicing rights that may be included in calculating capital under the leverage limit and the risk-based capital requirement prescribed under paragraph (1) may not exceed the amount that could be included if the savings association were an insured State nonmember bank; and

(ii) for the purpose of subparagraph (B), the Corporation shall prescribe a maximum percentage of the tangible capital requirement that savings associations may satisfy by including purchased mortgage servicing rights in calculating such capital.

(D) Quarterly valuation

The fair market value of purchased mortgage servicing rights shall be determined not less often than quarterly.

(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 Corporation, in its sole discretion, 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) Transition rule

(i) Inclusion in capital

Notwithstanding subparagraph (A), if a savings association's subsidiary was, as of April 12, 1989, engaged in activities not permissible for a national bank, the savings association may include in calculating capital the applicable percentage (set forth in clause (ii)) of the lesser of—

(I) the savings association's investments in and extensions of credit to the subsidiary on April 12, 1989; or

(II) the savings association's investments in and extensions of credit to the subsidiary on the date as of which the savings association's capital is being determined.

(ii) Applicable percentage

For purposes of clause (i), the applicable percentage is as follows:

For the following period:	The applicable percentage is:
Prior to July 1, 1990	100 percent
July 1, 1990–June 30, 1991	90 percent
July 1, 1991–October 31, 1992	75 percent
November 1, 1992–June 30, 1993	60 percent
July 1, 1993–June 30, 1994	40 percent
Thereafter	0 percent

(iii) Agency discretion to prescribe greater percentage

Subject to clauses (iv), (v), and (vi), the Director may prescribe by order, with respect to a particular qualified savings association, an applicable percentage greater than that provided in clause (ii) if the Director determines, in the Director's sole discretion, that the use of the greater percentage, under the circumstances—

(I) would not constitute an unsafe or unsound practice;

(II) would not increase the risk to the affected deposit insurance fund; and

(III) would not be likely to result in the association's being in an unsafe or unsound condition.

(iv) Substantial compliance with approved capital plan

In the case of a savings association which is subject to a plan submitted under paragraph (7)(D) of this subsection or an order issued under this subsection, a directive issued or plan approved under subsection (s) of this section, or a capital restoration plan approved or order issued under section 38 or 39 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*, 1831p–1], an order issued under clause (iii) with respect to the association shall be effective only so long as the association is in substantial compliance with such plan, directive, or order.

(v) Limitation on investments taken into account

In prescribing the amount by which an applicable percentage under clause (iii) may exceed the applicable percentage under clause (ii) with respect to a particular qualified savings association, the Director may take into account only the sum of—

(I) the association's investments in, and extensions of credit to, the subsidiary that were made on or before April 12, 1989; and

(II) the association's investments in, and extensions of credit to, the subsidiary that were made after April 12, 1989, and were necessary to complete projects initiated before April 12, 1989.

(vi) Limit

The applicable percentage limit allowed by the Director in an order under clause (iii) shall not exceed the following limits:

For the following period:	The limit is:
Prior to July 1, 1994	75 percent
July 1, 1994 through June 30, 1995	60 percent
July 1, 1995 through June 30, 1996	40 percent
After June 30, 1996	0 percent

(vii) Critically undercapitalized institution

In the case of a savings association that becomes critically undercapitalized (as defined in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*]) as determined under this subparagraph without applying clause (iii), clauses (iii) through (v) shall be applied by substituting ''Corporation'' for ''Director'' each place such term appears.

(viii) "Qualified savings association" defined

For purposes of clause (iii), the term ''qualified savings association'' means an

eligible savings association (as defined in paragraph (3)(B)) which is subject to this paragraph solely because of the real estate investments or other real estate activities of the association's subsidiary, and—

(I) is adequately capitalized (as defined in section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*]); or

(II) is in compliance with an approved capital restoration plan meeting the requirements of section 38 of the Federal Deposit Insurance Act [12 U.S.C. 1831*o*], and is not critically undercapitalized (as defined in such section).

(ix) FDIC's discretion to prescribe lesser percentage

The Corporation may prescribe by order, with respect to a particular savings association, an applicable percentage less than that provided in clause (ii) or prescribed under clause (iii) if the Corporation determines, in its sole discretion, that the use of a greater percentage would, under the circumstances, constitute an unsafe or unsound practice or be likely to result in the association's being in an unsafe or unsound condition.

(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) Prior to January 1, 1991

Prior to January 1, 1991, the Director—

(i) may restrict the asset growth of any savings association not in compliance with capital standards; and

(ii) shall, beginning 60 days following the promulgation of final regulations under this subsection, require any savings association not in compliance with capital standards to submit a plan under subsection (s)(4)(A) of this section that—

(I) addresses the savings association's need for increased capital;

(II) describes the manner in which the savings association will increase its capital so as to achieve compliance with capital standards;

(III) specifies the types and levels of activities in which the savings association will engage;

(IV) requires any increase in assets to be accompanied by an increase in tangible capital not less in percentage amount than the leverage limit then applicable;

(V) requires any increase in assets to be accompanied by an increase in capital not less in percentage amount than required under the risk-based capital standard then applicable; and

(VI) is acceptable to the Director.

(B) On or after January 1, 1991

On or after January 1, 1991, the Director—

(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 Director (which may include such restrictions, including restrictions on the payment of dividends and on compensation, as the Director determines to be appropriate).

(C) Limited growth exception

The Director 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 Director's prior approval;

(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 Director's discretion 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 Director may restrict the asset growth of any savings association that the Director determines is taking excessive risks or paying excessive rates for deposits.

(E) Failure to comply with plan, regulation, or order

The Director shall 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 Director under other provisions 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 Director for an exemption from any applicable sanction or penalty for noncompliance which the Director may impose under this chapter.

(B) Effect of grant of exemption

If the Director approves any savings association's application under subparagraph (A), the only sanction or penalty to be imposed by the Director 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 Director may approve an application for an exemption if the Director determines that—

(I) such exemption would pose no significant risk to the affected 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 Director shall deny any application submitted under clause (i) and revoke any prior approval granted with respect to any such application if the Director 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 Director.

(E) Failure to comply with plan

The Director 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 Director 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) Temporary authority to make exceptions for eligible savings associations

(A) In general

Notwithstanding paragraph (1)(C), the Director may, by order, make exceptions to the capital standards prescribed under paragraph (1) for eligible savings associations. No exception under this paragraph shall be effective after January 1, 1991.

(B) Standards for approval or disapproval

In determining whether to grant an exception under subparagraph (A), the Director shall apply the same standards as apply to determinations under paragraph (7)(C).

(9) Definitions

For purposes of this subsection—

(A) Core capital

Unless the Director 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, 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).

(B) Qualifying supervisory goodwill

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.

(C) Tangible capital

The term ''tangible capital'' means core capital minus any intangible assets (as intangible assets are defined by the Comptroller of the Currency for national banks).

(D) 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 Director 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; or

(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 purchase price of each single family dwelling unit the development of which is financed under this clause does not exceed $500,000;

(II) the savings association is and continues to be in compliance with the fully phased-in capital standards prescribed under subsection (t) of this section;

(III) the Director, by order, permits the savings association to avail itself of the higher limit provided by this clause;

(IV) 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

(V) 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 Director may impose more stringent restrictions on a savings association's loans to one borrower if the Director 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 Director which shall be in a form prescribed by the Director 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 Director 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 Director 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, the Savings Association Insurance Fund; or

(ii) that public disclosure would not otherwise be in the public interest.

(B) Any determination made by the Director under subparagraph (A) not to permit the public disclosure of information shall be made in writing, and if the Director restricts any item of information for savings institutions generally, the Director shall disclose the reason in detail in the Federal Register.

(C) The Director's determinations 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 Director under paragraph (1) or (2), within the period of time specified by the Director; 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 preponderence[6] 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 Director under paragraph (1) or (2), within the period of time specified by the Director; 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 Director 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 Director 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 Director 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 Director shall issue to the savings association a notice of the Director's intention 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 Director may issue to the savings association a notice of the Director's intention to terminate all rights, privileges, and franchises of the savings association and schedule a pretermination hearing.

(C) Judicial review

Subsection (d)(1)(B)(vii) of this section 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 Director shall take into account the following factors:

(A) The extent to which directors or senior executive officers of the savings association knew of, were[7] 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

[6] So in original. Probably should be ''preponderance''.

[7] So in original. Probably should be ''or were''.

under section 32(f) of the Federal Deposit Insurance Act [12 U.S.C. 1831i(f)].

(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; Sept. 2, 1958, Pub. L. 85–857, § 13(f), 72 Stat. 1264; Sept. 23, 1959, Pub. L. 86–372, title VIII, § 805, 73 Stat. 687; June 11, 1960, Pub. L. 86–507, § 1(11), 74 Stat. 200; June 30, 1961, Pub. L. 87–70, title IX, § 901, 75 Stat. 189; Oct. 9, 1962, Pub. L. 87–779, § 1, 76 Stat. 778; Oct. 16, 1962, Pub. L. 87–834, § 6(e)(1), 76 Stat. 984; Sept. 2, 1964, Pub. L. 88–560, title IX, §§ 901(a), 902–905, 907, 908, 910, 78 Stat. 804–806; Aug. 10, 1965, Pub. L. 89–117, title II, § 201(b)(3), title XI, § 1110(a)–(c), 79 Stat. 465, 507; Oct. 16, 1966, Pub. L. 89–695, title I, § 101(a), 80 Stat. 1028; Aug. 1, 1968, Pub. L. 90–448, title III, § 304(b), title IV, § 416(c), title VIII, §§ 804(e), 807(m), title XVII, § 1716, 82 Stat. 508, 518, 543, 545, 608; Sept. 21, 1968, Pub. L. 90–505, § 5, 82 Stat. 858; Oct. 16, 1968, Pub. L. 90–575, title I, § 118(b), 82 Stat. 1026; Dec. 24, 1969, Pub. L. 91–152, title IV, § 416(b), 83 Stat. 401; July 24, 1970, Pub. L. 91–351, title VII, §§ 706, 708, 709, 84 Stat. 462, 463; Dec. 31, 1970, Pub. L. 91–609, title VII, § 727(d), title IX, § 907(b), (c), 84 Stat. 1803, 1811; June 23, 1972, Pub. L. 92–318, title I, § 133(c)(3), 86 Stat. 270; Aug. 16, 1973, Pub. L. 93–100, § 5(b), 87 Stat. 343; Aug. 22, 1974, Pub. L. 93–383, title VII, §§ 702–706, title VIII, §§ 802(i)(2), 805(c)(4), 88 Stat. 715, 716, 725, 727; Oct. 18, 1974, Pub. L. 93–449, § 4(d), 88 Stat. 1367; Oct. 28, 1974, Pub. L. 93–495, title I, § 101(e), 88 Stat. 1502; July 25, 1975, Pub. L. 94–60, 89 Stat. 301; Aug. 3, 1976, Pub. L. 94–375, § 22, 90 Stat. 1078; Oct. 12, 1977, Pub. L. 95–128, title IV, §§ 401–405, 91 Stat. 1136, 1137; Oct. 28, 1977, Pub. L. 95–147, § 2(a), 91 Stat. 1227; Nov. 10, 1978, 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, 92 Stat. 3651, 3655, 3659, 3662, 3668, 3675, 3710, 3711, 3714; Dec. 21, 1979, Pub. L. 96–153, title III, §§ 325, 326, 93 Stat. 1121; Dec. 28, 1979, Pub. L. 96–161, title I, § 102, 93 Stat. 1233; Mar. 31, 1980, Pub. L. 96–221, title III, §§ 304, 307, title IV, §§ 401–404, 407(a), 408, 94 Stat. 146, 147, 151, 155, 156, 158–160; Oct. 15, 1982, 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), 96 Stat. 1471, 1475, 1479, 1489, 1492, 1496, 1497, 1499–1504, 1507, 1522–1524; Jan. 12, 1983, Pub. L. 97–457, §§ 2, 12, 14(a)(1), (b), 96 Stat. 2507, 2508; Oct. 3, 1984, Pub. L. 98–440, title I, § 105(a), 98 Stat. 1691; Nov. 8, 1984, Pub. L. 98–620, title IV, § 402(9), 98 Stat. 3357; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095; Oct. 27, 1986, Pub. L. 99–570, title I, § 1359(b), 100 Stat. 3207–27; Aug. 10, 1987, Pub. L. 100–86, title IV, §§ 406(a), 413(a), title V, § 509(a), 101 Stat. 614, 621, 635; Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 282; Dec. 19, 1991, Pub. L. 102–242, title I, §§ 131(d), 133(d), title IV, § 441, title V, § 501(c), 105 Stat. 2267, 2271, 2381, 2391; July 1, 1992, Pub. L. 102–310, 106 Stat. 276; Oct. 28, 1992, Pub. L. 102–550, title IX, § 953, title XV, § 1502(b), title XVI, §§ 1603(d)(8), 1606(f)(1)–(3), 106 Stat. 3893, 4046, 4080, 4088; Sept. 23, 1994, Pub. L. 103–325, title II, § 206(a), title III, § 322(b), title IV, § 411(c)(2)(D), 108 Stat. 2199, 2227, 2253.)

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, as amended, 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, as amended, 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, as amended. 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 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, as amended. 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, as amended, 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.

The Housing and Community Development Act of 1974, referred to in subsec. (c)(3)(B), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. 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].

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, as amended, 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.

The Federal Home Loan Bank Act, referred to in subsec. (f), is act July 22, 1932, ch. 522, 47 Stat. 725, as amended, which is classified generally to chapter 11 (§1421 et seq.) of this title. For complete classification of this Act to the Code, see section 1421 of this title and Tables.

AMENDMENTS

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 ''ac-

counts'' 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 66⅔ 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 subparagraph (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 subparagraphs (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 subsubsection'' 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 depositary 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).

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.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1603(d)(8) of Pub. L. 102–550 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

Section 131(f) of Pub. L. 102–242 provided that: ''The amendments made by this section [enacting section 1831*o* 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

Section 14(a)(2) of Pub. L. 97–457 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, section 141 of Pub. L. 97–320, 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

Amendment by section 304 of Pub. L. 96–221 effective at close of Mar. 31, 1980, see section 306 of Pub. L. 96–221, set out as a note under section 371a of this title.

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, 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

Section 101(b) of Pub. L. 89–695 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 section 401 of Pub. L. 89–695 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

Section 6(g)(4) of Pub. L. 87–834, 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 section 313(j) of act Oct. 20, 1951.

Section 615 of act Oct. 20, 1951, 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

Section 701 of title VII of Pub. L. 93–383 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

Section 1 of Pub. L. 89–695 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

Section 1364(e) of Pub. L. 99–570 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].''

TRANSITIONAL RULES REGARDING CERTAIN LOANS

Section 305(a), (b) of Pub. L. 101–73 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) LOANS SECURED BY NONRESIDENTIAL REAL PROPERTY.—

''(1) IN GENERAL.—The Director of the Office of Thrift Supervision may, by order, permit a Federal savings association to exceed the limitation set forth in section 5(c)(2)(B)(i) of the Home Owners' Loan Act [12 U.S.C. 1464(c)(2)(B)(i)] during the period beginning on the date of enactment of this Act [Aug. 9, 1989] and ending on June 1, 1991, if the Director determines that—

''(A) there is a reasonable prospect that the savings association can be in compliance, not later than June 1, 1991, with the capital standards prescribed under section 5(t) of the Home Owners' Loan Act; and

''(B) the increased authority—

''(i) is consistent with prudent operating practices, and

''(ii) is in accordance with a plan submitted by the savings association for—

''(I) an orderly transition to compliance with section 5(c)(2)(B)(i), or

''(II) an orderly conversion to a bank charter.

''(2) OTHER EXEMPTIVE AUTHORITY NOT AFFECTED.—The authority granted by paragraph (1) is in addition to any authority of the Director under section 5(c)(2)(B)(ii) of the Home Owners' Loan Act.''

EXTENSION OF EMERGENCY ACQUISITION AND NET WORTH GUARANTEE PROVISIONS OF PUB. L. 97–320

Section 509(c) of Pub. L. 100–86 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.''

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.

FEDERAL RULES OF CIVIL PROCEDURE

Declaratory judgments, see rule 57, Title 28, Appendix, Judiciary and Judicial Procedure.

Injunctions, see rule 65 of Title 28, Appendix.

CROSS REFERENCES

Declaratory judgments, see sections 2201 and 2202 of Title 28, Judiciary and Judicial Procedure.

Definition of State and State housing corporation, see section 1470 of this title.

Investment in shares or accounts of Federal savings associations by Federal credit unions, see section 1757 of this title.

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1462, 1463, 1467, 1467a, 1817, 1818, 1821, 1823, 1828, 1831e, 1831*o* of this title; title 15 sections 18a, 78*o*–5; title 31 sections 3121, 9110.

§ 1465. Liquid asset requirements

(a) In general

The purpose of this section is to provide a means for creating effective and flexible liquidity in savings associations which can be increased when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency. More flexible liquidity will help support sound mortgage credit and a more stable supply of such credit.

(b) Maintenance of account

(1) In general

Every savings association shall maintain the aggregate amount of its assets of the following types at not less than such amount as, in the opinion of the Director, is appropriate:

(A) cash;

(B) balances maintained in a Federal reserve bank or passed through a Federal home loan bank or another depository institution to a Federal reserve bank pursuant to the Federal Reserve Act [12 U.S.C. 221 et seq.]; and

(C) to such extent as the Director may approve for the purposes of this section—

(i) time and savings deposits in Federal home loan banks, institutions which are, or are eligible to become, members thereof, and commercial banks;

(ii) such obligations, including such special obligations, of the United States, a State, any territory or possession of the United States, or a political subdivision, agency, or instrumentality of any one or more of the foregoing, and bankers' acceptances, as the Director may approve;

(iii) shares or certificates of any open-end management investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 [15 U.S.C. 80a–1 et seq.] and the portfolio of which is restricted by such investment company's investment policy, changeable only if authorized by shareholder vote, solely to any of the obligations or other investments enumerated in subparagraph (A) and in clauses (i), (ii), (iv), (v), (vi), and (vii) of this subparagraph;

(iv) liquid, highly rated corporate debt obligations with 3 years or less remaining until maturity;

(v) highly rated commercial paper with 270 days or less remaining until maturity;

(vi) mortgage related securities (as that term is defined in section 3(a)(41) of the Securities Exchange Act of 1934 [15 U.S.C. 78c(a)(41)])—

(I) that have one year or less remaining until maturity; or

(II) that are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the securities within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.]; and

(vii) mortgage loans on the security of a first lien on residential real property, if the mortgage loans qualify as backing for mortgage-backed securities issued by the Federal National Mortgage Association or the Federal Home Loan Mortgage Association or guaranteed by the Government National Mortgage Association, and either—

(I) the mortgage loans have one year or less remaining until maturity, or

(II) the mortgage loans are subject to an agreement (including a repurchase agreement, put option, right of redemption, or takeout commitment) that requires another person to purchase the loans within a period that does not exceed one year, and that person is an insured depository institution (as defined in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813]) that is in compliance with applicable capital standards, a primary dealer in United States Government securities, or a broker or dealer registered under the Securities Exchange Act of 1934 [15 U.S.C. 78a et seq.].

(2) Limitation

The requirement prescribed by the Director pursuant to this subsection (hereafter in this section referred to as the ''liquidity requirement'') may not be less than 4 percent or more than 10 percent of the obligation of the institution on withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less. The Director shall prescribe regulations to implement the provisions of this subsection.

(c) Calculation

The amount of any savings association's liquidity requirement, and any deficiency in compliance therewith, shall be calculated as the Director shall prescribe. The Director may prescribe different liquidity requirements, within the limitations specified herein, for different classes of savings associations, and for such purposes the Director is authorized to classify savings associations according to type, size, location, rate of withdrawals, or on such other basis or bases of differentiation as the Director may deem to be reasonably necessary or appropriate for the purposes of this section.

(d) Deficiency assessments

For any deficiency in compliance with the liquidity requirements, the Director may, in the Director's discretion, assess a penalty consisting of the payment by the institution of such sum as may be assessed by the Director but not in excess of a rate equal to the highest rate on Federal home loan bank advances of one year or less, plus 2 percent per year, on the amount of the deficiency for the period with respect to which the deficiency existed. Any penalty assessed under this subsection against a savings association shall be paid to the Director. The Director may authorize or require that, at any time before collection thereof, and whether before or after the bringing of any action or other legal proceeding, the obtaining of any judgment or other recovery, or the issuance or levy of any execution or other legal process therefor, and with or without consideration, any such penalty or recovery be compromised, remitted, or mitigated in whole or part. The penalties authorized under this subsection are in addition to all remedies and sanctions otherwise available.

(e) Reduction or suspension

Whenever the Director deems it advisable in order to enable a savings association to meet withdrawals or to pay obligations, the Director may, to such extent and subject to such conditions as the Director may prescribe, permit the savings association to reduce its liquidity below the minimum amount. Whenever the Director determines that conditions of national emergency or unusual economic stress exist, the Director may suspend any part or all of the liquidity requirements hereunder for such period as the Director may prescribe. Any such suspension, unless sooner terminated by its terms or by the Director, shall terminate at the expiration of 90 days next after its commencement. The preceding sentence does not prevent the Director from again exercising, before, at, or after any such termination, the authority conferred by this subsection.

(f) Regulating authority

The Director is authorized to issue such regulations, including definitions of terms used in this section, to make such examinations, and to conduct such investigations as the Director deems necessary or appropriate to effectuate the purposes of this section. The reasonable cost of any such examination or investigation, as determined by the Director, shall be paid by the association.

(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; Aug. 9, 1989, Pub. L. 101–73, title III, §301, 103 Stat. 313.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in subsec. (b)(1)(B), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, 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.

The Investment Company Act of 1940, referred to in subsec. (b)(1)(C)(iii), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, 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.

The Securities Exchange Act of 1934, referred to in subsec. (b)(1)(C)(vi)(II), (vii)(II), is act June 6, 1934, ch. 404, 48 Stat. 881, as amended, which is classified principally to chapter 2B (§ 78a et seq.) of Title 15. For complete classification of this Act to the Code, see section 78a of Title 15 and Tables.

AMENDMENTS

1989—Pub. L. 101–73 amended section generally, substituting subsecs. (a) to (f) relating to liquid asset requirements for former undesignated paragraph relating to encouragement of saving and home financing.

1935—Act May 28, 1935, substituted ''$700,000'' for ''$500,000'' in second sentence, and inserted last sentence.

1934—Act Apr. 27, 1934, inserted second and third sentences.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1464 of this title.

§ 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; June 25, 1959, Pub. L. 86–70, § 9(b), 73 Stat. 142; July 12, 1960, Pub. L. 86–624, § 5(b), 74 Stat. 411; Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 315.)

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 Director 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 Director 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 Director may by regulation or otherwise provide.

(d) Limitation

Nothing in this section shall cause, or permit the Director to cause, District of Columbia associations to be or become Federal savings associations, or require the Director 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 Dec. 31, 1970, Pub. L. 91–609, title IX, § 913, 84 Stat. 1815; amended Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 315.)

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

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 section 78c.

§ 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 the Director against each such savings association as the Director 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 Director against each affiliate that is examined as the Director 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) of this section; or

(B) fails to pay any such assessment before the end of the 60-day period beginning on the date of the assessment,

the Director 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 Director 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 Director 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 Director, in the manner provided in section 8(i)(2) of the Federal Deposit Insurance Act [12 U.S.C. 1818(i)(2)].

(e) Regulations

Only the Director 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 Director or the Director's designee.

(f) Collection through FDIC or Federal home loan banks

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.

(g) Costs of other examinations

(1) Examination of fiduciary activities

In addition to any assessment imposed pursuant to subsection (a) of this section, 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 Director 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 Director, or the Corporation, as the case may be, 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) of this section, by the Director 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 Director 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 Director may require.

(i) Treatment of examination assessments

(1) Deposits

Amounts received by the Director from assessments under this section (other than an assessment under subsection (d)(2) of this section) 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 Director 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 Director 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 Director may, in the Director's sole discretion, assess against any person that submits to the Director an application, filing, notice, or request a fee to cover the cost of processing such submission.

(k) Fees for examinations and supervisory activities

The 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 [12 U.S.C. 1813], fees to fund the direct and indirect expenses of the Office as the Director deems necessary or appropriate. The fees may be imposed more frequently than annually at the discretion of the Director.

(*l*) Working capital

The Director 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 Director to maintain a working capital fund. The Director 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 Director 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 adminis-

trative 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 Aug. 10, 1987, Pub. L. 100–86, title IV, § 402(a), 101 Stat. 605; amended Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 316; Dec. 19, 1991, Pub. L. 102–242, title I, § 114(c), 105 Stat. 2248.)

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

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.

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

Section 402(c) of Pub. L. 100–86 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

Section 402(d) of Pub. L. 100–86 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1817 of this title.

§ 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 Director to be a savings association under subsection (*l*) of this section.

(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 com-

pany, 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

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.

(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 Director.

(G) Subsidiary

The term ''subsidiary'' has the same meaning as in section 3 of the Federal Deposit Insurance Act [12 U.S.C. 1813].

(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 13(f)(8) of the Federal Deposit Insurance Act [12 U.S.C. 1823(f)(8)].

(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 Director 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 Director) 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 Director under subsection (q)(1)(D) of this section, 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 Direc-

tor on forms prescribed by the Director, 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 Director may deem necessary or appropriate to carry out the purposes of this section. Upon application, the Director may extend the time within which a savings and loan holding company shall register and file the requisite information.

(2) Reports

Each savings and loan holding company and each subsidiary thereof, other than a savings association, shall file with the Director, and the regional office of the Director of the district in which its principal office is located, such reports as may be required by the Director. Such reports shall be made under oath or otherwise, and shall be in such form and for such periods, as the Director may prescribe. Each report shall contain such information concerning the operations of such savings and loan holding company and its subsidiaries as the Director may require.

(3) Books and records

Each savings and loan holding company shall maintain such books and records as may be prescribed by the Director.

(4) Examinations

Each savings and loan holding company and each subsidiary thereof (other than a bank) shall be subject to such examinations as the Director 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 Director to the appropriate State supervisory authority. The Director 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.

(5) Agent for service of process

The Director 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 Director may at any time, upon the Director's own motion or upon application, release a registered savings and loan holding company from any registration theretofore made by such company, if the Director 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 of Governors of the Federal Reserve System, 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 Director, 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 Director pursuant to subsection (q)(1)(D) of this section.

(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) of this section); 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 13(c) or 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)] or section 408(m)[1] 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 13(i) of the Federal Deposit Insurance Act; and

(ii) all of the savings association subsidiaries of such company are qualified thrift lenders (as determined under subsection (m) of this section).

(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 Director.

(B) Factors to be considered by Director

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 Director 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) Director may differentiate between new and ongoing activities

In prescribing any regulation or considering any application under this paragraph, the Director 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 Director shall be made in an order issued by the Director 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 Director 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 13(c) or 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)] or section 406(f) or 408(m)[1] 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

[1] See References in Text note below.

which such savings association conducts business after March 5, 1987 (other than an increase which occurs in connection with a transaction under section 13(c) or (k) of the Federal Deposit Insurance Act or section 408(m)[2] 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 by Director to terminate subparagraph (B) activity

Any activity described in subparagraph (B) may also be terminated by the Director, after opportunity for hearing, if the Director determines, having due regard for the purposes of this title,[3] 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.

(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 Director, 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 Director, 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 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) of this section), to so acquire or retain 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) of this section. 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 Director may permit if the Director determines that such an extension will not be detrimental to the public interest;

(VI) acquired under section 408(m)[4] of the National Housing Act [12 U.S.C. 1730a(m)] or section 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(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);

(VIII) acquired pursuant to a qualified stock issuance if such purchase is approved by the Director under subsection (q)(1)(D) of this section;

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

[2] See References in Text note below.

[3] So in original. Act June 13, 1933, which is classified to this chapter, does not contain titles.

[4] See References in Text note below.

the Director 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 Director finds such extension is warranted and is not detrimental to the public interest;

(B) any other company, without the prior written approval of the Director, 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, or (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. The Director shall approve an acquisition of a savings association under this subparagraph unless the Director 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 Savings Association Insurance Fund or Bank Insurance Fund, and shall render a decision within 90 days after submission to the Director 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 Director 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 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)], except in accordance with this paragraph. In every case, the Director 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 Savings Association Insurance Fund or the Bank 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 Director 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 13(k) of the Federal Deposit Insurance Act, the Director shall request from the Attorney General and consider any report rendered within 30 days on the competitive factors involved. The Director 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 Director that the company will make available to the Director such information on the operations or activities of the company, and any affiliate of the company, as the Director determines to be appropriate to determine and enforce compliance with this chapter, or

(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.

(3) Interstate acquisitions

No acquisition shall be approved by the Director 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 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(k)];

(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) of this section, 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 Director.

(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) of this section 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 (1)[5] 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) of this section.

(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 Director 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 Director 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.

(f) Declaration of dividend

Every subsidiary savings association of a savings and loan holding company shall give the Director 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 Director. Any such dividend declared within such period, or without the giving of such notice to the Director, 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 Director is authorized to issue such regulations and orders as the Director deems necessary or appropriate to enable the Director to administer and carry out the purposes of this section, and to require compliance therewith and prevent evasions thereof.

(2) Investigations

The Director may make such investigations as the Director 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 Director may administer oaths and affirmations, issue subpenas, 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 Director 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 subpenaed resides or carries on business, for enforcement of any subpena 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) of this section or under paragraph (5) of this section,[6] the Director may administer oaths and affirmations, take or cause to be taken depositions, and issue subpenas. The Director 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 sub-

[5] So in original. Probably should be subsection "(*l*)".

[6] So in original. Probably should be "subsection,".

pena issued pursuant to this paragraph, and such courts shall have jurisdiction and power to order and require compliance therewith. Witnesses subpenaed 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) of this section or under paragraph (5) of this section[7] 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 Director 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 Director 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 Director may, whenever the Director 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 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], 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 Director 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 Director may in the Director's discretion 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) of this section, 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 Director pursuant to subsection (e)(4) of this section; or

(3) any individual, except with the prior approval of the Director, 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 Director 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)[8] 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 Director in the manner provided in subpara-

[7] So in original. Probably should be ''subsection''.

[8] See Codification note below.

graphs (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 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 8(h) of the Federal Deposit Insurance Act 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 Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

(3)[8] 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 Director 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 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 8(h) of the Federal Deposit Insurance Act 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 Director shall prescribe regulations establishing such procedures as may be necessary to carry out this paragraph.

(4) Redesignated (3)

(5) 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 3(u) of the Federal Deposit Insurance Act [12 U.S.C. 1813(u)]) 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 Director 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 Director 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 Director be modified, terminated, or set aside. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Director, and thereupon the Director 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 Director. 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 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823], 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 3(g) of the Federal Deposit Insurance Act [12 U.S.C. 1813(g)]) and a cooperative bank that is an insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) upon application shall be deemed to be a savings association for the purpose of this section, if the Director determines that such bank is a qualified thrift lender (as determined under subsection (m) of this section).

(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 Director, 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's qualified thrift investments equal or exceed 65 percent of the savings association's portfolio assets; and

(B) 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 Director

Notwithstanding paragraph (1), the Director may grant such temporary and limited exceptions from the minimum actual thrift investment percentage requirement contained in such paragraph as the Director deems necessary if—

(A) the Director 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 Director determines that—

(i) the grant of any such exception will significantly facilitate an acquisition under section 13(c) or 13(k) of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)];

(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 Director determines that 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 either become one or more banks (other than a savings bank) or be subject to subparagraph (B), except as provided in subparagraph (D).

(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) Advances

The savings association shall not be eligible to obtain new advances from any Federal home loan bank.

(IV) Dividends

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.

(ii) Additional restrictions effective after three years

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.

(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 8 of the Federal Deposit Insurance Act [12 U.S.C. 1818], 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) Deposit insurance assessments

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 [12 U.S.C. 1811 et seq.]. 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 [12 U.S.C. 1815(d)]. 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.

(F) Exemption for specialized savings association serving transient military personnel

Subparagraph (A) shall not apply to a savings association subsidiary of a savings and loan holding company if—

(i) the savings and loan holding company is a reciprocal interinsurance exchange that acquired control of the insured institution before January 1, 1984; and

(ii) at least 90 percent of the customers of the savings and loan holding company and its subsidiaries and affiliates are active or former officers in the United States military services or the widows, widowers, divorced spouses, or current or former dependents of such officers.

(G) 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.

(H) 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 5(d) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)].

(4) Definitions

For purposes of this subsection—

(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, 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 asso-

ciation, 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.

(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 Director, 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, 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.

(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.

(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 period[9] ending on September 30, 1995.

(B) Subparagraph (B) requirements

A savings association meets the requirements of this subparagraph if, in the determination of the Director—

(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—

[9] So in original. Probably should be ''the period''.

(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 Director; 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 Director. The notice shall contain such relevant information as the Director shall require by regulation or by specific request in connection with any particular notice.

(B) Transaction allowed if not disapproved

Unless the Director 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 Director 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 Director, retain capital assets at the holding company level to the extent that such capital exceeds the association's capital requirement established by the Director pursuant to sections[10] 1464(s) and (t) of this title.

[10] So in original. Probably should be ''section''.

(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) of this section, except subparagraph (B).

(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 Director and shall be subject to

such regulations as the Director 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.

(p) Holding company activities constituting serious risk to subsidiary savings association

(1) Determination and imposition of restrictions

If the Director 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 Director may impose such restrictions as the Director 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 Director affirms, modifies, or rescinds the directive, such directive shall automatically lapse.

(B) Judicial review

If the Director 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 Director in accordance with the provisions of subsection (b)(1) of this section.

(D) Subject to paragraph (2), the Director 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 13 of the Federal Deposit Insurance Act [12 U.S.C. 1823(c) or (k)] or section 408(m)[11] 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 Director 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 Director or any other Federal agency having jurisdiction.

(B) Other conditions

Notwithstanding subsection (a)(4) of this section, the Director may impose such conditions on any approval of an application for the purchase of stock in connection with a qualified stock issuance as the Director 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 Director may require; and

(ii) such other conditions as the Director 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 Director if such application has not been disapproved by the Director before the end of the 90-day period beginning on the date such application has been deemed sufficient under regulations issued by the Director.

(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

[11] See References in Text note below.

or regulations prescribed by the Director, within the period of time specified by the Director; 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 preponderence[12] 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 Director, within the period of time specified by the Director; 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 Director 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 Director 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.

(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 8(h) of the Federal Deposit Insurance Act [12 U.S.C. 1818(h)] shall apply to any proceeding under this subsection.

(s) Mergers, consolidations, and other acquisitions authorized

(1) In general

Subject to sections 5(d)(3) and 18(c) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3), 1828(c)] 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 Director under section 5(d)(3) of the Federal Deposit Insurance Act [12 U.S.C. 1815(d)(3)] or any other applicable law or regulation shall be approved or disapproved in writing by the Director 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 Director determines that—

(i) an applicant has not furnished all of the information required to be submitted; or

(ii) in the Director's judgment, 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 Director 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.

[12] So in original. Probably should be ''preponderance''.

(June 13, 1933, ch. 64, §10, as added Aug. 10, 1987, Pub. L. 100–86, title IV, §404(a), 101 Stat. 609; amended Aug. 9, 1989, Pub. L. 101–73, title III, §§301, 303(a), title IX, §§905(j), 907(k), 103 Stat. 318, 343, 462, 475; Dec. 19, 1991, Pub. L. 102–242, title II, §211, title IV, §§437–440, title V, §502(a), 105 Stat. 2298, 2381, 2392; Oct. 28, 1992, Pub. L. 102–550, title XVI, §§1606(f)(4), 1607(b), 106 Stat. 4088, 4089.)

REFERENCES IN TEXT

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 antitrust laws, referred to in subsec. (k), are classified generally to chapter 1 (§1 et seq.) of Title 15, Commerce and Trade.

The Bank Holding Company Act of 1956, referred to in subsec. (m)(3)(C), is act May 9, 1956, ch. 240, 70 Stat. 133, as amended, 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 Federal Deposit Insurance Act, referred to in subsec. (m)(3)(E), is act Sept. 21, 1950, ch. 967, §2, 64 Stat. 873, as amended, 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.

The National Bank Act, referred to in subsec. (s)(5), is act June 3, 1864, ch. 106, 13 Stat. 99, as amended, 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

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).

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

Section 303(b) of Pub. L. 101–73 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 PROVISIONS

Section 302 of title III of Pub. L. 101–73 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 Director of the Office of Thrift Supervision 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.''

ASSOCIATIONS THAT HAVE PREVIOUSLY FAILED TO REMAIN QUALIFIED THRIFT LENDERS

Section 303(c) of Pub. L. 101–73 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

Section 404(c)–(e) of Pub. L. 100–86 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1430, 1462, 1464, 1467, 1468, 1813, 1817, 1823, 1841, 1843, 3204 of this title; title 7 section 6f; title 15 sections 18a, 77c, 78*o*–5, 78q.

§ 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 Director may impose such additional restrictions on any transaction between any savings association and any affiliate of such savings association as the Director 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 Director may impose such additional restrictions on loans or extensions of credit to any director 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 Director determines to be necessary to protect the safety and soundness of the savings association.

(c) Administrative enforcement

The Director 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.

(June 13, 1933, ch. 64, § 11, formerly § 9, 48 Stat. 135; Apr. 27, 1934, ch. 168, § 15, 48 Stat. 647; renumbered § 11, Aug. 10, 1987, Pub. L. 100–86, title IV, § 402(a), 101 Stat. 605; Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 342; Dec. 19, 1991, Pub. L. 102–242, title III, § 306(i), 105 Stat. 2359; Sept. 23, 1994, Pub. L. 103–325, title III, § 316, 108 Stat. 2223.)

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, as amended, 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

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 1831*o* 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.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 316(b) of Pub. L. 103–325 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

Section 304 of Pub. L. 101–73 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1467a, 1831e of this title.

§ 1468a. Advertising

No savings association shall carry on any sale, plan, or practices, or any advertising, in violation of regulations promulgated by the Director.

(June 13, 1933, ch. 64, § 12, as added Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 343.)

§ 1468b. Powers of examiners

For the purposes of this chapter, examiners appointed by the Director 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 Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 103 Stat. 343.)

REFERENCES IN TEXT

The Federal Reserve Act, referred to in par. (1), is act Dec. 23, 1913, ch. 6, 38 Stat. 251, as amended, 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), was incorporated into the Code as sections 21, 22 to 24, 26 to 29, 35 to 37, 39, 51, 52, 53, 56, 57, 59 to 62, 66, 71, 72 to 76, 81 to 91, 93, 94, 101a, 102, 104, 107 to 110, 123, 124, 131 to 138, 141 to 144, 151, 152, 161, 164, 168 to 175, 181 to 186, 192 to 196, 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.

§ 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 Aug. 9, 1989, Pub. L. 101–73, title III, § 301, 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.)

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.

EFFECTIVE DATE

Section 8 of Pub. L. 93–100 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].''

CROSS REFERENCES

Definition of State and State housing corporation, see section 1470 of this title.

§ 1470. Federal supervision of insured institutions, State member and nonmember banks; access to information; definitions

(a)(1) The 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 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 supervisory 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.)

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, as amended, 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.

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.

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.

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(b) Repayment.

1735f–20. Authorization of appropriations for general and special risk insurance funds.

1735g. Mortgage relief for homeowners who are unemployed as result of closing of Federal installation.
(a) Definitions.
(b) Application for, issuance and expiration of certificate of moratorium.
(c) Notice to mortgagee of assumption of mortgagor's obligation by agency; amount of payments; suspension of payments by mortgagor; prohibition against further action to enforce or collect payments; liability of mortgagor upon expiration of certificate; notice of expiration of certificate.
(d) Regulations.
(e) Fund for extending financial assistance to distressed mortgagors.

1735h. Repealed.

SUBCHAPTER VI—WAR HOUSING INSURANCE

1736. Definitions.

1737. Repealed.

1738. Insurance of mortgages.
(a) Relief of housing shortage; eligibility; limitations on time and amount.
(b) Eligibility requirements.
(c) Premium charges; payments; acceptance for insurance; preferences; adjustments and refunds.
(d) Conclusiveness of insurance contract as to eligibility.

1739. Mortgage insurance benefits.
(a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure.
(b) Consent to release of mortgagee or property.
(c) Debentures; form and denomination.

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(d) Debentures; execution; negotiability; terms; tax exemptions.
(e) Certificate of claim.
(f) Division of excess proceeds.
(g) Handling and disposal of property; settlement of claims.
(h) Mortgagor's or mortgagee's interest in property or claim conveyed.

1740. Repealed.

1741. State taxation of realty held by Secretary.

1742. Rules and regulations.

1743. Insurance of mortgages.
(a) Additional authorization; advances during construction.
(b) Eligibility requirements.
(c) Payments; default; insurance benefits for mortgagee; value of mortgage; foreclosure of mortgage.
(d) Certificates of claim; amount.
(e) Debentures; date of issuance; interest.
(f) Applicability of other provisions.
(g) Mortgages in connection with sale of property under subchapter I, II, VIII, or X of this chapter.

1744. Insurance of loans for manufacture of houses.
(a) Relief of housing shortage; advances.
(b) Eligibility requirements.
(c) Release of security.
(d) Payments; default; insurance benefits for mortgagee; prerequisites; value of mortgage.
(e) Debentures; date of issuance; interest.
(f) Applicability of other provisions.
(g) Disposal of evidence of debt, contract, claim, personal property, or security; collection or compromise of obligations and rights.
(h) Premium charges; amount; manner of payment; application fees.
(i) Insurance for accepting and discounting promissory notes; contract provisions; default in payments; remedies; debentures; interest; premium charges.

1745. Insurance of mortgages on sales of Government housing; limits and conditions; Greenbelt towns; State housing.

1746. Insurance on mortgages on large-scale housing projects.
(a) Additional authorization; encouragement of cost-reduction techniques; advances.
(b) Eligibility requirements.
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1746a. Termination of commitment authority under this subchapter.

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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.
(a) Acquisition of project by Secretary; issuance of debentures.
(b) Relinquishment of project by investor.
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(d) Termination of insurance contract by Secretary.
(e) Issuance and execution of debentures.
(f) Terms and conditions of debentures.
(g) Exemption from taxation; exceptions; guaranty.
(h) Payment of expenses and charges; collection of claims.
1747h. Termination of insurance contract by investor.
1747i. Repealed.
1747j. Taxation of real property.
1747k. Rules and regulations.
1747*l*. Definitions.

SUBCHAPTER VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

1748. Definitions.
1748a. Repealed.
1748b. Insurance of mortgages.
(a) Aggregate amount of insurance; termination date.
(b) Eligibility for insurance.
(c) Premium charges.
(d) Default by mortgagor; rights of mortgagee.
(e) Debentures; issuance; form and denomination.
(f) Debentures; execution; signature; negotiability; interest rate; tax exemption; guarantee.
(g) Claim certificates.
(h) Laws applicable.
(i) Secretary's additional powers to insure certain mortgages.
(j) Conclusiveness and validity of insurance contract.
(k) Certification as to overtime wages paid to laborers and mechanics.
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.

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1748h–1. Civilian employees of Armed Forces.
(a) Requirements; certificate of need for housing and employment status.
(b) Certification of housing need to Secretary; guaranty from loss; authorization of appropriations.
(c) Economic soundness of property.
(d) Insurance benefits to which mortgagee entitled.
(e) Payment of insurance; meaning of terms.
(f) Provisions of subchapter applicable; termination date.
(g) Housing for persons employed by National Aeronautics and Space Administration or Atomic Energy Commission; guaranty from loss; definitions.
1748h–2. Insurance of mortgages for defense housing for impacted areas.
(a) Authorization.
(b) Eligibility requirements.
(c) Economical soundness of property or project.
(d) Rental conditions; preferences and priorities in the sale or rental of dwellings.
(e) Property held by mortgagor approved by Secretary; acquisition of stock or interest; redemption.
(f) Mortgage limitations for multifamily rental property or project.
(g) Mortgage limitation for property or project constructed for eventual sale of single-family dwellings.
(h) Amortization; interest; release of part of mortgaged property from lien; replacement of certain mortgages by individual mortgages; commercial and community facilities.
(i) Limitation on aggregate number of dwelling units.
(j) Applicability of other laws.
(k) Aggregate amount of mortgages insured; termination date.
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 1749*ll*. Repealed.

SUBCHAPTER IX–B—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES AND MEDICAL PRACTICE FACILITIES

1749aaa. Insurance of mortgages.
(a) Authority of Secretary; termination date.
(b) Eligibility for insurance.
(c) Replacement cost of property; maturity; amortization; interest rate.

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(d) Conclusiveness of insurance contract as to eligibility; validity of contract incontestable.
(e) Undertaking.
(f) Recordkeeping; reports; examination and audit.
1749aaa–1. Premiums and other charges.
1749aaa–2. Payment of insurance benefits.
1749aaa–3. Regulations.
1749aaa–4. Administration.
(a) Technical assistance.
(b) Utilization of services and facilities of Federal agencies; payment; advances or reimbursement.
1749aaa–5. Definitions.

SUBCHAPTER IX–C—NATIONAL INSURANCE DEVELOPMENT PROGRAM

1749bbb. Program authority; termination date; report to the Congress.
1749bbb–1. Advisory Board.
(a) Establishment; membership; Chairman and Vice Chairman; term; vacancies.
(b) Meetings.
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1749bbb–2. Definitions.

PART A—STATEWIDE PLANS TO ASSURE FAIR ACCESS TO INSURANCE REQUIREMENT

1749bbb–3. FAIR plans.
(a) Cooperation by insurers with State insurance authorities.
(b) Approval and administration of plans; provisions of plans.
(c) Membership of board of directors, board, etc., for each plan.
1749bbb–4. All-industry placement facility.
1749bbb–5. Industry cooperation.
1749bbb–6. Plan evaluation; modification or waiver of plan criteria.
1749bbb–6a. Office of Review and Compliance.

PART B—REINSURANCE COVERAGE

1749bbb–7. Reinsurance of losses from riots or civil disorders.
(a) Authorization; lines of property insurance included.
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1749bbb–8. Reinsurance agreements and premiums.
(a) Authorization to enter into contracts, agreements, treaties, or other arrangements for reinsurance coverage.
(b) Reimbursement for total proved and approved claims for covered losses.
(c) Terms and conditions of contracts, etc., uniformity of rates, terms and conditions.
(d) Expiration date of contracts, etc.
1749bbb–9. Conditions of reinsurance.
1749bbb–10. Recovery of premiums; jurisdiction; limitations.

PART C—FEDERAL INSURANCE AGAINST BURGLARY AND THEFT

1749bbb–10a. Review and program authority.
(a) Review of market availability.
(b) Government crime insurance.
(c) Termination of insurance.
1749bbb–10b. Use of existing facilities and services.
1749bbb–10c. Affordable rates; establishment; factors considered; uniform national rates; periodic modification.
1749bbb–10d. Reports on operations.

PART D—GENERAL PROVISIONS

1749bbb–11. Submission of claims; judicial review; jurisdiction; limitations.
1749bbb–12. Fiscal intermediaries and servicing agents.
1749bbb–13. National Insurance Development Fund.
(a) Establishment.
(b) Credits to fund.
(c) Investment in obligations issued or guaranteed by United States.
(d) Annual budget.
1749bbb–14. Records, annual statement, and audits.
(a) Information reports for Director.
(b) Filing of annual statement.
(c) Recordkeeping requirements.
(d) Investigation and audit.
1749bbb–15. Study of reinsurance and other programs; report to the President and Congress.
1749bbb–16. Other studies; cooperation with State insurance authorities and private insurance industry.
1749bbb–17. General powers of Director.
1749bbb–18. Utilization of services and facilities of other agencies.
1749bbb–19. Advance payments.
1749bbb–20. Taxation.
1749bbb–21. Authorization of appropriations.

SUBCHAPTER X—NATIONAL DEFENSE HOUSING INSURANCE

1750. Definitions.
1750a, 1750a–1. Repealed or Omitted.
1750b. Insurance in critical areas.
(a) Limitations; termination of certain commitments; requirements; discrimination against children.
(b) Eligibility requirements.
(c) Premium charges; payments; needs of national defense as prerequisite; adjustments and refunds.
(d) Preference or priority in purchasing or renting properties.
(e) Conclusiveness of insurance contract as to eligibility.
1750c. Mortgage insurance benefits.
(a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure.
(b) Consent to release of mortgagee or property.
(c) Debentures; form and denomination.
(d) Debentures; execution; negotiability; terms; tax exemptions.
(e) Certificate of claim; division of excess proceeds.
(f) Handling and disposal of property; settlement of claims.
(g) Mortgagor's or mortgagee's interest in property or claim conveyed.

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1750d. Repealed.
1750e. Taxation.
1750f. Rules and regulations.
1750g. Insurance of additional mortgages.
(a) Authorization.
(b) Eligibility requirements; release of part of property.
(c) Default; debentures; cash adjustment; certificate of claim.
(d) Certificate of claim; contents and payment.
(e) Debentures; issuance and payment in accordance with section 1750c(c), (d) of this title.
(f) Applicability of section 1713(k), (*l*) of this title.
(g) Applications under section 1743; credit for fees upon reapplication under this section.
(h) Preferences.

SUBCHAPTER XI—VOLUNTARY HOME MORTGAGE CREDIT

1750aa to 1750jj. Omitted.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1441a, 1454, 1464, 1701r–1, 1701x, 1701z–7, 1701z–11, 1709a, 1715z–1a, 1715z–1c, 1715z–4a, 1735f–7a, 1735g, 1786, 1831q, 2710, 3802 of this title; title 7 section 1933; title 11 section 362; title 15 sections 77ddd, 2227; title 38 section 3704; title 40 section 474; title 40 App. section 213; title 42 sections 1382a, 1437f, 1490a, 2322, 3012, 3535, 12709, 12852, 13632; title 48 section 1425.

§ 1701. Short title

This chapter may be cited as the ''National Housing Act.''

(June 27, 1934, ch. 847, 48 Stat. 1246.)

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, as amended, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

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, 1437*l*, 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 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, §1(a), Nov. 30, 1983, 97 Stat. 1155, provided that: ''Titles I through XI of this Act [enacting sections 635i–1, 635i–2, 635*o* 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 1437*o* to 1437q, 1490k to 1490*o*, 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, 1715*l*, 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, 1437*l*, 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 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, 635*o*, 1701q, 1701z–6, 1709, 1713, 1715z–14, 1720, 2602, 3620, and 3901 of this title, section 484b of 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, §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 1437*o* to 1437q, 1490k to 1490*o*, 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, 1715*l*, 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, 1437*l*, 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 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 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, 1715*l*, 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, 1715*l*, 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 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 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, 1715*l*, 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 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 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, 1715*l*, 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 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 1715*o*, 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 Title 40, Public Buildings, Property and Works, section 207 of 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 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, 1701*o*, 1701h, 1702, 1703, 1706c, 1709, 1710, 1713, 1715, 1715c, 1715e, 1715h, 1715k, 1715*l*, 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 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 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 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 this section 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, 1715*l*, 1715n, 1715*o*, 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 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 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, 1715*l*, 1715r, 1717 to 1721, 1748, 1748b and 1749 of this title; section 694*l* of former Title 38, Pensions, Bonuses, and Veterans' Relief; section 461 of 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, 1715*l*, 1715n, 1715r, 1720, 1726, 1729, 1739, 1748 to 1748g, 1749, 1749c of this title; section 462 of 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 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 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 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'.''

Section 201 of act Aug. 2, 1954, which generally amended subchapter III of this chapter, provided by section 312 of act June 27, 1934, as added to that act by section 201, that subchapter III of this chapter, 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, 1747*l*, 1748, and 1750b of this title; sections 1481 to 1483, 1589a, 1592a, 1592*l*, 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 1701*l*, 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 1747*l* 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 1747*l* 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'.''

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.

CROSS REFERENCES

Prepayment of mortgages insured under National Housing Act, see section 4101 et seq. of this title.

§ 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.)

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.)

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.

CROSS REFERENCES

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

§ 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 and the Director of the Office of Thrift Supervision, 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 5 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 Board,[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; June 30, 1961, Pub. L. 87–70, title IX, § 909, 75 Stat. 192; May 25, 1967, Pub. L. 90–19, § 5(d)(1)–(3), (8)–(13), 81 Stat. 21; Oct. 17, 1984, Pub. L. 98–479, title II, §§ 202(b), 203(c), 98 Stat. 2228, 2229; Feb. 5, 1988, Pub. L. 100–242, title V, § 570(a)(1), (3), 101 Stat. 1949, 1950; Aug. 9, 1989, Pub. L. 101–73, title III, § 306, 103 Stat. 352.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (a), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of that title.

This Act, referred to in subsec. (c), is act Aug. 10, 1948, ch. 832, 62 Stat. 1268, as amended, 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

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

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

[1] So in original. Probably should refer to the Director of the Office of Thrift Supervision.

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''.

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.

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.

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 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z–2 of this title.

§ 1701c–1. Omitted

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 conference 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) of this section 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.)

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, as amended, which is classified generally 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

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

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.

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 [40 U.S.C. 451 et seq.]; (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.)

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, as amended, 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, as amended. 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, as amended, which was classified to section 1651 et seq. of Title 50, Appendix, 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 Title 50, Appendix. 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, as amended, which was classified generally to subchapter I (§ 451 et seq.) of chapter 9 of Title 40, Public Buildings, Property, and Works, and was omitted from the Code as executed, except for section 6 of that Act, which was classified to section 456 of Title 40, which related to reports to Congress, and was repealed by act Aug. 2, 1954, ch. 649, title VIII, § 802(b), 68 Stat. 642. See section 1701*o* of this title. For complete classification of this Act to the Code, see Tables.

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, as amended, 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 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701g–5a, 1701g–5b, 1701g–5c of this title; title 42 sections 1585, 5317.

§ 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.)

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 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, as amended. 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701g–5b of this title.

§ 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) of this section, 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 trans-

action 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 IV, §474(a)–(d), Nov. 30, 1983, 97 Stat. 1238, 1239.)

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, as amended. 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 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, as amended. 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 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, as amended, referred to in subsec. (a), is act June 24, 1954, ch. 359, 68 Stat. 272, as amended. 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 1452b[1] 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.)

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, as amended. 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.

§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; Aug. 10, 1965, Pub. L. 89–117, title XI, §1106, 79 Stat. 503; May 25, 1967, Pub. L. 90–19, §6(h), 81 Stat. 22; Oct. 17, 1984, Pub. L. 98–479, title II, §202(c), 98 Stat. 2228.)

REFERENCES IN TEXT

This Act, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, 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)''.

[1] See References in Text note below.

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.

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 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

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).

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CROSS REFERENCES

National flood insurance advisory committee, see section 4025 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701h–1 of this title; title 20 section 802.

§ 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; May 25, 1967, Pub. L. 90–19, § 13(a), 81 Stat. 24.)

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''.

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 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§§ 1701i, 1701i–1. Omitted

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.

Sections 1, 509, and 510 of act Apr. 20, 1950, were formerly set out as notes under this section. See notes under section 1701k of this title.

§ 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 amend-

ments 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; Sept. 2, 1958, Pub. L. 85–857, §13(s)(2), 72 Stat. 1266; May 25, 1967, Pub. L. 90–19, §10(e), 81 Stat. 22.)

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.

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) of this section, 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 [D.C. Code, § 29–501 et seq.] 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) of this section.

(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) of this section.

(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) of this section, 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) of this section.

(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 in-service 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) of this section.

(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) of this section. 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 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.)

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, as amended, which appears in chapter 5 (§29–501 et seq.) of Title 29, Corporations, of the District of Columbia 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".

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 quar-

terly 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 6832, 8262g.

§ 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) of this section, 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) of this section, 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 liened 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 Statewide) prohibiting such exercise, and ending on October 15, 1982, the provisions of subsection (b) of this section 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) of this section 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) of this section shall apply only if such regulation so provides.

(2)(A) For any contract to which subsection (b) of this section 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) of this section, 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 IV, § 473, Nov. 30, 1983, 97 Stat. 1237.)

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''.

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.

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.

§ 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; Sept. 2, 1958, Pub. L. 85–857, § 13(q), 72 Stat. 1266.)

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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.

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

Section 509 of act Apr. 20, 1950, 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

Section 510 of act Apr. 20, 1950, 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 28 section 2410.

§ 1701*l*. 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; May 25, 1967, Pub. L. 90–19, § 8(e), 81 Stat. 22.)

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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''.

§ 1701*l*–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.)

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.)

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.

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, LIQUIDATION, AND 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.

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.

§ 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; May 25, 1967, Pub. L. 90–19, § 10(g), 81 Stat. 23.)

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''.

§ 1701*o*. 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; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1101, 79 Stat. 502; May 25, 1967, Pub. L. 90–19, § 10(f), 81 Stat. 23; Feb. 5, 1988, Pub. L. 100–242, title V, § 570(b), 101 Stat. 1950.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701p of this title.

§ 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 1701*o* 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; May 25, 1967, Pub. L. 90–19, § 10(j), 81 Stat. 23; Dec. 21, 1982, Pub. L. 97–375, title II, § 207(a), 96 Stat. 1824.)

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 Home Loan Bank Board, 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 IV, § 469, Nov. 30, 1983, 97 Stat. 1237.)

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.

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.

§ 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) of this section, and (2) contracts for project rental assistance in accordance with subsection (c)(2) of this section. 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 from the Resolution Trust Corporation, 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) of this section.

(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) of this section 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) of this section;

(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) Selection criteria

The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) 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;

(3) 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;

(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(4) of this section will be provided on a consistent, long-term basis;

(6) 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

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(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; and (F) 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) of this section.

(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) of this section. If a project is receiving congregate housing services assistance under section 8011 of title 42, the amount of costs provided under subsection (c)(2) of this section 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) of this section 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 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.

(2) RTC properties

In the case of existing housing and related facilities to be acquired 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, 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 non-Federal sources 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.

(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.

(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 the Act of March 3, 1931 (commonly known as the Davis-Bacon Act) [40 U.S.C. 276a et seq.].

(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.

(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 any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) 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; and

(C) which is approved by the Secretary as to financial responsibility.

(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) of this section. 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) of this section.

(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.

(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 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.)

REFERENCES IN TEXT

This Act, referred to in subsec. (g)(1), is Pub. L. 86–372, Sept. 23, 1959, 73 Stat. 654, as amended, 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, as amended. 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, as amended, 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.

The Davis-Bacon Act, referred to in subsec. (j)(5)(A), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

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

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 applica-

tion 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 ex-

ceeding 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).

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

Section 801(c) of Pub. L. 101–625 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

Section 162(f) of Pub. L. 100–242 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

Section 223(a)(2) of Pub. L. 98–181, 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

Section 105(b)(2) of Pub. L. 89–117, 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

Section 3(b) of Pub. L. 87–723 provided that the amendments made by that section are effective with respect to applications for loans made under this section after Sept. 28, 1962.

CONSIDERATION OF COSTS OF PROVIDING SERVICE COORDINATORS IN DETERMINING AMOUNT OF HOUSING ASSISTANCE

Section 677(b) of Pub. L. 102–550 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

Section 801(d) of Pub. L. 101–625 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

Section 806(b) of Pub. L. 101–625, 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

Section 162(a) of Pub. L. 100–242 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

Section 162(d) of Pub. L. 100–242 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

Section 162(e) of Pub. L. 100–242 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.

Section 306(e), (f) of Pub. L. 96–153 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

Section 210(g) of Pub. L. 93–383 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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1441a, 1701q–1, 1701r–1, 1701s, 1701z–11, 1701z–13, 1715*l*, 1715v, 1715z–1, 1715z–1a, 1715z–1b, 1715z–19, 1831q, 3702, 3705 of this title; title 42 sections 1382a, 1436b, 1437f, 1437g, 1438, 1439, 3013, 3026, 3030d, 3535, 8002, 8008, 8009, 8011, 8012, 8013, 8231, 13641.

§ 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) of this section. 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) of this section, 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) of this section shall not be subject to review, except as provided in subsection (e) of this section.

(e) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (d)(1) of this section, a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) of this section 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) of

this section 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) of this section 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) of this section, after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e) of this section, 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.)

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.

EFFECTIVE DATE

Section 109(b) of Pub. L. 101–235 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].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715z–1a of this title.

§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.)

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) of this section with respect to any program of assistance referred to in subsection (d) of this section 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. 1435 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) of this title.

(Pub. L. 98–181, title II, § 227, Nov. 30, 1983, 97 Stat. 1195.)

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, as amended, 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, as amended. 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1437aa.

§ 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. 1715*l*(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) of this section, 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. 1715*l*(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) of this section,

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) of this section 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. 1715*l*(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) of this section, 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) of this section) 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. 1715*l*(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) of this section.

(2) Of the amounts approved in appropriation Acts pursuant to subsection (a) of this section 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) Preferences in assistance

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.

(*l*) Additional available assistance authority

Notwithstanding the provisions of subsection (a) of this section 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) of this section, 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 mortga-

gee 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 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.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (g) and (*l*), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended 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

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 lim-

ited dividend corporation or other limited dividended 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 1715*l*(d)(3) and 1715v(c)(3), and section 1701q of this title, respectively.

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

Section 203(c) of Pub. L. 96–153 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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701z–11, 1715*l*, 1715z, 1715z–1a, 1715z–6, 4119 of this title; title 26 section 32; title 31 section 1305; title 42 sections 1382a, 1436a, 1436b, 1439, 11905.

§ 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.)

REFERENCES IN TEXT

This Act, referred to in text, is Pub. L. 90–448, Aug. 1, 1968, 82 Stat. 476, as amended, 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.

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

Section 110 of Pub. L. 90–448 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 reim-

bursed 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 1437*l* of title 42.

(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 subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12899 et seq.].

(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 subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12899 et seq.].

(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 1437*l* of title 42, 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 subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12899 et seq.].

(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 subtitle D of title IV of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12899 et seq.].

(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.)

REFERENCES IN TEXT

The Cranston-Gonzalez National Affordable Housing Act, referred to in subsecs. (c)(1)(B)(iii), (2)(B), (d)(1)(B)(iii), (2)(B), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079, as amended. Subtitle D of title IV of the Act is classified generally to part C (§ 12899 et seq.) of subchapter IV of chapter 130 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 12701 of Title 42 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.

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

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 1715*l*(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.

EFFECTIVENESS STUDY

Section 916 of Pub. L. 102–550 provided that:

''(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than 1 year after the date of the enactment of this Act [Oct. 28, 1992], a report describing—

''(1) the Secretary's efforts to enforce section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u];

''(2) the barriers to full implementation of section 3 of the Housing and Urban Development Act of 1968;

''(3) the anticipated costs and benefits of full implementation of section 3 of the Housing and Urban Development Act of 1968; and

''(4) recommendations for legislative changes to enhance the effectiveness of section 3 of the Housing and Urban Development Act of 1968.

''(b) CONTENTS.—

''(1) ENFORCEMENT.—The description under subsection (a)(1) of the Secretary's enforcement efforts shall include, at a minimum—

''(A) a discussion of how responsibility for implementing section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u] is allocated within the Department of Housing and Urban Development;

''(B) a discussion of the status of existing regulations implementing such section 3;

''(C) a discussion of ongoing efforts to enforce current regulations;

''(D) a list of the programs under the responsibility of the Secretary with respect to which the Secretary is enforcing section 3; and

''(E) a separate description of the activities carried out under section 3 with respect to each of these programs.

''(2) IMPEDIMENTS.—The discussion under subsection (a)(2) of the external impediments to effective enforcement of section 3 of the Housing and Urban Development Act of 1968 shall include, at a minimum, a discussion of—

''(A) any lack of necessary training for targeted employees and technical assistance to targeted businesses;

''(B) any barriers created by Federal, State, or local procurement regulations or other laws;

''(C) any difficulties in coordination with labor unions;

''(D) any difficulties in coordination with other implicated Federal agencies; and

''(E) any lack of resources on the part of recipients of assistance who are responsible for carrying out section 3 of the Housing and Urban Development Act of 1968.

''(c) CONSULTATION.—In preparing the report under this subsection, the Secretary shall consult with the Secretary of Labor, the Secretary of Commerce, the Secretary of Health and Human Services, the Administrator of the Small Business Administration, other appropriate Federal officials, and recipients of Federal housing and community development assistance who are responsible for executing section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 3608.

§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.)

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.)

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.

(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; or

(ii) any similar loss or reduction experienced by any person who contributes to the income of the homeowner.

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 [12 U.S.C. 1709].

(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]; and

(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).

(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) Exceptions

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).

(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.

(9) Termination

The provisions of this subsection shall not be effective after September 30, 1994.

(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 (10)(K)) 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) of this section 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 (for purposes of the study and report under paragraph (9)) may require.

(9) GAO study and report

(A) Study

During the 12-month period ending on the termination date under paragraph (13), the Comptroller General of the United States shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include—

(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;

(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and

(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act [12 U.S.C. 1701 et seq.] and contributing to default and foreclosure under such program.

(B) Report

The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include—

(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraph;

(ii) an assessment of the effectiveness of the counseling under the program in preventing default and foreclosure, based on comparison between counseling target areas and control areas; and

(iii) a recommendation of whether a permanent counseling program involving prepurchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgages.

(10) 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.

(11) Regulations

The Secretary may issue any regulations necessary to carry out this subsection.

(12) 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.

(13) 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), (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.

(2) Standards and examination

The Secretary shall, by regulation, establish standards and procedures for testing and certifying counselors. Such standards and procedures shall require for certification that the individual shall demonstrate, by written examination (as provided under subsection (f)(4) of this section), 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) Encouragement

The Secretary shall encourage organizations engaged in providing homeownership and rental counseling that do not receive assistance under this section to employ 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) of this section 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) of this section. 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) of this section 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) of this section, 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.

(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, 1982, 95 Stat. 417; Pub. L. 98–181, 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.)

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, as amended. 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.

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 is set out as a note under section 1437f of Title 42.

The National Housing Act, referred to in subsecs. (a)(2) and (d)(9)(A)(iii), (10)(k), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to this chapter (§ 1701 et seq.). 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.

The Housing Act of 1949, referred to in subsec. (c)(4)(B), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. 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.

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

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.

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.

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

Section 162(e) of Pub. L. 102–550 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].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 sections 1472, 3535, 9816.

§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 [D.C. Code, §29–501 et seq.], 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; bylaws

(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 General Accounting 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 General Accounting 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.)

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, as amended, which appears in chapter 5 (§29–501 et seq.) of Title 29, Corporations, of the District of Columbia 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

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''.

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) of this section 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) of this section. 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 the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], any land which is excess property within the meaning of such Act 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) of this section), 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.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (d), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that act relating to management and disposal of government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, 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.

§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 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.)

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, as amended, 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.

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.

REPORT REGARDING RESEARCH ACTIVITIES

Section 951(b) of Pub. L. 101–625 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701z–2, 1701z–4 to 1701z–7, 1701z–9 of this title.

§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

[1] So in original. Probably should be ''are''.

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 the Federal Property and Administrative Services Act of 1949 [40 U.S.C. 471 et seq.], any land which is excess property within the meaning of such Act and which is determined by the Secretary to be suitable in furtherance of the purposes of subsection (b) of this section 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 5 of title 41, by contract or by grant. Advance and progress payment 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.)

REFERENCES IN TEXT

This title, referred to in subsecs. (c), (d), and (f), is title V of the Housing and Urban Development Act of 1970, Pub. L. 91–609, Dec. 31, 1970, 84 Stat. 1784, as amended, 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.

The Federal Property and Administrative Services Act of 1949, referred to in subsec. (c), is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. The provisions of that act relating to management and disposal of government property are classified to chapter 10 (§471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of title 40, 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

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.)

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.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 6(b) of Pub. L. 98–35 provided that: ''The amendments made by this section [amending this section] shall become effective on October 1, 1983.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z–2 of this title.

§ 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 incipiency 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 1715*l*(d)(3) or (d)(4), section 1715*l*(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.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z–2 of this title.

[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.)

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) of this section, 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.)

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.

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, provided that:

"(a) FUNDING.—To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 [42 U.S.C. 1437c(c)] for fiscal year 1993 for public housing grants for Indian housing, $5,200,000 may be used to carry out the demonstration program under this section. To the extent provided in appropriation Acts, of any amounts appropriated under section 5(c) of the United States Housing Act of 1937 for fiscal year 1994 for public housing grants for Indian housing, $5,418,400 may be used to carry out the demonstration program under this section. Under the demonstration, the Secretary shall make grants to nonprofit organizations, Indian housing authorities, and Indian tribes to assist such organiza-

tions, housing authorities, and tribes in providing early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority for low-income families who reside in such Indian public housing.

''(b) OPERATION OF DEMONSTRATION.—Except as provided in this section, the Secretary of Housing and Urban Development shall carry out the demonstration program under this section 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 the Housing and Urban-Rural Recovery Act of 1983 [Pub. L. 98–181, set out below] is carried out. For purposes of this section, any reference to 'public housing' or a 'low income housing project' in section 222 of such Act is deemed to refer to low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

''(c) LIMITATIONS.—

''(1) TRIBAL DIVERSITY.—The Secretary of Housing and Urban Development shall provide that the demonstration program under this section is carried out in not more than 1 Indian public housing project for any single Indian tribe.

''(2) GEOGRAPHIC DIVERSITY.—The Secretary of Housing and Urban Development shall carry out the demonstration program under this section through various Indian housing authorities and provide for geographic distribution among such housing authorities.

''(d) REPORT.—

''(1) IN GENERAL.—Not later than the expiration of the 3-year period beginning on the date of the enactment of this Act [Nov. 28, 1990], the Secretary of Housing and Urban Development shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near low-income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

''(2) CONFORMING PROVISION.—Notwithstanding subsection (b) of this section, section 222(e) of the Housing and Urban-Rural Recovery Act of 1983 [Pub. L. 98–181, set out below] (regarding submission of a report) shall not apply to this section and the demonstration program carried out under this section.''

DEMONSTRATION PROJECT FOR ASSISTANCE TO UNITS OF GENERAL LOCAL GOVERNMENT TO ENCOURAGE UPGRADING OF LOWER INCOME FAMILY HOUSING

Pub. L. 98–181, 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 sec-

tion, 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 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 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, provided that:

''(a) PROGRAM AUTHORITY.—

''(1) The Secretary of Housing and Urban Development shall, to the extent approved in appropriation Acts, carry out a demonstration program of making grants to nonprofit organizations to assist such organizations in providing early childhood development services in or near lower income housing projects for lower income families who reside in public housing.

''(2) The Secretary shall design the program described in paragraph (1) to determine the extent to which the availability of early childhood development services in or near lower income housing projects facilitates the employability of the parents or guardians of children residing in public housing.

''(b) ELIGIBILITY FOR ASSISTANCE.—The Secretary may make a grant to a nonprofit organization for early childhood development services in or near a lower income housing project only if—

''(1) prior to receipt of assistance under this section, an early childhood development services program is not in operation for the project;

''(2) the public housing agency agrees to provide suitable facilities in or near the project for the provision of early childhood development services;

''(3) the early childhood development services program for the project will serve preschool children during the day, school children after school, or both, in order to permit the parents or guardians of such children to obtain, retain, or train for employment;

''(4) the early childhood development services program for the project is designed, to the extent practicable, to involve the participation of the parents of children benefiting from such program;

''(5) the early childhood development services program for the project is designed, to the extent practicable, to employ in part-time positions elderly individuals who reside in the lower income housing project involved; and

''(6) the early childhood development services program for the project complies with all applicable State and local laws, regulations, and ordinances.

''(c) ALLOCATION OF ASSISTANCE.—In providing grants under this section, the Secretary shall—

''(1) give priority to nonprofit organizations providing early childhood development services in or near lower income housing projects in which reside the largest number of preschool and school children of lower income families;

''(2) seek to ensure a reasonable distribution of such grants between urban and rural areas and among nonprofit organizations providing early childhood development services in or near lower income housing projects of varying sizes; and

''(3) seek to provide such grants to the largest number of nonprofit organizations practicable, considering the amount of funds available under this section and the financial requirements of the particular early childhood development programs to be established for the lower income housing projects for which applications are submitted under this section.

''(d) ADMINISTRATIVE PROVISIONS.—

''(1) Applications for grants under this section shall be made by nonprofit organizations (in consultation with public housing agencies) in such form, and according to such procedures, as the Secretary may prescribe.

''(2) Any nonprofit organization receiving a grant under this section may use such grant only for operating expenses and minor renovations of facilities necessary to the provision of early childhood development services under this section.

''(3) The Secretary shall conduct periodic evaluations of each early childhood development program assisted under this section for purposes of—

''(A) determining the effectiveness of such program in providing early childhood development services and permitting the parents or guardians of children residing in public housing to obtain, retain, or train for employment; and

''(B) ensuring compliance with the provisions of this section.

''(4) No provision of this section may be construed to authorize the Secretary to establish any health, safety, educational, or other standards with respect to early childhood development services or facilities assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for early childhood development services and facilities.

''(e) REPORT TO CONGRESS.—Not later than the expiration of the 3-year period following the date of the enactment of the Housing and Community Development Act of 1987 [Feb. 5, 1988], the Secretary shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near lower income housing projects.

''(f) DEFINITIONS.—For purposes of this section:

''(1) The term 'lower income families' has the meaning given such term in section 3(b)(2) of the

United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

''(2) The terms 'lower income housing project' and 'public housing' have the meanings given such terms in section 3(b)(1) of the United States Housing Act of 1937.

''(3) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

''(4) The term 'Secretary' means the Secretary of Housing and Urban Development.

''(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriation Acts, of any amounts appropriated for fiscal year 1993 under section 103 of the Housing and Community Development Act of 1974 [42 U.S.C. 5303], $5,000,000 shall be available to carry out this section. To the extent approved in appropriation Acts, of any amounts appropriated for fiscal year 1994 under section 5(c) of the United States Housing Act of 1937 [42 U.S.C. 1437c(c)] for grants for the development of public housing, $5,210,000 shall be available to carry out this section. Any such amounts shall remain available until expended.''

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 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. 1437*l*].

''(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 prepurchase, 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.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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 this section, 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 prescribed for such terms in section 366 of the Energy Policy and Conservation Act [42 U.S.C. 6326].

(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.)

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, as amended. 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

1977—Subsecs. (c)(6), (e). Pub. L. 95–91 inserted ", the Secretary of Housing and Urban Development," after "the Administrator".

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1701z–2 of this title; title 42 sections 6325, 7154.

§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.)

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.

STUDY TO DETERMINE FEASIBILITY OF UNDERGROUND CONSTRUCTION OF RESIDENTIAL HOUSING

Section 305(c) of Pub. L. 95–557 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.)

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 IV, §466(b), Nov. 30, 1983, 97 Stat. 1236.)

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. 1715*l*(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) of this section, 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) of this section.

(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) of this section, the Secretary shall take, separately or in combination with other actions under this subsection or subsection (f) of this section, 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) of this section—

(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) of this section 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) of this section 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) of this section 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) of this section for a subsidized, formerly subsidized, or unsubsidized multifamily housing project, the Secretary may, pursuant to the disposition plan and the goals in subsection (a) of this section, 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 ten-

ant 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) of this section, 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.

(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) of this section, 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) of this section 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 the preferences for assistance under sections 6(c)(4)(A)(i), 8(d)(1)(A)(i), and 8(*o*)(3)(B) of the United States Housing Act of 1937 [42 U.S.C. 1437d(c)(4)(A)(i), 1437f(d)(1)(A)(i), and 1437f(*o*)(3)(B)]; 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.

(*l*) 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) of this section 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.)

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, as amended, 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 is set out as a note under section 1437f of Title 42, The Public Health and Welfare.

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, as amended, 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, as amended, 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

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 1715*l*(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''.

REGULATIONS

Section 101(f) of Pub. L. 103–233 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.''

MULTIFAMILY HOUSING DISPOSITION

Section 101(a) of Pub. L. 103–233 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 in-

crease 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.''

Section 184 of Pub. L. 100–242, 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1713, 1715z–1a, 1735f–19, 1735f–20, 3706, 4102 of this title; title 42 sections 1437d, 1437f, 12877.

§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.)

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) of this section, 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) of this section.

(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.)

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

[1] See References in Text note below.

part of the National Housing Act which comprises this chapter.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–479 substituted ''conjunction'' for ''conjuction'' in provisions preceding par. (1).

§ 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.)

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.

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.)

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.

SUBCHAPTER I—HOUSING RENOVATION AND MODERNIZATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1451, 1708, 1709–1a, 1717, 1731a, 1735f–8, 1735f–14, 1743, 2803, 2810, 3751, 3752 of this title; title 38 section 3728.

§ 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 of this chapter, 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 of this chapter 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 of this chapter, 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. The Secretary shall, in carrying out the provisions of this subchapter and subchapters II, III, V, VI, VII, VIII, IX–B, and X of this chapter, 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; Aug. 10, 1965, Pub. L. 89–117, title XI, §1108(bb), 79 Stat. 507; Nov. 3, 1966, Pub. L. 89–754, title X, §1020(g), 80 Stat. 1296; May 25, 1967, Pub. L. 90–19, §1(a)(1), (3), (c), 81 Stat. 17, 18; Oct. 17, 1984, Pub. L. 98–479, title II, §202(a)(1), 98 Stat. 2228; Feb. 5, 1988, Pub. L. 100–242, title IV, §429(a), 101 Stat. 1918; Dec. 15, 1989, Pub. L. 101–235, title I, §133(d)(1), 103 Stat. 2027.)

AMENDMENTS

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 of this chapter.

1965—Pub. L. 89–117 inserted references to subchapters V and IX–A of this chapter.

1951—Act Sept. 1, 1951, inserted references to subchapter X of this chapter.

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 of this chapter'' for ''subchapters II, III, and VI of this chapter''.

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.

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.

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.

CROSS REFERENCES

Additional powers and duties of the Secretary, see section 1701c of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1591a.

§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) 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 on and after July 1, 1939, 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. 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 on and after July 1, 1939, exceed 10 per centum of the total amount of such loans, advances of credit, and purchases: *Provided*, That with respect to any loan, advance of credit, or purchase made after August 2, 1954, 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 of this chapter.

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

[1] So in original. The word ''and'' probably should not appear.

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)(1) 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) $17,500 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) $48,600 if made for the purpose of financing the purchase of a manufactured home;

(D) $64,800 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) $16,200 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.

(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) of this section 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) fifteen 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

[2] So in original. The period probably should be ''; and''.

[3] So in original. The period probably should be a semicolon.

(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) of this section, 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.

(c)(1) Notwithstanding any other provision of law, the Secretary shall have the power, under regulations to be prescribed by him and approved by the Secretary of the Treasury, to assign or sell at public or private sale, or otherwise dispose of, 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 to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

(2) The Secretary is authorized and empowered (a) to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, and upon such terms and conditions and for such considerations as the Secretary shall determine to be reasonable, any real or personal property conveyed to or otherwise acquired by him in connection with the payment of insurance heretofore or hereafter granted under this subchapter and (b) to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary in connection with such real or personal property by way of deficiency or otherwise: *Provided*, That section 5 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 $1,000. 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 him without the execution of any express delegation of power or power of attorney: *Provided*, That nothing in this paragraph shall be construed to prevent the Secretary from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint.

(d) 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) 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) 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

[4] See References in Text note below.

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.

(g) 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) 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) 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; July 12, 1957, Pub. L. 85–104, title I, § 105, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86–372, title I, § 101, 73 Stat. 654; Sept. 14, 1960, Pub. L. 86–788, § 2(a), 74 Stat. 1028; June 30, 1961, Pub. L. 87–70, title VI, § 604(a), 75 Stat. 177; Sept. 2, 1964, Pub. L. 88–560, title I, § 101, 78 Stat. 769; Aug. 10, 1965, Pub. L. 89–117, title II, § 202(a), title XI, § 1108(a), 79 Stat. 465, 504; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (d), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90–448, title III, § 308, 82 Stat. 509; Sept. 30, 1969, Pub. L. 91–78, § 2(a), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 101(a), 103(c), 83 Stat. 379, 380; Oct. 2, 1970, Pub. L. 91–432, § 1(a), 84 Stat. 886; Oct. 21, 1970, Pub. L. 91–473, § 1(a), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91–525, § 1(a), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, §§ 101(a), 113, 84 Stat. 1770, 1773; Oct. 18, 1972, Pub. L. 92–503, § 1(a), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(a), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(a), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 309(a)–(d), 316(a), 88 Stat. 680, 681, 685; Oct. 18, 1974, Pub. L. 93–449, § 4(a), 88 Stat. 1366; Dec. 23, 1975, Pub. L. 94–173, § 1, 89 Stat. 1027; June 30, 1977, Pub. L. 95–60, § 1(a), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, § 1(a), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title II, §§ 301(a), 306, 91 Stat. 1131, 1134; Sept. 30, 1978, Pub. L. 95–406, § 1(a), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, §§ 301(a), 320, 92 Stat. 2095, 2101; Nov. 9, 1978, Pub. L. 95–619, title II, § 241, 92 Stat. 3228; Sept. 28, 1979, Pub. L. 96–71, § 1(a), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, § 1(a), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, §§ 301(a), 313(a), 93 Stat. 1111, 1116; Oct. 3, 1980, Pub. L. 96–372, § 1(a), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, §§ 301(a), 308(a)–(c)(1), 94 Stat. 1638, 1640; Aug. 13, 1981, Pub. L. 97–35, title III, §§ 331(a), 338(a), 339B(c), 95 Stat. 412, 414, 417; Oct. 6, 1982, Pub. L. 97–289, § 1(a), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, § 1(a), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(a), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 401(a), 404(b)(1), 415–417, 97 Stat. 1207, 1208, 1212; Oct. 8, 1985, Pub. L. 99–120, § 1(a), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, § 1(a), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, § 1(a), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, § 1(a), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(a), 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; Feb. 5, 1988, Pub. L. 100–242, title IV, § 401(b), 101 Stat. 1898; Dec. 15, 1989, Pub. L. 101–235, title I, § 134(a), 103 Stat. 2027; Nov. 28, 1990, Pub. L. 101–625, title III, § 340(b)(1), (c), title VIII, § 806(a), 104 Stat. 4147, 4323; Oct. 6, 1992, Pub. L. 102–389, title II, 106 Stat. 1592, 1593; Oct. 28, 1992, Pub. L. 102–550, title V, § 503(c)(1), title X, § 1012(k)(1), 106 Stat. 3779, 3906.)

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, as amended, 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.

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

References to ''mobile homes'', wherever appearing in text, were changed to ''manufactured homes'' in view of the amendment of the National Housing Act by section 308(c)(1) of Pub. L. 96–399 requiring the substitution of ''manufactured home'' for ''mobile home'' wherever appearing in the National Housing Act, and section 339B(c) of Pub. L. 97–35 (set out below) providing that the terms ''mobile home'' and ''manufactured home'' shall be deemed to include the terms ''mobile homes'' and ''manufactured homes'', respectively.

AMENDMENTS

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—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, §§ 301(a), 308(c)(1), substituted ''October 1, 1981'' for ''October 16, 1980'', and substituted ''manufactured home'' for ''mobile home'' wherever appearing.

Pub. L. 96–372 substituted ''October 16, 1980'' for ''October 1, 1980''.

Subsec. (b). Pub. L. 96–399, §308(a)–(c)(1), inserted provisions respecting areas of high land costs or high set-up costs, substituted ''manufactured home'' for ''mobile home'' wherever appearing, 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. 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.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 340(b)(2) of Pub. L. 101–625 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

Section 134(b) of Pub. L. 101–235 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

Section 101(b) of act Aug. 2, 1954, 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

Section 101(b) of act Apr. 20, 1950, provided that ''This section [amending this section] shall take effect as of March 1, 1950.''

EFFECTIVE DATE OF 1949 AMENDMENT

Section 202 of title II of act July 15, 1949, 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

Section 4 of act June 3, 1939, 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

Section 1 of act Apr. 3, 1936, provided that the amendment made by that section is effective Apr. 1, 1936.

INCONSISTENT LAWS

Section 818 of act Aug. 2, 1954, 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

Section 819 of act Aug. 2, 1954, 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.''

''MOBILE HOME'' AND ''MANUFACTURED HOME'' TO INCLUDE ''MOBILE HOMES'' AND ''MANUFACTURED HOMES''

Section 339B(c) of Pub. L. 97–35 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.

Section 308(e) of Pub. L. 96–399 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

Section 321 of Pub. L. 96–153, 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

Section 2 of act Mar. 10, 1953, authorized 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 and that the first payment be made on July 1, 1953.

CROSS REFERENCES

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note set out under section 1743 of this title.

States, Territories, and Possessions, applicability of section to, see section 1706d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706d, 1709, 1713, 1715e, 1715k, 1715*l*, 1715t, 1715v, 1715w, 1715y, 1715z, 1715z–5, 1715z–6, 1715z–7, 1717, 1735c, 1749aaa of this title; title 15 section 78c; title 42 sections 1437f, 1471, 8231.

§ 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 of this chapter 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(*l*), 61 Stat. 208; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(1), 98 Stat. 2231.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1735 of this title.

§ 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 1701*o* 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.

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; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 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 consider-

ation 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 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), (j), and (k) 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; Sept. 23, 1959, Pub. L. 86–372, title I, § 116(a), 73 Stat. 664; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(b), 79 Stat. 504; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Dec. 31, 1970, Pub. L. 91–606, title III, § 301(b), 84 Stat. 1758; May 22, 1974, Pub. L. 93–288, title VII, § 702(b), formerly title VI, § 602(b), 88 Stat. 163, renumbered title VII, § 702(b), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), 108 Stat. 3100; Nov. 23, 1988, Pub. L. 100–707, title I, § 109(e)(1), 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.

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 subsecs. (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 subsecs. (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.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, 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.

CROSS REFERENCES

States, Territories, and Possessions, applicability of section to, see section 1706d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706d, 1715f of this title.

§ 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 June 25, 1959, Pub. L. 86–70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86–654, § 6, 74 Stat. 411; Dec. 24, 1969, Pub. L. 91–152, title IV, § 403(c)(3), 83 Stat. 395; Nov. 30, 1983, Pub. L. 98–181, title IV, § 407(a), 97 Stat. 1211; Feb. 5, 1988, Pub. L. 100–242, title IV, § 429(b), 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

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1701s, 1701x, 1702, 1703, 1705, 1709–1a, 1715f, 1715z–4a, 1715z–13a, 1721, 1731a, 1735f–2, 1735f–6, 1735f–8, 1735f–9, 1735f–10, 1735f–14, 1743, 1748b, 2803, 2810, 3702, 3751, 3752 of this title; title 38 sections 3707, 3728; title 42 sections 1437aaa–3, 1472, 1479, 3535, 5403, 12773, 12852, 12874.

§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.

(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; June 25, 1959, Pub. L. 86–70, §10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86–624, §6, 74 Stat. 411; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17; Dec. 24, 1969, Pub. L. 91–152, title IV, §403(c)(1), 83 Stat. 395; Oct. 8, 1980, Pub. L. 96–399, title III, §306, 94 Stat. 1640; Nov. 30, 1983, Pub. L. 98–181, title IV, §407(b), 97 Stat. 1211.)

AMENDMENTS

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).

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.

IMPROVEMENT OF FINANCING FOR MULTIFAMILY HOUSING

Pub. L. 102–550, title V, subtitle C, Oct. 28, 1992, 106 Stat. 3794, as amended by Pub. L. 103–233, title III, §307, Apr. 11, 1994, 108 Stat. 373, provided that:

''SEC. 541. SHORT TITLE.

''This subtitle may be cited as the 'Multifamily Housing Finance Improvement Act'.

''SEC. 542. MULTIFAMILY MORTGAGE CREDIT DEMONSTRATIONS.

''(a) IN GENERAL.—The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') shall carry out programs through the Federal Housing Administration to demonstrate the effectiveness of providing new forms of Federal credit enhancement for multifamily loans. In carrying out demonstration programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

''(b) RISK-SHARING PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a pilot program in conjunction with qualified participating entities to determine the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

''(2) PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—In carrying out the pilot program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

''(B) MORTGAGE INSURANCE AND REINSURANCE.—Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans, on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

''(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

''(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimburse-

ment obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

''(i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;

''(ii) reserves pledged or otherwise restricted by the qualified participating entity in an amount equal to an agreed upon percentage of the loss assumed by the entity under subparagraph (C);

''(iii) funds pledged through a State or local guarantee fund; or

''(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified participating entity.

''(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified participating entity to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection, except as provided in this section, without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss. Any financing permitted on property insured under this subsection other than the first mortgage shall be expressly subordinate to the insured mortgage.

''(F) AUTHORITY OF SECRETARY.—The Secretary, upon request of a qualified participating entity, may insure or reinsure and make commitments to insure or reinsure under this section any mortgage, advance, loan, or pool of mortgages otherwise eligible under this section, pursuant to a risk-sharing agreement providing that the qualified participating entity will carry out (under a delegation or otherwise, and with or without compensation, but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, issuance of commitments, approval of insurance of advances, cost certification, servicing, property disposition, or other functions as the Secretary shall approve as consistent with the purpose of this section. All appraisals of property for mortgage insurance under this section shall be completed by a Certified General Appraiser in accordance with the Uniform Standards of Professional Appraisal Practice.

''(G) DISCLOSURE OF RECORDS.—Qualified participating entities shall make available to the Secretary or the Secretary's designee, at the Secretary's request, such financial and other records as the Secretary deems necessary for purposes of review and monitoring for the program under this section.

''(3) DEVELOPMENT OF ALTERNATIVES.—The Secretary shall develop and assess a variety of risk-sharing alternatives, including arrangements under which the Secretary assumes an appropriate share of the risk related to long-term mortgage loans on newly constructed or acquired multifamily rental housing, mortgage refinancings, bridge financing for construction, and other forms of multifamily housing mortgage lending that the Secretary deems appropriate to carry out the purposes of this subsection. Such alternatives shall be designed—

''(A) to ensure that other parties bear a share of the risk, in percentage amount and in position of exposure, that is sufficient to create strong, market-oriented incentives for other participating parties to maintain sound underwriting and loan management practices;

''(B) to develop credit mechanisms, including sound underwriting criteria, processing methods, and credit enhancements, through which resources of the Federal Housing Administration can assist in increasing multifamily housing lending as needed to meet the expected need in the United States;

''(C) to provide a more adequate supply of mortgage credit for sound multifamily rental housing projects in underserved urban and rural markets;

''(D) to encourage major financial institutions to expand their participation in mortgage lending for sound multifamily housing, through means such as mitigating uncertainties regarding actions of the Federal Government (including the possible failure to renew short-term subsidy contracts);

''(E) to increase the efficiency, and lower the costs to the Federal Government, of processing and servicing multifamily housing mortgage loans insured by the Federal Housing Administration; and

''(F) to improve the quality and expertise of Federal Housing Administration staff and other resources, as required for sound management of reinsurance and other market-oriented forms of credit enhancement.

''(4) ELIGIBILITY STANDARDS.—The Secretary shall establish and enforce standards for eligibility under this subsection of qualified participating entities under this subsection, as the Secretary determines to be appropriate.

''(5) FUNDING.—Using any authority provided in appropriation Acts to insure loans under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may enter into commitments under this subsection for risk sharing with respect to mortgages on not more than 15,000 units over fiscal years 1993 and 1994. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to Congress.

''(6) FEES.—The Secretary shall establish and collect premiums and fees under this subsection as the Secretary determines appropriate to (A) achieve the purpose of this subsection, and (B) compensate the Federal Housing Administration for the risks assumed and related administrative costs.

''(7) NON-FEDERAL PARTICIPATION.—The Secretary shall carry out this subsection, to the maximum extent practicable, with the participation of well-established residential mortgage originators, financial institutions that invest in multifamily housing mortgages, multifamily housing sponsors, and such other private sector experts in multifamily housing finance as the Secretary determines to be appropriate.

''(8) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured or reinsured under this subsection.

''(9) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured or reinsured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of the Internal Revenue Code of 1986 [26 U.S.C. 42(g)].

''(10) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545(d)] may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

''(11) IMPLEMENTATION.—The Secretary shall take any administrative actions necessary to initiate the pilot program under this subsection.

''(c) HOUSING FINANCE AGENCY PILOT PROGRAM.—

''(1) IN GENERAL.—The Secretary shall carry out a specific pilot program in conjunction with qualified housing finance agencies (including entities established by States that provide mortgage insurance) to test the effectiveness of Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such agencies.

''(2) PILOT PROGRAM REQUIREMENTS.—

''(A) IN GENERAL.—In carrying out the pilot program authorized under this subsection, the Secretary shall enter into risk-sharing agreements with qualified housing finance agencies.

''(B) MORTGAGE INSURANCE.—Agreements under subparagraph (A) shall provide for full mortgage insurance through the Federal Housing Administration of the loans for affordable multifamily housing originated by or through qualified housing finance agencies and for reimbursement to the Secretary by such agencies for either all or a portion of the losses incurred on the loans insured.

''(C) RISK APPORTIONMENT.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured multifamily mortgage. Such agreements shall specify that the qualified housing finance agency and the Secretary shall share any loss in accordance with the risk-sharing agreement.

''(D) REIMBURSEMENT CAPACITY.—Agreements entered into under this subsection between the Secretary and a qualified housing finance agency shall provide evidence of the capacity of such agency to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity may include—

''(i) a pledge of the full faith and credit of a qualified State or local agency to fulfill any obligations entered into by the qualified housing finance agency;

''(ii) reserves pledged or otherwise restricted by the qualified housing finance agency in an amount equal to an agreed upon percentage of the loss assumed by the housing finance agency under subparagraph (C);

''(iii) funds pledged through a State or local guarantee fund; or

''(iv) any other form of evidence mutually agreed upon by the Secretary and the qualified housing finance agency.

''(E) UNDERWRITING STANDARDS.—The Secretary shall allow any qualified housing finance agency to use its own underwriting standards and loan terms and conditions for purposes of underwriting loans to be insured under this subsection without further review by the Secretary, except that the Secretary may impose additional underwriting criteria and loan terms and conditions for contractual agreements where the Secretary retains more than 50 percent of the risk of loss.

''(F) DISCLOSURE OF RECORDS.—Qualified housing finance agencies shall make available to the Secretary such financial and other records as the Secretary deems necessary for program review and monitoring purposes.

''(3) MORTGAGE INSURANCE PREMIUMS.—The Secretary shall establish a schedule of insurance premium payments for mortgages insured under this subsection based on the percentage of loss the Secretary may assume. Such schedule shall reflect lower or nominal premiums for qualified housing finance agencies that assume a greater share of the risk apportioned according to paragraph (2)(C).

''(4) LIMITATION ON INSURANCE AUTHORITY.—Using any authority provided by appropriations Acts to insure mortgages under the National Housing Act [12 U.S.C. 1701 et seq.], the Secretary may enter into commitments under this subsection with respect to mortgages on not to exceed 30,000 units over fiscal years 1993, 1994, and 1995. The demonstration authorized under this subsection shall not be expanded until the reports required under subsection (d) are submitted to the Congress.

''(5) IDENTITY OF INTEREST.—Notwithstanding any other provision of law, the Secretary shall not apply identity of interest provisions to agreements entered into with qualified State housing finance agencies under this subsection.

''(6) PROHIBITION ON GINNIE MAE SECURITIZATION.—The Government National Mortgage Association shall not securitize any multifamily loans insured under this subsection.

''(7) QUALIFICATION AS AFFORDABLE HOUSING.—Multifamily housing securing loans insured under this subsection shall qualify as affordable only if the housing is occupied by families and bears rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g) of the Internal Revenue Code of 1986 [26 U.S.C. 42(g)].

''(8) REGULATIONS.—Not later than 90 days after the date of enactment of this Act [Oct. 28, 1992], the Secretary shall issue such regulations as may be necessary to carry out this subsection.

''(9) ENVIRONMENTAL AND OTHER REVIEWS.—

''(A) ENVIRONMENTAL REVIEWS.—

''(i) IN GENERAL.—(I) In order to assure that the policies of the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the insurance of mortgages under subsection (c)(2), and to assure to the public undiminished protection of the environment, the Secretary may, under such regulations, in lieu of the environmental protection procedures otherwise applicable, provide for agreements to endorse for insurance mortgages under subsection (c)(2) upon the request of qualified housing finance agencies under this subsection, if the State or unit of general local government, as designated by the Secretary in accordance with regulations, assumes all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary may specify, that would otherwise apply to the Secretary with respect to the insurance of mortgages on particular properties.

''(II) The Secretary shall issue regulations to carry out this subparagraph only after consultation with the Council on Environmental Quality. Such regulations shall, among other matters, provide—

''(aa) for the monitoring of the performance of environmental reviews under this subparagraph;

''(bb) subject to the discretion of the Secretary, for the provision or facilitation of training for such performance; and

''(cc) subject to the discretion of the Secretary, for the suspension or termination by the Secretary of the qualified housing finance agency's responsibilities under subclause (I).

''(III) The Secretary's duty under subclause (II) shall not be construed to limit any responsibility assumed by a State or unit of general local government with respect to any particular property under subclause (I).

''(ii) PROCEDURE.—The Secretary shall approve a mortgage for the provision of mortgage insurance subject to the procedures authorized by this paragraph only if, not less than 15 days prior to such approval, prior to any approval, commitment, or endorsement of mortgage insurance on the property on behalf of the Secretary, and prior to any commitment by the qualified housing finance agency to provide financing under the risk-sharing agreement with respect to the property, the qualified housing finance agency submits to the Secretary a request for such approval, accompanied by a certification of the State or unit of general local government that meets the requirements of clause (iii). The Secretary's approval of any such certification shall be deemed to satisfy the Secretary's responsibilities under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and such other provisions of law as

the regulations of the Secretary specify insofar as those responsibilities relate to the provision of mortgage insurance on the property that is covered by such certification.

''(iii) CERTIFICATION.—A certification under the procedures authorized by this paragraph shall—

''(I) be in a form acceptable to the Secretary;

''(II) be executed by the chief executive officer or other officer of the State or unit of general local government who qualifies under regulations of the Secretary;

''(III) specify that the State or unit of general local government under this section has fully carried out its responsibilities as described under clause (i); and

''(IV) specify that the certifying officer consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 [42 U.S.C. 4321 et seq.] and under each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or such other provisions of law apply pursuant to clause (i), and is authorized and consents on behalf of the State or unit of general local government and himself or herself to accept the jurisdiction of the Federal courts for the purpose of enforcement of the responsibilities as such an official.

''(iv) APPROVAL BY STATES.—In cases in which a unit of general local government carries out the responsibilities described in clause (i), the Secretary may permit the State to perform those actions of the Secretary described in clause (ii) and the performance of such actions by the State, where permitted by the Secretary, shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of clause (ii).

''(B) LEAD-BASED PAINT POISONING PREVENTION.—In carrying out the requirements of section 302 of the Lead-Based Paint Poisoning Prevention Act [42 U.S.C. 4822], the Secretary may provide by regulation for the assumption of all or part of the Secretary's duties under such Act [42 U.S.C. 4801 et seq.] by qualified housing finance agencies, for purposes of this section.

''(C) CERTIFICATION OF SUBSIDY LAYERING COMPLIANCE.—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 [42 U.S.C. 3545(d)] may be satisfied in connection with a commitment to insure a mortgage under this subsection by a certification by a housing credit agency (including an entity established by a State that provides mortgage insurance) to the Secretary that the combination of assistance within the jurisdiction of the Secretary and other government assistance provided in connection with a property for which a mortgage is to be insured shall not be any greater than is necessary to provide affordable housing.

''(10) DEFINITIONS.—For purposes of this subsection, the following definitions shall apply:

''(A) MORTGAGE.—The term 'mortgage' means a first mortgage on real estate that is—

''(i) owned in fee simple; or

''(ii) subject to a leasehold interest that—

''(I) has a term of not less than 99 years and is renewable; or

''(II) has a remaining term that extends beyond the maturity of the mortgage for a period of not less than 10 years.

''(B) FIRST MORTGAGE.—The term 'first mortgage' means a single first lien 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 instrument, if any, secured thereby. Any other financing permitted on property insured under this section must be expressly subordinate to the insured mortgage.

''(C) UNIT OF GENERAL LOCAL GOVERNMENT; STATE.—The terms 'unit of general local government' and 'State' have the same meanings as in section 102(a) of the Housing and Community Development Act of 1974 [42 U.S.C. 5302(a)].

''(d) INDEPENDENT STUDIES AND REPORTS.—

''(1) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—The Federal National Mortgage Association, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act [Oct. 28, 1992].

''(2) FEDERAL HOME LOAN MORTGAGE CORPORATION.—The Federal Home Loan Mortgage Corporation, in consultation with representatives of its seller-servicers and State housing finance agencies, shall carry out an independent assessment of alternative methods for achieving the purposes of this section and shall submit a report containing any findings and recommendations, including any recommendations for legislative or administrative action, simultaneously to the Secretary and the Congress not later than 12 months after the date of the enactment of this Act [Oct. 28, 1992].

''(3) SECRETARY.—The Secretary shall submit to the Congress, and publish, reports under this paragraph assessing the activities carried out under each of the pilot programs. The Secretary shall submit and publish a preliminary report under this paragraph not later than 9 months after the date of the implementation of each of the pilot programs, and a final report not later than 24 months after the date of implementation on which the pilot program is initiated, which shall include any recommendations by the Secretary for legislative changes to achieve the purposes of this section.

''(4) COMPTROLLER GENERAL.—The Comptroller General of the United States shall carry out an evaluation of each of the pilot programs under this section and shall submit to the Congress, not later than 30 months after the date of implementation for each of the pilot programs, a report regarding the evaluation, together with any recommendations for legislative changes to achieve the purposes of this section. The Comptroller General shall also submit to the Congress a report containing a preliminary assessment of the pilot program not later than 18 months after the date of enactment of this Act [Oct. 28, 1992].

''(5) FEDERAL HOUSING FINANCE BOARD.—The Federal Housing Finance Board shall monitor and assess the activities carried out under the pilot programs under this section. The Federal Housing Finance Board shall submit a preliminary report containing any findings regarding such activities not later than 9 months after the date of the enactment of this Act [Oct. 28, 1992], and a final report containing such findings not later than 24 months after the date on which the pilot program is initiated, which shall include any recommendations by the Board for legislative changes to achieve the purposes of this section.

''SEC. 543. NATIONAL INTERAGENCY TASK FORCE ON MULTIFAMILY HOUSING.

''(a) PURPOSE.—The purpose of this section is to establish a National Interagency Task Force on Multifamily Housing to develop recommendations for establishing a national database on multifamily housing loans.

''(b) ESTABLISHMENT OF TASK FORCE.—There is established a Task Force known as the National Interagency Task Force on Multifamily Housing (hereafter in this section referred to as the 'Task Force').

''(c) MEMBERSHIP OF TASK FORCE.—

''(1) FEDERAL OFFICIALS.—The Task Force shall be composed of—

''(A) the Secretary of Housing and Urban Development;

''(B) the Chairperson of the Federal Housing Finance Board;

''(C) the Comptroller of the Currency;

''(D) the Chairman of the Board of Governors of the Federal Reserve System;

''(E) the Director of the Office of Thrift Supervision;

''(F) the Chairperson of the Federal Deposit Insurance Corporation;

''(G) the Chairperson of the Federal National Mortgage Association; and

''(H) the Chairperson of the Federal Home Loan Mortgage Corporation,

or their designees, and the persons appointed under paragraphs (2) and (3).

''(2) APPOINTMENTS BY THE SECRETARY.—The Secretary shall appoint as members of the Task Force—

''(A) 1 individual who is a representative of a State housing finance agency;

''(B) 1 individual who is a representative of a local housing finance agency;

''(C) 1 individual who is a representative of the building industry with experience in multifamily housing; and

''(D) 1 individual who is a representative of the life insurance industry with experience in multifamily loan performance data.

''(3) APPOINTMENTS BY THE CHAIRPERSON OF THE FHFB.—The Chairman of the Federal Housing Finance Board shall appoint as members of the Task Force—

''(A) 1 individual who is a representative from the financial services industry with experience in multifamily housing underwriting;

''(B) 1 individual who is a representative from the nonprofit housing development sector with experience in subsidized multifamily housing development; and

''(C) 1 individual who is a representative from a nationally recognized rating agency.

''(d) ADMINISTRATION.—

''(1) CHAIRPERSONS.—The Task Force shall be chaired jointly by the Secretary and the Chairman of the Federal Housing Finance Board.

''(2) MEETINGS.—The Task Force shall meet no less than 4 times, at the call of the Chairpersons of the Task Force.

''(3) QUORUM.—A majority of the members of the Task Force shall constitute a quorum for the transaction of business.

''(4) VOTING.—Each member of the Task Force shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Task Force.

''(5) VACANCIES.—Any vacancy on the Task Force shall not affect its powers, but shall be filled in the manner in which the original appointment was made.

''(6) PROHIBITION ON ADDITIONAL PAY.—Members of the Task Force shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Task Force.

''(e) FUNCTIONS OF THE TASK FORCE.—

''(1) IN GENERAL.—The Task Force shall conduct a multifamily housing financial data project in order to improve the availability and efficiency of financing for multifamily rental housing. The project shall—

''(A) analyze available data regarding the performance of multifamily housing mortgage loans in all regions of the country;

''(B) prepare a comprehensive national database on the operation and financing of multifamily housing that will provide reliable information appropriate to meet the projected needs of lenders, investors, sponsors, property managers, and public officials;

''(C) identify important factors that affect the long-term financial and operational soundness of multifamily housing properties, including factors relating to project credit risk, project underwriting, interest rate risk, real estate market conditions, public subsidies, tax policies, borrower characteristics, program management standards, and government policies;

''(D) develop common definitions, standards, and procedures that will improve multifamily housing underwriting and accelerate the development of a strong, competitive, and efficient secondary market for multifamily housing loans; and

''(E) make available appropriate information to various organizations in forms that will assist in improving multifamily housing loan underwriting and servicing.

''(2) FINAL REPORT.—Not later than 1 year following the enactment of this Act [Oct. 28, 1992], the Task Force shall submit to the Congress a final report which shall contain the information, evaluations, and recommendations specified in paragraph (1).

''(f) AUTHORITY OF TASK FORCE.—

''(1) RULES AND REGULATIONS.—The Task Force may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization and personnel.

''(2) ACCESS TO DATA.—The members of the Task Force representing the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Secretary of Housing and Urban Development, the Federal Housing Finance Board, the Federal National Mortgage Association, and the Federal Home Loan Mortgage Corporation shall make available to the Task Force a representative sample of multifamily housing mortgage loans in order for the Task Force to make its findings and recommendations, except that—

''(A) all information obtained shall be used only for the purposes authorized in this section;

''(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

''(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

''(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

''(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

''(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

''(3) SAMPLE DATA.—In order to ensure a representative sample of multifamily housing data, the Department of Housing and Urban Development, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation are authorized to request loan data from a representative sample of mortgage originators or the government-sponsored enterprises regulated by these agencies, and mortgages originated by housing finance agencies and life insurance companies, except that—

''(A) all information obtained shall be used only for the purposes authorized in this section;

''(B) the Task Force shall maintain the confidentiality of all such information obtained in the manner established for the material by the submitting

entity, and such data shall not be subject to release under section 552 of title 5, United States Code;

''(C) only aggregate data shall be publicly released by the Task Force unless it receives the explicit permission of the mortgage originator or government-sponsored enterprise from which the information is obtained; and

''(D) any officer or employee of the Secretary, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, or the Federal Housing Finance Board shall be subject to the penalties under section 1906 of title 18, United States Code, if—

''(i) by virtue of employment or official position, the officer or employee has possession of or access to any book, record, or information made available under this subsection and established as confidential under subparagraph (C); and

''(ii) the officer or employee discloses the material in any manner other than to an officer or employee of the same Federal agency employing the officer or employee, or other than pursuant to the exemptions under section 1906.

''(4) AGENCY RESOURCES.—The Task Force may, with the consent of any Federal agency or department represented on the Task Force, utilize the information, services, staff and facilities of such agency or department on a reimbursable basis, to assist the Task Force in carrying out its duties under this section.

''(5) MAILS.—The Task Force may use the United States mails in the same manner and under the same conditions as other Federal agencies.

''(6) CONTRACTING.—The Task Force may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with private firms, institutions, and individuals for the purpose of discharging its duties under this section.

''(7) STAFF.—The Task Force may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification of General Schedule pay rates.

''(g) INDEPENDENT EVALUATION.—The Comptroller General of the United States shall be authorized to conduct an independent analysis of the findings and recommendations submitted by the Task Force to the Congress under this section.

''(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not to exceed $6,000,000 for fiscal year 1993 and $6,252,000 for fiscal year 1994. Funds appropriated under this subsection shall remain available until expended.

''SEC. 544. DEFINITIONS.

''For purposes of this subtitle:

''(1) The term 'multifamily housing' means housing accommodations on the mortgaged property that are designed principally for residential use, conform to standards satisfactory to the Secretary, and consist of not less than 5 rental units on 1 site. These units may be detached, semidetached, row house, or multifamily structures.

''(2) The term 'qualified housing finance agency' means any State or local housing finance agency that—

''(A) carries the designation of 'top tier' or its equivalent, as evaluated by Standard and Poors or any other nationally recognized rating agency;

''(B) receives a rating of 'A' for its general obligation bonds from a nationally recognized rating agency; or

''(C) otherwise demonstrates its capacity as a sound and experienced agency based on, but not limited to, its experience in financing multifamily housing, fund balances, administrative capabilities, investment policy, internal controls and financial management, portfolio quality, and State or local support.

''(3) The term 'reinsurance agreement' means a contractual obligation under which the Secretary, in exchange for appropriate compensation, agrees to assume a specified portion of the risk of loss that a lender or other party has previously assumed with respect to a mortgage on a multifamily housing property.

''(4) The term 'Secretary' means the Secretary of Housing and Urban Development.

''(5) The term 'qualified participating entity' means an entity approved by the Secretary for participation in the pilot program under this subsection, which may include—

''(A) the Federal National Mortgage Association;

''(B) the Federal Home Loan Mortgage Corporation;

''(C) State housing finance and mortgage insurance agencies; and

''(D) the Federal Housing Finance Board.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706c, 1715k, 1715*l*, 1715y, 1715z–1, 1715z–20, 1750 of this title.

§ 1708. Federal Housing Administration operations

(a) Mutual Mortgage Insurance Fund

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.

(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 the Federal Advisory Committee Act.

(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 fi-

nance, 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 7 of the Federal Advisory Committee Act, 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, peri-

[1] See References in Text note below.

[2] So in original. Probably should be ''subparagraph''.

odic 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. 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 Mortgagee 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 of suspending the en-

forcement, 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.

(d) 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[3] (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.

(e) 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[4] impartially 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.

[3] So in original. Probably should be ''paragraph''.

[4] So in original. Probably should be ''and''.

(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; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Dec. 15, 1989, Pub. L. 101–235, title I, § 142, 103 Stat. 2030; Nov. 28, 1990, Pub. L. 101–625, title III, § 322, 104 Stat. 4134; Oct. 28, 1992, Pub. L. 102–550, title V, §§ 502, 518, 519, 106 Stat. 3778, 3792.)

REFERENCES IN TEXT

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, as amended, which is set out in the Appendix to Title 5, Government Organization and Employees.

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, as amended, 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, as amended, 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.

AMENDMENTS

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''.

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.

CROSS REFERENCES

Establishment of the General Insurance Fund, see section 1735c of this title.

General Surplus and Participating Reserve Accounts established in the Mutual Mortgage Insurance Fund, see section 1711 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1735, 1735f–14 of this title.

§ 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—

(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, 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 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,[1] 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

(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

[1] See Codification note below.

(iii) 90 percent of such value in excess of $125,000.

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. 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. 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 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. 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.

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.

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) Be executed by a mortgagor who shall have paid on account of the property (except with respect to a mortgage executed by a mortgagor who is a veteran) 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: *Provided*, That with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is endorsed for insurance or with respect to a mortgage meeting the requirements of subsection (i) of this section, 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[2] of title 42, or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act, the mortgagor's payment required by this subsection may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Secretary may prescribe.

(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, 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 subsections (n) and (k) of this section 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) or (k) of this section 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 and executed on or after October 1, 1994, that is an obligation of the Mutual Mortgage Insurance Fund or of the General Insurance Fund pursuant to subsection (v)[3] of this section, 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 2.25 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.

(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect 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 ac-

[2] See References in Text note below.

[3] Probably refers to the subsec. (v) of this section set out first.

count 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 shall be in an amount not exceeding 0.55 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

Notwithstanding any 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.

(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) Repealed. Aug. 2, 1954, ch. 649, title I, §109, 68 Stat. 592

(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 1715*l*(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 of this title;

(E) a mortgagor or co-mortgagor under subsection (k) of this section; 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) of this section 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) Single-family housing in outlying areas

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, 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 subsection (b) of this section and not in excess of 97 per centum (or, 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) of the appraised value of a property located in an area where the Secretary finds 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, upon which there is located a dwelling designed principally for a single-family residence: *Provided*, That the Secretary finds that the property 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 or small communities: *Provided further*, That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home on a plot of land two and one-half or more acres in size adjacent to an all-weather public road.

(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 on and after 180 days following October 31, 1978. 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), 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) of this section; 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 General 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, 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. 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 require-

ments 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 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 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*) Insurance of mortgages on owner occupied homes in communities subject to adverse economic conditions resulting from Indian claims to ownership of land; obligation of Special Risk Insurance Fund

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation may prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise;

(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages;

(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

(E) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or Nation.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner of a home in a community specified in paragraph (1) who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary is authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are insured under subsection (b) of this section as modified by this subsection forebearance, assignment of mortgages to the Secretary, or such other relief as the Secretary deems appropriate and consistent with the purpose of this subsection. The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 1715z–3 of this title.

(p) 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; eligibility, authorities, etc.

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation shall prescribe to further the purpose of this subsection, in any community where the Secretary determines that—

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise; and

(C) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, group, or nation pursuant to a dispute involving the Articles of Confederation, Trade and Intercourse Act of 1790, or any similar State or Federal law.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner of a home in a community specified in paragraph (1). The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 1715z–3 of this title.

(q) Insurance of mortgages secured by property on certain lands leased by Seneca Nation of New York Indians

(1) Notwithstanding any other provision of this section or any other section of this subchapter, the Secretary shall insure and commit to insure, under subsection (b) of this section as modified by this subsection, any mortgage secured by property located on land that—

(A) is within the Allegany Reservation of the Seneca Nation of New York Indians; and

(B) is subject to a lease entered into for a term of 99 years pursuant to the Act of February 19, 1875 (Chapter 90; 18 Stat. 330) and the Act of September 30, 1890 (Chapter 1132; 26 Stat. 558).

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this subchapter relating to marketability of title or any other statutory restriction that the Secretary determines is contrary to the purpose of this subsection.

(3) The Secretary, in connection with any mortgage insured under subsection (b) of this section as modified by this subsection, shall have all statutory powers, authority, and responsibilities that the Secretary has with respect to other mortgages insured under subsection (b) of this section, except that the Secretary may modify such powers, authority, or responsibilities if the Secretary determines such action to be necessary because of the special nature of the mortgage involved.

(4) Notwithstanding section 1708 of this title, the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created in section 1715z–3 of this title.

(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)[4] 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 Administrator of the Farmers Home Administration;

(5) if the mortgagee is a national bank or District bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

[4] So in original. Two subsecs. (s) have been enacted.

(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;

(7) if the mortgagee is a State bank 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; and

(8) 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.

(s)[4] 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).

(t) 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'' shall have the meaning given the term under subsection (b)(2) of this section;

(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)[5] Use of FHA insurance with assistance under 42 U.S.C. 1437f

Notwithstanding section 1708 of this title, 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 General Insurance Fund created pursuant to section 1735c[6] 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.

(v)[5] 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.

(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; July 12,

[5] So in original. Two subsecs. (v) have been enacted.

[6] See References in Text note below.

1957, Pub. L. 85–104, title I, §§ 101, 106, 71 Stat. 294, 297; Apr. 1, 1958, Pub. L. 85–364, § 1(a), 72 Stat. 73; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 102, 103, title VIII, § 809, 73 Stat. 654, 688; June 30, 1961, Pub. L. 87–70, title I, § 102(b), title VI, §§ 604(b), 605, 606, 612(a), 75 Stat. 157, 177, 178, 180; Sept. 2, 1964, Pub. L. 88–560, title I, §§ 102, 103, 105(c)(1), 78 Stat. 769, 772; Aug. 10, 1965, Pub. L. 89–117, title II, §§ 203–206, title XI, § 1108(c), 79 Stat. 466, 504; Nov. 3, 1966, Pub. L. 89–754, title III, §§ 301, 302, 80 Stat. 1266; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, § 103(b), title III, §§ 317, 318, title XI, § 1106(d), 82 Stat. 486, 512, 567; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 102(a), 113(a), 83 Stat. 379, 383; Dec. 31, 1970, Pub. L. 91–606, title III, § 301(c), 84 Stat. 1758; May 22, 1974, Pub. L. 93–288, title VII, § 702(c), formerly title VI, § 602(c), 88 Stat. 163, renumbered title VII, § 702(c), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), 108 Stat. 3100; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 302(a), 310(a), 88 Stat. 676, 682; Oct. 18, 1974, Pub. L. 93–449, § 4(b), 88 Stat. 1367; Oct. 12, 1977, Pub. L. 95–128, title III, §§ 303(a), (g), 304(a), 305, 307, 91 Stat. 1132, 1133, 1134; Oct. 31, 1978, Pub. L. 95–557, title I, § 101(c)(1), (2), 92 Stat. 2082, 2083; Nov. 9, 1978, Pub. L. 95–619, title II, § 248(a), 92 Stat. 3235; Dec. 21, 1979, Pub. L. 96–153, title III, §§ 310, 312(a), 318, 93 Stat. 1114, 1116, 1119; Oct. 8, 1980, Pub. L. 96–399, title III, §§ 321, 328, 333(a), 336(a), 94 Stat. 1646, 1651, 1653, 1654; Sept. 8, 1982, Pub. L. 97–253, title II, § 201(a), (b), 96 Stat. 789; July 30, 1983, Pub. L. 98–63, title I, § 101, 97 Stat. 321; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 404(b)(2), (3), 419, 423(a), (b)(1), 424(a), 425, 447, 97 Stat. 1209, 1212, 1216–1218, 1228; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(2), 98 Stat. 2232; Nov. 5, 1986, Pub. L. 99–601, 100 Stat. 3357; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 403–405(1), 406(a)–(b)(6), (c), 407(a)(1), 422(b), 423, 429(c), 101 Stat. 1899–1902, 1914, 1918; Nov. 7, 1988, Pub. L. 100–628, title X, §§ 1061–1063(a), 102 Stat. 3274; Nov. 23, 1988, Pub. L. 100–707, title I, § 109(e)(2), 102 Stat. 4708; Nov. 9, 1989, Pub. L. 101–144, title II, 103 Stat. 852; Dec. 15, 1989, Pub. L. 101–235, title I, §§ 132(a), 135, 143(a), (b), 103 Stat. 2026, 2028, 2036; Oct. 1, 1990, Pub. L. 101–402, § 3, 104 Stat. 866; Nov. 5, 1990, Pub. L. 101–507, title II, 104 Stat. 1369; Nov. 5, 1990, Pub. L. 101–508, title II, §§ 2101–2103(a), 104 Stat. 1388–17; Nov. 28, 1990, Pub. L. 101–625, title III, §§ 326(a), 327, 329, 330(a), title IV, § 429, 104 Stat. 4137, 4138, 4171; May 7, 1991, Pub. L. 102–40, title IV, § 402(d)(2), 105 Stat. 239; Oct. 6, 1992, Pub. L. 102–389, title II, 106 Stat. 1591, 1593; Oct. 28, 1992, Pub. L. 102–550, title I, § 185(c)(1), title V, §§ 503(a), 504–506(a), 507(a), title X, § 1012(k)(2), 106 Stat. 3747, 3779–3782, 3907; Feb. 12, 1994, Pub. L. 103–211, title I, 108 Stat. 12; Sept. 28, 1994, Pub. L. 103–327, title II, 108 Stat. 2314.)

REFERENCES IN TEXT

Section 1436 of title 42, referred to in subsec. (b)(9), was repealed by Pub. L. 91–609, title V, § 503(4), Dec. 31, 1970, 84 Stat. 1786. See section 1701z–1 et seq. of this title.

The Homeownership and Opportunity Through HOPE Act, referred to in subsec. (b)(9), is title IV of Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4148, which enacted subchapter II–A (§ 1437aaa et seq.) of chapter 8 of Title 42, The Public Health and Welfare, and parts A (§ 12871 et seq.) and B (§ 12891 et seq.) of subchapter IV of chapter 130 of Title 42, amended sections 1437c, 1437f, 1437*l*, 1437p, 1437r, and 1437s of Title 42, and enacted provisions set out as notes under sections 1437c, 1437aa, and 1437aaa of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1437aaa of Title 42 and Tables.

Acts of February 19, 1875 (Chapter 90; 18 Stat. 330), and September 30, 1890 (Chapter 1132; 26 Stat. 558), referred to in subsec. (q)(1)(B), which related to leasing of lands by the Seneca Nation of New York Indians, are not classified to the Code.

Section 1735c of this title, referred to in subsec. (v), was in the original ''section 519 of this title'', and was translated as meaning section 519 of title V of the National Housing Act, act June 27, 1934, ch. 847, to reflect the probable intent of Congress.

CODIFICATION

September 28, 1994, referred to in subsec. (b)(2)(A), was in the original ''the date of enactment of the Housing Choice and Community Investment Act of 1994'', which was translated as meaning the date of enactment of Pub. L. 103–327, to reflect the probable intent of Congress, because the Housing Choice and Community Investment Act of 1994 is S. 2281, 103d Congress, which was not enacted. However, portions of S. 2281 were incorporated by reference into Pub. L. 103–327, and deemed enacted into law upon enactment of Pub. L. 103–327, title II, 108 Stat. 2316, which was approved Sept. 28, 1994. Also, the amendments to subsec. (b)(2)(A) of this section by Pub. L. 103–327, are identical to amendments that would have been made by section 301 of S. 2281.

AMENDMENTS

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 ''133⅓ 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) of this section'' 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) of this section are not required'' for ''subsection (n) of this section is not required'' and ''subsection (n) or (k) of this section exceed 1 per centum'' for ''subsection (n) of this section 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 subsecs. (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.

APPLICABILITY OF 1994 AMENDMENT

Title I of Pub. L. 103–211, 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

Section 503(b) of Pub. L. 102–550 provided that: ''The amendment made by subsection (a) [amending this section] shall apply only to mortgages executed on or after January 1, 1993.''

Section 506(b) of Pub. L. 102–550 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

Section 326(b) of Pub. L. 101–625 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 1715*l* of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 132(b) of Pub. L. 101–235 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.''

Section 143(c) of Pub. L. 101–235 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

Section 406(d) of Pub. L. 100–242 provided that: ''The amendments made by this section [amending this section and sections 1715d, 1715g, 1715k, 1715*l*, 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.''

Section 407(a)(2) of Pub. L. 100–242, 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

Section 424(b) of Pub. L. 98–181 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.]

Section 423(c) of Pub. L. 98–181 provided that: ''The amendments made by this section [amending this section and sections 1715e, 1715*l*, 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

Section 104 of Pub. L. 95–557 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, 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.

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

Section 326(c) of Pub. L. 101–625 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.''

Section 2103(b), (c) of Pub. L. 101–508, 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

Section 132(c) of Pub. L. 101–235 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.''

Section 143(d) of Pub. L. 101–235 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

Section 406(e) of Pub. L. 100–242 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, 1715*l*, 1715m, 1715n, 1715y, 1715z of this title], as such provisions existed immediately before such date.''

IMPLEMENTATION OF 1982 AMENDMENT

Section 201(g) of Pub. L. 97–253 provided that: ''The amendments made by this section [amending this section and sections 1715e, 1715*l*, 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

Section 104(b) of act Apr. 20, 1950, provided that: ''The repeal of section 203(b)(2)(B) of said Act [former subsection (b)(2)(B) of this section], as provided by sub-

section (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].''

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

Section 448 of Pub. L. 98–181 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

Section 309 of Pub. L. 96–153 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1441a, 1701x, 1706c, 1707, 1708, 1710, 1711, 1712, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715n, 1715q, 1715w, 1715x, 1715y, 1715z, 1715z–2, 1715z–3, 1715z–10, 1715z–12, 1715z–13, 1715z–14, 1715z–19, 1715z–20, 1717, 1735, 1735b, 1735c, 1735f–17, 1735f–18, 1748h–1, 1748h–2, 1750b, 1831q, 2703 of this title; title 15 sections 77d, 78c; title 38 section 3703; title 42 sections 1472, 1490k.

§ 1709–1. Repealed. Pub. L. 98–181, 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.

MORTGAGE CREDIT INTEREST RATES

Section 4 of Pub. L. 90–301, 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 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.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. 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.

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.)

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.)

REFERENCES IN TEXT

The National Housing Act, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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.

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, 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) Conveyance, sale, and assignment by mortgagee; debentures and certificates of claim; cost of foreclosure; direct conveyances

In any case in which the mortgagee under a mortgage insured under section 1709 of this title shall have foreclosed and taken possession of the mortgaged property in accordance with 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 benefit of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of 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 as may have been released with the consent of the Secretary. The Secretary is also authorized, in accordance with such regulations as the Secretary may prescribe, to make the benefit of the insurance as hereinafter provided available to the mortgagee, notwithstanding any provision of this section requiring conveyance of title to the property to the Secretary, (1)(A) upon sale of the insured 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, or (B) upon the sale of the insured property by the mortgagor after default, if (i) the sale 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 appropriate homeownership counseling, as determined by the Secretary; and (2) upon the assignment to the Secretary of all claims referred to in clause (2) of the preceding sentence. The payment of benefits under the preceding sentence may be made for any mortgage insured pursuant to a commitment to insure issued on or after November 30, 1983 (on or after November 7, 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence), and, with the approval of the mortgagee, for any mortgage insured pursuant to a commitment issued before that date. 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. Upon the conveyance and assignment referred to in the first sentence of this section or the sale and assignment referred to in the second sentence of this subsection, 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 value of the mortgage and (subject to subsection (e)(2) of this section) a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, 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 Secretary prior to the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums, and any tax imposed by the United States upon any deed or other instrument by which said property was acquired by the mortgagee and transferred or conveyed to the Secretary and by deducting from such total amount any amount received on account of the mortgage after either of such dates, 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 sale of the property: *Provided*, That with respect to mortgages which are accepted for insurance under section 203(b)(2)(B) of this Act, and which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Secretary, on account of foreclosure costs actually paid by the mortgagee and approved by the Secretary an amount not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings, but in no event in ex-

cess of $75: *And provided further*, That with respect to mortgages which are accepted for insurance under section 203(b)(2)(D) of this Act or under the second proviso of section 1713(c)(2) of this title, 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, there may be included in the debentures issued by the Secretary on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Secretary an amount, not in excess of two-thirds of such cost or $75 whichever is the greater: *And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964, the Secretary may include in debentures or in the cash payment an amount not to exceed the foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Secretary: *And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the Secretary may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e) of this section), include 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 Secretary, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee: *And provided further*, That with respect to mortgages to which the provisions of sections 532 and 536 of the Appendix to title 50 apply, and which are insured under section 1709 of this title, and subject to such regulations and conditions as the Secretary may prescribe, there shall be included in the debentures an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter: *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 provided further*, That with respect to any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, if the Secretary finds, after notice of default, that the default was due to circumstances beyond the control of the mortgagor, he may, upon such terms and conditions as he may prescribe, (1) approve the request of the mortgagee for an extension of the time for the curing of the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property to such time as the Secretary may determine 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 is authorized to include in the debentures an amount equal to any unpaid mortgage interest, or (2) approve a modification of the terms of the mortgage for the purpose of changing the amortization provisions by recasting, over the remaining term of the mortgage or over such longer period as may be approved by the Secretary, the total unpaid amount then due, as determined by the Secretary, 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 to be the ''original principal obligation of the mortgage'' as that term is used in this chapter for the purpose of computing the total face value of the debentures to be issued or the cash payment to be made by the Secretary to a mortgagee: *And provided further*, That, notwithstanding any requirement contained in this chapter that debentures may be issued only upon acquisition of title and possession by the mortgagee and its subsequent conveyance and transfer to the Secretary, and for the purpose of avoiding unnecessary conveyance expense in connection with payment of insurance benefits under the provisions of this chapter, the Secretary is authorized, subject to such rules and regulations as he may prescribe, to permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession direct from the mortgagor or other appropriate grantor and to pay the insurance benefits to the mortgagee which it would otherwise be entitled to if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

(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 mortagee[1] with respect to mortgages insured under section 1709 of this title shall be issued in the name of the Mutual Mortgage Insur-

[1] So in original. Probably should be ''mortgagee''.

ance 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 1715*o* 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) of this section.

(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) of this section, 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 5 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.

(h) Mortgagor's or mortgagee'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)[2] 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) of this section) 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) Debentures; inclusion of payments and taxes; termination of obligation to pay premiums

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.

(*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

[2] So in original. No subsec. (i) has been enacted.

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[3] 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; July 12, 1957, Pub. L. 85–104, title I, §§ 107, 108(a), 71 Stat. 297; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 114(b), 117, 73 Stat. 662, 664; June 30, 1961, Pub. L. 87–70, title VI, § 612(b), (c), 75 Stat. 180; Sept. 2, 1964, Pub. L. 88–560, title I, §§ 104(a), 105(a), 78 Stat. 769, 770; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(d), 79 Stat. 504; May 25, 1967, Pub. L. 90–19, § 1(a)(2), (3), (4), (d), 81 Stat. 17, 18; Nov. 30, 1983, Pub. L. 98–181, title IV, § 426, 97 Stat. 1218; Feb. 5, 1988, Pub. L. 100–242, title V, § 569, 101 Stat. 1948; Nov. 7, 1988, Pub. L. 100–628, title X, § 1064(a), (b), 102 Stat. 3275; Dec. 15, 1989, Pub. L. 101–235, title I, § 136, 103 Stat. 2028; Oct. 28, 1992, Pub. L. 102–550, title V, § 516(a), 106 Stat. 3790.)

REFERENCES IN TEXT

Section 203(b)(2)(B) of this Act, referred to in subsec. (a), which was classified to section 1709(b)(2)(B) of this title, was repealed by act Apr. 20, 1950, ch. 94, § 104(a), 64 Stat. 51.

Section 203(b)(2)(D), referred to in subsec. (a), which was 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.

The Housing Amendments of 1955, referred to in subsec. (f)(2), is act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended. 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.

AMENDMENTS

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''.

[3] So in original. Probably should be capitalized.

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) of this section)'' 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), 1715*l*(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), 1715*l*(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 1715*o* 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.

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 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.''

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.''

CROSS REFERENCES

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1706c, 1709, 1712, 1715e, 1715k, 1715*l*, 1715m, 1715u, 1715x, 1715y, 1715z–3, 1715z–12, 1715z–13, 1715z–17, 1748h–1, 1748h–2, 1750c, 3763 of this title; title 42 section 11408.

§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 out-

standing 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; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Nov. 5, 1990, Pub. L. 101–508, title II, §§ 2104, 2105, 104 Stat. 1388–19; Oct. 28, 1992, Pub. L. 102–550, title V, § 508(a), 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; May 25, 1967, Pub. L. 90–19, § 1(a)(1), (3), (e), 81 Stat. 17, 18; Dec. 31, 1970, Pub. L. 91–609, title I, § 117(a), 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.

CROSS REFERENCES

Mutual Mortgage Insurance Fund, see section 1708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 895.

§ 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) 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), $30,420 per family unit without a bedroom, $33,696 per family unit with one bedroom, $40,248 per family unit with two bedrooms, $49,608 per family unit with three bedrooms, and $56,160 per family unit with four or more bedrooms, or not to exceed $9,000 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 $35,100 per family unit without a bedroom, $39,312 per family unit with one bedroom, $48,204 per family unit with two bedrooms, $60,372 per family unit with three bedrooms, and $68,262 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 except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by 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[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

[1] See References in Text note below.

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) of this section, 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) of this section, 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 1715*l*(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 1715*o* 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) of this section, 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 5 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) of 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 subsection (e) of this section, 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; July 12, 1957, Pub. L. 85–104, title I, §§108(b), 109–111, 71 Stat. 297; June 25, 1959, Pub. L. 86–70, §10(a), (b), 73 Stat. 142; Sept. 23, 1959, Pub. L. 86–372, title I, §104, 73 Stat. 655; July 12, 1960, Pub. L. 86–624, §6, 74 Stat. 411; June 30, 1961, Pub. L. 87–70, title VI, §607, 75 Stat. 178; Sept. 2, 1964, Pub. L. 88–560, title I, §§105(b), 106, 107(a), 108, 78 Stat. 772, 774, 776; Aug. 10, 1965, Pub. L. 89–117, title II, §207(a), title XI, §1108(e), 79 Stat. 467, 504; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17; May 7, 1968, Pub. L. 90–301, §3(b), 82 Stat. 114; Dec. 24, 1969, Pub. L. 91–152, title I, §§103(a), (b), 113(b), title IV, §403(c)(2), 83 Stat. 380, 383, 395; Aug. 22, 1974, Pub. L. 93–383, title III, §§303(a), 304(a), 88 Stat. 676, 677; Dec. 23, 1975, Pub. L. 94–173, §3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, §8(a), (b)(1), 90 Stat. 1071; Oct. 31, 1978, Pub. L. 95–557, title III, §311(a), 92 Stat. 2098; Nov. 9, 1978, Pub. L. 95–619, title II, §248(b), 92 Stat. 3235; Dec. 21, 1979, Pub. L. 96–153, title III, §§313(b), 314, 93 Stat. 1117; Oct. 8, 1980, Pub. L. 96–399, title III, §§308(c)(1), 310(a), 94 Stat. 1640, 1641; Aug. 13, 1981, Pub. L. 97–35, title III, §§338(b), 339B(a), (c), 95 Stat. 416, 417; Dec. 21, 1982, Pub. L. 97–377, title I, §101(g), 96 Stat. 1908; Nov. 30, 1983, Pub. L. 98–181, title IV, §§404(b)(4), 407(c), 431(a), 435, 446(a), 97 Stat. 1209, 1211, 1220, 1222, 1228; Oct. 17, 1984, Pub. L. 98–479, title II, §204(a)(3), 98 Stat. 2232; Feb. 5, 1988, Pub. L. 100–242, title I, §182, title IV, §426(a), (h), 101 Stat. 1871, 1915, 1916; Oct. 28, 1992, Pub. L. 102–550, title V, §§509(a), 516(b), 106 Stat. 3782, 3790; Apr. 11, 1994, Pub. L. 103–233, title III, §306, 108 Stat. 373.)

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), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (c)(3), 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.

The National Housing Act Amendments of 1938, referred to in subsec. (*o*), is act Feb. 3, 1938, ch. 13, 42 Stat. 8, as amended, 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

References to ''mobile homes'', wherever appearing in text, were changed to ''manufactured homes'' in view of the amendment of the National Housing Act by section 308(c)(1) of Pub. L. 96–399 requiring the substitution of ''manufactured home'' for ''mobile home'' wherever appearing in the National Housing Act, and section 339B(c) of Pub. L. 97–35 (set out as a note under section 1703 of this title) providing that the terms ''mobile home'' and ''manufactured home'' shall be deemed to include the terms ''mobile homes'' and ''manufactured homes'', respectively.

AMENDMENTS

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) of this section, and debentures having a par value'' for '', subject to the cash adjustment provided for in subsection (j) of this section, issue to the mortgagee a certificate of claim as provided in subsection (h) of this section, 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 1715*l*(g), and section 1715x of this title'' for ''section 1715k(f), 1715*l*(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 5¼ 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. (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), substituted ''manufactured'' for ''mobile''.

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), 1715*l*(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 1715*o* 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.

EFFECTIVE DATE OF 1983 AMENDMENT

Section 431(c) of Pub. L. 98–181 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 IV, §404(a), Nov. 30, 1983, 97 Stat. 1208.

REGULATIONS

Section 509(h) of Pub. L. 102–550 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, 1715*l*, 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].''

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.

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, 1715*l*, 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

Section 446(f) of Pub. L. 98–181 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, 1715*l*, 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

Section 107(g) of Pub. L. 88–560, 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, 1715*l*, 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.

CROSS REFERENCES

Establishment of General Insurance Fund, see section 1735c of this title.

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1454, 1464, 1710, 1715c, 1715e, 1715k, 1715*l*, 1715r, 1715v, 1715w, 1715x, 1715y, 1715z–3, 1715z–6, 1715z–7, 1715z–18, 1715z–19, 1717, 1731b, 1735, 1743, 1744, 1748b, 1748h–2, 1749aaa–2, 1750g of this title; title 42 sections 1437f, 1594a, 3535.

§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; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17.)

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; June 30, 1961, Pub. L. 87–70,

title VI, § 612(d), 75 Stat. 181; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(f), 79 Stat. 504; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (f), 81 Stat. 17, 18.)

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''.

CROSS REFERENCES

General Insurance Fund, establishment of, see section 1735c of this title.

§ 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.

APPLICATIONS PRIOR TO REPEAL

Section 13 of act June 3, 1939, 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.''

§ 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; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 15 sections 77d, 78c.

§ 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 of this chapter 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 the Davis-Bacon Act, as amended [40 U.S.C. 276a et seq.], 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 1715*l* 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 of this chapter; 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) of this section.

(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; Sept. 23, 1959, Pub. L. 86–372, title I, § 110(f), title II, § 201(b), title VII, § 704(c), 73 Stat. 661, 667, 686; June 30, 1961, Pub. L. 87–70, title VI, § 612(e), 75 Stat. 181; July 2, 1964, Pub. L. 88–349, § 3, 78 Stat. 239; Sept. 2, 1964, Pub. L. 88–560, title I, § 119(b), 78 Stat. 782; Aug. 10, 1965, Pub. L. 89–117, title I, § 102(c), title II, § 201(b)(4), 79 Stat. 454, 465; Nov. 3, 1966, Pub. L. 89–754, title III, § 311, title V, § 503, 80 Stat. 1270, 1277; May 25, 1967, Pub. L. 90–19, § 1(a) (3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, § 101(d), title II, § 201(b)(1), title XV, § 1502, 82 Stat. 484, 501, 600; Dec. 31, 1970, Pub. L. 91–609, title I, § 110(c), 84 Stat. 1772; Dec. 15, 1989, Pub. L. 101–235, title I, § 133(d)(2), 103 Stat. 2027.)

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.

The Davis-Bacon Act, as amended, referred to in subsec. (a), is act Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which is classified generally to sections 276a to 276a–5 of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 276a of Title 40 and Tables.

Subsections (d)(3), (d)(4), and (h)(1), referred to in subsec. (a), are references to such subsections in section 1715*l* of this title.

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 1715*l* 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 sub-

chapter 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.

EFFECTIVE DATE OF 1964 AMENDMENT

For effective date of amendment by Pub. L. 88–349, see section 4 of Pub. L. 88–349, set out as a note under section 276a of Title 40, Public Buildings, Property, and Works.

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.

CROSS REFERENCES

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

Rehabilitation and neighborhood conservation housing insurance, see section 1715k of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715e, 1750b of this title.

§ 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 or 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; June 25, 1959, Pub. L. 86–70, § 10(c), 73 Stat. 142; Sept. 23, 1959, Pub. L. 86–372, title I, § 106, 73 Stat. 657; May 25, 1967, Pub. L. 90–19, § 1(a)(2), (3), 81 Stat. 17; Dec. 24, 1969, Pub. L. 91–152, title IV, § 418(e), 83 Stat. 402; Oct. 8, 1980, Pub. L. 96–399, title III, § 308(c)(1), 94 Stat. 1640; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(4), 98 Stat. 2232; Feb. 5, 1988, Pub. L. 100–242, title IV, § 406(b)(7), 101 Stat. 1901; Nov. 28, 1990, Pub. L. 101–625, title III, § 333, 104 Stat. 4141.)

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 Posses-

sions. 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 ''Nowithstanding'' 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.

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

Section 323 of Pub. L. 96–399 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.

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.

CROSS REFERENCES

Mortgages on property in Alaska inapplicable to subchapter VIII of chapter 13 of this title, see section 1748e of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1748e of this title.

§ 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.

(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) 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), $30,420 per family unit without a bedroom, $33,696 per family unit with one bedroom, $40,248 per family unit with two bedrooms, $49,608 per family unit with three bedrooms, and $56,160 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 $35,100 per family unit without a bedroom, $39,312 per family unit with one bedroom, $48,204 per family unit with two bedrooms, $60,372 per family unit with three bedrooms, and $68,262 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: *Provided further*, That the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by 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[1] of this title (as such section existed immediately before November 30, 1983) is involved: *Provided further*, That in the case of a mortgagor of the character described in paragraph (3) of subsection (a) of this section 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 provided further*, That upon the sale of a property or project by a mortgagor of the character described in paragraph (3) of subsection (a) of this section 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 subsection without regard to the preceding proviso.

(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 bal-

[1] See References in Text note below.

ance 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), (j), and (k) of 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) of this section 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) of this section, 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) of this section, 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 re-

financing 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) of this section;

(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) of this section.

(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) of this section. The Management Fund shall also be used as a revolving fund for mortgages, loans, and commitments transferred to it pursuant to subsection (m) of this section. 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) of this section 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*) of this section 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) of this section 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) of this section: *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)[2] 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; July 12, 1957, Pub. L. 85–104, title I, §112, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86–372, title I, §§105, 116(b), 73 Stat. 655, 664; June 30, 1961, Pub. L. 87–70, title VI, §608, 75 Stat. 179; Sept. 2, 1964, Pub. L. 88–560, title I, §§107(b), 109(a), 78 Stat. 774, 777; Aug. 10, 1965, Pub. L. 89–117, title II, §§207(b), 208, title XI, §1108(g), 79 Stat. 467, 468, 505; Nov. 3, 1966, Pub. L. 89–754, title III, §§303, 304, 80 Stat. 1266, 1267; May 25, 1967, Pub. L. 90–19, §1(a)(1), (3), (4), 81 Stat. 17; May 7, 1968, Pub. L. 90–301, §3(c), 82 Stat. 114; Aug. 1, 1968, Pub. L. 90–488, title III, §313, title XVII, §1722(e), 82 Stat. 511, 610; Dec. 24, 1969, Pub. L. 91–152, title I, §113(c), 83 Stat. 383; Dec. 31, 1970, Pub. L. 91–609, title I, §117(b), 84 Stat. 1774; Aug. 22, 1974, Pub. L. 93–383, title III, §§303(b), 304(b), (c), 311(b), 88 Stat. 677, 678, 683; Dec. 23, 1975, Pub. L. 94–173, §3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, §8(a), (b)(2), 90 Stat. 1071; Dec. 21, 1979, Pub. L. 96–153, title III, §314, 93 Stat. 1117; Oct. 8, 1980, Pub. L. 96–399, title III, §310(b), 94 Stat. 1642; Aug. 13, 1981, Pub. L. 97–35, title III, §339B(a), 95 Stat. 417; Sept. 8, 1982, Pub. L. 97–253, title II, §201(c), 96 Stat. 789; Dec. 21, 1982, Pub. L. 97–377, title I, §101(g), 96 Stat. 1908; Nov. 30, 1983, Pub. L. 98–181, title IV, §§404(b)(5), 423(b)(2), 97 Stat. 1209, 1216; Feb. 5, 1988, Pub. L. 100–242, title IV, §426(b), (h), 101 Stat. 1915, 1916; Oct. 28, 1992, Pub. L. 102–550, title V, §509(b), 106 Stat. 3783; Apr. 11, 1994, Pub. L. 103–233, title III, §306, 108 Stat. 373.)

REFERENCES IN TEXT

Section 1720 of this title, referred to in subsec. (b)(2), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

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

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 sec-

[2] See References in Text note below.

tion 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 5¼ 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 5¾ 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.

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 IV, § 404(a), Nov. 30, 1983, 97 Stat. 1208.

SPECIAL ASSISTANT FOR COOPERATIVE HOUSING

Section 102(h) of act Aug. 11, 1955, 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 1715*l*(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.

CROSS REFERENCES

Mortgages for one- to four-family dwellings, authority to increase maximum amount by amount of mortgage insurance premium paid at time insured, see section 1709 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1715c, 1715n, 1715q, 1715r, 1715y, 1715z, 1715z–6, 1715z–19, 1717, 1731b, 1735c of this title; title 42 section 3535.

§ 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; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 1591a.

§ 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 May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Dec. 31, 1970, Pub. L. 91–621, § 7(a), 84 Stat. 1865; Feb. 5, 1988, Pub. L. 100–242, title IV, § 406(b)(8), 101 Stat. 1901.)

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in 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 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, 1715*l*, 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 ac-

cordance 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) 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), $30,420 per family unit without a bedroom, $33,696 per family unit with one bedroom, $40,248 per family unit with two bedrooms, $49,608 per family unit with three bedrooms, and $56,160 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 $35,100 per family unit without a bedroom, $39,312 per family unit with one bedroom, $48,204 per family unit with two bedrooms, $60,372 per family unit with three bedrooms, and $68,262 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 except 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 foregoing dollar amount limitations contained in this clause which are applicable to units with two, three, or four or more bedrooms: *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) by 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[1] of this title (as such section existed immediately before November 30, 1983) is involved: *Provided further*, That nothing contained in this subparagraph 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: *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 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 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

[1] See References in Text note below.

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), (j), and (k) 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;

(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) of this section 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 1715*o* 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; Mar. 27, 1957, Pub. L. 85–10, § 3, 71 Stat. 8; July 12, 1957, Pub. L. 85–104, title I, §§ 102, 112, 71 Stat. 295, 297; Apr. 1, 1958, Pub. L. 85–364, § 1(b), 72 Stat. 73; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 109, 116(b), 73 Stat. 657, 664; June 30, 1961, Pub. L. 87–70, title I, § 102(a), title VI, §§ 609, 612(g), 75 Stat. 154, 179, 181; Sept. 2, 1964, Pub. L. 88–560, title I, §§ 105(c)(1), 107(c), 110–113, 78 Stat. 772, 775, 777, 778; Aug. 10, 1965, Pub. L. 89–117, title II, §§ 207(c), 209–211, title III, § 311(c), (d), title XI, § 1108(h), 79 Stat. 467, 469, 470, 478, 505; Nov. 3, 1966, Pub. L. 89–754, title III, §§ 305, 306, 80 Stat. 1267; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), (g), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90–448, title III, § 311(a), title XVII, § 1722(g), 82 Stat. 510, 611; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 102(b), 104, 113(d), 83 Stat. 380, 381, 384; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 302(b), 303(c), 304(d), 310(b), 88 Stat. 676–678, 682; Dec. 23, 1975, Pub. L. 94–173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, § 8(a), (b)(3), 90 Stat. 1071, 1072; Apr. 30, 1977, Pub. L. 95–24, title I, § 105(b), 91 Stat. 56; Oct. 12, 1977, Pub. L. 95–128, title III, §§ 303(b), 304(b), 91 Stat. 1132, 1133; Dec. 21, 1979, Pub. L. 96–153, title III, §§ 312(b), 314, 93 Stat. 1116, 1117; Oct. 8, 1980, Pub. L. 96–399, title III, §§ 310(c), 311, 333(b), 336(b), 94 Stat. 1642, 1643, 1653, 1654; Aug. 13, 1981, Pub. L. 97–35, title III, § 339B(a), 95 Stat. 417; Dec. 21, 1982, Pub. L. 97–377, title I, § 101(g), 96 Stat. 1908; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 404(b)(6), (7), 432(a), 446(c), 97 Stat. 1209, 1220, 1228; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 405(2), 406(b)(9), 426(c), (h), 101 Stat. 1899, 1901, 1916; May 7, 1991, Pub. L. 102–40, title IV, § 402(d)(2), 105 Stat. 239; Oct. 28, 1992, Pub. L. 102–550, title V, §§ 509(c), 516(c), 106 Stat. 3783, 3791; Apr. 11, 1994, Pub. L. 103–233, title III, § 306, 108 Stat. 373.)

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, as amended. 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), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (d)(3)(B)(iii), 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

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 inap-

plicable 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.

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.

CROSS REFERENCES

Mutual Mortgage Insurance Fund, see section 1708 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1713, 1715c, 1715*l*, 1715*o*, 1715q, 1715r, 1715w, 1715z–2, 1715z–5, 1715z–19, 1717, 1731b of this title.

§ 1715*l*. 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) 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) $33,638 per family unit without a bedroom, $38,785 per family unit with one bedroom, $46,775 per family unit with two bedrooms, $59,872 per family unit with three bedrooms, and $66,700 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 $35,400 per family unit without a bedroom, $40,579 per family unit with one bedroom, $49,344 per family unit with two bedrooms, $63,834 per family unit with three bedrooms, and $70,070 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 except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause by 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[1] 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,

[1] See References in Text note below.

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 or 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) of this section, 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) 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), $30,274 per family unit without a bedroom, $34,363 per family unit, with one bedroom, $41,536 per family unit with two bedrooms, $52,135 per family unit with three bedrooms, and $59,077 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 $32,701 per family unit without a bedroom, $37,487 per family unit with one bedroom, $45,583 per family unit with two bedrooms, $58,968 per family unit with three bedrooms, and $64,730 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 except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this clause by 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[1] 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) of this section 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) of this section 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) of this section 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) of this section 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) of this section, 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) of this section 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) of this section, 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) of this section 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) of this section 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 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) of this section. 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) of this section that bears a below market interest rate prescribed in the proviso to subsection (d)(5) of this section, 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), (j), and (k) 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, 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-eight 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 September 30, 1995. 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.

(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) of this section 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 which is allocable to the dwelling covered by such individual mortgage. Until all of the individual dwellings in the property covered by the principal mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time as though they constituted rental units in a project covered by a mortgage which is insured under subsection (d)(3) (and which receives the benefits of the interest rate provided for in the proviso in subsection (d)(5) of this section).

(E) Upon the sale under this paragraph of all of the individual dwellings in the property covered by the principal mortgage, and the release of all individual dwellings from the lien of the principal mortgage, the insurance of the principal mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(F) Any mortgage insured under this paragraph shall contain a provision that if the low-income mortgagor does not continue to occupy the property the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time of commitment for insurance of the principal mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) the nonprofit organization which executed the principal mortgage, (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(6) In addition to the mortgages that may be insured under paragraphs (1) and (5), the Secretary is authorized to insure under this subsection at any time within one year after August 1, 1968, upon such terms and conditions as he may prescribe, mortgages which are executed by individuals or families that meet the income criteria prescribed in paragraph (5)(A) and are executed for the purpose of financing the rehabilitation or improvement of single-family dwellings of detached, semidetached, or row construction that are owned in each instance by a mortgagor who has purchased the dwelling from a nonprofit organization of the type described in this subsection. To be eligible for such insurance, a mortgage shall—

(A) be in a principal amount not exceeding the lesser of $18,000 or 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;

(B) bear interest (exclusive of premium charges for insurance and service charge, if any) at 3 per centum per annum or such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment the mortgagor's income is sufficiently low to justify the lower rate: *Provided*, That, if the rate of interest initially prescribed is less than 3 per centum per annum and the mortgagor's income (as determined on the basis of periodic review) subsequently rises, the rate shall be increased (but not above 3 per centum), under regulations of the Secretary, to the extent appropriate to reflect the increase in such income, and the mortgage shall so provide;

(C) involve a mortgagor that shall have paid on account of the property at the time of the rehabilitation such amount (which shall not be less than $200 in cash or its equivalent, but which may be applied in whole or in part toward closing costs) as the Secretary may determine to be reasonable and appropriate under the circumstances; and

(D) contain a provision that, if the low-income mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for insurance of the mortgage; except that the increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit organization which has been engaged in purchasing and rehabilitating deteriorating and substandard housing with financing under a mortgage insured under paragraph (1) of this subsection, (ii) a public housing agency having jurisdiction under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.] over the area where the dwelling is located, or (iii) a low-income purchaser approved for the purposes of this paragraph by the Secretary.

(7) Where the Secretary has approved a plan of family unit ownership, the terms ''single-family dwelling'', ''single-family dwellings'', ''individual dwelling'', and ''individual dwellings'' shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(8) For purposes of this subsection, the terms ''single-family dwelling'' and ''single-family dwellings'' (except for purposes of paragraph (7)) shall include a two-family dwelling which has been approved by the Secretary.

(i) Conversion of insured project to plan of family unit ownership; sale of units; agreements for maintenance; release from lien of project mortgage; insurance of mortgages financing purchase of individual family units; eligibility for insurance; definitions

(1) The Secretary is authorized, with respect to any project involving a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5) of this section, to permit a conversion of the ownership of such project to a plan of family unit ownership. Under such plan, each family unit shall be eligible for individual ownership and provision shall be included for the sale of the family units, together with an undivided interest in the common areas and facilities which serve the project, to low or moderate income purchasers. The Secretary shall obtain such agreements as he determines to be necessary to assure continued maintenance of the common areas and facilities. Upon such sale, the family unit and the undivided interest in the common areas shall be released from the lien of the project mortgage.

(2)(A) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection mortgages financing the purchase of individual family units under the plan prescribed in paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) be executed by a mortgagor having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5) of this section;

(ii) involve a principal obligation (including such initial service charges, and such appraisal, inspection, and other fees, as the Secretary shall approve) in an amount not to exceed the Secretary's estimate of the appraised value of the family unit, including the mortgagor's interest in the common areas and facilities, as of the date the mortgage is accepted for insurance;

(iii) bear interest at a rate determined by the Secretary (which may vary in accordance with the regulations of the Secretary promulgated pursuant to the last sentence of paragraph (4) of this subsection) but not less than the below-market rate in effect under the proviso of subsection (d)(5) of this section at the date of the commitment for insurance; and

(iv) provide for complete amortization by periodic payments within such term as the Secretary may prescribe, but not to exceed forty years from the beginning of amortization of the mortgage.

(B) The price for which the individual family unit is sold to the low or moderate income purchaser shall not exceed the appraised value of the property, as determined under subparagraph (A)(ii), except that the purchaser shall be required to pay on account of the property at the time of purchase at least such amount, in cash or its equivalent (which shall be not less than 3 per centum of such price, but which may be applied in whole or in part toward closing costs), as the Secretary may determine to be reasonable and appropriate.

(3) Upon the sale of all of the family units covered by the project mortgage, and the release of all of the family units (including the undivided interest allocable to each unit in the common areas and facilities) from the lien of the project mortgage, the insurance of the project mortgage

shall be terminated and no adjusted premium charge shall be collected by the Secretary upon such termination.

(4) Any mortgage covering an individual family unit insured under this subsection shall contain a provision that, if the original mortgagor does not continue to occupy the property, the interest rate shall increase to the highest rate permissible under this section and the regulations of the Secretary effective at the time the commitment was issued for the insurance of the project mortgage; except that the requirement for an increase in interest rate shall not be applicable if the property is sold and the purchaser is (i) a nonprofit purchaser approved by the Secretary, or (ii) a low or moderate income purchaser who has an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market rate prescribed in the proviso of subsection (d)(5) of this section. The mortgage shall also contain a provision that, if the Secretary determines that the annual income of the original mortgagor (or a purchaser described in clause (ii) of the preceding sentence) has increased to an amount enabling payment of a greater rate of interest, the interest rate of the individual mortgage may be increased up to the highest rate permissible under the regulations of the Secretary for mortgages insured under this section, effective at the time the commitment was issued for the insurance of the mortgage.

(5) For the purpose of this section—

(i) the term ''mortgage'', when used in relation to a mortgage insured under paragraph (2) of this subsection, includes a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term lease-hold interest in, a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve the project; and

(ii) the term ''common areas and facilities'' includes the land and such commercial, community, and other facilities as are approved by the Secretary.

(j) Conversion of insured rental projects to cooperatives; eligibility for membership; insurance of cooperative mortgages financing purchase of projects; eligibility for insurance

(1) The Secretary is authorized, with respect to any rental project involving a mortgage insured under subsection (d)(3) of this section which bears interest at the below-market interest rate prescribed in the proviso of subsection (d)(5) of this section, to permit a conversion of the ownership of such project to a cooperative approved by the Secretary. Membership in such cooperative shall be made available only to those families having an income within the limits prescribed by the Secretary for occupants of projects financed with a mortgage insured under subsection (d)(3) of this section, which bears interest at such below-market rate: *Provided*, That families residing in the rental project at the time of its conversion to a cooperative who do not meet such income limits may be permitted to become members in the cooperative under such special terms and conditions as the Secretary may prescribe.

(2) The Secretary is authorized, upon application by the mortgagee, to insure under this subsection cooperative mortgages financing the purchase of projects meeting the requirements of paragraph (1). Commitments may be issued by the Secretary for the insurance of such mortgages prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe. To be eligible for such insurance, the mortgage shall—

(i) involve a principal obligation (including such initial service charges and appraisal, inspection, and other fees as the Secretary shall approve) in an amount not exceeding the appraised value of the property for continued use as a cooperative, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after the payment of all operating expenses, taxes, and required reserves;

(ii) bear interest at the below-market rate prescribed in the proviso of subsection (d)(5) of this section; and

(iii) provide for complete amortization within such term as the Secretary may prescribe.

(k) Increase in maximum insurance amounts for costs incurred from solar energy systems and energy conservation measures

With respect to any project insured under subsection (d)(3) or (d)(4) of this section, the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of those subsections 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)[2] 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.

(*l*) Rental charges; "eligible multifamily housing" defined

(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)] for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

(2) For purposes of this subsection, the term ''eligible multifamily housing'' means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) of this section and assisted under section 1701s of this title or section 8 of the United States Housing Act of 1937 [42 U.S.C.

[2] See References in Text note below.

1437f]; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5) of this section.

(June 27, 1934, ch. 847, title II, § 221, as added Aug. 2, 1954, ch. 649, title I, § 123, 68 Stat. 599; amended Aug. 11, 1955, ch. 783, title I, § 102(c), (j), 69 Stat. 635; Aug. 7, 1956, ch. 1029, title I, § 108, title III, § 307(c), 70 Stat. 1094, 1102; July 12, 1957, Pub. L. 85–104, title I, § 112, 71 Stat. 297; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 110(a)(1), (2), (b)–(e), 116(b), 73 Stat. 658–661, 664; June 30, 1961, Pub. L. 87–70, title I, § 101(a), 75 Stat. 149; June 29, 1963, Pub. L. 88–54, 77 Stat. 73; Sept. 2, 1964, Pub. L. 88–560, title I, §§ 105(c)(2), 107(d), 114, title II, §§ 202, 203(b), 78 Stat. 772, 775, 778, 783, 784; Aug. 10, 1965, Pub. L. 89–117, title I, § 102(a), (b), title II, § 207(d), title XI, § 1108(i), 79 Stat. 454, 467, 505; Nov. 3, 1966, Pub. L. 89–754, title III, §§ 307–310(c), 80 Stat. 1268–1270; Nov. 6, 1966, Pub. L. 89–769, § 4, 80 Stat. 1317; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, §§ 101(b), (c), 105, title III, §§ 305, 306, 311(b), 316, 82 Stat. 483, 488, 508, 510, 512; Sept. 30, 1969, Pub. L. 91–78, § 2(c), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 101(c), 113 (e), 83 Stat. 379, 384; Oct. 2, 1970, Pub. L. 91–432, § 1(c), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91–473, § 1(c), 84 Stat. 1064; Dec. 1, 1970, Pub. L. 91–525, § 1(c), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–606, title III, § 301(d), 84 Stat. 1758; Dec. 31, 1970, Pub. L. 91–609, title I, §§ 101(c), 114(a), 114[115](a), 84 Stat. 1770, 1773; Oct. 18, 1972, Pub. L. 92–503, § 1(c), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(c), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(c), 87 Stat. 421; May 22, 1974, Pub. L. 93–288, title VII, § 702(d), formerly title VI, § 602(d), 88 Stat. 163, renumbered title VII, § 702(d), Oct. 5, 1994, Pub. L. 103–337, div. C, title XXXIV, § 3411(a)(1), (2), 108 Stat. 3100; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 302(c), 303(d), (e), 304(e), 316(c), 319(a), 88 Stat. 676–678, 685, 686; Dec. 23, 1975, Pub. L. 94–173, §§ 3, 4(a), 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, §§ 3(d), 8(a), (b)(4), (5), 90 Stat. 1069, 1071, 1072; Apr. 30, 1977, Pub. L. 95–24, title I, § 106, 91 Stat. 56; June 30, 1977, Pub. L. 95–60, § 1(c), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, § 1(c), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, §§ 301(c), 303(c), 91 Stat. 1131, 1132; Sept. 30, 1978, Pub. L. 95–406, § 1(c), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, §§ 301(c), 325, 92 Stat. 2096, 2104; Sept. 28, 1979, Pub. L. 96–71, § 1(c), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, § 1(c), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, §§ 301(c), 314, 93 Stat. 1111, 1117; Oct. 3, 1980, Pub. L. 96–372, § 1(c), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, §§ 301(c), 310(d), 333(c), (d), 94 Stat. 1638, 1642, 1653; Aug. 13, 1981, Pub. L. 97–35, title III, §§ 331(c), 339B(a), 95 Stat. 412, 417; Sept. 8, 1982, Pub. L. 97–253, title II, § 201(d), 96 Stat. 789; Oct. 6, 1982, Pub. L. 97–289, § 1(c), 96 Stat. 1230; Dec. 21, 1982, Pub. L. 97–377, title I, § 101(g), 96 Stat. 1908; May 26, 1983, Pub. L. 98–35, § 1(c), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(c), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 401(c), 404(b)(8), 408, 409, 423(b)(3), 432(b), (c), 446(d), 97 Stat. 1207, 1209, 1211, 1217, 1220, 1228; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(6), 98 Stat. 2232; Oct. 8, 1985, Pub. L. 99–120, § 1(c), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, § 1(c), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, § 1(c), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, § 1(c), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(c), 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; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 401(a)(2), 406(b)(10)–(13), 426(d), (e), (h), 101 Stat. 1898, 1901, 1916; Nov. 23, 1988, Pub. L. 100–707, title I, § 109(e)(3), 102 Stat. 4708; Nov. 5, 1990, Pub. L. 101–508, title II, § 2201, 104 Stat. 1388–21; Nov. 28, 1990, Pub. L. 101–625, title VI, §§ 611(b)(2), 612(b), 104 Stat. 4278, 4279; Oct. 28, 1992, Pub. L. 102–550, title V, §§ 509(d), (e), 516(d), title X, § 1012(*l*), 106 Stat. 3783, 3791, 3907.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Section 1720 of this title, referred to in subsec. (d)(3)(ii), (4)(ii) was repealed by Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240.

The United States Housing Act of 1937, and ''such act'', referred to in subsecs. (d)(3), (h)(5)(F), (6)(D), 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 110 of the Housing Act of 1949 [42 U.S.C. 1460], referred to in subsec. (d)(3)(iii), was omitted from the Code pursuant to section 5316 of Title 42, which terminated authority to make grants or loans under title I of that Act [42 U.S.C. 1450 et seq.] after Jan. 1, 1975.

The Disaster Relief and Emergency Assistance Act, referred to in subsec. (f), is Pub. L. 93–288, May 22, 1974, 88 Stat. 143, as amended, known as The Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§ 5121 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 5121 of Title 42 and Tables.

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (f), is section 201 of Pub. L. 95–557, title II, Oct. 31, 1978, 92 Stat. 2084, as amended, which enacted section 1715z–1a of this title and amended section 1715z–1 of this title.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (g)(4)(C), 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. Subtitles A and B of title II, which were formerly set out as a note under this section and which amended section 1715z–6 of this title, were amended generally by Pub. L. 101–625 and are classified to subchapter I (§ 4101 et seq.) of chapter 42 of this title. Subtitles C and D of title II amended section 1715z–15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare. Another subtitle C of title II of Pub. L. 100–242, as added by Pub. L. 102–550, is classified generally to subchapter II (§ 4141 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

Section 8211 of title 42, referred to in subsec. (k), was omitted from the Code pursuant to section 8229 of Title 42, which terminated authority under that section on June 30, 1989.

CODIFICATION

In subsec. (g)(4)(A), ''November 30, 1983,'' was substituted for ''the effective date of this clause'', meaning the date of enactment of Pub. L. 98–181.

AMENDMENTS

1992—Subsec. (d)(3)(ii). Pub. L. 102–550, § 509(d), substituted ''$33,638'', ''$38,785'', ''$46,775'', ''$59,872'', ''$66,700'', ''$35,400'', ''$40,579'', ''$49,344'', ''$63,834'', and ''$70,070'' for ''$28,032'', ''$32,321'', ''$38,979'', ''$49,893'', ''$55,583'', ''$29,500'', ''$33,816'', ''$41,120'', ''$53,195'', and ''$58,392'', respectively.

Subsec. (d)(4)(ii). Pub. L. 102–550, § 509(e), substituted ''$30,274'', ''$34,363'', ''$41,536'', ''$52,135'', ''$59,077'', ''$32,701'', ''$37,487'', ''$45,583'', ''$58,968'', and ''$64,730'' for ''$25,228'', ''$28,636'', ''$34,613'', ''$43,446'', ''$49,231'', ''$27,251'', ''$31,239'', ''$37,986'', ''$49,140'', and ''$53,942'', respectively.

Subsec. (d)(4)(iv). Pub. L. 102–550, § 1012(*l*), inserted ''(including the cost of evaluating and reducing lead-based paint hazards, as such terms are defined in section 4851b of title 42)'' after ''cost of repair and rehabilitation''.

Subsec. (g)(4)(A). Pub. L. 102–550, § 516(d), which directed substitution of ''issue to the mortgagee debentures having a par value'' for '', subject to the cash adjustment provided herein, issue to the mortgagee debentures having total face value'', was executed to text which read ''having a total face value'' instead of ''having total face value'', to reflect the probable intent of Congress.

1990—Subsec. (f). Pub. L. 101–625, § 611(b)(2), added fourth undesignated paragraph relating to authority of Secretary in establishing rental charges for project covered by mortgage bearing below market interest rate prescribed in proviso to subsec. (d)(3) of this section to include an amount that would permit return of advances to owner.

Subsec. (g)(4)(C). Pub. L. 101–508 added subpar. (C).

Subsec. (*l*). Pub. L. 101–625, § 612(b), added subsec. (*l*).

1988—Subsec. (d)(2). Pub. L. 100–242, § 406(b)(10)(A), substituted ''residence, except that the Secretary'' for ''residence: *Provided*, That a mortgage secured by property upon which there is located a dwelling designed principally for a two-, three-, or four-family residence shall not be insured under this section except in the case of a dwelling for occupancy by the mortgagor: *Provided further*, That the Secretary''.

Pub. L. 100–242, § 406(b)(10)(B), which directed that par. (2) be amended by striking out ''*Provided*, That (i)'' and all that follows through ''(1) in'' and inserting ''*Provided*, That (i)(1) in'', was executed by substituting ''*Provided*, That (i)(1) in the case of a displaced family'' for ''*Provided further*, That (i) if the mortgagor is the owner and an occupant of the property at the time of insurance, (1) in the case of a displaced family'', to reflect the probable intent of Congress and the fact that the provision being struck out began with ''*Provided further*'' rather than ''*Provided*''.

Pub. L. 100–242, § 406(b)(10)(C), struck out ''*Provided further*, That nothing contained herein shall preclude the Secretary from issuing a commitment to insure, and insuring a mortgage pursuant thereto, where the mortgagor is not the owner and an occupant of the property, if the property is to be built or acquired and repaired or rehabilitated for sale, and the insured mortgage financing is required to facilitate the construction, or the repair or rehabilitation, of the dwelling and to provide financing pending the subsequent sale thereof to a qualified owner who is also an occupant thereof, but in such instances the mortgage shall not exceed 85 per centum of the appraised value:''.

Pub. L. 100–242, § 406(b)(10)(D), which directed that par. (2) be amended in last proviso by substituting ''That the mortgagor shall'' for ''That, if the mortgagor is the owner and an occupant of the property such mortgagor shall'', was executed by substituting ''That the mortgagor shall'' for ''That, if the mortgagor is the owner and an occupant of the property, such mortgagor shall'', to reflect the probable intent of Congress and the fact that a comma appears before ''such'' in provisions being struck out.

Subsec. (d)(3)(ii). Pub. L. 100–242, § 426(d), substituted ''$28,032'', ''$38,979'', ''$49,893'', ''$55,583'', ''$29,500'', ''$33,816'', ''$41,120'', ''$53,195'', and ''$58,392'' for ''$21,563'', ''$29,984'', ''$38,379'', ''$42,756, ''$22,692'', ''$26,012'', ''$31,631'', ''$40,919'', and ''$44,917'', respectively.

Pub. L. 100–242, § 426(d), which directed that cl. (ii) be amended by substituting ''$32,321'' for ''$24,862'', was executed by substituting ''$32,321'' for ''$24,662'' to reflect the probable intent of Congress.

Pub. L. 100–242, § 426(h), 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. (d)(4)(ii). Pub. L. 100–242, § 426(e), (h), substituted ''$25,228'', ''$28,636'', ''$34,613'', ''$43,446'', ''$49,231'', ''$27,251'', ''$31,239'', ''$37,986'', ''$49,140'', and ''$53,942'' for ''$19,406'', ''$22,028'', ''$26,625'', ''$33,420'', ''$37,870'', ''$20,962'', ''$24,030'', ''$29,220'', ''$37,800'', and ''$41,494'', 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. (d)(6)(ii). Pub. L. 100–242, § 406(b)(11), struck out ''is an owner-occupant of the property and'' after ''where the mortgagor''.

Subsec. (f). Pub. L. 100–707 substituted ''and Emergency Assistance Act'' for ''Act of 1974''.

Pub. L. 100–242, § 401(a)(2), struck out ''No mortgage shall be insured under this section after March 15, 1988, except pursuant to a commitment to insure before that date, or except a mortgage covering property which the Secretary finds will assist in the provision of housing for displaced families.''

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''.

Subsec. (h)(6). Pub. L. 100–242, § 406(b)(12), struck out ''and occupied'' after ''or row construction that are owned'' in introductory provisions.

Subsec. (h)(8). Pub. L. 100–242, § 406(b)(13), struck out ''if one of the units is to be occupied by the owner'' after ''approved by the Secretary''.

1986—Subsec. (f). 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. (f). Pub. L. 99–219 substituted ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

1984—Subsec. (d)(3)(iii). Pub. L. 98–479 substituted ''rehabilitated'' for ''rehabilited'' before ''by a local public agency''.

1983—Subsec. (d)(2)(A). Pub. L. 98–181, § 423(b)(3), 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'' before ''; and (B)''.

Subsec. (d)(3)(iii). Pub. L. 98–181, § 432(b), 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, and substituted ''*Provided*, That'' for ''*Provided further*, That''.

Subsec. (d)(4)(iv). Pub. L. 98–181, § 432(c), 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, and substituted ''*Provided*, That'' for ''*Provided further*, That''.

Subsec. (d)(5). Pub. L. 98–181, § 404(b)(8), substituted ''at such rate as may be agreed upon by the mortgagor and the mortgagee'' for ''(exclusive of premium charges for insurance and service charge, if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market''.

Subsec. (d)(6). Pub. L. 98–181, § 446(d), inserted ''(unless otherwise approved by the Secretary)'' after ''periodic payments''.

Subsec. (f). Pub. L. 98–181, § 401(c), substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

Subsec. (g)(4)(A). Pub. L. 98–181, §§ 408, 409, designated existing provision as subpar. (A) and inserted ''pursuant to a commitment to insure entered into before November 30, 1983,'' after ''this section''.

Subsec. (g)(4)(B). Pub. L. 98–181, § 408, added subpar. (B).

1982—Subsec. (d)(2)(A). Pub. L. 97–253, § 201(d)(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. (d)(2)(B)(i)(2). Pub. L. 97–253, § 201(d)(2), (3), inserted ''(excluding the mortgage insurance premium paid at the time the mortgage is insured)'' after ''of its acquisition cost'' and struck out ''mortgage insurance premium,'' after ''hazard insurance,''.

Subsec. (d)(3)(ii). 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''.

Subsec. (d)(4)(ii). 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''.

Subsec. (f). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (f). Pub. L. 97–35, § 331(c), substituted ''1982'' for ''1981''.

Subsec. (k). Pub. L. 97–35, § 339B(a), inserted ''therein'' after ''installation'' and struck out ''therein'' after ''measure''.

1980—Subsec. (d)(6). Pub. L. 96–399, § 333(c), struck out proviso relating to maturity of a mortgage insured under subsection (d)(2) of this section.

Subsec. (f). Pub. L. 96–399, § 301(c), substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372 substituted ''October 15, 1980'' for ''September 30, 1980''.

Subsec. (i)(2)(A)(iv). Pub. L. 96–399, § 333(d), struck out applicability to determinations of lesser amount, if so determined, of three-quarters of the Secretary's estimate of the remaining economic life of the building improvements.

Subsec. (k). Pub. L. 96–399, § 310(d), added subsec. (k).

1979—Subsec. (d)(3)(ii). Pub. L. 96–153, § 314, 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.

Subsec. (d)(4)(ii). Pub. L. 96–153, § 314, substituted ''75 per centum'' for ''50 per centum'' and inserted exception that the dollar amount limitations may be exceeded by not to exceed 90 per centum where the Secretary determines it to be necessary.

Subsec. (f). Pub. L. 96–153 substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979''.

1978—Subsec. (d)(3)(ii). Pub. L. 95–557, § 325(a), substituted ''$21,563'', ''$24,662'', ''$29,984'', ''$38,379'', and ''$42,756'' for ''$16,860'', ''$18,648'', ''$22,356'', ''$28,152'' and ''$31,884'', respectively, and ''$22,692'', ''$26,012'', ''$31,631'', ''$40,919'', and ''$44,917'' for ''$19,680'', ''$22,356'', ''$26,496'', ''$33,120'', and ''$38,400'', respectively.

Subsec. (d)(4)(ii). Pub. L. 95–557, § 325(b), substituted ''$19,406'', ''$22,028'', ''$26,625'', ''$33,420'', and ''$37,870'' for ''$18,450'', ''$20,625'', ''$24,630'', ''$29,640'' and ''$34,846'', respectively.

Subsec. (f). Pub. L. 95–557, § 301(c), substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (d)(2)(A). Pub. L. 95–128, § 303(c), substituted ''$31,000'' for ''$25,000'', ''$36,000'' for ''$29,000'' in two places, ''$42,000'' for ''$33,000'', ''$35,000'' for ''$28,000'', ''$48,600'' for ''$38,880'', ''$59,400'' for ''$47,520'', ''$45,000'' for ''$36,000'', ''$57,600'' for ''$46,080'' and ''$68,400'' for ''$54,720''.

Subsec. (d)(4). Pub. L. 95–24 struck out ''other than a mortgagor referred to in subsection (d)(3) of this section,'' after ''if executed by a mortgagor''.

Subsec. (f). Pub. L. 95–128, § 301(c), substituted ''September 30, 1978'' for ''September 30, 1977''.

Pub. L. 95–80 substituted ''September 30, 1977'' for ''July 31, 1977''.

Pub. L. 95–60 substituted ''July 31, 1977'' for ''June 30, 1977''.

1976—Subsec. (d)(2)(A). Pub. L. 94–375, § 3(d), substituted ''$25,000'' for ''$21,600'', ''$29,000'' for ''$25,200'' in two places, and ''$33,000'' for ''$28,800''.

Subsec. (d)(3)(ii). Pub. L. 94–375, § 8(b)(4), substituted ''50 per centum in any geographical area'' for ''75 per centum in any geographical area'', ''$16,860'' for ''$11,240'', ''$18,648'' for ''$15,540'', ''$22,356'' for ''$18,630'', ''$28,152'' for ''$23,460'', ''$31,884'' for ''$26,570'', ''$19,680'' for ''$13,120'', ''$22,356'' for ''$18,630'', ''$26,496'' for ''$22,080'', ''$33,120'' for ''$27,600'', and ''$38,400'' for ''$32,000''.

Subsec. (d)(4)(ii). Pub. L. 94–375, § 8(b)(5), substituted ''50 per centum in any geographical area'' for ''75 per centum in any geographical area'', ''$18,450'' for ''$12,300'', ''$20,625'' for ''$17,188'', ''$24,630'' for ''$20,525'', ''$29,640'' for ''$24,700'', ''$34,846'' for ''$29,038'', ''$20,962'' for ''$13,975'', ''$24,030'' for ''$20,025'', ''$29,220'' for ''$24,350'', ''$37,800'' for ''$31,500'', and ''$41,494'' for ''$34,578''.

1975—Subsec. (d)(3)(ii). Pub. L. 94–173, § 3, raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

Subsec. (d)(4)(ii). Pub. L. 94–173, § 3, raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

Subsec. (f). Pub. L. 94–173, § 4(a), struck out a provision limiting to 10 per centum the number of dwelling units available to low and moderate income persons under the age of 62 in a project financed with a mortgage issued under subsection (d)(3) of this section.

1974—Subsec. (d)(2)(A). Pub. L. 93–383, § 302(c), substituted ''$21,600'' for ''$18,000'', ''$25,200'' for ''$21,000'' wherever appearing, ''$28,000'' for ''$24,000'', ''$28,800'' for ''$24,000'', ''$36,000'' for ''$30,000'', ''$38,880'' for ''$32,400'', ''$46,080'' for ''$38,400'', ''$47,520'' for ''$39,600'', and ''$54,720'' for ''$45,600''.

Subsec. (d)(3). Pub. L. 93–383, § 319(a), inserted exception for certification of projects assisted or to be assisted pursuant to section 8 of the United States Housing Act of 1937.

Subsec. (d)(3)(i). Pub. L. 93–383, § 304(e)(1), struck out cl. (i) which set forth mortgage ceiling of $12,500,000.

Subsec. (d)(3)(ii). Pub. L. 93–383, § 303(d), substituted ''$11,240'' for ''$9,200'', ''$13,120'' for ''$10,925'', ''$15,540'' for ''$12,937.50'', ''$16,200'' for ''$13,500'', ''$18,630'' for ''$15,525'', ''$22,080'' for ''$18,400'', ''$23,460'' for ''$19,550'' ''$26,570'' for ''$22,137.50'', ''$27,600'' for ''$23,000'', and ''$32,000'' for ''$26,162.50''.

Subsec. (d)(4)(i). Pub. L. 93–383, § 304(e)(2), struck out cl. (i) which set forth mortgage ceiling of $12,500,000.

Subsec. (d)(4)(ii). Pub. L. 93–383, § 303(e), substituted ''$12,300'' for ''$9,200'', ''$13,975'' for ''$10,525'', ''$17,188'' for ''$12,937.50'', ''$20,025'' for ''$15,525'', ''$20,525'' for ''$15,525'', ''$24,350'' for ''$18,400'', ''$24,700'' for ''$19,550'', ''$29,038'' for ''$22,137.50'', ''$31,500'' for ''$23,000'', and ''$34,578'' for ''$26,162.50''.

Subsec. (f). Pub. L. 93–383, § 316(c), substituted ''June 30, 1977'' for ''October 1, 1974''.

Pub. L. 93–288 substituted ''the Disaster Relief Act of 1974'' for ''the Disaster Relief Act of 1970''.

1973—Subsec. (f). Pub. L. 93–117 extended the mortgage insurance authority under this section from Oct. 1, 1973, to Oct. 1, 1974.

Pub. L. 93–85 extended the mortgage insurance authority under this section from June 30, 1973, to Oct. 1, 1973.

1972—Subsec. (f). Pub. L. 92–503 extended the mortgage insurance authority under this section from October 1, 1972 to June 30, 1973.

1970—Subsec. (f). Pub. L. 91–609 in second par., substituted ''October 1, 1972'' for ''January 1, 1971''; provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project; dispensed with need for kitchen facilities in family units in projects for displaced, elderly, or handicapped families, but permitted inclusion of central dining and other shared facilities; provided that any person who is a displaced person shall be deemed to be a family; and, in third par., substituted ''the terms 'displaced family', 'displaced families', and 'displaced person' shall mean a family or families, or a person'' for ''the terms 'displaced family' and 'displaced families' shall mean a family or families'', respectively.

Pub. L. 91–606 substituted ''the Disaster Relief Act of 1970'' for ''the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended''.

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''.

1969—Subsec. (d)(2). Pub. L. 91–152, § 113(e)(1), (2), substituted ''$18,000'' for ''$15,000'', ''$21,000'' for ''$17,500'', wherever appearing, ''$24,000'' for ''$20,000'' wherever appearing, ''$30,000'' for ''$25,000'', ''$32,400'' for ''$27,000'', ''$38,400'' for ''$32,000'', ''$39,600'' for ''$33,000'', and ''$45,600'' for ''$38,000''.

Subsec. (d)(3)(ii). Pub. L. 91–152, § 113(e)(3), (4), substituted ''$9,200'' for ''$8,000'', ''$10,925'' for ''$9,500'', ''$12,937.50'' for ''$11,250'', ''$15,525'' for ''$13,500'' wherever appearing, ''$18,400'' for ''$16,000'', ''$19,550'' for ''$17,000'', ''$22,137.50'' for ''$19,250'', ''$23,000'' for ''$20,000'', and ''$26,162.50'' for ''$22,750''.

Subsec. (d)(4)(ii). Pub. L. 91–152, § 113(e)(5), (6), substituted ''$9,200'' for ''$8,000'', ''$10,925'' for ''$9,500'', ''$12,937.50'' for ''$11,250'', ''$15,525'' for ''$13,500'' wherever appearing, ''$18,400'' for ''$16,000'', ''$19,550'' for ''$17,000'', ''$22,137.50'' for ''$19,250'', ''$23,000'' for ''$20,000'', and ''$26,162.50'' for ''$22,750''.

Subsec. (f). Pub. L. 91–152, § 101(c), substituted ''October 1, 1970'' for ''January 1, 1970''.

Pub. L. 91–78 substituted ''January 1, 1970'' for ''October 1, 1969''.

Subsec. (h)(6)(A). Pub. L. 91–152, § 113(e)(7), substituted ''$18,000'' for ''$15,000''.

1968—Subsec. (d)(2)(A). Pub. L. 90–448, §§ 101(b)(1), 305, increased maximum amount of mortgages for single-family residences from $12,500 to $15,000 (or $17,500 if mortgagor's family includes five or more persons), and in geographical areas where costs levels so require from $15,000 to $17,500 (or $20,000 if the mortgagor's family includes five or more persons), and § 305(d)(2)(A) substituted ''the mortgagor'' for ''a displaced family'' in first proviso.

Subsec. (d)(2)(B). Pub. L. 90–448, § 101(b)(2), inserted '', in cash or its equivalent'' in cl. (2), and inserted proviso directing that a mortgagor who is the owner and an occupant of the property be given the opportunity to contribute the value of his labor as equity in such dwelling.

Subsec. (d)(3)(iii). Pub. L. 90–448, § 311(b), 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.

Subsec. (f). Pub. L. 90–448, §§ 105(d), 306, authorized the Secretary to insure mortgages meeting the requirements of subsec. (i) or (j) of this section, struck out ''if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to community and shopping facilities'' from first proviso, and inserted proviso making provisions of section 1715k(d)(3)(B)(iv) applicable, in the case of a mortgage which bears interest at the below-market interest rate prescribed in subsec. (d)(5) of this section, only if the mortgagor waives the right to receive dividends on its equity investment in the portion thereof devoted to commercial facilities.

Subsec. (g)(1). Pub. L. 90–448, § 105(b), included mortgages meeting requirements of par. (2) of subsec. (i) of this section.

Subsec. (g)(2). Pub. L. 90–448, § 105(c), included mortgages meeting requirements of par. (2) of subsec. (j) of this section.

Subsec. (h)(2)(A). Pub. L. 90–448, § 316(a), reduced number of one-family dwellings from five or more to four or more, and permitted the mortgage to cover 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.

Subsec. (h)(4). Pub. L. 90–448, § 101(c)(2), increased aggregate principal balance of mortgages insured from $20,000,000 to $50,000,000.

Subsec. (h)(5)(B)(ii). Pub. L. 90–448, § 101(c)(1), permitted mortgage to bear interest at such lower rate, not less than 1 per centum, as the Secretary may prescribe if in his judgment purchaser's income is sufficiently low to justify the lower rate, and inserted proviso requiring rate of interest to be increased if purchaser's income subsequently rises.

Subsec. (h)(6). Pub. L. 90–448, § 101(c)(3), added par. (6).

Subsec. (h)(7), (8). Pub. L. 90–448, § 316(b), added pars. (7) and (8).

Subsecs. (i), (j). Pub. L. 90–448, § 105(a), added subsecs. (i) and (j).

1967—Pub. L. 90–19, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (b), (d)(1) to (3), (d)(3)(ii), (iii), (d)(4), (d)(4)(ii) to (iv), (d)(5), (6), (e)(1), (2), (f), and (g)(3), (4).

Subsec. (d). Pub. L. 90–19, § 1(a)(4), substituted ''Secretary's'' for ''Commissioner's'' wherever appearing in pars. (2), (3)(iii), (4)(iv), and (6).

1966—Subsec. (a). Pub. L. 89–769, § 4(a), substituted ''displaced families'' for ''families displaced from urban renewal areas or as a result of governmental action''.

Subsec. (d)(2), (6). Pub. L. 89–769, § 4(a), substituted ''displaced family'' for ''family displaced from an urban renewal area or as a result of governmental action'' wherever appearing.

Subsec. (d)(2)(A). Pub. L. 89–754, § 307, increased maximum amount of mortgages for single-family and two-family residences from $11,000 and $18,000 to $12,500 and $20,000, respectively.

Subsec. (d)(3)(iii). Pub. L. 89–769, § 4(a), substituted ''displaced families'' for ''families displaced by urban renewal or other governmental action''.

Subsec. (f). Pub. L. 89–769, § 4(a), (b), substituted ''displaced families'' for ''families displaced from urban renewal areas or as a result of governmental action'', and inserted definition of ''displaced family'' and ''displaced families''.

Pub. L. 89–754, §§ 308, 309, 310(c), inserted in first sentence provision for nondwelling facilities in projects in urban renewal areas, inserted provision respecting single occupants in housing under subsec. (d)(3) of this section, and inserted in fourth sentence ''or which meet the requirements of subsection (h) of this section'', respectively.

Subsec. (g)(1). Pub. L. 89–754, § 310(b)(1), inserted ''or paragraph (5) of subsection (h) of this section''.

Subsec. (g)(2). Pub. L. 89–754, § 310(b)(2), inserted ''or paragraph (1) of subsection (h) of this section''.

Subsec. (h). Pub. L. 89–754, § 310(a), added subsec. (h). A prior subsec. (h) was repealed by Pub. L. 89–117, title XI, § 1108(i)(4), Aug. 10, 1965, 79 Stat. 505.

1965—Subsec. (d)(3)(ii). Pub. L. 89–117, § 207(d), substituted ''$17,000 per family unit with three bedrooms, and $19,250 per family unit with four or more bedrooms'' for ''and $17,000 per family unit with three or more bedrooms'' and ''$20,000 per family unit with three bedrooms, and $22,750 per family unit with four or more bedrooms'' for ''and $20,000 per family unit with three or more bedrooms''.

Subsec. (d)(4). Pub. L. 89–117, §§ 207(d), 1108(i)(1), substituted ''$17,000 per family unit with three bedrooms, and $19,250 per family unit with four or more bedrooms'' for ''and $17,000 per family unit with three or more bedrooms'' and ''$20,000 per family unit with three bedrooms, and $22,750 per family unit with four or more bedrooms'' for ''and $20,000 per family unit with three or more bedrooms'' in subpar. (ii) and substituted ''General Insurance Fund'' for ''section 221 Housing Insurance Fund'' wherever appearing.

Subsec. (d)(5). Pub. L. 89–117, § 102(b), substituted ''not less than the lower of (A) 3 per centum per annum, or (B) the annual rate of interest determined'' for ''not less than the annual rate of interest determined'' in proviso.

Subsec. (f). Pub. L. 89–117, §§ 102(a), 1108(i)(1), substituted ''this section after October 1, 1969'' for ''subsection (d)(2) or (d)(4) after September 30, 1965, or under subsection (d)(3) after September 30, 1965'' and substituted ''General Insurance Fund'' for ''section 221 Housing Insurance Fund''.

Subsec. (g)(1). Pub. L. 89–117, § 1108(i)(1), substituted ''General Insurance Fund'' for ''section 221 Housing Insurance Fund''.

Subsec. (g)(2). Pub. L. 89–117, § 1108(i)(2), struck out provision that all references in section 1713 to the Housing Insurance Fund or the Housing Fund shall be construed to refer to the section 221 Housing Insurance Fund.

Subsec. (g)(3). Pub. L. 89–117, § 1108(i)(1), (3), substituted ''General Insurance Fund'' for ''section 221 Housing Insurance Fund'' and struck out provision that 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 221 Housing Insurance Fund.

Subsec. (h). Pub. L. 89–117, § 1108(i)(4), repealed subsec. (h) which created the section 221 Housing Insurance Fund, provided for the transfer of funds thereto, authorized the purchase and cancellation of debentures and the credit and payment of charges and fees.

1964—Subsec. (d)(3). Pub. L. 88–560, § 114(a), inserted '', or other mortgagor approved by the Commissioner, and'' after ''or association''.

Subsec. (d)(3)(ii), (4)(ii). Pub. L. 88–560, § 107(d)(1), (2), changed limits on mortgages for property or project attributable to dwelling use from ''$2,250 per room (or $8,500 per family unit if the number of rooms in such property or project is less than four per family unit)'' to ''$8,000 per family unit without a bedroom, $11,250 per family unit with one bedroom, $13,500 per family unit with two bedrooms, and $17,000 per family unit with three or more bedrooms'', changed such mortgage limits on project consisting of elevator-type structures from a sum ''of $2,250 per room to not to exceed $2,750 per room, and the dollar amount limitation of $8,500 per family unit to not to exceed $9,000 per family unit'' to dollar amount limitations ''per family unit to not to exceed $9,500 per family unit without a bedroom, $13,500 per family unit with one bedroom, $16,000 per family unit with two bedrooms, and $20,000 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 $1,000 per room without regard to the number of rooms being less than four, or four or more''.

Subsec. (d)(3)(iii). Pub. L. 88–560, § 114(c), inserted ''*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) of this section, the amount of the mortgage shall not exceed 90 per centum of the amount otherwise authorized under this section''.

Subsec. (e). Pub. 88–560, § 114(b), added par. (1) and designated existing provisions as par. (2).

Subsec. (f). Pub. L. 88–560, §§ 114(d), 202, 203(b), extended the mortgage insurance authority under subsec. (d)(2) and (4) of this section from July 1, 1965 to Sept. 30, 1965, inserted definition of ''family'', and substituted in such definition ''person who is sixty-two years of age or over, or who is a handicapped person within the meaning of section 1701q of this title,'' for ''person who is sixty-two years of age or over''.

Subsec. (g)(3). Pub. L. 88–560, § 105(c)(2), substituted a period for ''; or'' and inserted ''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 Commissioner.''

1963—Subsec. (f). Pub. L. 88–54 extended mortgage insurance authority under subsec. (d)(2) and (4) of this section from July 1, 1963, to July 1, 1965.

1961—Pub. L. 87–70, §101(a)(1), added section catchline.

Subsec. (a). Pub. L. 87–70, §101(a)(2), redefined the purpose of this section as one to assist private industry in providing housing for low and moderate income families and families displaced from urban renewal areas or as a result of governmental action, and eliminated provisions which required localities, communities or environs of communities to request the mortgage insurance, which limited the number of dwelling units to not more than the aggregate number which the Housing Administrator certified to the Commissioner, and which authorized assistance for relocation of families to be displaced as the result of governmental action in a community to those cases in which a certification by the Housing Administrator pursuant to section 1451(c) of title 42 has been made, or there is being carried out a project covered by a Federal aid contract executed, or prior approval granted, under subchapter II of chapter 8A of title 42, or there is being carried out an urban renewal project assisted under section 1462 of title 42.

Subsec. (b). Pub. L. 87–70, §101(a)(3), empowered the Commissioner to insure advances during construction on mortgages covering property of the character described in pars. (3) and (4) of subsec. (d) of this section.

Subsec. (d)(2). Pub. L. 87–70, §101(a)(4), (5), increased the maximum amount of mortgages for single-family residences from $9,000 to $11,000, three-family residences from $25,000 to $27,000 and for four-family residences from $32,000 to $33,000, increased the maximum amount of mortgages that the Commissioner may authorize in cases where he finds the cost levels so require from $12,000 to $15,000 for single-family residences, $20,000 to $25,000 for two-family residences, $27,500 to $32,000 for three-family residences and $35,000 to $38,000 for four-family residences, required families other than those displaced from an urban renewal area or as a result of Government action to pay on account of the property at least 3 per centum of the Commissioner's estimate of its acquisition cost, prohibited insurance of mortgages for dwellings designed principally for two-, three-, or four-family residences except in the case of dwellings for occupancy by a family displaced from an urban renewal area or as a result of governmental action, and eliminated provisions which required the Commissioner to prescribe procedures relating to priorities in occupancy of the remaining units of two-, three-, and four-family dwellings after occupancy of one unit by the owner.

Subsec. (d)(3). Pub. L. 87–70, §101(a)(6), included public bodies and agencies which certify that they are not receiving financial assistance exclusively pursuant to the United States Housing Act of 1937 cooperatives, and limited dividend corporations, increased the maximum amount of mortgages from not more than $9,000 per family unit for such part of such property or project as may be attributable to dwelling use to not more than $2,250 per room (or $8,500 per family unit if the number of rooms is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), empowered the Commissioner to increase the maximum from $2,250 to $2,750 per room and from $8,500 to $9,000 per family unit to compensate for higher costs incident to the construction of elevator-type structures, and in geographical areas which the cost levels so require from $2,250 to $3,250 per room, increased the maximum amount of the mortgage in the case of repair and rehabilitation from not more than the Commissioner's estimate of the value of the property when the proposed repair and rehabilitation is completed to not more than 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, limited, 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, and eliminated provisions which required the property or project to be for use as rental accommodations for ten or more families eligible for occupancy.

Subsec. (d)(4). Pub. L. 87–70, §101(a)(7)–(10), substituted "other than a mortgagor referred to in subsection (d)(3) of this section" for "which is not a nonprofit organization" in opening provisions, increased the maximum amount of mortgages from not more than $9,000 per family unit for such part of such property or project as may be attributable to dwelling use to not more than $2,250 per room (or $8,500 per family unit if the number of rooms is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), empowered the Commissioner to increase the maximum from $2,250 to $2,750 per room and from $8,500 to $9,000 per family unit to compensate for higher costs incident to the construction of elevator-type structures, and in geographical areas which the cost levels so require from $2,250 to $3,250 per room, increased the maximum amount of the mortgage in the case of repair and rehabilitation from not more than 90 per centum of the Commissioner's estimate of the value of the property or project when the proposed repair and rehabilitation is completed to not more than 90 per centum of 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, limited, 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 of project, and eliminated provisions which required the property or project to be for use as rental accommodations for ten or more families eligible for occupancy.

Subsec. (d)(5). Pub. L. 87–70, §101(a)(10), (11), struck out provisions which required the mortgage to provide for complete amortization by periodic payments within such terms as the Commissioner may prescribe, but not to exceed 40 years from the date of insurance of the mortgage or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser, and inserted proviso requiring the mortgage to bear interest at not less than the annual rate of interest determined 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.

Subsec. (d)(6). Pub. L. 87–70, §101(a)(10), added par. (6).

Subsec. (f). Pub. L. 87–70, §101(a)(12), required a property or project covered by a mortgage insured under subsec. (d)(3) or (d)(4) of this section to include five or more family units, empowered the Commissioner to adopt such procedures and requirements to assure that the dwelling accommodations provided under this section are available to families displaced from urban renewal areas or as a result of governmental action, authorized the Commissioner to insure a mortgage which meets subsec. (d)(3) of this section 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 he may determine, and prohibited insurance of mortgages under subsec. (d)(2) or (d)(4) of this section after July 1, 1963, or under subsec. (d)(3) of this section after July 1, 1965, except pursuant to a commitment to insure before that date or except a mortgage covering property which will assist in the provision of housing for families displaced from urban renewal areas or as a result of governmental action.

Subsec. (g)(3), (4). Pub. L. 87–70, §101(a)(13), (14), added par. (3), redesignated former par. (3) as (4), and substituted "this paragraph" for "this paragraph (3)".

Subsec. (h). Pub. L. 87–70, §101(a)(15), inserted "cash payments," after "cash adjustments," in last sentence.

1959—Subsec. (a). Pub. L. 86–372, §110(a)(1), (2), inserted provisions in first par. to authorize assistance in relocating families residing in the environs of a community described in cl. (2) which are to be displaced as the result of governmental action, inserted provisions in second par. making mortgage insurance available in environs of communities and substituted "in or near

any such community'' for ''in any such community'' in second proviso of second par.

Subsec. (d)(2). Pub. L. 86–372, § 110(b), required a mortgage to be secured by property upon which there is located a dwelling conforming to applicable standards prescribed by the Commissioner under subsec. (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, increased the maximum amount of the mortgage on a single-family residence in a high cost area from $10,000 to $12,000, authorized insurance of mortgages for two-, three-, and four-family residences and required the Commissioner to prescribe such procedures as are necessary to secure to families, referred to in subsec. (a) of this section, priorities in occupancy of the remaining units of two-, three-, and four-family dwellings after occupancy of one unit by the owner.

Subsec. (d)(3). Pub. L. 86–372, § 110(c)(1), (2), substituted ''$12,000'' for ''$10,000'', and ''not in excess of (1) in the case of new construction, the amount which the Commissioner 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 Commissioner), or (2) in the case of repair and rehabilitation, the Commissioner's estimate of the value of the property when the proposed repair and rehabilitation is completed: *Provided*, That such property or project, when constructed, or repaired and rehabilitated, shall be for use as rental accommodations for ten or more families eligible for occupancy as provided in this section; or'' for ''not in excess of the Commissioner's estimate of the value of the property or project when constructed, or repaired and rehabilitated, for use as rental accommodations for ten or more families eligible for occupancy as provided in this section; and''.

Subsec. (d)(4), (5). Pub. L. 86–372, § 110(c)(3), added par. (4) and redesignated former par. (4) as (5).

Subsec. (f). Pub. L. 86–372, § 110(d), authorized the property or project to include such commercial and community facilities as the Commissioner deems adequate to serve the occupants.

Subsec. (g)(1). Pub. L. 86–372, § 116(b), inserted reference to subsec. (k) of section 1710 of this title.

Subsec. (g)(2). Pub. L. 86–372, § 110(e), substituted ''paragraph (3) or (4)'' for ''paragraph (3)''.

1957—Subsec. (g)(1). 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, § 307(c), inserted in first sentence '', or (3) there is being carried out an urban renewal project assisted under section 1462 of title 42'' and substituted ''clause (2) or (3)'' for ''clause (2)'' each place it appears in last proviso.

Subsec. (d). Act Aug. 7, 1956, § 108, substituted ''$9,000'' for ''$7,600'' and ''$10,000'' for ''$8,600'' in pars. (2) and (3); amended par. (2) to allow mortgage insurance for appraised value and to require at least $200 initial payment, which amount could include prepaid expenses, in lieu of former provisions which allowed mortgage to be insured up to 95 percent of the appraised value and required at least a 5 percent initial payment; eliminated ''95 per centum of'' after ''not in excess of'' and inserted ''or the Federal Housing Commissioner'' after ''agencies thereof'' in par. (3) and substituted ''forty'' for ''thirty'' in par. (4).

1955—Subsec. (a). Act Aug. 11, 1955, § 102(j), authorized assistance in relocating families from urban renewal areas even though such families are not required to leave the area.

Subsec. (d)(3). Act Aug. 11, 1955, § 102(c), increased from $5,000,000 to $12,500,000 the limitation on the maximum amount of a mortgage.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(10)–(13) 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 1983 AMENDMENT

For effective date of amendment by section 423(b)(3) 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.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–288 effective Apr. 1, 1974, see section 605 of Pub. L. 93–288, 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.

IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 to be implemented only if Secretary determines that 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.

DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101–625, set out as a note under section 1713 of this title.

EFFECTIVE DATE OF TEMPORARY EXTENSION OF EMERGENCY LOW INCOME HOUSING PRESERVATION ACT OF 1987 AND CORRECTION OF ANY REPEAL

Pub. L. 101–494, § 1, Oct. 31, 1990, 104 Stat. 1185, provided that:

''(a) EFFECTIVE DATE OF EXTENDER.—Public Law 101–402 [amending section 1709 of this title and section 11319 of Title 42, The Public Health and Welfare, and amending provisions set out as a note below] shall be deemed to have taken effect as if such law were enacted on September 29, 1990.

''(b) STATUS OF ACT.—The Emergency Low Income Housing Preservation Act of 1987 [title II of Pub. L. 100–242] (12 U.S.C. 1715*l* note) shall be deemed to have been in effect on and after September 29, 1990, as if Public Law 101–402 had been enacted on September 29, 1990.

''(c) CORRECTION OF ANY REPEAL.—The provisions of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715*l* note), other than section 203, are amended to read as such provisions were in effect on September 29, 1990. The amendment made by this subsection shall take effect as if this Act were enacted on September 29, 1990.

''(d) EFFECTIVE DATE.—If the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, which was approved Nov. 28, 1990] is enacted before the enactment of this Act [Oct. 31, 1990], this section shall be deemed to have taken effect immediately before the enactment of the Cranston-Gonzalez National Affordable Housing Act.''

PRESERVATION OF LOW-INCOME HOUSING

The Emergency Low Income Housing Preservation Act of 1987, consisting of title II of Pub. L. 100–242, Feb.

5, 1988, 101 Stat. 1877, amended the National Housing Act, the United States Housing Act of 1937, and the Housing Act of 1949, and enacted provisions formerly set out as a note under this section. The provisions set out as a note under this section consisted of subtitles A and B [§§ 201–203, 221–230, and 231–235] of title II of Pub. L. 100–242, as amended by Pub. L. 100–628, title X, §§ 1021–1027, Nov. 7, 1988, 102 Stat. 3270, 3271; Pub. L. 101–235, title II, §§ 201, 202(a)–(c), 203(b), Dec. 15, 1989, 103 Stat. 2037, 2038; Pub. L. 101–402, § 1, Oct. 1, 1990, 104 Stat. 866; Pub. L. 101–494, §§ 1(c), 2(a), Oct. 31, 1990, 104 Stat. 1185, which set up a temporary program for the prepayment of mortgages on low income housing insured under the National Housing Act that terminated on the date of enactment of the Cranston-Gonzalez National Affordable Housing Act (Nov. 28, 1990). The Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625] amended subtitles A and B of title II of Pub. L. 100–242 generally, changing the name of title II of Pub. L. 100–242 to the ''Low-Income Housing Preservation and Resident Homeownership Act of 1990''. As amended, subtitles A and B of title II are classified generally to subchapter I (§ 4101 et seq.) of chapter 42 of this title. Prior to the general revision by Pub. L. 101–625, subtitles A and B of title II read as follows:

''SUBTITLE A—GENERAL PROVISIONS

''SEC. 201. SHORT TITLE.

''This title [amending sections 1715z–6 and 1715z–15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42, The Public Health and Welfare] may be cited as the 'Emergency Low Income Housing Preservation Act of 1987'.

''SEC. 202. FINDINGS AND PURPOSE.

''(a) FINDINGS.—The Congress finds that—

''(1) in the next 15 years, more than 330,000 low income housing units insured or assisted under sections 221(d)(3) and 236 of the National Housing Act [12 U.S.C. 1715*l*(d)(3), 1715z–1] could be lost as a result of the termination of low income affordability restrictions;

''(2) in the next decade, more than 465,000 low income housing units produced with assistance under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] could be lost as a result of the expiration of the rental assistance contracts;

''(3) some 150,000 units of rural low income housing financed under section 515 of the Housing Act of 1949 [42 U.S.C. 1485] are threatened with loss as a result of the prepayment of mortgages by owners;

''(4) the loss of this privately owned and federally assisted housing, which would occur in a period of sharply rising rents on unassisted housing and extremely low production of additional low rent housing, would inflict unacceptable harm on current tenants and would precipitate a grave national crisis in the supply of low income housing that was neither anticipated nor intended when contracts for these units were entered into;

''(5) the loss of this affordable housing, to encourage the production of which the public has provided substantial benefits over past years, would irreparably damage hard-won progress toward such important and long-established national objectives as—

''(A) providing a more adequate supply of decent, safe, and sanitary housing that is affordable to low income Americans;

''(B) increasing the supply of housing affordable to low income Americans that is accessible to employment opportunities; and

''(C) expanding housing opportunities for all Americans, particularly members of disadvantaged minorities;

''(6) the provision of an adequate supply of low income housing has depended and will continue to depend upon a strong, long-term partnership between the public and private sectors that accommodates a fair return on investment;

''(7) recent reductions in Federal housing assistance and tax benefits related to low income housing have increased the incentives for private industry to withdraw from the production and management of low income housing;

''(8) efforts to retain this housing must take account of specific financial and market conditions that differ markedly from project to project;

''(9) a major review of alternative responses to this threatened loss of affordable housing is now being undertaken by numerous private sector task forces as well as State and local organizations; and

''(10) until the Congress can act on recommendations that will emerge from this review, interim measures are needed to avoid the irreplaceable loss of low income housing and irrevocable displacement of current tenants.

''(b) PURPOSE.—It is the purpose of this title—

''(1) to preserve and retain to the maximum extent practicable as housing affordable to low income families or persons those privately owned dwelling units that were produced for such purpose with Federal assistance;

''(2) to minimize the involuntary displacement of tenants currently residing in such housing; and

''(3) to continue the partnership between all levels of government and the private sector in the production and operation of housing that is affordable to low income Americans.

''SEC. 203. TERMINATION OF CERTAIN PROVISIONS.

''(a) IN GENERAL.—Effective on November 30, 1990, or the date of enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990], whichever is earlier—

''(1) subtitles B and D [amending sections 1715z–6 and 1715z–15 of this title and sections 1437f and 1485 of Title 42, The Public Health and Welfare and enacting provisions set out in this note] are repealed; and

''(2) each provision of law amended by subtitle B or D is amended to read as it would without such amendment.

''(b) SAVINGS PROVISION.—The repeal or amendment of any provision under subsection (a) shall have no effect on any action taken or authorized under the provision prior to such repeal or amendment.

''SUBTITLE B—PREPAYMENT OF MORTGAGES INSURED UNDER NATIONAL HOUSING ACT

''SEC. 221. GENERAL PREPAYMENT LIMITATION.

''(a) PRIOR APPROVAL OF PLAN OF ACTION.—An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary of Housing and Urban Development under this subtitle. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act [12 U.S.C. 1715t] only in accordance with a plan of action approved by the Secretary under this subtitle.

''(b) ALTERNATIVE PREPAYMENT MORATORIUM.—In the event any court of the United States or any State invalidates the requirements established in this subtitle (1) an owner of eligible low income housing located in the geographic area subject to the jurisdiction of such court may not prepay, and a mortgagee may not accept prepayment of, a mortgage on such housing during the 2-year period following the date of such invalidation, and (2) an insurance contract with respect to eligible low-income housing located in the geographic area subject to the jurisdiction of such court may not be terminated pursuant to section 229 of the National Housing Act [12 U.S.C. 1715t] during the 2-year period following the date of such invalidation.

''SEC. 222. NOTICE OF INTENT.

''An owner of eligible low income housing seeking to initiate prepayment or other changes in the status or terms of the mortgage or regulatory agreement (including a request to terminate the insurance contract pursuant to section 229 of the National Housing Act [12 U.S.C. 1715t]) shall file with the Secretary a notice of

the intent of the owner in such form and manner as the Secretary shall prescribe. The owner shall simultaneously file the notice of intent with any appropriate State or local government agency for the jurisdiction within which the housing is located.

''SEC. 223. PLAN OF ACTION.

''(a) PREPARATION AND SUBMISSION.—Upon receipt of a notice of intent, the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action, which information shall include a description of the Federal incentives authorized under this title, and any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan. The owner shall submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe. The owner may simultaneously submit the plan of action to any appropriate State or local government agency for the jurisdiction within which the housing is located, which agency shall, in reviewing the plan, consult with representatives of the tenants of the housing.

''(b) CONTENTS.—The plan of action shall include—

''(1) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing;

''(2) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and any appropriate State or local agencies;

''(3) a description of any proposed changes in the low income affordability restrictions;

''(4) a description of any change in ownership that is related to prepayment;

''(5) an assessment of the effect of the proposed changes on existing tenants;

''(6) a statement of the effect of the proposed changes on the supply of housing affordable to lower and very low income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

''(7) any other information that the Secretary determines is necessary to achieve the purposes of this title.

''(c) REVISIONS.—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle.

''(d) AUTHORITY TO LIMIT CONTENTS OF PLAN.—The Secretary shall limit the amount of appraisal, market area, and demographic information required under this section in the case of a plan of action requesting incentives.

''SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

''(a) AGREEMENTS BY SECRETARY.—After receiving a plan of action from an owner of eligible low income housing, the Secretary may enter into such agreements as are necessary to satisfy the criteria for approval under section 225.

''(b) PERMISSIBLE INCENTIVES.—Agreements entered into under subsection (a) that by modifications to the existing regulatory agreement or mortgage extend the low income affordability restrictions through the term of the mortgage or, in the case of the prepayment of a mortgage, by a recorded instrument impose low income affordability restrictions (including the obligations specified in the regulatory agreement) through a period equivalent to the term of the original mortgage may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to achieve the purposes of this title:

''(1) An increase in the allowable distribution or other measures to increase the rate of return on investment.

''(2) Revisions to the method of calculating equity.

''(3) Increased access to residual receipts accounts or excess replacement reserves.

''(4) Provision of insurance for a second mortgage under section 241(f) of the National Housing Act [12 U.S.C. 1715z–6(f)].

''(5) An increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f], or (subject to the availability of amounts provided in appropriation Acts) additional assistance under such section 8 or an extension of any project-based assistance attached to the housing.

''(6) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1715z–1a].

''(7) Other actions, authorized in other provisions of law, to facilitate a transfer or sale of the project to a qualified nonprofit organization, limited equity tenant cooperative, public agency, or other entity acceptable to the Secretary.

''(8) Other incentives authorized in law.

''SEC. 225. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

''(a) PLAN OF ACTION INVOLVING TERMINATION OF LOW INCOME AFFORDABILITY RESTRICTIONS.—The Secretary may approve a plan of action that involves termination of the low income affordability restrictions only upon a written finding that—

''(1) implementation of the plan of action will not materially increase economic hardship for current tenants (and will not in any event result in (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower)) or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available, determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

''(2)(A) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

''(i) the availability of decent, safe, and sanitary housing affordable to lower income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

''(ii) the ability of lower income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

''(iii) the housing opportunities of minorities in the community within which the housing is located; or

''(B) the plan has been approved by the appropriate State agency and any appropriate local government agency for the jurisdiction within which the housing is located as being in accordance with a State strategy approved by the Secretary under section 226.

''(b) PLAN OF ACTION INCLUDING INCENTIVES.—The Secretary may approve a plan of action that includes incentives only upon finding that—

''(1) the package of incentives is necessary to provide a fair return on the investment of the owner;

''(2) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title; and

''(3) binding commitments have been made to ensure that—

''(A) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage;

''(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

''(C) current tenants shall not be involuntarily displaced (except for good cause);

''(D) any increase in rent contributions for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenant or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)], whichever is lower;

''(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

''(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

''(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

''(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse affect on current income eligible tenants; and

''(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, lower income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

''(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs.

''(c) SECTION 8 RENTAL ASSISTANCE.—When providing rental assistance under section 8 [of the United States Housing Act of 1937, 42 U.S.C. 1437f], the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):—

''(1) Modification of the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

''(2) If action under paragraph (1) is not feasible, release of an owner from the binding commitments made pursuant to subsection (b) that are dependent on such rental assistance.

''(3) If action under paragraphs (1) and (2) would, in the determination of the Secretary, result in the default of the insured loan, approval of the revised plan of action, notwithstanding subsection (a), that involves the termination of low-income affordability restrictions.

At least 30 days prior to making a request under the preceding sentence, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under subsection (b).

''(d) RELOCATION OF DISPLACED TENANTS.—Any plan of action shall specify actions that the Secretary and the owner shall take to ensure that any tenants, displaced as a result of a plan of action approved under subsection (a) or as a result of modifications taken pursuant to subsection (c), are relocated to affordable housing.

''SEC. 226. ALTERNATIVE STATE STRATEGY.

''(a) CRITERIA FOR APPROVAL.—The Secretary may approve a State strategy for purposes of section 225(a) only upon finding that it is a practicable statewide strategy that ensures at a minimum that—

''(1) current tenants will not be involuntarily displaced (except for good cause);

''(2) housing opportunities for minorities will not be adversely affected in the communities within which the housing is located;

''(3) any increase in rent for current tenants shall be to a level that does not exceed 30 percent of the adjusted income of the tenants or the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)], whichever is lower, except that any increase not necessitated by increased operating costs shall be phased in equally over not less than 3 years if such increase exceeds 10 percent;

''(4) housing approved under the State strategy will remain affordable to very low-income, lower income or moderate income families and persons for not less than the remaining term of the original mortgage, if the housing is to be made available for rental, or for not less than 40 years, if the housing is to be made available for homeownership;

''(5)(A) not less than 80 of all units in eligible low income housing approved under the State strategy shall be retained as affordable to families or persons meeting the income eligibility standards for initial occupancy that applies to the housing on January 1, 1987; and

''(B) not less than 60 percent of the units in any one project shall remain available and affordable to such families or persons, within which not less than 20 percent of the units shall remain available and affordable to very low income families or persons as determined by the Secretary with adjustments for smaller and larger families;

''(6) expenditures for rehabilitation, maintenance and operation shall be at a level necessary to maintain the housing as decent, safe and sanitary for the period specified in paragraph (4);

''(7) not less than 25 percent of new assistance required to maintain low income affordability in accordance with this section shall be provided through State and local actions, such as tax exempt financing, low-income tax credits, State or local tax concessions, and other incentives provided by the State or local governments; and

''(8) for each unit of eligible low income housing approved under the State strategy that is not retained as affordable to families or persons meeting the income eligibility standards for initial occupancy on January 1, 1987, the State will provide with State funds 1 additional unit of comparable housing in the same market area that is available and affordable to such families or persons, and such units or funds shall be made available before the Secretary approves the State strategy.

''(b) ADDITIONAL REQUIREMENTS.—

''(1) The Secretary may not approve a State strategy until the State has entered into all of the agreements necessary to carry out the strategy.

''(2) Each State strategy shall include any other provision that the Secretary determines to be necessary to implement an approved State strategy.

''(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into such agreements as are necessary to im-

plement an approved State strategy, which agreements may include incentives that are authorized in other provisions of this subtitle.

''SEC. 227. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

''(a) NOTIFICATION OF DEFICIENCIES.—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

''(b) NOTIFICATION OF APPROVAL.—

''(1) IN GENERAL.—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

''(A) the reasons for withholding approval; and

''(B) the actions that could be taken to meet the criteria for approval.

''(2) OPPORTUNITY TO REVISE.—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

''SEC. 228. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

''(a) IN GENERAL.—If a plan of action cannot be approved within 300 days after a plan of action is submitted, the Secretary may, upon the request of the owner, modify existing regulatory agreements to—

''(1) prevent involuntary displacement of current tenants (except for good cause);

''(2) ensure that adequate expenditures will be made for maintenance and operation of the housing;

''(3) extend any expiring project-based assistance on the housing for the term of the agreement;

''(4) permit an increase in the allowable distribution that could be accommodated by a rise in rents on occupied units to rise to a level no higher than 30 percent of the adjusted income of the current tenants, as determined by the Secretary, except that rents shall not exceed the fair market rent for comparable housing under section 8(b) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)] and any resulting increase in rents for current tenants shall be phased in equally over a period of no less than 3 years unless such increase is less than 10 percent; and

''(5) ensure that units becoming vacant during the term of the agreement are made available in accordance with section 225(b)(3)(F).

''(b) EXPIRATION.—Agreements entered into under this section shall expire upon the expiration of the 4-year period beginning on the date of the enactment of this Act [Feb. 5, 1988]. Upon the expiration of the agreements, the housing covered by the agreements shall be subject to any law then affecting low income affordability restrictions.

''SEC. 229. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

''The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under section 225. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this title.

''SEC. 230. RIGHT OF CONVERSION TO ALTERNATIVE PREPAYMENT SYSTEM.

''Any agreement to extend low income affordability restrictions under section 225(b) shall, for 4 years from the date of the enactment of this Act [Feb. 5, 1988], provide the owner the right to convert to any system of incentives and restrictions provided in law during such period, with such adjustments as the Secretary determines are appropriate to compensate for the value of any benefits the owner had received under this title.

''SEC. 232. REPORT TO CONGRESS.

''Not later than 1 year after the date of the enactment of this Act [Feb. 5, 1988], the Secretary shall submit to the Congress a report setting forth the activities carried out under this subtitle. The report shall include a description of the plans of action approved under subsections (a) and (b) of section 225 and an analysis of the extent to which the plans retain housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons. The report shall also include a detailed description of (1) the actions taken by the Secretary to ensure meaningful participation by affected tenants; and (2) the incentives developed by the Secretary under section 224 to ensure compliance with this subtitle.

''SEC. 233. DEFINITIONS.

''For purposes of this subtitle:

''(1) The term 'eligible low income housing' means any housing financed by a loan or mortgage—

''(A) that is—

''(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act [12 U.S.C. 1715*l*(d)(3)] and assisted under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s] or section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f];

''(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

''(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act [12 U.S.C. 1715z–1]; or

''(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

''(B) that, under regulation or contract in effect before the date of the enactment of this Act [Feb. 5, 1988], is or will within 1 year become eligible for prepayment without prior approval of the Secretary.

''(2) The term 'low income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

''(3) The terms 'lower income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937 [42 U.S.C. 1437a(b)(2)].

''(4) The term 'moderate income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

''(5) The term 'owner' means the current or subsequent owner or owners of eligible low income housing.

''(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

''(7) The term 'termination of low income affordability restrictions' means any elimination or relaxation of low income affordability restrictions (other than those permitted under an approved plan of action under section 225(b)).

''SEC. 234. REGULATIONS.

''The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of this Act [Feb. 5, 1988]. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

''SEC. 235. EFFECTIVE DATE.

''The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987.''

[Pub. L. 101–494, § 2(b), Oct. 31, 1990, 104 Stat. 1185, provided that: ''If the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625, which was approved Nov. 28, 1990] is enacted on or after October 31, 1990, this section [amending section 203(a) of Pub. L. 100–242 set out above] shall be deemed to have taken effect on October 30, 1990.''

NEHEMIAH HOUSING OPPORTUNITY GRANTS

Title VI (§§ 601–613) of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1951, as amended by Pub. L. 102–139, title II, Oct. 28, 1991, 105 Stat. 759; Pub. L. 102–550, title I, § 183, Oct. 28, 1992, 106 Stat. 3738, established the Nehemiah Housing Opportunity Fund to provide assistance in the form of grants to nonprofit organizations for the construction, rehabilitation, and financing of housing for families not otherwise able to afford homeownership. Pub. L. 101–625, title II, § 289(a)(3), (b), Nov. 28, 1990, 104 Stat. 4128, which is classified to section 12839(a)(3), (b) of Title 42, The Public Health and Welfare, provided that, 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 be made after Oct. 1, 1991, under title VI of Pub. L. 100–242, and effective Oct. 1, 1991, title VI of Pub. L. 100–242 is repealed.

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)(6) 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 amendment to subsec. (d)(3)(ii), (4)(ii) of this section by section 107(d)(1), (2) 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.

TAXATION OF INTEREST PAID ON OBLIGATIONS SECURED BY INSURED MORTGAGE AND ISSUED BY PUBLIC AGENCY

Section 319(b) of Pub. L. 93–383, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: ''With respect to any obligation secured by a mortgage which is insured under section 221(d)(3) of the National Housing Acts [subsec. (d)(3) of this section] and issued by a public agency as mortgagor in connection with the financing of a project assisted under section 8 of the United States Housing Act of 1937 [section 1437f of title 42], the interest paid on such obligation shall be included in gross income for purposes of chapter 1 of the Internal Revenue Code of 1986 [chapter 1 of title 26].''

CROSS REFERENCES

Mortgages for one- to four-family dwellings, authority to increase maximum amount by amount of mortgage insurance premium paid at time insured, see section 1709 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1701u, 1701z–4, 1701z–11, 1709, 1713, 1715c, 1715m, 1715n, 1715*o*, 1715r, 1715w, 1715y, 1715z, 1715z–1, 1715z–1a, 1715z–2, 1715z–6, 1715z–19, 1717, 1731b, 1735b, 1831q, 4119 of this title; title 26 sections 32, 42, 1250; title 40 App. section 207; title 42 sections 1452b, 2982c, 4851b, 8011, 8231, 11905, 12742, 12785, 13641.

§ 1715m. Mortgage insurance for servicemen

(a) Purpose; housing certificates

The purpose of this section is to aid in the provision of housing accommodations for servicemen in the armed forces of the United States and their families, servicemen in the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families by supplementing the insurance of mortgages under section 1709 of this title with a system of mortgage insurance specially designed to assist the financing required for the construction or purchase of dwellings by those persons. As used in this section, a ''serviceman'' means a person to whom the Secretary of Defense (or any officer or employee designated by him), the Secretary of Transportation (or any officer or employee designated by him), or the Secretary of Commerce (or any officer or employee designated by him), as the case may be, has issued a certificate hereunder indicating that such person requires housing, is serving on active duty in the armed forces of the United States, in the United States Coast Guard, or in the United States National Oceanic and Atmospheric Administration and has served on active duty for more than two years, but a certificate shall not be issued hereunder to any person ordered to active duty for training purposes only. The Secretary of Defense, the Secretary of Transportation, and the Secretary of Commerce, respectively, are authorized to prescribe rules and regulations governing the issuance of such certificates and may withhold issuance of more than one such certificate to a serviceman whenever in his discretion issuance is not justified due to circumstances resulting from military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

(b) Eligibility of mortgage for insurance

To be eligible for insurance under this section a mortgage shall—

(1) meet the requirements of section 1709(b), 1709(i), 1715*l*(d)(2), or 1715y(c) of this title, except as such requirements are modified by this section;

(2) involve a dwelling designed principally for a one-family residence or a one-family unit in a condominium project;

(3) have a principal obligation not in excess of 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; and

(4) be executed by a mortgagor who at the time of application for insurance is certified as a ''serviceman'' and who at the time of insurance is the owner of the property and either occupies the property as a principal residence or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

(c) Manner of acceptance; payment of premiums

The Secretary may prescribe the manner in which a mortgage may be accepted for insurance under this section. Premiums fixed by the Secretary under section 1709 of this title with respect to, or payable during, the period of ownership by a serviceman of the property involved shall not be payable by the mortgage[1] but shall be paid not less frequently than once each year, upon request of the Secretary to the Secretary of Defense, the Secretary of Transportation, or the Secretary of Commerce, as the case may be, from the respective appropriations available for pay and allowances of persons eligible for mortgage insurance under this section. As used herein, ''the period of ownership by a serviceman'' means the period, for which premiums are fixed, prior to the date that the Secretary of Defense (or any officer or employee or other person designated by him), the Secretary of Transportation (or any officer or employee or other person designated by him), or the Secretary of Commerce (or any officer or employee or other person designated by him), as the case may be, furnishes the Secretary with a certification that such ownership (as defined by the Secretary), has terminated.

(d) Entitlement of mortgagee to benefits

Any mortgagee under a mortgage insured under this section is entitled to the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title.

(e) Applicability of other provisions

The provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall apply to mortgages insured under this section, except that as applied to those mortgages (1) all references to the Fund, or Mutual Mortgage Insurance Fund, shall refer to the General Insurance Fund, and (2) all references to section 1709 of this title shall refer to this section.

(f) Transfer of insurance on mortgages covering single-family dwellings or one-family units in condominium projects if mortgage is assumed by serviceman

The Secretary is authorized to transfer to this section the insurance on any mortgage covering a single-family dwelling or a one-family unit in a condominium project insured under this chapter, if the mortgage indebtedness thereof has been assumed by a serviceman who at the time of assumption is the owner of the property and either occupies the property as a principal residence or certifies that his failure to do so is the result of his military assignment, or, in the case of the United States Coast Guard or the United States National Oceanic and Atmospheric Administration, other assignment.

(g) Extension of period of ownership where serviceman dies while on active duty

Where a serviceman dies while on active duty in the armed forces of the United States or in the United States Coast Guard or in the United States National Oceanic and Atmospheric Administration, leaving a surviving widow as owner of the property, the period of ownership by the serviceman (within the meaning of subsection (c) of this section) shall extend for two years beyond the date of the serviceman's death or until the date the widow disposes of the property, whichever date occurs first. The Secretary of Defense or the Secretary of Transportation, or the Secretary of Commerce, as the case may be, shall notify such widow promptly following the serviceman's death of the additional costs to be borne by the mortgagor following termination of the two-year period.

(June 27, 1934, ch. 847, title II, § 222, as added Aug. 2, 1954, ch. 649, title I, § 124, 68 Stat. 603; amended July 12, 1957, Pub. L. 85–104, title I, §§ 103, 112, 71 Stat. 296, 297; Sept. 23, 1959, Pub. L. 86–372, title I, §§ 111, 116(b), 73 Stat. 661, 664; Sept. 2, 1964, Pub. L. 88–560, title I, § 115, 78 Stat. 779; Aug. 10, 1965, Pub. L. 89–117, title II, § 212, title XI, § 1108(j), 79 Stat. 470, 505; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title III, § 301, 82 Stat. 505; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 102(c), 105, 113(f), 83 Stat. 380, 381, 384; Dec. 31, 1970, Pub. L. 91–621, § 7(b), 84 Stat. 1865; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 302(d), 310(c), 88 Stat. 676, 682; Oct. 12, 1977, Pub. L. 95–128, title III, §§ 303(d), 304(c), 91 Stat. 1132, 1133; Dec. 21, 1979, Pub. L. 96–153, title III, § 312(c), 93 Stat. 1116; Oct. 8, 1980, Pub. L. 96–399, title III, § 336(c), 94 Stat. 1654; Feb. 5, 1988, Pub. L. 100–242, title IV, § 406(b)(14), 101 Stat. 1901.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

CODIFICATION

The text reading ''servicemen in the armed forces of the United States and their families, servicemen in the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families'' read in subsec. (a) as amended by Pub. L. 91–621 ''servicemen in the armed forces of the United States Coast Guard and their families, and servicemen in the United States National Oceanic and Atmospheric Administration and their families'' and expresses the Congressional intent as manifest in the legislative history.

AMENDMENTS

1988—Subsecs. (b)(4), (f). Pub. L. 100–242 inserted ''as a principal residence'' after ''occupies the property''.

1980—Subsec. (b)(2). Pub. L. 96–399 substituted provisions relating to dwelling designed principally for a one-family residence or a one-family unit in a condominium project, for provisions setting forth maximum dollar amounts for the principal obligation involved.

1979—Subsec. (b)(2). Pub. L. 96–153 substituted ''$67,500'' for ''$60,000''.

1977—Subsec. (b). Pub. L. 95–128 substituted ''$60,000'' for ''$45,000'' in par. (2) and ''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'' in par. (3).

1974—Subsec. (b)(2). Pub. L. 93–383, § 302(d), substituted ''$45,000'' for ''$33,000''.

Subsec. (b)(3). Pub. L. 93–383, § 310(c), in cl. (i) substituted ''$25,000'' for ''$15,000'', in cl. (ii) substituted ''$25,000'' for ''$15,000'' and ''$35,000'' for ''$25,000'' and in cl. (iii) substituted ''80'' for ''85'' and ''$35,000'' for ''$25,000''.

1970—Pub. L. 91–621 extended benefits accorded members of the armed forces under this chapter with re-

[1] So in original. Probably should be ''mortgagee''.

spect to insurance of mortgages to servicemen in the United States National Oceanic and Atmospheric Administration, inserting references to such Administration and the Secretary of Commerce in subsecs. (a), (b)(4), (c), (f), and (g) as the executive officer for effecting such benefits.

1969—Subsec. (b)(1). Pub. L. 91–152, §105, inserted reference to section 1715y(c) of this title.

Subsec. (b)(2). Pub. L. 91–152, §113(f), substituted ''$33,000'' for ''$30,000''.

Subsec. (b)(3). Pub. L. 91–152, §102(c), substituted ''$25,000'' for ''$20,000'' wherever appearing.

1968—Subsecs. (a), (c). Pub. L. 90–448, §301(1), substituted ''Secretary of Transportation'' for ''Secretary of the Treasury'' wherever appearing.

Subsecs. (f), (g). Pub. L. 90–448, §301(2), added subsecs. (f) and (g). A prior subsec. (f) was repealed by Pub. L. 89–117.

1967—Subsecs. (b)(2), (c). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1965—Subsec. (b)(2). Pub. L. 89–117, §212(1), substituted ''$30,000'' for ''$20,000''.

Subsec. (b)(3). Pub. L. 89–117, §212(2), substituted provisions prohibiting the mortgage to have a principal obligation in excess of the sum of (i) 97 per centum of $15,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, (ii) 90 per centum of such value in excess of $15,000 but not in excess of $20,000, and (iii) 85 per centum of such value in excess of $20,000 for provisions which prohibited the mortgage to have a principal obligation in an amount in excess of 95 per centum of the appraised value of the property or such higher amount as may be derived by applying the maximum ratio of loan to value prescribed in section 1709(b)(2) of this title.

Subsec. (e). Pub. L. 89–117, §1108(j)(1), substituted ''General Insurance Fund'' for ''Servicemen's Mortgage Insurance Fund''.

Subsec. (f). Pub. L. 89–117, §1108(j)(2), repealed subsec. (f) which created the Servicemen's Mortgage Insurance Fund, provided for transfer of funds thereto, and authorized purchase and cancellation of debentures and payment and credit of charges.

1964—Subsec. (b)(1). Pub. L. 88–560, §115(1), inserted reference to section 1715*l*(d)(2) of this title.

Subsec. (b)(2). Pub. L. 88–560, §115(2), substituted ''or section 1715*l*(d)(2) of this title such principal obligation shall not exceed the maximum limits prescribed for such section'' for ''such principal obligation shall not exceed $9,000''.

1959—Subsec. (b)(1). Pub. L. 86–372, §111(1), inserted reference to section 1709(i) of this title.

Subsec. (b)(2). Pub. L. 86–372, §111(2), substituted ''$20,000, except that in the case of a mortgage meeting the requirements of section 1709(i) of this title such principal obligation shall not exceed $9,000'' for ''$17,100''.

Subsec. (e). Pub. L. 86–372, §116(b), inserted reference to subsec. (k) of section 1710 of this title.

1957—Subsec. (b). Pub. L. 85–104, §103, substituted cls. (1), (2), and (3), for former provision which read: ''In addition to mortgages insured under section 1709 of this title, the Commissioner may, for the purpose of this section, insure any mortgage under this section which would be eligible for insurance under section 1709 of this title, except that as to mortgages so insured the maximum ratio of loan to value may, in the discretion of the Commissioner, exceed the maximum ratio of loan to value prescribed in said section but not to exceed in any event 95 per centum of the appraised value of the property and not to exceed $17,100:'', and which designated former proviso as cl. (4).

Subsec. (e). Pub. L. 85–104, §112, substituted ''(h), and (j) of section 1710 of this title'' for ''and (h) of section 1710 of this title''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715q of this title; title 10 sections 2831, 2833.

§1715n. Miscellaneous mortgage insurance

(a) Projects covered

Notwithstanding any of the provisions of this chapter and without regard to limitations upon eligibility contained in any section or subchapter of this chapter, other than the limitation in section 1709(g) of this title, the Secretary is authorized, upon application by the mortgagee, to insure or make commitments to insure under any section or subchapter of this chapter any mortgage—

(1) executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under Public Law 849, Seventy-sixth Congress, as amended; Public Law 781, Seventy-sixth Congress, as amended; or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof); or

(2) executed in connection with the sale by the Secretary of Housing and Urban Development, or by any public housing agency with the approval of the Secretary, of any housing (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof) owned or financially assisted pursuant to the provisions of Public Law 671, Seventy-sixth Congress; or

(3) executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects, or parts thereof, known as Greenhills, Ohio; Greenbelt, Maryland; and Greendale, Wisconsin, developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties or employee's housing under the jurisdiction of Tennessee Valley Authority, or of any housing under the jurisdiction of the Department of the Interior located within the town area of Coulee Dam, Washington, acquired by the United States for the construction, operation, and maintenance of Grand Coulee Dam and its appurtenant works: *Provided*, That for the purpose of the application of this subchapter to sales by the Secretary of the Interior pursuant to subsections 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957, the selling price of the property involved shall be deemed to be the appraised value, of any permanent housing under the jurisdiction of the Department of the Interior constructed under the Boulder Canyon Project Act of December 21, 1928, as amended and supplemented [43 U.S.C. 617 et seq.] located within the Boulder City municipal area: *Provided*, That for purposes of the application of this subchapter to sales by the Secretary of the In-

terior pursuant to subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958, the selling price of the property involved shall be deemed to be the appraised value; or

(4) executed in connection with the sale by the Government, or any agency or official thereof, of any housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof) pursuant to the Atomic Energy Community Act of 1955, as amended [42 U.S.C. 2301 et seq.]: *Provided*, That such insurance shall be issued without regard to any preferences or priorities except those prescribed by this chapter or the Atomic Energy Community Act of 1955, as amended; or

(5) executed in connection with the sale by a State or municipality, or an agency, instrumentality, or political subdivision of either, of a project consisting of any permanent housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof), constructed by or on behalf of such State, municipality, agency, instrumentality, or political subdivision, for the occupancy of veterans of World War II, or Korean veterans, their families, and others; or

(6) executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in paragraphs (1), (2), (3), and (4) above; or

(7) given to refinance an existing mortgage insured under this chapter: *Provided*, That the principal amount of any such refinancing mortgage shall not exceed the original principal amount or the unexpired term of such existing mortgage and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, except that (A) the principal amount of any such refinancing mortgage may equal the outstanding balance of an existing mortgage insured pursuant to section 1715z–10 of this title, if the amount of the monthly payment due under the refinancing mortgage is less than that due under the existing mortgage for the month in which the refinancing mortgage is executed; (B) a mortgagee may not require a minimum principal amount to be outstanding on the loan secured by the existing mortgage; (C) in any case involving the refinancing of a loan in which the Secretary determines that the insurance of a mortgage for an additional term will inure to the benefit of the applicable insurance fund, taking into consideration the outstanding insurance liability under the existing insured mortgage, such refinancing mortgage may have a term not more than twelve years in excess of the unexpired term of such existing insured mortgage; and (D) any multifamily mortgage that is refinanced under this paragraph shall be documented through amendments to the existing insurance contract and shall not be structured through the provisions of a new insurance contract: *Provided further*, That a mortgage of the character described in paragraphs (1) through (6) of this subsection shall have a maturity and a principal obligation not in excess of the maximums prescribed under the applicable section or subchapter of this chapter, except that in no case may the principal obligation of a mortgage referred to in paragraph (5) of this subsection exceed 90 per centum of the appraised value of the mortgaged property, and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; or

(8) executed in connection with the sale by the Government of any housing acquired pursuant to section 1013 of the Demonstration Cities and Metropolitan Act of 1966 [42 U.S.C. 3374].

(b) Insurance of mortgages given to refinance mortgages covering existing property or projects in urban renewal areas

Notwithstanding any of the provisions of this subchapter and without regard to limitations upon eligibility contained in section 1715*l* of this title, the Secretary may in his discretion insure under section 1715*l*(d)(3) of this title any mortgage executed by a mortgagor of the character described therein where such mortgage is given to refinance a mortgage covering an existing property or project (other than a one- to four-family structure) located in an urban renewal area, if the Secretary finds that such insurance will facilitate the occupancy of dwelling units in the property or project by families of low or moderate income or families displaced from an urban renewal area or displaced as a result of governmental action.

(c) Insurance of certain assigned mortgages

The Secretary shall also have authority to insure under this chapter any mortgage assigned to him in connection with payment under a contract of mortgage insurance or executed in connection with the sale by him of any property acquired under any section or subchapter of this chapter without regard to any limitations or requirements contained in this chapter upon the eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement.

(d) Insurance of loans made to cover operating losses of certain projects having existing mortgages insured by Secretary

(1) Notwithstanding any other provision of this chapter, the Secretary is authorized to insure loans made to cover the operating losses of certain projects that have existing project mortgages insured by the Secretary. Insurance under this subsection shall be in the Secretary's discretion and upon such terms and conditions as the Secretary may prescribe, and shall be provided in accordance with the provisions of this subsection. For purposes of this subsection, the term ''operating loss'' means the amount by which the sum of the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by the mortgage, exceeds the income of the project.

(2) To be eligible for insurance pursuant to this paragraph—

(A) the existing project mortgage (i) shall have been insured by the Secretary at any

time before or after February 5, 1988; and (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling;

(B) the operating loss shall have occurred during the first 24 months after the date of completion of the project, as determined by the Secretary; and

(C) the loan shall be in an amount not exceeding the operating loss.

(3) To be eligible for insurance pursuant to this paragraph—

(A) the existing project mortgage (i) shall have been insured by the Secretary at any time before or after February 5, 1988; (ii) shall cover any property, other than a property upon which there is located a 1- to 4-family dwelling; and (iii) shall not cover a subsidized project, as defined by the Secretary;

(B) the loan shall be in an amount not exceeding 80 percent of the unreimbursed cash contributions made on or after March 18, 1987, by the project owner for the use of the project, during any period of consecutive months (not exceeding 24 months) in the first 10 years after the date of completion of the project, as determined by the Secretary, except that in no event may the amount of the loan exceed the operating loss during such period;

(C) the loan shall be made within 10 years after the end of the period of consecutive months referred to in the preceding subparagraph; and

(D) the project shall meet all applicable underwriting and other requirements of the Secretary at the time the loan is to be made.

(4) Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B). The Secretary is authorized to collect a premium charge for insurance of loans pursuant to this subsection in any amount computed at the same premium rate as is applicable to the original mortgage. This premium shall be payable in cash or in debentures of the insurance fund under which the loan is insured at par plus accrued interest. In the event of a failure of the borrower to make any payment due under such loan or under the original mortgage, both the loan and original mortgage shall be considered in default, and if such default continues for a period of thirty days, the lender shall be entitled to insurance benefits, computed in the same manner as for the original mortgage, except that in determining the interest rate under section 1715*o* of this title for the debentures representing the portion of the claim applicable to the loan, the date of the commitment to insure the loan and the insurance date of the loan shall be taken into consideration rather than the commitment or insurance date for the original mortgage.

(5) A loan involving a project covered by a mortgage insured under section 1715e of this title that is the obligation of the Cooperative Management Housing Insurance Fund shall be the obligation of such fund, and loans involving projects covered by a mortgage insured under section 1715z–1 of this title or under any section of this subchapter pursuant to subsection (e) of this section shall be the obligation of the Special Risk Insurance Fund.

(6) In determining the amount of an operating loss loan to be insured pursuant to this subsection, the Secretary shall not reduce such amount solely to reflect any amounts placed in escrow (at the time the existing project mortgage was insured) for initial operating deficits. If an operating loss loan was insured by the Secretary pursuant to this subsection before October 28, 1992, and was reduced solely to reflect the amount placed in escrow for initial operating deficits, the Secretary shall insure, to the extent of the availability of insurance authority provided in appropriation Acts, an increase in the existing loan or a separate loan, in an amount equal to the lesser of (A) the maximum amount permitted under this subsection and the applicable underwriting requirements established by the Secretary and in effect at the time the loan is to be made, or (B) the amount of the escrow for initial operating deficits.

(e) Insurance of mortgages executed in connection with repair, rehabilitation, construction, or purchase of property in older, declining urban areas

Notwithstanding any of the provisions of this chapter except section 1715c of this title, and without regard to limitations upon eligibility contained in any section of this subchapter or subchapter IX–B of this chapter, other than the limitation in section 1709(g) of this title, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this subchapter or subchapter IX–B of this chapter a mortgage executed in connection with the repair, rehabilitation, construction, or purchase of property located in an older, declining urban area in which the conditions are such that one or more of the eligibility requirements applicable to the section or subchapter under which insurance is sought could not be met if the Secretary finds that (1) the area is reasonably viable, giving consideration to the need for providing adequate housing or group practice facilities for families of low and moderate income in such area, and (2) the property is an acceptable risk in view of such consideration. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(f) Insurance of mortgages executed in connection with purchase or refinancing of existing multifamily housing project; refinancing of existing debt of existing hospital, or purchase or refinancing of rental rehabilitated property; terms and conditions, etc.

(1) Notwithstanding any of the provisions of this chapter, the Secretary is authorized, in his

discretion, to insure under any section of this subchapter a mortgage executed in connection with the purchase of refinancing of an existing multifamily housing project or the refinancing of existing debt of an existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof).

(2) In the case of the purchase or refinancing under this subsection of a multifamily housing project located in an older, declining urban area, the Secretary shall make available an amount not to exceed $30,000,000 of available purchase authority pursuant to section 1720 of this title to reduce interest rates on low- and moderate-income rental housing in projects having 100 units or less which otherwise could not support refinancing and moderate rehabilitation without causing excessive rent burdens on current tenants due to rent increases. The Secretary shall prescribe such terms and conditions as he deems necessary to assure that—

(A) the refinancing is used to lower the monthly debt service only to the extent necessary to assure the continued economic viability of the project, taking into account any rent reductions to be implemented by the mortgagor; and

(B) during the mortgage term no rental increases shall be made except those which are necessary to offset actual and reasonable operating expense increases or other necessary expense increases and maintain reasonable profit levels approved by the Secretary.

(3) For all insurance authorized by this subsection and provided pursuant to a commitment entered into after October 8, 1980, the Secretary may not accept an offer to prepay or request refinancing of a mortgage secured by rental housing unless the Secretary takes appropriate action that will obligate the borrower (and successors in interest thereof) to utilize the property as a rental property for a period of five years from the date on which the insurance was provided (twenty years in the case of any such mortgage purchased under section 1720[1] of this title) unless the Secretary finds that—

(A) the conversion of the property to a cooperative, or condominium form of ownership is sponsored by a bona fide tenants' organization representing a majority of the households in the project;

(B) continuance of the property as rental housing is clearly unnecessary to assure adequate rental housing opportunities for low- and moderate-income people in the community; or

(C) continuance of the property as rental housing would have an undesirable and deleterious effect on the surrounding neighborhood.

(4) In the case of refinancing of an existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof) the Secretary shall prescribe such terms and conditions as the Secretary deems necessary to assure that—

(A) the refinancing is employed to lower the monthly debt service costs (taking into account any fees or charges connected with such refinancing) of such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof);

(B) the proceeds of any refinancing will be employed only to retire the existing indebtedness and pay the necessary cost of refinancing on such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof);

(C) such existing hospital (or existing nursing home, existing assisted living facility, existing intermediate care facility, existing board and care home, or any combination thereof) is economically viable; and

(D) the applicable requirements for certificates, studies, and statements of section 1715w of this title (for the existing nursing home, existing assisted living facility, intermediate care facility, board and care home, or any combination thereof, proposed to be refinanced) or of section 1715z–7 of this title (for the existing hospital proposed to be refinanced) have been met.

(5) In the case of any purchase or refinancing under this subsection involving property to be rehabilitated or developed under section 1437*o*[1] of title 42, the Secretary may—

(A) include rehabilitation or development costs of not to exceed $20,000 per unit, except that the Secretary may increase such amount by not to exceed 25 per centum for specific properties where cost levels so require;

(B) permit subordinated liens securing up to the full amount of mortgage financing provided by State or local governments or agencies thereof; and

(C) pay such benefits in cash unless the mortgagee submits a written request for debenture payment.

(g) Insurance of mortgages covering multifamily housing projects including units not self-contained

Notwithstanding any other provisions of this chapter, the Secretary may, in his discretion, insure a mortgage covering a multifamily housing project including units which are not self-contained.

(June 27, 1934, ch. 847, title II, § 223, as added Aug. 2, 1954, ch. 649, title I, § 125, 68 Stat. 605; amended Aug. 4, 1955, ch. 543, ch. 11, § 201, 69 Stat. 484; Aug. 11, 1955, ch. 783, title I, § 102(k), 69 Stat. 636; July 12, 1957, Pub. L. 85–104, title I, § 114, 71 Stat. 298; Aug. 30, 1957, Pub. L. 85–240, § 4, 71 Stat. 528; Sept. 2, 1958, Pub. L. 85–900, § 12, 72 Stat. 1735; June 30, 1961, Pub. L. 87–70, title I, § 101(d), title VI, § 612(h), 75 Stat. 154, 182; Sept. 2, 1964, Pub. L. 88–560, title I, § 116, 78 Stat. 779; Aug. 10, 1965, Pub. L. 89–117, title I, § 108(e), title II, § 213, 79 Stat. 461, 471; Nov. 3, 1966, Pub. L. 89–754, title X, § 1013(h), 80 Stat. 1292; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (h), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90–448, title I, § 103(a), title III, § 312, 82 Stat. 486, 510; Dec. 24, 1969, Pub. L.

[1] See References in Text note below.

91–152, title IV, §418(c), (d), 83 Stat. 402; Aug. 22, 1974, Pub. L. 93–383, title III, §311(a), 88 Stat. 683; Oct. 31, 1978, Pub. L. 95–557, title III, §326, 92 Stat. 2104; Oct. 8, 1980, Pub. L. 96–399, title III, §327, 94 Stat. 1650; Aug. 13, 1981, Pub. L. 97–35, title III, §339B(b), 95 Stat. 417; Nov. 30, 1983, Pub. L. 98–181, title III, §303(b), 97 Stat. 1207; Oct. 17, 1984, Pub. L. 98–479, title II, §204(a)(7), 98 Stat. 2232; Feb. 5, 1988, Pub. L. 100–242, title IV, §§406(b)(15), (16), 408(a), 409(a), (b), 419(b), 427, 429(d), 101 Stat. 1901, 1903, 1913, 1916, 1918; Oct. 28, 1992, Pub. L. 102–550, title V, §§510, 511(f), 106 Stat. 3784, 3786; Sept. 28, 1994, Pub. L. 103–327, title II, 108 Stat. 2316.)

AMENDMENT OF SECTION

For termination of amendment by title II of Pub. L. 103–327, see Effective and Termination Dates of 1994 Amendment note below.

REFERENCES IN TEXT

Public Law 849, Seventy-sixth Congress, as amended, referred to in subsec. (a)(1), is act Oct. 14, 1940, ch. 862, 54 Stat. 1125, as amended, known as the ''Lanham Public War Housing Act'', which is classified generally to subchapters II to VII (§§ 1521 et seq., 1531 et seq., 1541 et seq., 1561 et seq., 1571 et seq., and 1581 et seq.) of chapter 9 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 1501 of Title 42 and Tables.

Public Laws 9, 73, and 353, Seventy-seventh Congress, referred to in subsec. (a)(1), refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of $320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions were not classified to the code, although all three acts are cited in a ''Prior Additional Appropriations'' note under section 1523 of Title 42.

Public Law 671, Seventy-sixth Congress, referred to in subsec. (a)(2), is act June 28, 1940, ch. 440, 54 Stat. 676, as amended. Provisions of the Act relating to housing are contained in title II, which is classified generally to subchapter I (§1501 et seq.) of chapter 9 of Title 42. For complete classification of this Act to the Code, see Tables.

The Emergency Relief Appropriation Act of 1935, referred to in subsec. (a)(3), is Joint Res. Apr. 8, 1935, ch. 48, 49 Stat. 115. It was temporary legislation, and was formerly set out in a note in former chapter 16 of Title 15, Commerce and Trade. See notes under former sections 721 to 728 of that title.

Subsections 3(b)(1) and 3(b)(2) of the Coulee Dam Community Act of 1957 [Pub. L. 85–240, Aug. 30, 1957, 71 Stat. 524], referred to in subsec. (a)(3), are set out in a note under section 835c of Title 16, Conservation.

The Boulder Canyon Project Act of December 21, 1928, as amended and supplemented, referred to in subsec. (a)(3), is act Dec. 21, 1928, ch. 42, 45 Stat. 1057, as amended, which is classified generally to subchapter I (§617 et seq.) of chapter 12A of Title 43, Public Lands. For complete classification of this Act to the Code, see section 617t of Title 43 and Tables.

Subsections 3(b)(1) and 3(b)(2) of the Boulder City Act of 1958 [Pub. L. 85–900, Sept. 2, 1958, 72 Stat. 1726], referred to in subsec. (a)(3), are not classified to the Code. Subsections (a) to (d) of section 3 read as follows:

''(a) The Secretary is authorized to sell such dwelling houses, duplex houses or units thereof, and garages, with furniture, fixtures, and appurtenances, as are owned by the United States within the Boulder City municipal area and are not needed in connection with the administration, operation, and maintenance of Federal activities located within or near the Boulder City municipal area.

''(b) Except in the case of property determined to be substandard under subsection (c) of this section, the following system of priority shall be established with respect to property authorized to be sold under subsection (a) of this section:

''(1) Persons employed by the Federal Government within or near the Boulder City municipal area (and surviving spouses of such persons who have not remarried) who are tenants in Federal housing in Boulder City shall be offered the opportunity to purchase the property in which they are tenants at the appraised value as established under subsection (d) of this section. This right of priority shall expire unless notice of intent to purchase has been received by the Secretary before the expiration of sixty days after the date on which the property has been offered for sale, and shall be deemed abandoned unless before the expiration of sixty days after the Secretary's tender of the instrument of transfer the prospective purchaser concludes the sale;

''(2) Persons employed by the Federal Government within or near the Boulder City municipal area may apply to purchase housing not purchased under subsection (b)(1) of this section. Applicants to purchase shall be placed in order of opportunity to choose pursuant to a public drawing, but spouses of such applicants shall not be entitled to apply. Sales shall be made at the appraised value as established under subsection (d) of this section and selections and purchases by successful applicants shall be concluded within limits of time to be established by the Secretary. A purchase under subsection (b)(1) or (b)(2) of this section shall render the purchaser and any spouse of such purchaser ineligible thereafter to purchase under subsection (b)(1) or (b)(2); and

''(3) Property subject to disposal under this section and not sold pursuant to subsections (b)(1) and (b)(2) of this section shall be opened to bids from the general public, and shall be sold to the highest responsible bidder.

''In the event that incorporation of the municipality shall be effected within four years after the date of this Act, persons purchasing housing under this subsection or their successors, assigns, or legal representatives, shall be entitled to a reduction in the purchase price (or rebate as appropriate) of 10 per centum: *Provided*, That no person who has purchased a house under the Act of May 25, 1948 (62 Stat. 268), shall be eligible for such reduction.

''(c) Where the Secretary determines that property authorized to be sold under subsection (a) of this section is substandard, he shall sell such property only for off-site use, such property to be opened to bids from the general public for sale to the highest responsible bidder.

''(d) The appraised value of all property to be sold under subsections (b)(1) and (b)(2) of this section, and of all lots leased or to be leased by the United States for the purpose of maintaining, locating, or erecting permanent structures thereon, shall be determined by an appraiser or appraisers to be designated by the Administrator of Housing and Home Finance Agency at the request of the Secretary. Said appraisals shall be made promptly after the date of this Act, or immediately prior to the granting of any lease of lands not previously appraised, as the case may be. The representatives of the Boulder City community, as determined by the Secretary, shall be granted an opportunity to offer advice in connection with [sic] such appraisals.''

The Atomic Energy Community Act of 1955, as amended, referred to in subsec. (a)(4), is act Aug. 4, 1955, ch. 543, 69 Stat. 472, as amended, which is classified principally to chapter 24 (§2301 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 2301 of Title 42 and Tables.

Section 1720 of this title, referred to in subsec. (f)(3), was repealed by Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240.

Section 1437*o* of title 42, referred to in subsec. (f)(5), was repealed by Pub. L. 101–625, title II, § 289(b), Nov. 28, 1990, 104 Stat. 4128.

AMENDMENTS

1994—Subsec. (a)(7)(D). Pub. L. 103–327 temporarily added cl. (D). See Effective and Termination Dates of 1994 Amendment note below.

1992—Subsec. (d)(6). Pub. L. 102–550, § 510, added par. (6).

Subsec. (f)(1), (4). Pub. L. 102–550, § 511(f), inserted ''existing assisted living facility,'' after ''existing nursing home,'' wherever appearing.

1988—Subsec. (a). Pub. L. 100–242, § 406(b)(15), inserted ''other than the limitation in section 1709(g) of this title,'' after first reference to ''this chapter,''.

Subsec. (a)(7). Pub. L. 100–242, § 429(d)(1), substituted in first proviso ''such rate as may be agreed upon by the mortgagor and the mortgagee'' for ''a rate not in excess of the maximum rate prescribed under the applicable section or subchapter of this chapter'', substituted in second proviso ''maturity and a principal obligation'' for ''maturity, a principal obligation, and an interest rate'', and inserted before semicolon at end '', and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee''.

Pub. L. 100–242, § 419(b), in first proviso, inserted cl. (B) and designated former cl. (B) as (C).

Pub. L. 100–242, § 408(a), in first proviso, inserted cl. (B) designation and added cl. (A).

Subsec. (d). Pub. L. 100–242, § 427, added pars. (1) to (3), inserted par. (4) designation and ''Any loan insured pursuant to this subsection shall (A) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee; (B) be secured in such manner as the Secretary shall require; (C) be limited to a term not exceeding the unexpired term of the original mortgage; and (D) be insured under the same section as the original mortgage. The Secretary may provide insurance pursuant to paragraph (2) or (3), or pursuant to both such paragraphs, in connection with an existing project mortgage, except that the Secretary may not provide insurance pursuant to both such paragraphs in connection with the same period of months referred to in paragraphs (2)(B) and (3)(B).'', inserted par. (5) designation, and struck out former first and second sentences of subsec. (d) which read as follows: ''With respect to any mortgage, other than a mortgage covering a one- to four-family structure, heretofore or hereafter insured by the Secretary, and notwithstanding any other provision of this chapter, when the taxes, interest on the mortgage debt, mortgage insurance premiums, hazard insurance premiums, and the expense of maintenance and operation of the project covered by such mortgage during the first two years following the date of completion of the project, as determined by the Secretary, exceed the project income, the Secretary may, in his discretion and upon such terms and conditions as he may prescribe, insure under the same section as the original mortgage a loan by the mortgagee in an amount not exceeding the excess of the foregoing expenses over the project income. Such loan shall (1) bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured, (2) be secured in such manner as the Secretary shall require, and (3) be limited to a term not exceeding the unexpired term of the original mortgage.''

Pub. L. 100–242, § 429(d)(2), which directed substitution of ''bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee'' for ''bear interest (exclusive of premium charges for insurance) at not to exceed the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured'' in cl. (1) of sentence beginning ''Such loan shall'', could not be executed because of previous amendment by Pub. L. 100–242, § 427, see above, which directed in part the striking out of second sentence of subsec. (d)(1), which contained the language sought to be amended.

Subsec. (e). Pub. L. 100–242, § 406(b)(16), inserted reference to limitation in section 1709(g) of this title.

Subsec. (f)(1). Pub. L. 100–242, § 409(b)(1), inserted parenthetical reference to existing nursing homes, intermediate care facilities, board and care homes, or any combination thereof after ''existing hospital''.

Subsec. (f)(4)(A) to (C). Pub. L. 100–242, § 409(b)(2), inserted parenthetical reference to existing nursing homes, intermediate care facilities, board and care homes, or any combination thereof after ''existing hospital'' wherever appearing.

Subsec. (f)(4)(D). Pub. L. 100–242, § 409(a), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: ''such existing hospital has received such certifications from a State agency designated in accordance with section 291d(a)(1) or section 300m of title 42 for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certification required for hospitals insured under section 1715z–7 of this title and that such State agency additionally certify that the services being provided by such existing hospital at the time of refinancing are appropriate as determined pursuant to section 300m–2(a)(6) title 42.''

1984—Subsec. (f)(2). Pub. L. 98–479 in provisions preceding subpar. (A) inserted ''a'' before ''multifamily''.

1983—Subsec. (f)(5). Pub. L. 98–181 added par. (5).

1981—Subsec. (f). Pub. L. 97–35 inserted ''and'' after the semicolon at end of par. (2)(A), and redesignated par. (5) as (4).

1980—Subsec. (f)(1). Pub. L. 96–399, § 327(1), redesignated first sentence of subsec. (f) as par. (1).

Subsec. (f)(2). Pub. L. 96–399, § 327(2)–(6), redesignated second sentence of subsec. (f) as par. (2), inserted applicability to purchases, provisions authorizing the Secretary to make not to exceed $30,000,000 available for purchase authority, and provisions authorizing rent increases to maintain reasonable profit levels, and substituted ''(A)'' and ''(B)'' for ''(1)'' and ''(2)'', respectively.

Subsec. (f)(3). Pub. L. 96–399, § 327(7), added par. (3).

Subsec. (f)(5). Pub. L. 96–399, § 327(8), redesignated third sentence of subsec. (f) as par. (5).

1978—Subsec. (f). Pub. L. 95–557 inserted ''or the refinancing of existing debt of an existing hospital'' after ''housing project'', substituted ''multifamily housing project'' for ''housing project'', and inserted provisions relating to the prescription of terms and conditions in the case of refinancing of an existing hospital.

1974—Subsecs. (f), (g). Pub. L. 93–383 added subsecs. (f) and (g).

1969—Subsec. (d). Pub. L. 91–152, § 418(c), inserted provision that any loan involving a project covered by a mortgage insured under section 1715e, 1715z–1, or any section of this subchapter pursuant to subsec. (e) of this section be the obligation of the specified Fund.

Subsec. (e). Pub. L. 91–152, § 418(d), substituted ''this chapter'' for ''this subchapter'' and inserted references to subchapter IX–B of this chapter.

1968—Subsec. (a). Pub. L. 90–448, § 312(a)(1), substituted ''chapter'' for ''subchapter'', ''any section or subchapter of this chapter'' for ''section 1709, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715v, 1715w, or 1715x of this title'' and ''under any section or subchapter of this chapter'' for ''under either of said sections''.

Subsec. (a)(7). Pub. L. 90–448, § 312(a)(2), substituted ''prescribed under the applicable section or subchapter of this chapter'' for ''applicable to loans insured under section 1709, 1713, 1715e, 1715k, 1715*l*, 1715m, 1715v, 1715w, or 1715x of this title'' in two places.

Subsec. (c). Pub. L. 90–448, § 312(a)(3)–(5), substituted ''this chapter'' for ''this subchapter'' in two places, and ''any section or subchapter of this chapter'' for ''subchapters I, II, VI, VII, VIII or X of this chapter'', and struck out phrase which required payment of insurance to be in debentures.

Subsec. (d). Pub. L. 90–448, §312(b), substituted ''insure under the same section as the original mortgage a loan by a mortgagee in an amount not exceeding the excess of the foregoing expenses over the project income'' for ''permit the excess of the foregoing expenses over the project income to be added to the amount of such mortgage, and extend the coverage of the mortgage insurance thereto, and such additional amount shall be deemed to be part of the original face amount of the mortgage'', and inserted sentences requiring the loan to bear interest at not more than the per centum per annum currently permitted for mortgages insured under the section under which it is to be insured, to be secured, and to be limited to a term not more than the unexpired term of the original mortgage, authorizing collection of a premium charge for insurance of loans, directing the premium to be payable in cash or in debentures of the fund, and making the lender entitled to insurance benefits in the event of a failure of the borrower to make any payment due under the loan or under the original mortgage and the default continues for a period of thirty days.

Subsec. (e). Pub. L. 90–448, §103(a), added subsec. (e).

1967—Pub. L. 90–19, §1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a) preceding par. (1), (a)(7), and (b) to (d).

Subsec. (a)(2). Pub. L. 90–19, §1(h), substituted ''Secretary of Housing and Urban Development'' and ''Secretary'' for ''Public Housing Administration'' and ''said Administration'', respectively.

1966—Subsec. (a)(8). Pub. L. 89–754 substituted ''Government'' and ''section 3374 of title 42'' for ''Commissioner'' and ''section 1735h of this title'', respectively.

1965—Subsec. (a)(7). Pub. L. 89–117, §213, substituted ''this Act'' for ''section 608 of title VI prior to the effective date of the Housing Act of 1954 or under section 220, 221, 903, or section 908'', which for purposes of codification has been changed to ''this chapter''.

Subsec. (a)(8). Pub. L. 89–117, §108(e)(2), added par. (8).

1964—Subsec. (c). Pub. L. 88–560 substituted ''limitations or requirements contained in this subchapter upon the eligibility of the mortgage, upon the payment of insurance premiums, or upon the terms and conditions of insurance settlement and the benefits of the insurance to be included in such settlement (except that in any case the payment of insurance shall be in debentures)'' for ''limitation upon eligibility contained in this subchapter''.

1961—Subsec. (a). Pub. L. 87–70, §612(h)(1), (2), included sections 1715k, 1715*l*, 1715v, 1715w and 1715x in the opening provisions, and, in par. (7), substituted ''section 1715k, 1715*l*, 1750b, or 1750g of this title'' for ''section 1750b or 1750g of this title,'' ''1715e, 1715k, 1715*l*, 1715m, 1715v, 1715w, or 1715x of this title'' for ''1715e or 1715m of this title'' in two places, and struck out ''insured under section 1743 of section 1750g of this title'' after ''refinancing of a loan''.

Subsecs. (b), (c). Pub. L. 87–70, §101(d), added subsec. (b) and redesignated former subsec. (b) as (c).

Subsec. (d). Pub. L. 87–70, §612(h)(3), added subsec. (d).

1958—Subsec. (a)(3). Pub. L. 85–900 authorized insurance of mortgages executed in connection with the sale of property constructed under the Boulder Canyon Project Act and located in Boulder City.

1957—Subsec. (a). Pub. L. 85–104, §114(1), substituted ''1715e, or 1715m of this title'' for ''or 1715e of this title''.

Subsec. (a)(3). Pub. L. 85–240 authorized insurance of mortgages executed in connection with the sale of Government housing at Coulee Dam.

Subsec. (a)(4). Pub. L. 85–104, §114(2), inserted ''this chapter or'' after ''prescribed by''.

Subsec. (a)(7). Pub. L. 85–104, §114(3), substituted ''1715e, or 1715m of this title'' for ''or 1715e of this title'' in first proviso, and substituted provisions of second proviso for former provisions which required mortgages described in pars. (1), (2), (3), (4), (5), or (6) to have maturity satisfactory to Commissioner but forbade maturity of such mortgage to exceed maximum terms of loans insured under sections 1709, 1713, or 1715e of this title, forbade principal obligation to exceed 90 percent of value of property, and forbade interest rate to exceed rate of loans made under either of said sections, with the exception that where such mortgage covered property held by certain nonprofit cooperatives, principal obligation should not exceed 95 percent of appraised value.

1955—Subsec. (a). Act Aug. 11, 1955, substituted ''section 1709, 1713, or 1715e of this title'' for ''section 1709 or 1713 of this title'' wherever appearing.

Act Aug. 4, 1955, added par. (4), and redesignated pars. (4) to (6) as (5) to (7), respectively.

EFFECTIVE AND TERMINATION DATES OF 1994 AMENDMENT

Title II of Pub. L. 103–327, Sept. 28, 1994, 108 Stat. 2316, provided in part that: ''The amendments of the two immediately preceding paragraphs [amending this section and section 1437f of Title 42, The Public Health and Welfare] shall be effective only during fiscal year 1995.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(15), (16) 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.

REGULATIONS

Section 409(c) of Pub. L. 100–242 provided that: ''The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendment made by this section [amending this section] by not later than the expiration of the 90-day period following the date of the enactment of this Act [Feb. 5, 1988].''

STREAMLINED REFINANCING

Pub. L. 103–233, title I, §103(d), Apr. 11, 1994, 108 Stat. 361, provided that: ''As soon as practicable, the Secretary shall implement a streamlined refinancing program under the authority provided in section 223 of the National Housing Act [12 U.S.C. 1715n] to prevent the default of mortgages insured by the FHA which cover multifamily housing projects, as defined in section 203(b) of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z–11(b)].''

DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101–625, set out as a note under section 1713 of this title.

PURPOSE OF SECTION

Section 125 of act Aug. 2, 1954, as amended by Pub. L. 90–19, §10(b), May 25, 1967, 81 Stat. 22, in enacting this section, provided in part that the purpose thereof was to transfer to title II of the National Housing Act [this subchapter] ''the mortgage insurance program in connection with the sale of certain publicly owned property as contained in section 610 of title VI [section 1745 of this title]; the insurance of mortgages to refinance existing loans insured under section 608 of title VI and sections 903 and 908 of title IX [sections 1743, 1750b and 1750g of this title]; and to authorize the insurance

under title II [this subchapter] of mortgages assigned to the Secretary of Housing and Urban Development under insurance contracts and mortgages held by the Secretary of Housing and Urban Development in connection with the sale of property acquired under insurance contracts''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715z–3, 1715z–7, 1715z–9, 1715z–19, 1735c, 1735f–17 of this title; title 42 sections 1437f, 2331, 2362.

§ 1715*o*. Interest rate on debentures; method of establishment

Notwithstanding any other provisions of this chapter, debentures issued under any section of this chapter with respect to a loan or mortgage accepted for insurance on or after thirty days following August 2, 1954 (except debentures issued pursuant to paragraph (4) of section 1715*l*(g) of this title) shall bear interest at the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is the highest, except that debentures issued pursuant to section 1715k(f), 1715k(h)(7), 1715*l*(g), 1715x, or 1715z–3 of this title may, at the discretion of the Secretary, bear interest at the rate in effect on the date they are issued. The Secretary shall from time to time, with the approval of the Secretary of the Treasury, establish such interest rate in an amount not in excess of the annual rate of interest determined by the Secretary of the Treasury, at the request of the Secretary, by estimating the average yield to maturity, on the basis of daily closing market bid quotations or prices during the calendar month next preceding the establishment of such rate of interest, on all outstanding marketable obligations of the United States having a maturity date of fifteen years or more from the first day of such next preceding month, and by adjusting such estimated average annual yield to the nearest one-eighth of 1 per centum.

(June 27, 1934, ch. 847, title II, § 224, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 606; amended June 30, 1961, Pub. L. 87–70, title VI, § 612(i), 75 Stat. 182; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, § 104(b), 82 Stat. 488.)

AMENDMENTS

1968—Pub. L. 90–448 included debentures issued pursuant to section 1715z–3 of this title.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1961—Pub. L. 87–70 changed the date for determination of the rate of interest for debentures, other than those issued pursuant to section 1715k(f), 1715k(h)(7), 1715*l*(g), 1715*l*(g)(4), or 1715x, from the rate in effect on the date the debentures are issued to the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is highest.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1713, 1715n, 1748b of this title.

§ 1715p. Insurance of advances under open-end mortgages; payment of charges; eligibility and conditions

Notwithstanding any other provisions of this chapter, in connection with any mortgage insured pursuant to any section of this chapter which covers a property upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, the Secretary is authorized, upon such terms and conditions as he may prescribe, to insure under said section the amount of any advance for the improvement or repair of such property made to the mortgagor pursuant to an ''open-end'' provision in the mortgage, and to add the amount of such advance to the original principal obligation in determining the value of the mortgage for the purpose of computing the amounts of debentures and certificate of claim to which the mortgagee may be entitled: *Provided*, That the Secretary may require the payment of such charges, including in lieu of insurance premiums, as he may consider appropriate for the insurance of such ''open-end'' advances: *Provided, further*, That only advances for such improvements or repairs as substantially protect or improve the basic livability or utility of the property involved shall be eligible for insurance under this section; *Provided further*, That no such advance shall be insured under this section if the amount thereof plus the amount of the unpaid balance of the original principal obligation of the mortgage would exceed the amount of such original principal obligation unless the mortgagor certifies that the proceeds of such advance will be used to finance the construction of additional rooms or other enclosed space as a part of the dwelling: *And provided further*, That the insurance of ''open-end'' advances shall not be taken into account in determining the aggregate amount of principal obligations of mortgages which may be insured under this chapter.

(June 27, 1934, ch. 847, title II, § 225, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 607; amended May 25, 1967, Pub. L. 90–19, § 1(a) (3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715y of this title.

§ 1715q. Delivery of statement of appraisal or estimates to home buyers

The Secretary is authorized and directed to require that in connection with any property upon which there is located a dwelling designed principally for a single-family residence or a two-family residence and which is approved for mortgage insurance under section 1709 or 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of section 1715e of this title, or sections 1715k, 1715*l*, 1715m, 1715x, 1715y, 1715z(i), 1715z–2, or 1750b of this title, the seller or builder or such other

person as may be designated by the Secretary shall agree to deliver, prior to the sale of the property, to the person purchasing such dwelling for his own occupancy, a written statement setting forth the amount of the appraised value of the property as determined by the Secretary. This section shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to August 2, 1954. Notwithstanding the first sentence of this section, the Secretary is authorized to require, in connection with any mortgage where the mortgage amount is computed on the basis of the Secretary's estimate of the replacement cost of the property, or on the basis of any other estimates of the Secretary, that a written statement setting forth such estimate or estimates, as the case may be, be furnished under this section in lieu of a written statement setting forth the amount of the appraised value of the property.

(June 27, 1934, ch. 847, title II, §226, as added Aug. 2, 1954, ch. 649, title I, §126, 68 Stat. 607; amended July 12, 1957, Pub. L. 85–104, title I, §115, 71 Stat. 298; June 30, 1961, Pub. L. 87–70, title VI, §612(j), 75 Stat. 182; May 25, 1967, Pub. L. 90–19, §1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, §102(b), 82 Stat. 486.)

AMENDMENTS

1968—Pub. L. 90–448 inserted references to sections 1715z(i) and 1715z–2 of this title.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing, and ''Secretary's'' for ''Commissioner's''.

1961—Pub. L. 87–70 inserted references to sections 1715x and 1715y of this title, and substituted ''or on the basis of any other estimates of the Commissioner, that a written statement setting forth such estimate or estimates, as the case may be,'' for ''that a written statement setting forth such estimate''.

1957—Pub. L. 85–104 inserted sentence authorizing estimate of replacement cost in lieu of an estimate of value where mortgage amount is based upon replacement cost.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title.

§1715r. Requirement of builder's cost certification; definitions

Notwithstanding any other provision of this chapter, no mortgage covering new or rehabilitated multifamily housing or a property or project described in subchapter IX–B of this chapter shall be insured under this chapter unless the mortgagor has agreed (a) to certify, upon completion of the physical improvements on the mortgaged property or project and prior to final endorsement of the mortgage, either (i) that the approved percentage of actual cost (as those terms are herein defined) equaled or exceeded the proceeds of the mortgage loan or (ii) the amount by which the proceeds of the mortgage loan exceeded such approved percentage of actual cost, as the case may be, and (b) to pay forthwith to the mortgagee, for application to the reduction of the principal obligation of such mortgage, the amount, if any, certified to be in excess of such approved percentage of actual cost. Upon the Secretary's approval of the mortgagor's certification as required hereunder, such certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the mortgagor. As used in this section—

(a) The term ''new or rehabilitated multifamily housing'' means a project or property approved for mortgage insurance prior to the construction or the repair and rehabilitation involved and covered by a mortgage insured or to be insured (i) under section 1713 of this title, (ii) under section 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of section 1715e of this title or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) thereof, (iii) under section 1715k of this title if the mortgage meets the requirements of paragraph (3)(B) of subsection (d) thereof, (iv) under section 1715*l* of this title if the mortgage meets the requirements of paragraph (3) or paragraph (4) of subsection (d) thereof, (v) under section 1715v of this title, (vi) under section 1715x of this title if the mortgage meets the requirements of subsection (b), (vii) under section 1748h–2 of this title if the mortgage meets the requirements of subsection (f), (viii) under section 1715y(d) of this title, or (ix) under section 1715z–1 of this title;

(b) The term ''approved percentage'' means the percentage figure which, under applicable provisions of this chapter, the Secretary is authorized to apply to his estimate of value, cost, or replacement costs, as the case may be, of the property or project in determining the maximum insurable mortgage amount; except that if the mortgage is to assist the financing of repair or rehabilitation and no part of the proceeds will be used to finance the purchase of the land or structure involved, the approved percentage shall be 100 per centum; and

(c) The term ''actual cost'' has the following meaning: (i) in case the mortgage is to assist the financing of new construction, the term means the actual cost to the mortgagor of such construction, including amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organizational 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 (1) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (2) an amount equal to the Secretary's estimate of the fair market value of any land (prior to the construction of the improvements built as a part of the project) in the property or project owned by the mortgagor in fee (or, in case the land in the property or project is held by the mortgagor under a leasehold or other interest less than a fee, such amount as the mortgagor paid for the acquisition of such leasehold or other interest but, in no event, in excess of the fair market value of such leasehold or other interest exclusive of the proposed improvements), but excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements, or (ii) in case the mortgage is to assist the financing of repair

or rehabilitation the terms means the actual cost to the mortgagor of such repair or rehabilitation, 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 (1) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (2) an additional amount equal to (A) in case the land and improvements are to be acquired by the mortgagor and the purchase price thereof is to be financed with part of the proceeds of the mortgage, the purchase price of such land and improvements prior to such repair or rehabilitation, or (B) in case the land and improvements are owned by the mortgagor subject to an outstanding indebtedness to be refinanced with part of the proceeds of the mortgage, the amount of such outstanding indebtedness secured by such land and improvements, but excluding (for the purposes of this clause (ii)) the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements: *Provided*, That such additional amount under (A) of this clause (ii) shall in no event exceed the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation, and such additional amount under (B) of this clause (ii) shall in no event exceed the approved percentage of the Secretary's estimate of the fair market value of such land and improvements prior to such repair or rehabilitation. In the case of a mortgage insured under section 1715k, 1715*l*(d)(3), 1715*l*(d)(4), 1715v, 1715x, or 1715z–1 of this title where the mortgagor is also the builder as defined by the Secretary, there shall be included in the actual cost, in lieu of the allowance for builder's profit under clause (i) or (ii) of the preceding sentence, an allowance for builder's and sponsor's profit and risk of 10 per centum (unless the Secretary, after finding that such allowance is unreasonable, shall by regulation prescribe a lesser percentage) of all other items entering into the term ''actual cost'' except land or amounts paid for a leasehold and amounts included under either (A) or (B) of clause (ii) of the preceding sentence. In the case of a mortgage insured under section 1715k, 1715*l*(d)(3), 1715*l*(d)(4), 1715v, 1715x, or 1715z–1 of this title, where the mortgagor is not also the builder as defined by the Secretary, there shall be included in the actual cost an allowance for sponsor's profit and risk of the said 10 per centum or lesser percentage of all other items entering into the term ''actual cost'' except land or amounts paid for a leasehold, amounts included under either (A) or (B) of the said clause (ii), and amounts paid by the mortgagor under a general construction contract.

(June 27, 1934, ch. 847, title II, § 227, as added Aug. 2, 1954, ch. 649, title I, § 126, 68 Stat. 607; amended Aug. 11, 1955, ch. 783, title I, § 102(i), 69 Stat. 636; Aug. 7, 1956, ch. 1029, title I, §§ 105(d), 109, 70 Stat. 1094, 1095; Sept. 23, 1959, Pub. L. 86–372, title I, § 112, 73 Stat. 661; June 30, 1961, Pub. L. 87–70, title VI, § 612(k), 75 Stat. 183; Sept. 2, 1964, Pub. L. 88–560, title I, § 119(c), 78 Stat. 782; Nov. 3, 1966, Pub. L. 89–754, title V, § 502(b), title X, § 1020(b), 80 Stat. 1277, 1295; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title II, § 201(b)(2), (3), 82 Stat. 502.)

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–448, § 201(b)(2), included mortgages insured or to be insured under section 1715z–1 of this title.

Subsec. (c). Pub. L. 90–448, § 201(b)(3), substituted ''section 1715x, or 1715z–1 of this title'' for ''section 1715x(b)(2) of this title'', in two places.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' in subsecs. (b) and (c), and ''Secretary's'' for ''Commissioner's'' in text preceding subsec. (a) and in subsec. (c).

1966—Pub. L. 89–754, § 502(b), made the certification requirement applicable to mortgage covering property or project described in subchapter IX–B of this chapter.

Subsec. (a). Pub. L. 89–754, § 1020(b), substituted ''subsection (b)'' for ''subsection (b)(2)'' in cl. (vi).

1964—Subsec. (a). Pub. L. 88–560 included mortgages insured or to be insured under section 1715y(d) of this title.

1961—Subsec. (a). Pub. L. 87–70, § 612(k)(1), included property covered by a mortgage insured or to be insured under section 1715x of this title if the mortgage meets the requirements of subsection (b)(2).

Subsec. (b). Pub. L. 87–70, § 612(k)(2), substituted ''value, cost, or replacement cost'' for ''value or replacement cost''.

Subsec. (c). Pub. L. 87–70, § 612(k)(3), substituted ''section 1715*l*(d)(3), 1715*l*(d)(4), 1715v, or 1715x(b)(2) of this title'' for ''section 1715*l* of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title'' in second and third sentences.

1959—Subsec. (a). Pub. L. 86–372, § 112(a), included mortgages insured or to be insured under subsec. (d)(4) of section 1715*l* of this title, under section 1715v of this title, and under section 1748h–2 of this title, and struck out provisions which related to mortgages insured or to be insured under sections 1748b, 1750b and 1750g of this title.

Subsec. (c). Pub. L. 86–372, § 112(b), substituted ''under section 1715k of this title, section 1715*l* of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title'' for ''under section 1715k of this title'' in two places.

1956—Act Aug. 7, 1956, § 109, inserted sentence preceding subsec. (a), that upon Commissioner's approval, certification shall be final and incontestable, except for fraud or misrepresentation by mortgagor.

Subsec. (a). Act Aug. 7, 1956, § 105(d), inserted ''or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) of section 1715e of this title,'' before ''(iii)''.

Subsec. (b). Act Aug. 7, 1956, § 109, inserted provision that if the insured mortgage is to assist financing of repairs and no part of proceeds will be used to purchase the land or structure involved, the approved percentage shall be 100 percent.

Subsec. (c). Act Aug. 7, 1956, § 109, inserted ''such allocations of general overhead items as are acceptable to the Commissioner,'' after ''legal expenses'' wherever appearing; struck out ''(without reduction by reason of the application of the approved percentage requirements of this section)'' before ''secured by such land and improvements,'' in cl. (ii)(B) by amended proviso to provide that additional amount under (B) of cl. (ii) should not exceed the approved percentage of the Commissioner's estimate of the fair market value of the land and improvements; and inserted provisions at end relating to 10 percent allowance for builder's profit in mortgages issued under section 1715k.

1955—Act Aug. 11, 1955, substituted ''under section 1715*l* of this title if the mortgage meets the requirements of paragraph (3) of subsection (d) of such section'' for ''under section 1715*l* of this title''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715e, 1715*l*, 1748g, 1750g of this title; title 42 section 1434.

§1715s. Transferred

CODIFICATION

Section, which was based in part on act Aug. 2, 1954, ch. 649, title VIII, §814, 68 Stat. 647, as amended, provided for the keeping of records with respect to multifamily housing and examination and audit thereof. Section 814 of act Aug. 2, 1954, is classified in full to section 1434 of Title 42, The Public Health and Welfare.

§1715t. Voluntary termination of insurance

Notwithstanding any other provision of this chapter and with respect to any loan or mortgage heretofore or hereafter insured under this chapter, except under section 1703 of this title and except as specified under section 1715z–15 of this title and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,,[1] the Secretary is authorized to terminate any insurance contract upon request by the borrower or mortgagor and the financial institution or mortgagee and upon payment of such termination charge as the Secretary determines to be equitable, taking into consideration the necessity of protecting the various insurance Funds. Upon such termination, borrowers and mortgagors and financial institutions and mortgagees shall be entitled to the rights, if any, to which they would be entitled under this chapter if the insurance contract were terminated by payment in full of the insured loan or mortgage.

(June 27, 1934, ch. 847, title II, §229, as added Sept. 23, 1959, Pub. L. 86–372, title I, §113, 73 Stat. 662; amended June 30, 1961, Pub. L. 87–70, title VI, §612*(l)*, 75 Stat. 183; Aug. 10, 1965, Pub. L. 89–117, title XI, §1108(k), 79 Stat. 505; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17; Dec. 15, 1989, Pub. L. 101–235, title II, §202(d)(2), 103 Stat. 2037.)

REFERENCES IN TEXT

The Emergency Low Income Housing Preservation Act of 1987, referred to in text, 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. Subtitle B of title II, which was formerly set out as a note under section 1715*l* of this title and which amended section 1715z–6 of this title, was amended generally by Pub. L. 101–625 and is classified generally to subchapter I (§4101 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101–235 inserted ''and except as specified under section 1715z–15 of this title and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,'' after ''section 1703 of this title''.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1965—Pub. L. 89–117 struck out ''and Accounts'' after ''various Insurance Funds''.

1961—Pub. L. 87–70 amended section generally, authorizing voluntary termination of insurance contracts with respect to loans insured under this chapter.

[1] So in original.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1715z–15, 4101, 4122 of this title; title 42 section 8011.

§1715u. Temporary mortgage assistance payments and acquisition of mortgages to avoid foreclosures

(a) Temporary mortgage assistance payments; authorization; scope; criteria; amount; term and extension; security requirements; repayment; interest charges; prior assistance

(1) Upon receiving notice of the default of any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the fact that the Secretary has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance) may make all or part of the monthly payments due under the mortgage directly to the mortgagee on behalf of the mortgagor, if such default was caused by circumstances which are beyond the mortgagor's control and render the mortgagor temporarily unable to correct a mortgage delinquency and to resume full mortgage payments. Payments may be made only in accordance with the provisions of this subsection and shall be subject to any additional requirements the Secretary may prescribe.

(2) No payments may be provided under this subsection unless the Secretary has determined that such payments are necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able—

(A) to resume full mortgage payments within thirty-six months after the beginning of the period for which such payments are provided or upon termination of assistance under this subsection;

(B) to commence repayment of the payments made under this subsection at a time designated by the Secretary; and

(C) to pay the mortgage in full by its maturity date or by a later date established by the Secretary for completing the mortgage payments.

(3) Payments under this subsection may be in an amount determined by the Secretary up to the amount of the principal, interest, taxes, assessments, ground rents, hazard insurance, mortgagee's expenses in connection with payments or repayments under this subsection, and mortgage insurance premiums due under the mortgage, and the initial payment may include an amount necessary to make the payments on the mortgage current. Payments may not exceed amounts which the Secretary determines to be necessary to supplement the amounts, if any, which the mortgagor is capable of contributing toward the mortgage payments.

(4) Payments under this subsection may be provided for a period of not to exceed eighteen months, and any period of default. Such period may be extended, in the Secretary's discretion,

for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in paragraph (2) of this subsection. The Secretary shall establish procedures for periodic review of the mortgagor's financial circumstances for the purpose of determining the necessity for continuation, termination, or adjustment in the amount of the payments. Payments shall be discontinued at any time when the Secretary determines that, because of changes in the mortgagor's financial circumstances, the payments are no longer necessary to avoid foreclosure or that there is no longer a reasonable prospect that the mortgagor will be able to make the payments and repayments specified in paragraph (2) of this subsection.

(5) All payments shall be secured by a lien on the property and by such other obligation as the Secretary may require. Payments shall be repayable upon terms and conditions prescribed by the Secretary, and such terms and conditions may include requirements for repayment of any amount paid by the Secretary toward a mortgagee's expenses in connection with the payment or repayments made under this subsection. The interest rate on payments made under this subsection shall be the rate established under section 3703(c) of title 38. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection. Such charges shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

(6) Payments under this subsection may be made without regard to whether the Secretary has previously taken action to avoid mortgage acquisition or foreclosure, except that payments may be provided on behalf of a mortgagor previously assisted under this section only in cases in which full mortgage payments (and any repayments to the Secretary which may have been requested) have been made by such mortgagor for at least 12 months from the time such previous assistance under this section was terminated.

(b) Acquisition of mortgages to avoid foreclosure; authorization; scope; type of assistance available; additional remedy

(1) When the Secretary receives notice of a default described in subsection (a)(1) of this section and makes a determination that assistance under subsection (a) of this section would be inappropriate in the case of the mortgagor, the Secretary (for the purpose of avoiding foreclosure of the mortgage, and notwithstanding the facts described in the parenthetical material contained in subsection (a)(1) of this section and the fact that payments have been made under subsection (a) of this section with respect to the mortgage) shall, if determined necessary by the Secretary, acquire the mortgage and security therefor upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the mortgage plus any unpaid mortgage interest and reimbursement for such costs and attorney's fees as the Secretary finds were properly incurred in connection with the defaulted mortgage and its assignment to the Secretary, and for any proper advances theretofore made by the mortgagee under the provisions of the mortgage. After the acquisition of such mortgage by the Secretary, the mortgagee shall have no further rights, liabilities, or obligations with respect thereto. The provisions of section 1710 of this title relating to the issuance of debentures incident to the acquisition of foreclosed properties shall apply with respect to debentures issued under this subsection, and the provisions of section 1710 of this title relating to the rights, liabilities, and obligations of a mortgagee shall apply with respect to the Secretary when the Secretary has acquired an insured mortgage under this section, in accordance with and subject to regulations (modifying such provisions to the extent necessary to render their application for such purpose appropriate and effective) which shall be prescribed by the Secretary.

(2) The Secretary may provide assistance, to a mortgagor whose mortgage has been acquired under paragraph (1) of this subsection, through forebearance of interest or principal, or both, or through other means, for a period of not more than eighteen months after the acquisition of the mortgage, if the mortgagor has not been assisted under subsection (a) of this section within twelve months of the date of such acquisition and if the Secretary determines that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subsection (a)(2) of this section. Such period may be extended, in the Secretary's discretion, for not to exceed eighteen months where the Secretary has determined that such extension is necessary to avoid foreclosure and that there is a reasonable prospect that the mortgagor will be able to meet the conditions described in subsection (a)(2) of this section. Such assistance (which may include any expenses of the Secretary incurred in connection with providing such assistance) shall be repayable upon terms and conditions prescribed by the Secretary, except that in no event shall any interest rate charged on such repayments exceed the interest rate chargeable for repayments of assistance made under subsection (a) of this section. Such rate shall be payable notwithstanding any provision of any State constitution or law or local law which limits the rate of interest on loans or advances of credit.

(3) In carrying out paragraph (1), the Secretary shall, if determined necessary by the Secretary, acquire a mortgage, with respect to which assistance was being provided under subsection (a) of this section immediately prior to such acquisition, for the sole purpose of extending the term of repayment under the mortgage so that the mortgagor will be able to make the full payments on the mortgage.

(c) Funding requirements

All expenditures made under this section shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the property to which the payments made relate, and any payments received under this section shall be credited to such fund; except that payments made pursuant to subsection (a) of this

section may only be made to the extent approved in appropriation Acts.

(d) Homeownership counseling

The Secretary shall provide homeownership counseling to persons assisted under this section.

(June 27, 1934, ch. 847, title II, §230, as added Sept. 23, 1959, Pub. L. 86–372, title I, §114(a), 73 Stat. 662; amended Sept. 2, 1964, Pub. L. 88–560, title I, §104(b), 78 Stat. 770; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17; Oct. 8, 1980, Pub. L. 96–399, title III, §341, 94 Stat. 1659; Nov. 30, 1983, Pub. L. 98–181, title IV, §418, 97 Stat. 1212; Feb. 5, 1988, Pub. L. 100–242, title IV, §428, 101 Stat. 1918; Aug. 6, 1991, Pub. L. 102–83, §5(c)(2), 105 Stat. 406.)

AMENDMENTS

1991—Subsec. (a)(5). Pub. L. 102–83 substituted ''section 3703(c) of title 38'' for ''section 1803(c) of title 38''.

1988—Subsec. (a)(5). Pub. L. 100–242 substituted ''The interest rate on payments made under this subsection shall be the rate established under section 1803(c) of title 38. The interest rate to be charged shall be determined when the Secretary approves assistance under this subsection'' for ''The Secretary may establish interest charges on payments made under this subsection; except that such charges shall not exceed a rate which is more than the maximum interest rate applicable with respect to level payment mortgages insured pursuant to section 1709(b) of this title at the time assistance under this section is approved by the Secretary.''

1983—Subsec. (d). Pub. L. 98–181 struck out '', to the extent practicable,'' after ''Secretary shall''.

1980—Subsec. (a). Pub. L. 96–399 added subsec. (a). Existing undesignated provisions were designated as subsec. (b)(1).

Subsec. (b). Pub. L. 96–399 designated existing undesignated provision as par. (1), made changes in phraseology which included applicability of remedy provided by subsection (a) of this section and determinations made pursuant to such subsection, and added pars. (2) and (3).

Subsecs. (c), (d). Pub. L. 96–399 added subsecs. (c) and (d).

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1964—Pub. L. 88–560 authorized the Commissioner to acquire the loan and security notwithstanding the fact that he has previously approved a request of the mortgagee for an extension of the time for curing the default and of the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property or has approved a modification of the mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance and substituted provisions for acquisition of the loan and security upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the loan plus any unpaid mortgage interest plus reimbursement for such costs and attorney's fees as the Commissioner finds were properly incurred in connection with the defaulted mortgage and its assignment to the Commissioner for former provision for such acquisition upon issuance to the mortgagee of debentures having a total face value equal to the unpaid principal balance of the loan plus any accrued interest.

§1715v. Insurance of mortgages for housing for elderly persons

(a) Purpose; definitions

The purpose of this section is to assist in relieving the shortage of housing for elderly persons and to increase the supply of rental housing for elderly persons.

For the purposes of this section—

(1) the term ''housing'' means eight or more new or rehabilitated living units, not less than 50 per centum of which are specially designed for the use and occupancy of elderly persons;

(2) the term ''elderly person'' means any person, married or single, who is sixty-two years of age or over; and

(3) the terms ''mortgage'', ''mortgagee'', ''mortgagor'', and ''maturity date'' shall have the meanings respectively set forth in section 1713 of this title.

(b) Authorization

The Secretary is authorized to insure any mortgage (including advances on mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Eligibility for insurance; maximum amount of mortgage; terms and conditions

To be eligible for insurance under this section, a mortgage to provide housing for elderly persons shall—

(1) Repealed. Pub. L. 93–383, title III, §304(f), Aug. 22, 1974, 88 Stat. 678.

(2) 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), $28,782 per family unit without a bedroom, $32,176 per family unit with one bedroom, $38,423 per family unit with two bedrooms, $46,238 per family unit with three bedrooms, and $54,360 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 $32,701 per family unit without a bedroom, $37,487 per family unit with one bedroom, $45,583 per family unit with two bedrooms, $58,968 per family unit with three bedrooms, and $64,730 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 except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by 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[1] of this title (as such section existed immediately before November 30, 1983) is involved: *Provided*, That the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of this section by not to

[1] See References in Text note below.

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;

(3) if executed by a mortgagor which is a public instrumentality or a private nonprofit corporation or association or other acceptable private nonprofit organization 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 purpose of this section, involve a principal obligation not in excess 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): *Provided*, That in the case of properties other than new construction, the principal obligation shall not exceed the appraised value rather than the Secretary's estimate of the replacement cost;

(4) if executed by a mortgagor which is approved by the Secretary but is not a public instrumentality or a private nonprofit organization, involve a principal obligation not in excess (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) of 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 costs 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): *Provided*, That in the case of properties other than new construction the principal obligation shall not exceed 90 per centum of the Secretary's estimate of the value of the property or project: *And provided further*, That 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 operating, and for such purpose the Secretary may make 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; 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;

(5) provide for a complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary shall prescribe;

(6) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; and

(7) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation, with 50 per centum or more of the units therein specially designed for the use and occupancy of elderly persons in accordance with standards established by the Secretary, and which may include such commercial and special facilities as the Secretary deems adequate to serve the occupants.

(d) Release of part of mortgaged property or project from lien; preferences and priorities in rental of dwellings

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe, and shall prescribe such procedures as in his judgment are necessary to secure to elderly persons a preference or priority of opportunity to rent the dwellings included in such property or project.

(e) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), *(l)*, and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

(f) Handicapped family units and facilities; rental preference or priority

Notwithstanding any of the provisions of this section, the housing provided under this section may include family units which are specially designed for the use and occupancy of any person or family qualifying as a handicapped family as defined in section 1701q of this title, and such special facilities as the Secretary deems adequate to serve handicapped families (as so defined). The Secretary may also prescribe procedures to secure to such families preference or priority of opportunity to rent the living units specially designed for their use and occupancy.

(June 27, 1934, ch. 847, title II, § 231, as added Sept. 23, 1959, Pub. L. 86–372, title II, § 201(a), 73 Stat. 665; amended June 30, 1961, Pub. L. 87–70, title VI, § 612(m), 75 Stat. 183; Sept. 2, 1964, Pub. L. 88–560, title I, § 107(e), title II, § 203(c), 78 Stat. 776, 784; Aug. 10, 1965, Pub. L. 89–117, title II, § 207(e), title XI, § 1108(*l*), 79 Stat. 467, 505; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; May 7, 1968, Pub. L. 90–301, § 3(d), 82 Stat. 114; Dec. 24, 1969, Pub. L. 91–152, title I, § 113(g), 83 Stat. 384; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 303(f),

304(f), 88 Stat. 677, 678; Dec. 23, 1975, Pub. L. 94–173, §3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, §8(a), (b)(6), 90 Stat. 1071, 1072; Dec. 21, 1979, Pub. L. 96–153, title III, §314, 93 Stat. 1117; Oct. 8, 1980, Pub. L. 96–399, title III, §310(e), 94 Stat. 1642; Aug. 13, 1981, Pub. L. 97–35, title III, §339B(a), 95 Stat. 417; Dec. 21, 1982, Pub. L. 97–377, title I, §101(g), 96 Stat. 1908; Nov. 30, 1983, Pub. L. 98–181, title IV, §§404(b)(9), 446(e), 97 Stat. 1209, 1228; Feb. 5, 1988, Pub. L. 100–242, title IV, §426(f), (h), 101 Stat. 1916; Oct. 28, 1992, Pub. L. 102–550, title V, §509(f), 106 Stat. 3783.)

REFERENCES IN TEXT

Section 1720 of this title, referred to in subsec. (c)(2), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (c)(2), 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.

The General Insurance Fund, referred to in subsec. (c)(4), was established by section 1735c of this title.

AMENDMENTS

1992—Subsec. (c)(2). Pub. L. 102–550 substituted ''$28,782'', ''$32,176'', ''$38,423'', ''$46,238'', and ''$54,360'' for ''$23,985'', ''$26,813'', ''$32,019'', ''$38,532'', and ''$45,300'', respectively, and ''$32,701'', ''$37,487'', ''$45,583'', ''$58,968'', and ''$64,730'' for ''$27,251'', ''$31,239'', ''$37,986'', ''$49,140'', and ''$53,942'', respectively.

1988—Subsec. (c)(2). Pub. L. 100–242 substituted ''$23,985'', ''$26,813'', ''$32,019'', ''$38,532'', and ''$45,300'' for ''$18,450'', ''$20,625'', ''$24,630'', ''$29,640'', and ''$34,846'', respectively, and ''$27,251'', ''$31,239'', ''$37,986'', ''$49,140'', and ''$53,942'' for ''$20,962'', ''$24,030'', ''$29,220'', ''$37,800'', and ''$41,494'', 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. (c)(5). Pub. L. 98–181, §446(e), inserted ''(unless otherwise approved by the Secretary)'' after ''periodic payments''.

Subsec. (c)(6). Pub. L. 98–181, §404(b)(9), substituted provision that the interest rate be at such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance, 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.

1982—Subsec. (c)(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''.

1981—Subsec. (c)(2). Pub. L. 97–35 inserted ''therein'' after ''installation'' and struck out ''therein'' after ''measure''.

1980—Subsec. (c)(2). Pub. L. 96–399 inserted proviso relating to increase of dollar amount limitations due to installation of a solar energy system.

1979—Subsec. (c)(2). Pub. L. 96–153 substituted ''75 per centum'' for ''50 per centum'' and inserted exception that the dollar amount limitations may be exceeded by not be exceed 90 per centum where the Secretary determines it to be necessary.

1976—Subsec. (c)(2). Pub. L. 94–375 substituted ''50 per centum in any geographical area'' for ''75 per centum in any geographical area'', ''$18,450'' for ''$12,300'', ''$20,625'' for ''$17,188'', ''$24,630'' for ''$20,525'', ''$29,640'' for ''$24,700'', ''$34,846'' for ''$29,038'', ''$20,962'' for ''$13,975'', ''$24,030'' for ''$20,025'', ''$29,220'' for ''$24,350'', ''$37,800'' for ''$31,500'', and ''$41,494'' for ''$34,578''.

1975—Subsec. (c)(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. (c)(1). Pub. L. 93–383, §304(f), struck out par. (1) which set forth limits on principal obligations of mortgages.

Subsec. (c)(2). Pub. L. 93–383, §303(f), substituted ''$12,300'' for ''$8,800'', ''$13,975'' for ''$10,450'', ''$17,188'' for ''$12,375'', ''$20,025'' for ''$14,850'', ''$20,525'' for ''$14,850'', ''$24,350'' for ''$17,600'', ''$24,700'' for ''$18,700'', ''$29,038'' for ''$21,175'', ''$31,500'' for ''$22,000'', and ''$34,578'' for ''$25,025''.

1969—Subsec. (c)(2). Pub. L. 91–152 substituted ''$8,800'' for ''$8,000'', ''$10,450'' for ''$9,500'', ''$12,375'' for ''$11,250'', ''$14,850'' for ''$13,500'' wherever appearing, ''$17,600'' for ''$16,000'', ''$18,700'' for ''$17,000'', ''$21,175'' for ''$19,250'', ''$22,000'' for ''$20,000'', and ''$25,025'' for ''$22,750''.

1968—Subsec. (c)(6). Pub. L. 90–301 increased limitation on interest rates from 5½ to 6 per centum per annum.

1967—Pub. L. 90–19, §1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (b), (c)(2) to (7), (d), and (f).

Subsec. (c)(3), (4). Pub. L. 90–19, §1(a)(4), substituted ''Secretary's'' for ''Commissioner's''.

1965—Subsec. (c)(2). Pub. L. 89–117, §207(e), substituted ''$17,000 per family unit with three bedrooms, and $19,250 per family unit with four or more bedrooms'' for ''and $17,000 per family unit with three or more bedrooms'' and ''$20,000 per family unit with three bedrooms, and $22,750 per family unit with four or more bedrooms'' for ''and $20,000 per family unit with three or more bedrooms''.

Subsec. (c)(4). Pub. L. 89–117, §1108(*l*)(1), substituted ''General Insurance Fund'' for ''section 207 Housing Insurance Fund''.

Subsec. (e). Pub. L. 89–117, §1108(*l*)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (c)(2). Pub. L. 88–560, §107(e), changed limits on mortgages for property or project attributable to dwelling use from ''$2,250 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 ''$8,000 per family unit without a bedroom, $11,250 per family unit with one bedroom, $13,500 per family unit with two bedrooms, and $17,000 per family unit with three or more bedrooms'', changed such mortgage limits on project consisting of elevator-type structures from a sum ''of $2,250 per room to not to exceed $2,750 per room, and the dollar amount limitation of $9,000 per family unit to not to exceed $9,400 per family unit'' to dollar amount limitations ''per family unit to not to exceed $9,500 per family unit without a bedroom, $13,500 per family unit with one bedroom, $16,000 per family unit with two bedrooms, and $20,000 per family unit with three or more bedrooms'', and substituted provisions authorizing an increase ''by not to exceed 45 per centum'' of any of such limits because of cost levels for former provision authorizing such 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). Pub. L. 88–560, § 203(c), added subsec. (f).

1961—Subsec. (c)(2). Pub. L. 87–70 increased the maximum amount of mortgages from not more than $9,000 per dwelling unit for such part of such property or project as may be attributable to dwelling use to not more than $2,250 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) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), and permitted an increase of from $2,250 per room to not more than $2,750 per room to compensate for the higher costs incident to the construction of elevator-type structures.

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.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 90–301, § 3(d), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98–181, title IV, § 404(a), Nov. 30, 1983, 97 Stat. 1208.

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. (c)(5) 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 amendment to subsec. (c)(2) of this section by section 107(e) 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1715c, 1715q, 1715r, 1715z–19, 1717 of this title; title 42 sections 3013, 3535, 4822.

§ 1715w. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes

(a) Purpose

The purpose of this section is to assist in the provision of facilities for any of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

(2) The development of intermediate care facilities and board and care homes for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

(3) The development of assisted living facilities for the care of frail elderly persons.

(b) Definitions

For the purposes of this section—

(1) the term ''nursing home'' means a public facility, proprietary facility or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term ''intermediate care facility'' means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services;

(3) the term a[1] ''nursing home'' or ''intermediate care facility'' may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;

(4) 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. The term ''first mortgage'' means such classes of first liens as are commonly given to secure advances (including but not 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 any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term ''mortgagor'' shall have the meaning set forth in section 1713(a) of this title;

[1] So in original. The word ''a'' probably should not appear.

(5) the term ''board and care home'' means any residential facility providing room, board, and continuous protective oversight that is regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)], so long as the home is located in a State that, at the time of an application is made for insurance under this section, has demonstrated to the Secretary that it is in compliance with the provisions of such section 1616(e);

(6) the term ''assisted living facility'' means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

(B) makes available to residents 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; and

(C) provides separate dwelling units for residents, each of which may contain 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 facility; and

(7) the term ''frail elderly person'' has the meaning given the term in section 8011(k) of title 42.

(c) Authorization

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) Terms and conditions; limitation on maximum amount of mortgage; amortization; interest; certification from State agency

In order to carry out the purposes of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home,,[2] assisted living facility, or intermediate care facility, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated, or any combination of nursing home, assisted living facility, and intermediate care facility or a board and care home, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased 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.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 1715*l*(d)(3) of this title), including—

(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or

(B) 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)[3] 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.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and[4]

(4)(A) With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521[3] of the Public Health Service Act [42 U.S.C. 291d (a)(1), 300m] for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (i) there is a need for such home or facility or combined home and facility, and (ii) there are in force in such State or in the mu-

[2] So in original.

[3] See References in Text note below.

[4] So in original. The ''; and'' probably should be a period.

nicipality or other political subdivision of the State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section. If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521[3] of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.

(B) With respect to board and care homes, the Secretary shall not insure any mortgage under this section unless he has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)].

(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

(i) the Secretary determines that the level of financing acquired by the mortgagor and any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6) of this section;

(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.

(e) Release of part of mortgaged property or project from lien

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

(g) Regulations covering intermediate care facilities; consultations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section relating to intermediate care facilities, after consulting with the Secretary of Health and Human Services with respect to any health or medical aspects of the program which may be involved in such regulations.

(h) Consultations concerning need for and availability of intermediate care facilities

The Secretary shall also consult with the Secretary of Health and Human Services as to the need for and the availability of intermediate care facilities in any area for which an intermediate care facility is proposed under this section.

(i) Fire safety equipment for nursing homes, assisted living facilities, intermediate care facilities, or board and care homes

(1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure loans made by financial institutions or other approved mortgagees to nursing homes, assisted living facilities, and intermediate care facilities or to board and care homes to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services) or other such codes or requirements approved by the Secretary of Health and Human Services as conditions of participation for providers of services under title XVIII and

title XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] or as mandated by a State under the provisions of section 1616(e) of such Act [42 U.S.C. 1383e(e)].

(2) To be eligible for insurance under this subsection a loan shall—

(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(C) have a maturity satisfactory to the Secretary;

(D) be made by a financial institution or other mortgagee 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;

(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

(F) in the case of board and care homes, be made with respect to such a home located in a State with respect to which the Secretary has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)]:

(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this subsection, except that all references to ''home improvement loans'' shall be construed to refer to loans under this subsection.

(4) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to ''this section'' or ''this title'' shall be construed to refer to this subsection.

(j) Schedules and deadlines for processing and approval of applications

The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.

(June 27, 1934, ch. 847, title II, §232, as added Sept. 23, 1959, Pub. L. 86–372, title I, §115, 73 Stat. 663; amended June 30, 1961, Pub. L. 87–70, title VI, §610, 75 Stat. 180; Sept. 2, 1964, Pub. L. 88–560, title I, §117, 78 Stat. 779; Aug. 10, 1965, Pub. L. 89–117, title XI, §1108(m), 79 Stat. 505; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title III, §314, 82 Stat. 511; Dec. 24, 1969, Pub. L. 91–152, title I, §111, 83 Stat. 382; Dec. 28, 1973, Pub. L. 93–204, 87 Stat. 883; Aug. 22, 1974, Pub. L. 93–383, title III, §304(g), 88 Stat. 678; Oct. 12, 1977, Pub. L. 95–128, title III, §308(a), 91 Stat. 1135; Oct. 31, 1978, Pub. L. 95–557, title III, §312, 92 Stat. 2099; Oct. 8, 1980, Pub. L. 96–399, title III, §310(f), 94 Stat. 1643; Nov. 30, 1983, Pub. L. 98–181, title IV, §§404(b)(10), 437, 97 Stat. 1209, 1222, 1223; Oct. 17, 1984, Pub. L. 98–479, title I, §104(a)(1), 98 Stat. 2224; Feb. 5, 1988, Pub. L. 100–242, title IV, §§410(a), (b), 429(e), 101 Stat. 1904, 1918; Oct. 28, 1992, Pub. L. 102–550, title V, §511(a)–(e), 106 Stat. 3784–3786.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in subsec. (d)(1), was established by section 1735c of this title.

Section 8211 of title 42, referred to in subsec. (d)(2)(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.

Section 1521 of the Public Health Service Act, referred to in subsec. (d)(4)(A), is section 1521 of act July 1, 1944, which was classified to section 300m of Title 42, prior to repeal, effective Jan. 1, 1987, by Pub. L. 99–660, title VII, §701(a), Nov. 14, 1986, 100 Stat. 3799.

The Social Security Act, referred to in subsec. (i)(1), is act Aug. 13, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550, §511(a)(1), substituted ''any'' for ''either'' in introductory provisions.

Subsec. (a)(3). Pub. L. 102–550, §511(a)(2), added par. (3).

Subsec. (b)(6), (7). Pub. L. 102–550, §511(b), added pars. (6) and (7).

Subsec. (d). Pub. L. 102–550, §511(c)(1), in introductory provisions, inserted '', assisted living facility,'' after ''rehabilitated nursing home,'', substituted ''any combination of nursing home, assisted living facility, and intermediate care facility'' for ''combined nursing home and intermediate care facility'', and inserted '', including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated,'' after first reference to ''intermediate care facility''.

Subsec. (d)(2). Pub. L. 102–550, §511(c)(2), inserted ''or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 1715*l*(d)(3) of this title),'' before ''including'' in introductory provisions.

Subsec. (d)(3). Pub. L. 102–550, §511(c)(3), inserted concluding provisions.

Subsec. (d)(4)(C). Pub. L. 102–550, §511(c)(4), added subpar. (C).

Subsec. (i)(1). Pub. L. 102–550, §511(d), inserted '', assisted living facilities,'' after ''nursing homes''.

Subsec. (j). Pub. L. 102–550, §511(e), added subsec. (j).

1988—Subsec. (b)(1). Pub. L. 100–242, §410(a), inserted ''public facility,'' before ''proprietary''.

Subsec. (b)(3) to (5). Pub. L. 100–242, §429(e)(1), indented as par. (3) former run-in cl. (3) defining ''nursing home'' and ''intermediate care facility'', inserted ''the term'', and struck out ''and'' after semicolon at end, redesignated as par. (4) former par. (3) defining ''mortgage'', and redesignated as par. (5) former par. (4).

Subsec. (d)(4)(A). Pub. L. 100–242, §410(b), inserted ''If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of

Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 291d(a)(1) or section 300m of title 42. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.''

Subsec. (i)(2)(B). Pub. L. 100–242, § 429(e)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''bear interest at not to exceed a rate determined by the Secretary to be necessary to meet the loan market''.

1984—Pub. L. 98–479 inserted reference to board and care homes in section catchline.

1983—Subsec. (a)(2). Pub. L. 98–181, § 437(a), inserted ''and board and care homes'' after ''intermediate care facilities''.

Subsec. (b)(4). Pub. L. 98–181, § 437(b), added par. (4).

Subsec. (d). Pub. L. 98–181, § 437(c)(1), in provisions preceding par. (1) inserted ''or a board and care home'' after ''and intermediate care facility,''.

Subsec. (d)(3)(B). Pub. L. 98–181, § 404(b)(10), substituted provision that the interest rate be at such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance, 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. (d)(4). Pub. L. 98–181, § 437(c)(2), designated existing provision as subpar. (A), substituted ''With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the'' for ''The'' and ''(i)'' and ''(ii)'' for ''(A)'' and ''(B)'', respectively, and added subpar. (B).

Subsecs. (g), (h). Pub. L. 98–181, § 437(d), (e), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (i)(1). Pub. L. 98–181, § 437(f)(1), inserted ''or to board and care homes'' after ''intermediate care facilities'', ''(or any subsequent edition specified by the Secretary of Health and Human Services)'' after ''Association'', and ''or as mandated by a State under provisions of section 1616(e) of such Act'' after ''Social Security Act'', and substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (i)(2)(F). Pub. L. 98–181, § 437(f)(2), added subpar. (F).

1980—Subsec. (d)(2). Pub. L. 96–399 revised existing provisions into introductory paragraph and subpar. (A) and added subpar. (B).

1978—Subsec. (a). Pub. L. 95–557, § 312(a), inserted '', including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day'' after pars. (1) and (2).

Subsec. (b)(2). Pub. L. 95–557, § 312(b), inserted ''(3) a 'nursing home' or 'intermediate care facility' may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day''.

1977—Subsec. (d)(4). Pub. L. 95–128 inserted reference to section 300m of title 42.

1974—Subsec. (d)(2). Pub. L. 93–383 struck out ''not to exceed $12,500,000, and'' after ''an amount''.

1973—Subsec. (i). Pub. L. 93–204 added subsec. (i).

1969—Subsec. (a). Pub. L. 91–152, § 111(1), added to stated purpose of this section of developing nursing homes, the development of intermediate care facilities or the development of such facilities in combination with nursing home facilities.

Subsec. (b). Pub. L. 91–152, § 111(2), (3), struck out ''and'' after ''is located;'' in par. (1), redesignated par. (2) as (3), and added par. (2).

Subsec. (d). Pub. L. 91–152, § 111(4), inserted provision authorizing the Secretary to insure any mortgage which covers an intermediate care facility or combined nursing home and intermediate care facility.

Subsec. (d)(2). Pub. L. 91–152, § 111(5), substituted ''operation of the home or facility or combined home or facility'' for ''operation of the nursing home''.

Subsec. (d)(4). Pub. L. 91–152, § 111(6), substituted ''section 291d(a)(1) of title 42'' for ''section 291b(a)(1) of title 42'', and made provisions applicable to the insurance of mortgages covering intermediate care facilities or combined nursing home and intermediate care facilities.

Subsecs. (g), (h). Pub. L. 91–152, § 111(7), added subsecs. (g) and (h).

1968—Subsec. (b)(2). Pub. L. 90–448, § 314(1), redefined term ''mortgage'' to mean a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease for not less than ninety-nine years which is renewable, or under a lease having a period of not less than fifty years to run from the date the mortgage was executed, and inserted definition of ''first mortgage''.

Subsec. (d). Pub. L. 90–448, § 314(2), (3), authorized the Secretary to insure a mortgage which includes equipment to be used in the operation of a nursing home, and permitted the value of the equipment to be included in the calculation of the 90 per centum of the estimated value.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1965—Subsec. (d)(1). Pub. L. 89–117, § 1108(m)(1), substituted ''General Insurance Fund'' for ''section 207 Housing Insurance Fund''.

Subsec. (f). Pub. L. 89–117, § 1108(m)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (b)(1). Pub. L. 88–560 inserted ''or facility of a private nonprofit corporation or association'' after ''proprietary facility''.

1961—Subsec. (d)(2). Pub. L. 87–70 substituted ''90 per centum'' for ''75 per centum''.

REGULATIONS

Section 410(c) of Pub. L. 100–242 provided that: ''The Secretary of Housing and Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section [amending this section] by not later than the expiration of the 90-day period following the date of the enactment of this Act [Feb. 5, 1988].''

DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101–625, set out as a note under section 1713 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1715n, 1715z–19 of this title; title 42 sections 3013, 4822.

§1715x. Experimental housing insurance

(a) Purpose; authorization

(1) In order to assist in lowering housing costs and improving housing standards, quality, livability, or durability or neighborhood design through the utilization of advanced housing technology, or experimental property standards, the Secretary is authorized to insure and to make commitments to insure, under this section, mortgages (including home improvement loans, and including advances on mortgages during construction) secured by properties including dwellings involving the utilization and testing of advanced technology in housing design, materials, or construction, or experimental property standards for neighborhood design if the Secretary determines that (A) the property is an acceptable risk, giving consideration to the need for testing advanced housing technology or experimental property standards, (B) the utilization and testing of the advanced technology or experimental property standards involved will provide data or experience which the Secretary deems to be significant in reducing housing costs or improving housing standards, quality, livability, or durability, or improving neighborhood design, and (C) the mortgages are eligible for insurance under the provisions of this section and under any further terms and conditions which may be prescribed by the Secretary to establish the acceptability of the mortgages for insurance.

(2) The Secretary is further authorized to insure and to make commitments to insure, under this section, mortgages (including advances on mortgages during construction) secured by properties in projects to be carried out in accordance with plans approved by the Secretary under section 1701z of this title.

(b) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section, a mortgage shall meet the requirements of one of the other sections or subchapters of this chapter; except that, in lieu of determining the appraised value or the replacement cost of the property in cases involving new construction or the estimated cost of repair and rehabilitation of improvement in cases involving existing properties, the Secretary shall estimate the cost of replacing the property using comparable conventional design, materials, and construction, and any limitation upon the maximum mortgage amount available to a nonoccupant owner shall not, in the discretion of the Secretary, be applicable to mortgages insured under this section.

(c) Contracts, agreements, and financial undertakings with mortgagor

The Secretary may enter into such contracts, agreements, and financial undertakings with the mortgagor and others as he deems necessary or desirable to carry out the purposes of this section, and may expend available funds for such purposes, including the correction (when he determines it necessary to protect the occupants), at any time subsequent to insurance of a mortgage, of defects or failures in the dwellings which the Secretary finds are caused by or related to the advanced housing technology utilized in their design or construction or experimental property standards. Any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this subchapter (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements of such other section (except as specified in subsection (b) of this section), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

(d) Investigations and analysis of data; publication and distribution of reports

The Secretary may make such investigations and analyses of data, and publish and distribute such reports, as he determines to be necessary or desirable to assure the most beneficial use of the data and information to be acquired as a result of this section.

(e) Entitlement to insurance benefits

Any mortgagee or lender under a mortgage insured under subsection (b) of this section shall be entitled to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section or subchapter of this chapter for which it otherwise would have been eligible except for the experimental feature of the property involved.

(f) Defaults; payment in cash or debentures; acquisition of mortgage

Notwithstanding the provisions of subsection (e) of this section, in the case of default on any mortgage insured under this section, the Secretary in his discretion, in accordance with such regulations as he may prescribe, may make payments pursuant to such subsections in cash or in debentures (as provided in the mortgage insurance contract), or may acquire the mortgage loan 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 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 mortgage. 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 subsection, 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 subsection, 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 insured under this section (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) 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.

(June 27, 1934, ch. 847, title II, § 233, as added June 30, 1961, Pub. L. 87–70, title I, § 103, 75 Stat. 158; amended Sept. 2, 1964, Pub. L. 88–560, title I, §§ 105(c)(1), 118, 78 Stat. 772, 779; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(n), 79 Stat. 505; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, § 108(f), title III, § 309, 82 Stat. 496, 509.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in subsec. (f), was established by section 1735c of this title.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90–448, § 108(f)(1), designated existing provision as par. (1), redesignated cls. (1), (2), and (3) as cls. (A), (B), and (C), respectively, and added par. (2).

Subsec. (b). Pub. L. 90–448, § 309(1), substituted ''one of the other sections or subchapters of this chapter'' for ''one of the other sections of this subchapter''.

Subsec. (c). Pub. L. 90–448, § 108(f)(2), inserted sentence providing that any authority which the Secretary may exercise in connection with a mortgage, or property covered by a mortgage, insured under any other section of this subchapter (including payments to reduce rentals for, or to facilitate homeownership by, lower income families) may be exercised in connection with a mortgage, or property covered by a mortgage, meeting the requirements of such other section (except as specified in subsec. (b)), which is insured under this section to the same extent and in the same manner as if the mortgage insured under this section was insured under such other section.

Subsec. (e). Pub. L. 90–448, § 309(2), substituted ''the section or subchapter of this chapter'' for ''the section of this subchapter''.

1967—Subsecs. (a) to (d), (f). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1965—Subsec. (f). Pub. L. 89–117, § 1108(n)(1), (2), substituted ''General Insurance Fund'' for ''Experimental Housing Insurance Fund'' and struck out provision that 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 Experimental Housing Insurance Fund.

Subsec. (g). Pub. L. 89–117, § 1108(n)(3), repealed subsec. (g) which created the Experimental Housing Insurance Fund, provided for transfer of funds thereto, and authorized the charging of expenses thereto.

1964—Subsec. (a). Pub. L. 88–560, § 118(a), substituted ''home improvement loans, and including advances on mortgages'' for '', in the case of mortgages insured under subsection (b)(2) of this section, advances on such mortgages''.

Subsec. (b). Pub. L. 88–560, § 118(b), substituted provisions which make insurance available for mortgages meeting the requirements of any other sections of subchapter II of this chapter for provisions which made insurance available for mortgages meeting the requirements of section 1709(b) or 1713(b), (c) of this title and made the Commissioner's estimate of replacement cost of the property applicable to mortgages meeting the requirements of any section of subchapter II of this chapter in lieu of determining the appraised value or the replacement cost of the property in new construction or estimated cost of repair and rehabilitation or improvement for existing properties.

Subsec. (e). Pub. L. 88–560, § 118(c), substituted provision for entitlement to insurance benefits determined in the same manner as such benefits would be determined if such mortgage or loan were insured under the section of this subchapter for which it otherwise would have been eligible except for the experimental feature of the property involved for former provision for entitlement to insurance benefits provided in section 1710(a) of this title.

Subsec. (f). Pub. L. 88–560, §§ 105(c)(1), 118(c), (d), added to subsec. (g), redesignated (f), 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'', deleted former provisions of subsec. (f) which related to entitlement to insurance benefits provided in section 1713(g) of this title, now covered by subsec. (e) of this section, and redesignated former subsec. (g) as (f), substituting in first sentence ''subsection (e)'' for ''subsections (e) and (f)'', respectively.

Subsecs. (g), (h). Pub. L. 88–560, § 118(d), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701z, 1713, 1715c, 1715o, 1715q, 1715r, 1715z–3, 1735c of this title.

§ 1715y. Mortgage insurance for condominiums

(a) Purpose

The purpose of this section is to provide an additional means of increasing the supply of privately owned dwelling units where, under the laws of the State in which the property is located, real property title and ownership are established with respect to a one-family unit which is part of a multifamily project.

(b) Definitions

The terms ''mortgage'', ''mortgagee'', ''mortgagor'', ''maturity date'', and ''State'' shall have the meanings respectively set forth in section 1707 of this title, except that the term ''mortgage'' for the purposes of subsection (c) this section may include a first mortgage given to secure the unpaid purchase price of a fee interest in, or a long-term leasehold interest in, a one-family unit in a multifamily project, including a project in which the dwelling units are attached, semi-attached, or detached, and an undivided interest in the common areas and facilities which serve the project where the mortgage is determined by the Secretary to be eligible for insurance under this section. The term ''common areas and facilities'' as used in this section shall be deemed to include the land and such commercial, community, and other facilities as are approved by the Secretary.

(c) Authorization; eligibility for insurance; conditions; limits

The Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe (including the minimum number of family units in the project which shall be offered for sale and provisions for the protection of the consumer and the public interest), to insure any mortgage covering a one-family unit in a multifamily project and an undivided interest in the common areas and facilities which serve

the project, if (1) the mortgage meets the requirements of this subsection and of section 1709(b) of this title, except as that section is modified by this subsection, and (2) at least 80 percent of the units in the project covered by mortgages insured under this subchapter are occupied by the mortgagors or comortgagors. Any project proposed to be constructed or rehabilitated after June 30, 1961, with the assistance of mortgage insurance under this chapter, where the sale of family units is to be assisted with mortgage insurance under this subsection, shall be subject to such requirements as the Secretary may prescribe. To be eligible for insurance pursuant to this subsection, a mortgage shall (A) involve a principal obligation in an amount not to exceed the maximum principal obligation of a mortgage which may be insured in the area pursuant to section 1709(b)(2) of this title, and (B) have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years from the date of the beginning of amortization of the mortgage. The mortgage shall contain such provisions as the Secretary determines to be necessary for the maintenance of common areas and facilities and the multifamily project. The mortgagor shall have exclusive right to the use of the one-family unit covered by the mortgage and, together with the owners of other units in the multifamily project, shall have the right to the use of the common areas and facilities serving the project and the obligation of maintaining all such common areas and facilities. The Secretary may require that the rights and obligations of the mortgagor and the owners of other dwelling units in the project shall be subject to such controls as he determines to be necessary and feasible to promote and protect individual owners, the multifamily project, and its occupants. For the purposes of this subsection, the Secretary is authorized in his discretion and under such terms and conditions as he may prescribe to permit one-family units and interests in common areas and facilities in multifamily projects covered by mortgages insured under any section of this chapter (other than section 1715e(a)(1) and (2) of this title) to be released from the liens of those mortgages.

(d) Blanket mortgages of multifamily projects; plan of family unit ownership; regulations; stock purchase and redemption

In addition to individual mortgages insured under subsection (c) of this section, the Secretary is authorized, in his discretion and under such terms and conditions as he may prescribe, to insure blanket mortgages (including advances on such mortgages during construction) which cover multifamily projects to be constructed or rehabilitated in cases where the mortgage is held by a mortgagor, approved by the Secretary, which—

(1) has certified to the Secretary, as a condition of obtaining the insurance of a blanket mortgage under this subsection, that upon completion of the multifamily project covered by such mortgage it intends to commit the ownership of the multifamily project to a plan of family unit ownership under which each family unit would be eligible for individual mortgage insurance under subsection (c) of this section and will faithfully and diligently make and carry out all reasonable efforts to establish such plan of family unit ownership and to sell such family units to purchasers approved by the Secretary; and

(2) may, in the Secretary's discretion, be regulated or restricted as to rents, charges, capital structure, rate of return, and methods of operation 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 such mortgagor as he may deem necessary to render effective any such regulation or restriction of such mortgagor. 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 at any time upon the request of the Secretary after the termination of all obligations of the Secretary under the insurance.

(e) Eligibility for insurance of blanket mortgages of multifamily projects

To be eligible for insurance, a blanket mortgage on any multifamily project of a mortgagor of the character described in subsection (d) of this section shall involve a principal obligation in an amount—

(1) Repealed. Pub. L. 93–383, title III, §304(h), Aug. 22, 1974, 88 Stat. 678;

(2) not to exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the project when the proposed physical improvements are completed;

(3) not to exceed, for such part of the project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), $30,420 per family unit without a bedroom, $33,696 per family unit with one bedroom, $40,248 per family unit with two bedrooms, $49,608 per family unit with three bedrooms, and $56,160 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 $35,100 per family unit without a bedroom, $39,312 per family unit with one bedroom, $48,204 per family unit with two bedrooms, $60,372 per family unit with three bedrooms, and $68,262 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; except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 1715*l*(d)(3)(ii) of this title; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by 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 Sec-

retary 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; and

(4) not to exceed an amount equal to the sum of the unit mortgage amounts determined under the provisions of subsection (c) of this section assuming the mortgagor to be the owner and occupant of each family unit.

(f) Amortization of blanket mortgages of multifamily projects; interest; releases; extent of project

Any blanket mortgage insured under subsection (d) of this section shall provide for complete amortization by periodic payments within such terms 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 blanket mortgage upon such terms and conditions as he may prescribe and the blanket mortgage may provide for such release. The project covered by the blanket mortgage may include four or more family units and such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(g) Entitlement to insurance benefits as provided in section 1710(a) of this title

Any mortgagee under a mortgage insured under subsection (c) of this section is entitled to receive the benefits of the insurance 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), (j), and (k) of section 1710 of this title shall be applicable to the mortgages insured under subsection (c) of this section, 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, (2) all references therein to section 1709 of this title shall be construed to refer to subsection (c) of this section, and (3) the excess remaining, referred to in section 1710(f)(1) of this title, shall be retained by the Secretary and credited to the General Insurance Fund.

(h) Applicability of other provisions

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 subsection (d) of this section.

(i) Applicability of other provisions

The provisions of sections 1715p and 1715u of this title shall be applicable to the mortgages insured under subsection (c) of this section.

(j) Increase in maximum insurance amounts for costs incurred from solar energy systems and energy conservation measures

The Secretary may further increase the dollar amount limitations which would otherwise apply under subsection (e) of this section by not to exceed 20 per centum if such increase is necessary to account for the increased cost of a 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.

(k) Rental housing conversion

With respect to a unit in any project which was converted from rental housing, no insurance may be provided under this section unless (1) the conversion occurred more than one year prior to the application for insurance, (2) the mortgagor or comortgagor was a tenant of that rental housing, (3) the conversion of the property is sponsored by a bona fide tenants organization representing a majority of the households in the project, or (4) before April 20, 1984 (A) application was made to the Secretary for a commitment to insure a mortgage covering any unit in the project, (B) in the case of direct endorsement, the mortgagee received the case number assigned by the Secretary for any unit in the project, or (C) application was made for approval of the project for guarantee, insurance, or direct loan under chapter 37 of title 38.

(June 27, 1934, ch. 847, title II, § 234, as added June 30, 1961, Pub. L. 87–70, title I, § 104, 75 Stat. 160; amended Sept. 2, 1964, Pub. L. 88–560, title I, § 119(a), 78 Stat. 780; Aug. 10, 1965, Pub. L. 89–117, title II, § 207(f), title XI, § 1108(o), 79 Stat. 468, 506; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; May 7, 1968, Pub. L. 90–301, § 3(e), 82 Stat. 114; Aug. 1, 1968, Pub. L. 90–448, title III, § 303, 82 Stat. 507; Dec. 24, 1969, Pub. L. 91–152, title I, §§ 102(d), 113(h), 83 Stat. 380, 384; Aug. 22, 1974 Pub. L. 93–383, title III, §§ 302(e), 303(g), 304(h), 310(d), 88 Stat. 676–678, 683; Dec. 23, 1975, Pub. L. 94–173, § 3, 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, § 8(a), (b)(7), 90 Stat. 1071, 1072; Oct. 12, 1977, Pub. L. 95–128, title III, §§ 303(e), 304(d), 91 Stat. 1132, 1133; Oct. 31, 1978, Pub. L. 95–557, title III, § 313, 92 Stat. 2099; Dec. 21, 1979, Pub. L. 96–153, title III, §§ 312(c), 314, 93 Stat. 1116, 1117; Oct. 8, 1980, Pub. L. 96–399, title III, §§ 310(g), 318, 333(e), 336(d), 94 Stat. 1643, 1646, 1653, 1654; Aug. 13, 1981, Pub. L. 97–35, title III, §§ 339(a), 339B(a), (d), 95 Stat. 416, 417; Sept. 8, 1982, Pub. L. 97–253, title II, § 201(e), 96 Stat. 789; Dec. 21, 1982, Pub. L. 97–377, title I, § 101(g), 96 Stat. 1908; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 404(b)(11), 420, 423(b)(4), 431(b), 97 Stat. 1209, 1213, 1217, 1220; Oct. 17, 1984, Pub. L. 98–479, title I, § 104(a)(2), 98 Stat. 2224; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 406(b)(17), 422(a), 426(g), (h), 101 Stat. 1901, 1914, 1916; Oct. 28, 1992, Pub. L. 102–550, title V, § 509(g), 106 Stat. 3783; Feb. 12, 1994, Pub. L. 103–211, title I, 108 Stat. 12; Apr. 11, 1994, Pub. L. 103–233, title III, § 306, 108 Stat. 373.)

[1] See References in Text note below.

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Section 1720 of this title, referred to in subsec. (e)(3), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

Section 8211 of title 42, referred to in subsec. (j), 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

1994—Subsec. (c). Pub. L. 103–211, effective for 18-month period following Feb. 12, 1994, for eligible persons, inserted ''or pursuant to section 1709(h) of this title under the conditions described in section 1709(h) of this title'' after ''section 1709(b)(2) of this title''. See Applicability of 1994 Amendment note below.

Subsec. (e)(3). Pub. L. 103–233 substituted ''$56,160'' for ''$59,160''.

1992—Subsec. (e)(3). 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. (c). Pub. L. 100–242, §406(b)(17), struck out fourth sentence which read as follows: ''In determining the amount of a mortgage in the case of a nonoccupant mortgagor the reference to paragraph (2) of section 1709(b) of this title in section 1709(b)(8) of this title shall be construed to refer to the preceding sentence in this subsection.''

Subsec. (e)(3). Pub. L. 100–242, §426(g), 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.

Pub. L. 100–242, §422(a), inserted ''except that each of the foregoing dollar amounts is increased to the amount established for a comparable unit in section 1715*l*(d)(3)(ii) of this title;'' after ''design;''.

Pub. L. 100–242, §426(h), 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''.

1984—Subsec. (k)(4). Pub. L. 98–479 added cl. (4).

1983—Subsec. (c). Pub. L. 98–181, §423(b)(4), purported to amend cl. (A) of third sentence of subsec. (c) by striking 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'', but this provision had been previously struck out by section 420(b) of Pub. L. 98–181. See second par. below and Effective Date of 1983 Amendment note below.

Pub. L. 98–181, §420(a), in cl. (2) substituted provision that at least 80 percent of the units in the project covered by mortgages insured under this subchapter be occupied by mortgagors or comortgagors for provision that the project be covered by a mortgage insured under any section of this chapter, except section 1715e(a)(1) and (2) of this title, notwithstanding any requirements in such section that the project be constructed or rehabilitated for providing rental housing and providing that a one-family unit in a multifamily project involving eleven or less units, or twelve or more in the case of a multifamily project the construction of which was completed more than a year prior to application for mortgage insurance, be eligible for insurance without having been covered by a project mortgage, and struck out cl. (3), which provided that the mortgagor is acquiring, or has acquired, a family unit covered by a mortgage insured under this subsection for his own use and occupancy and will not own more than four one-family units covered by mortgages insured under this subsection.

Pub. L. 98–181, §420(b), substituted in third sentence ''(A) involve a principal obligation in an amount not to exceed the maximum principal obligation of a mortgage which may be insured in the area pursuant to section 1709(b)(2) of this title'' for ''(A) involve a principal obligation in an amount not to exceed $67,500, except that the Secretary may increase such maximum dollar amount 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 limit, as so increased, exceed the lesser of 111 per centum of such amount or 95 per centum of the median one-family house price in the area, as determined by the Secretary: *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; and not to exceed the sum of (i) 97 per centum (100 per centum if the mortgagor is a veteran as defined under section 1709(b)(2) of this title) 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. (d)(2). Pub. L. 98–181, §431(b), substituted ''may, in the Secretary's discretion, be regulated or restricted'' for ''shall be regulated or restricted by the Secretary'', and substituted ''any such regulation or restriction'' for ''the regulation and restriction''.

Subsec. (f). Pub. L. 98–181, §404(b)(11), 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 5¼ 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.

Subsec. (k). Pub. L. 98–181, §420(c), added subsec. (k).

1982—Subsec. (c)(A). 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.

Subsec. (e)(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. (b). Pub. L. 97–35, §339(a), inserted reference to projects in which the dwelling units are attached, semi-attached, or detached.

Subsec. (c)(2). Pub. L. 97–35, §339B(d)(1), reenacted provisions relating to covered projects in material preceding proviso in cl. (2). Section 339B(d)(2) of Pub. L. 97–35 repealed section 318 of the Housing and Community Development Act of 1980, which previously enacted these provisions. See Repeals note set out below.

Subsec. (j). Pub. L. 97–35, § 339B(a), inserted ''therein'' after ''installation'' and struck out ''therein'' after ''measure''.

1980—Subsec. (c). Pub. L. 96–399, §§ 318, 333(e), 336(d), inserted provisions relating to projects approved under chapter 37 of title 38, and provisions relating to increases in the maximum dollar amounts on an area-by-area basis, and struck out applicability to determinations of three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, if so determined as the lesser amount in the computations.

Subsec. (j). Pub. L. 96–399, § 310(g), added subsec. (j).

1979—Subsec. (c). Pub. L. 96–153, § 312(c), substituted ''$67,500'' for ''$60,000''.

Subsec. (e)(3). Pub. L. 96–153, § 314, 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.

1978—Subsec. (c). Pub. L. 95–557 inserted ''or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance'' after ''less units'' in cl. (2) and ''(100 per centum if the mortgagor is a veteran as defined under section 1709(b)(2) of this title)'' after ''97 per centum'' in cl. (A)(i).

1977—Subsec. (c). Pub. L. 95–128 substituted in cl. (A) ''$60,000'' for ''$45,000'' and ''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, (iii) 80 per centum of such value in excess of $35,000''.

1976—Subsec. (e) (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'', ''$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. (e)(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). Pub. L. 93–383, §§ 302(e), 310(d), substituted ''$45,000'' for ''$33,000'' in cl. (A), ''$25,000'' for ''$15,000'' in cl. (A)(i), ''$25,000'' for ''$15,000'' and ''$35,000'' for ''$25,000'' in cl. (A)(ii), and ''$35,000'' for ''$25,000'' and ''80'' for ''75'' in cl. (A)(iii).

Subsec. (e)(1). Pub. L. 93–383, § 304(h), struck out par. (1) which set forth limitations on principal obligations of mortgages.

Subsec. (e)(3). Pub. L. 93–383, § 303(g), 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 ''$25,750'', and ''$36,465'' for ''$28,050''.

1969—Subsec. (c). Pub. L. 91–152, §§ 102(d), 113(h)(1), substituted ''$25,000'' for ''$20,000'' wherever appearing, and ''$33,000'' for ''$30,000''.

Subsec. (e)(3). Pub. L. 91–152, § 113(h)(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 ''$25,500''.

1968—Subsec. (c). Pub. L. 90–448, § 303(a), (b), made one-family units in multifamily projects involving eleven or less units eligible for insurance without having been covered by a project mortgage, and increased the maximum mortgage limits from 75 to 80 per centum of the appraised value of the property in excess of $20,000.

Subsec. (f). Pub. L. 90–448, § 303(c), permitted blanket mortgages to cover four or more family units instead of five or more family units.

Pub. L. 90–301 limited the 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, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (b) to (d), (d)(1), (2), (e)(2), (3), (f), and (g).

Subsec. (c). Pub. L. 90–19, § 1(a)(4), substituted ''Secretary's'' for ''Commissioner's''.

1965—Subsec. (d)(2). Pub. L. 89–117, § 1108(*o*)(1), substituted ''General Insurance Fund'' for ''Apartment Unit Insurance Fund''.

Subsec. (e)(3). Pub. L. 89–117, § 207(f), 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. (g). Pub. L. 89–117, § 1108(*o*)(1), (2), substituted ''General Insurance Fund'' for ''Apartment Unit Insurance Fund''.

Subsec. (h). Pub. L. 89–117, § 1108(*o*)(2), struck out reference to subsec. (m) and (p) of section 1713 of this title and provision that references therein to the Housing Insurance Fund or Housing Fund shall be construed to refer to the Apartment Unit Insurance Fund.

Subsecs. (i), (j). Pub. L. 89–117, § 1108(*o*)(3), redesignated subsec. (j) as (i) and repealed former subsec. (i), which created the Apartment Unit Insurance Fund, authorized transfer of funds thereto, and provided for the charging of expenses thereto.

1964—Pub. L. 88–560, § 119(a)(1), substituted ''Mortgage insurance for condominiums'' for ''Mortgage insurance for individually owned units in multifamily structures'' in section catchline.

Subsec. (a). Pub. L. 88–560, § 119(a)(2), substituted ''project'' for ''structure''.

Subsec. (b). Pub. L. 88–560, § 119(a)(2), (3), substituted ''project'' for ''structure'' in two places and ''the term 'mortgage' for the purposes of subsection (c) of this section'' for ''the term 'mortgage' for the purposes of this section'', respectively.

Subsec. (c). Pub. L. 88–560, § 119(a)(2), (4) to (6), amended provisions as follows.

Section 119(a)(2) substituted ''project'' for ''structure'', wherever appearing, and ''projects'' for ''structures'' in last sentence;

Section 119(a)(4) substituted ''this subsection'' for ''this section'', wherever appearing, and ''under any section'' for ''under another section'' in first sentence;

Section 119(a)(5) substituted ''section 1715e(a)(1) and (2)'' for ''section 1715e'', in two places; and

Section 119(a)(6) substituted in third sentence: in cl. (A), ''amount not to exceed $30,000'' for ''amount not to exceed the limits per room and per family dwelling unit provided by section 1713(c)(3) of this title''; in cl. (A)(i), ''$15,000'' for ''$13,500''; in cl. (A)(ii), ''$15,000'' and ''$20,000'' for ''$13,500'' and ''$18,000'', respectively; in cl. (A)(iii), ''75 per centum'' and ''$20,000'' for ''70 per centum'' and ''$18,000'', respectively; and in cl. (B), ''thirty-five'' for ''thirty'' years.

Subsecs. (d) to (f). Pub. L. 88–560, § 119(a)(7), added subsecs. (d) to (f). Former subsecs. (d) to (f) renumbered subsecs. (g), (i), (j).

Subsec. (g). Pub. L. 88–560, § 119(a)(7), (8), redesignated former subsec. (d) as (g) and substituted ''subsection (c) of this section'' for ''this section'' in three places, respectively.

Subsec. (h). Pub. L. 88–560, § 119(a)(9), added subsec. (h).

Subsec. (i). Pub. L. 88–560, § 119(a)(7), redesignated former subsec. (e) as (i).

Subsec. (j). Pub. L. 88–560, § 119(a)(7), (10), redesignated former subsec. (f) as (j), struck out reference to section 1715t of this title, and substituted ''subsection (c) of this section'' for ''this section''.

APPLICABILITY OF 1994 AMENDMENT

Eligibility for loans made under authority granted by amendment by Pub. L. 103–211 limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern Cali-

fornia, with such amendment effective only for 18-month period following Feb. 12, 1994, see provision of title I of Pub. L. 103–211, set out as a note under section 1709 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(17) 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 1983 AMENDMENT

Amendment by section 431(b) of Pub. L. 98–181 not to apply with respect to mortgages insured by the Secretary of Housing and Urban Development before Nov. 30, 1983, see section 431(c) of Pub. L. 98–181, set out as a note under section 1713 of this title.

For effective date of amendment by section 423(b)(4) 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.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 90–301, § 3(e), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98–181, title IV, § 404(a), Nov. 30, 1983, 97 Stat. 1208.

Section 318 of Pub. L. 96–399, cited as a credit to this section, was repealed by Pub. L. 97–35, title III, § 339B(d)(2), Aug. 13, 1981, 95 Stat. 417. See 1981 Amendments note for subsec. (c)(2) set out above.

IMPLEMENTATION OF 1982 AMENDMENT

Amendment by Pub. L. 97–253 to be implemented only if Secretary determines that program of advance payment of insurance premiums, considering 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.

CROSS REFERENCES

Mortgages for one- to four-family dwellings, authority to increase maximum amount by amount of mortgage insurance premium paid at time insured, see section 1709 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1715q, 1715r, 1715z, 1715z–14, 1715z–19, 1717 of this title; title 42 section 3535.

§ 1715z. Homeownership or membership in cooperative association for lower income families

(a) Authorization for periodic assistance payments to mortgagees; assistance to manufactured home buyers

(1) For the purpose of assisting lower income families in acquiring homeownership or in acquiring membership in a cooperative association operating a housing project, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of such homeowners and cooperative members. The assistance shall be accomplished through payments to mortgagees holding mortgages meeting the special requirements specified in this section or which mortgages are assisted under a State or local program providing assistance through loans, loan insurance or tax abatement. In making such assistance available, the Secretary shall give preference to low-income families who, without such assistance, would be likely to be involuntarily displaced (including those who would be likely to be displaced from rental units which are to be converted into a condominium project or a cooperative project). Such assistance may include the acquisition of a condominium or a membership in a cooperative association.

(2)(A) Notwithstanding any other provision of this section, the Secretary is authorized to make periodic assistance payments under this section on behalf of families whose incomes do not exceed the maximum income limits prescribed pursuant to subsection (h)(2) of this section for the purpose of assisting such families in acquiring ownership of a manufactured home consisting of two or more modules and a lot on which such manufactured home is or will be situated, except that periodic assistance payments pursuant to this paragraph shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this section after January 1, 1976. Assistance payments under this section pursuant to this paragraph shall be accomplished through payments on behalf of an owner of lower-income of a manufactured home as described in the preceding sentence to the financial institution which makes the loan, advance of credit, or purchase of an obligation representing the loan or advance of credit to finance the purchase of the manufactured home and the lot on which such manufactured home is or will be situated, but only if insurance under section 1703 of this title covering such loan, advance of credit, or obligation has been granted to such institution.

(B) Notwithstanding the provisions of subsection (c) of this section, assistance payments provided pursuant to this paragraph shall be in an amount not exceeding the lesser of—

(i) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 1703 of this title due under the loan or advance of credit remaining unpaid after applying 20 per centum of the manufactured homeowner's income; or

(ii) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 1703 of this title which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear interest at a rate derived by subtracting from the interest rate applicable to such loan or advance of credit the interest rate differential between the maximum interest rate plus mortgage insurance premium applicable to mortgages insured under subsection (i) of this section at the time such loan or advance of credit is made and the interest rate which such mortgages are presumed, under regulations prescribed by the Secretary, to bear for purposes of subsection (c)(2) of this section.

(b) Qualifications and eligibility requirements for assistance payments

To qualify for assistance payments, the homeowner or the cooperative member shall be of lower income and satisfy eligibility requirements prescribed by the Secretary, and—

(1) the homeowner shall be a mortgagor under a mortgage which meets the requirements of and is insured under subsection (i) or (j)(4) of this section: *Provided*, That a mortgage meeting the requirements of subsection (i)(3)(A) of this section but insured under section 1715z–2 of this title may qualify for assistance payments if such mortgage was executed by a mortgagor who is determined not to be an acceptable credit risk for mortgage insurance purposes (but otherwise eligible) under subsection (j)(4) of this section or under section 1715*l*(d)(2) or 1715y(c) of this title and accepted as a reasonably satisfactory credit risk under section 1715z–2 of this title; or

(2) the cooperative association of which the family is a member shall operate (A) a housing project the construction or substantial rehabilitation of which has been financed with a mortgage insured under section 1715e or section 1715*l*(d)(3) of this title and which has been completed within two years prior to the filing of the application for assistance payments and the dwelling unit has had no previous occupant other than the family: *Provided*, That if any cooperative member who has received assistance payments transfers his membership and occupancy rights to another person who satisfies the eligibility requirements prescribed by the Secretary and undertakes the obligation to pay occupancy charges, the new cooperative member may qualify for assistance payments upon the filing of an application with respect to the dwelling unit involved to be occupied by him: *Provided further*, That assistance payments may be made with respect to a dwelling unit in an existing cooperative project which meets such standards as the Secretary may prescribe, if the family qualifies as a displaced family as defined in section 1715*l*(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing: *Provided further*, That the amount of the mortgage attributable to the dwelling unit shall involve a principal obligation not in excess of $40,000 ($47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that costs levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $47,500 and $55,000, respectively; or (B) a housing project which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which prior to completion of construction or rehabilitation is approved for receiving the benefits of this section.

(c) Limitation on payments on behalf of mortgagor; occupancy of property; maximum amount of payment; recapture of amounts; determination, applicability, etc.

(1) Subject to the second sentence of this paragraph, the assistance payments to a mortgagee by the Secretary on behalf of a mortgagor shall be made during such time as the mortgagor shall continue to occupy the property which secures the mortgage: *Provided*, That assistance payments may be made on behalf of a homeowner who assumes a mortgage insured under subsection (i) or (j)(4) of this section with respect to which assistance payments have been made on behalf of the previous owner, if the homeowner is approved by the Secretary as eligible for receiving such assistance: *Provided further*, That the Secretary is authorized to continue making such assistance payments where the mortgage has been assigned to the Secretary. Assistance payments pursuant to any new contract, other than a contract in connection with a refinancing under subsection (r) of this section, entered into after September 30, 1983, that utilizes authority approved in appropriation Acts for any fiscal year beginning after such date may not be made for more than a 10-year period. The payment shall be in an amount not exceeding the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and mortgage insurance premium due under the mortgage remaining unpaid after applying 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum (4 per centum per annum in the case of a mortgage described in subsection (*o*) of this section).

(2)(A) Upon disposition by the homeowner of any property assisted pursuant to this section or where the homeowner rents such a property (or the owner's unit in the case of a two- to four-family property) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (i) the amount of assistance actually received under this section, other than any amount provided under subsection (e) of this section, or (ii) an amount equal to at least 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term ''net appreciation of the property'' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage amount as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 1715z–10 of this title. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(B) Subparagraph (A) does not apply to any property with respect to which there is assumption in accordance with paragraph (1) of this subsection or to any property which is subject to a mortgage, loan, or other advance of credit insured pursuant to subsection (q) of this section.

(3)(A) There hereby is established in the Treasury of the United States a fund, which, to the extent approved in appropriation Acts, may be used by the Secretary for purposes of carrying out subparagraph (B). There shall be deposited into such fund (i) any amount recaptured under paragraph (2); (ii) any authority to make assistance payments under subsection (a) of this section that is committed for use in a contract but is unused because the mortgage, loan, or advance of credit involved is refinanced (except to the extent provided in subsection (r) of this section for mortgages insured under such subsection) or because such assistance payments are terminated or suspended for other reasons before the original termination date of such contract; and (iii) any amount received under subparagraph (C).

(B) In the case of any homeowner whose assistance payments are terminated by reason of the 10-year limitation referred to in paragraph (1), and who is determined by the Secretary to be unable to assume the full payments due under the mortgage, loan, or advance of credit involved, the Secretary shall, to the extent of the availability of amounts in the fund established in subparagraph (A), contract to make, and make, continued assistance payments on behalf of such homeowner. Such continued assistance payments shall be made in an amount determined in accordance with the applicable provisions of paragraph (1) or subsection (a)(2)(B) of this section and for such period as the Secretary determines to be appropriate.

(C) Any amounts in such fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of subparagraph (B) shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States. Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.

(d) Limitation on payments on behalf of family holding membership in cooperative association; occupancy; maximum amount of payment

Assistance payments to a mortgagee by the Secretary on behalf of a family holding membership in a cooperative association operating a housing project shall be made only during such time as the family is an occupant of such project and shall be in amounts computed on the basis of the formula set forth in subsection (c) of this section applying the cooperative member's proportionate share of the obligations under the project mortgage to the items specified in the formula.

(e) Reimbursement for expenses in handling the mortgage

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (a)(2)(B), (c), (d), (j)(7), or (r) of this section, as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(f) Adoption of procedures for recertifications of mortgagor's or cooperative member's income

Procedures shall be adopted by the Secretary for recertifications of the mortgagor's (or cooperative member's) income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in subsection (c) of this section.

(g) Regulations to assure that sales price or other consideration paid is not increased above appraised value

The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h) Authorization of appropriations; aggregate amount of assistance payment contracts; maximum income limits of families; limitation on payments with respect to existing dwellings or dwelling units in existing projects and for approved substantial rehabilitation of dwellings or dwelling units in projects

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make the assistance payments under contracts entered into under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971, by such sums as may be approved in appropriation Acts after June 30, 1974, and prior to July 1, 1976, and by such sums as may be approved in an appropriation Act on or after October 1, 1983 (from the additional authority to enter into contracts made available on such date under the first sentence of section 1437c(c)(1) of title 42). The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on or after October 1, 1983 (other than obligations in connection with mortgages insured under subsection (r) of this section), may not exceed such sums of new budget authority as may be appropriated after November 30, 1983. The Secretary shall begin issuing new commitments and reservations to provide mortgage insurance and assistance payments under this section before the expiration of the 30-day period following the approval in any appropriation Act of budget authority for this section after November 30, 1983. Upon the expiration of one year following August 22, 1974, the Secretary shall not enter into new contracts for assistance payments under this section utilizing authority approved in appropriation Acts prior to July 1, 1974. The

Secretary shall not enter into new contracts for assistance payments under this section (except under subsection (r) of this section) after May 20, 1983, utilizing amounts approved in appropriation Acts before November 30, 1983, except (i) pursuant to a firm commitment issued on or before May 20, 1983, (ii) pursuant to other commitments issued by the Secretary prior to June 30, 1981, reserving funds for housing to be assisted under this section where such housing is included in a project pursuant to section 119 of the Housing and Community Development Act of 1974 [42 U.S.C. 5318], or (iii) pursuant to other commitments issued on or before September 30, 1981, where housing under this section is to be developed on land which was municipally owned on September 30, 1981, and where a local government contributes at least $1,000 per unit of funds obtained under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] and at least $2,000 per unit of additional funds to assist housing under this section. In no event may the Secretary enter into any new contract for assistance payments under this section (other than a contract in connection with a mortgage insured under subsection (r) of this section) after September 30, 1989.

(2) Assistance payments under this section may be made only with respect to a family whose income at the time of initial occupancy does not exceed 95 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 95 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low median family incomes, or other factors.

(3) Notwithstanding the provisions of subsections (b)(2) and (i)(3)(A) of this section with respect to the prior construction or rehabilitation of a dwelling, or of the project in which there is a dwelling unit, for which assistance payments may be made, and notwithstanding the provisions of subsection (j)(1) of this section authorizing the purchase of housing which is neither deteriorating nor substandard, not more than—

(A) 25 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made prior to July 1, 1969, and

(B) 30 per centum of the total additional amount of contracts for assistance payments authorized by appropriation Acts to be made on or after July 1, 1969,

may be made with respect to existing dwellings, or dwelling units in existing projects. The preceding sentence shall not apply to contracts in connection with mortgages insured under subsection (r) of this section.

(4) At least 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1971, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to substantial rehabilitation.

(i) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances with respect to property construction or rehabilitation pursuant to a self-help program) executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b) of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 1715*l*(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection.

(3) A mortgage to be insured under this subsection shall—

(A) involve a single-family or a two-family dwelling which has been approved by the Secretary prior to the beginning of construction or substantial rehabilitation, or a three-family dwelling which is approved by the Secretary prior to the beginning of substantial rehabilitation, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multi-family project, the construction or substantial rehabilitation of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit has had no previous occupant other than the mortgagor: *Provided*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project which meets such standards as the Secretary may prescribe: *Provided further*, That the mortgage may involve an existing dwelling or a family unit in an existing condominium project if assistance payments have been made on behalf of the previous owner of the dwelling or family unit with respect to a mortgage insured under subsection (j)(4) of this section: *Provided further*, That the mortgage may involve a dwelling unit in an existing project covered by a mortgage insured under section 1715z–1 of this title or in an existing project receiving the benefits of financial assistance under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s];

(B) where it is to cover a one-family unit in a condominium project, have a principal obligation not exceeding $40,000 ($47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $47,500 and $55,000, respectively;

(C) involve, in the case of a dwelling unit other than a condominium or cooperative unit, a principal obligation (including such initial service charges, appraisal, inspection,

and other fees as the Secretary shall approve) in an amount not to exceed $40,000 ($47,500 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require), except that with respect to any family with five or more persons the foregoing limits shall be $47,500 and $55,000, respectively;

(D) involve, in the case of a two-family or three-family dwelling, a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed $60,000 ($66,250 in any geographical area where the Secretary authorizes an increase on the basis of a finding that cost levels so require);

(E) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured); and

(F) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets.

(4) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(5) As a condition of insuring a mortgage on a two- to three-family dwelling, the Secretary shall require the mortgagor (A) not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State or local housing assistance program and (B) to agree that during the term of the mortgage each of the rental units shall be occupied by, or available for occupancy by, persons and families whose incomes do not exceed 100 per centum of the area median income.

(j) Insurance of mortgages executed by nonprofit organizations or public bodies or agencies; issuance of commitment; eligibility requirements for insurance; insurance of mortgages executed to finance sale of individual dwellings to lower income individuals or families; definitions; assistance payments to mortgagees on behalf of nonprofit organizations or public bodies and agencies

(1) In addition to mortgages insured under the provisions of subsection (i) of this section, the Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances under such mortgage during rehabilitation) which is executed by a nonprofit organization or public body or agency to finance the purchase of housing, and the rehabilitation of such housing if it is deteriorating or substandard, for subsequent resale to lower income home purchasers who meet the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b) of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under paragraph (1) of this subsection, a mortgage shall—

(A) be executed by a private nonprofit organization or public body or agency, approved by the Secretary, for the purpose of financing the purchase (with the intention of subsequent resale), and rehabilitation where the housing involved is deteriorating or substandard, of property comprising one or more tracts or parcels, whether or not contiguous, 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; except that in a case not involving the rehabilitation of deteriorating or substandard housing the property purchased may consist of one or more such dwellings or units;

(B) 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 any rehabilitation;

(C) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets;

(D) provide for complete amortization (subject to paragraph (4)(E)) by periodic payments within such term as the Secretary may prescribe; and

(E) provide for the release of individual single-family dwellings from the lien of the mortgage upon their sale in accordance with paragraph (4).

(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 involved is located in a neighborhood which is sufficiently stable and contains sufficient public facilities and amenities to support long-term values, or (B) the purchase or rehabilitation of such property plus the mortgagor's 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)(A) No mortgage shall be insured under paragraph (1) unless the mortgagor enters into an agreement, satisfactory to the Secretary, that it will offer to sell the dwellings involved, after purchase and upon completion of any rehabilitation, to lower income individuals or families meeting the eligibility requirements established by the Secretary under subsection (b) of this section.

(B) The Secretary is authorized to insure under this paragraph mortgages executed to finance the sale of individual dwellings to lower income purchasers as provided in subparagraph (A). Any such mortgage shall—

(i) be in a principal amount not in excess of that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the individual dwelling involved;

(ii) bear interest at the same rate as the blanket mortgage; and

(iii) provide for complete amortization by periodic payments within a term equal to the remaining term (determined without regard to subparagraph (E)) of such blanket mortgage.

(C) The price for which any individual dwelling is sold under this paragraph shall be in an amount equal to that portion of the unpaid principal balance of the blanket mortgage covering the property which is allocable to the dwelling plus such additional amount, not less than $200 (which may be applied in whole or in part toward closing costs and may be paid in cash or its equivalent), as the Secretary may determine to be reasonable.

(D) Upon the sale under this paragraph of any individual dwelling, such dwelling shall be released from the lien of the blanket mortgage. Until all of the individual dwellings in the property covered by the blanket mortgage have been sold, the mortgagor shall hold and operate the dwellings remaining unsold at any given time, in such manner and under such terms as the Secretary may prescribe, as though they constituted rental units.

(E) Upon the sale under this paragraph of all the individual dwellings in the property covered by the blanket mortgage and the release of all individual dwellings from the lien of the blanket mortgage, the insurance of the blanket mortgage shall be terminated and no adjusted premium charge shall be charged by the Secretary upon such termination.

(5) Where the Secretary has approved a plan of family unit ownership the terms ''single-family dwelling'', ''single-family dwellings'', ''individual dwelling'', and ''individual dwellings'' shall mean a family unit or family units, together with the undivided interest (or interests) in the common areas and facilities.

(6) For purposes of this subsection, the terms ''single-family dwelling'' and ''single-family dwellings'' (except for purposes of paragraph (5)) shall include a two- to three-family dwelling which has been approved by the Secretary.

(7) In addition to the assistance payments authorized under subsection (b) of this section, the Secretary may make such payments to a mortgagee on behalf of a nonprofit organization or public body or agency which is a mortgagor under the provisions of paragraph (1) in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such mortgagor would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(8) A mortgage covering property which is not deteriorating or substandard may be insured under this subsection only if it is situated in an area in which mortgages may be insured under section 1715*l*(h) of this title.

(9) In insuring eligible mortgages under this subsection, the Secretary may not deny insurance on the basis that a mortgage involves a two- to three-family dwelling or is to be used to finance substantial rehabilitation rather than new construction.

(k) Allocation and transfer of reasonable portion of total authority to contract to make assistance payments to Secretary of Agriculture for use in rural areas and small towns

The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make assistance payments as approved in appropriation Acts under subsection (h)(1) of this section.

(*l*) Deductions for minors in determining income limits; exclusion of earnings of minors

In determining the income of any person for the purposes of this section, there shall be deducted an amount equal to $300 for each minor person who is a member of the immediate family of such person and living with such family, and the earnings of any such minor person shall not be included in the income of such person or his family.

(m) Termination date for insurance of mortgages

No mortgage (except a mortgage insured under subsection (r) of this section) shall be insured under this section after September 30, 1989, except pursuant to a commitment to insure before that date.

(n) Percentage limitation of mortgage insurance on subdivision units; exceptions

No mortgage may be insured under this section on a unit in a subdivision, after October 12, 1977, which, when added to any other mortgages insured under this section in that subdivision after such date, represents more than 40 per centum of the total number of units in the subdivision, except that the preceding limitation shall not apply with regard to any rehabilitated unit, or to any unit or subdivision located or to be located in an established urban neighborhood or area, where a sound proposal is involved and where an aggregation of subsidized units is essential to a community sponsored overall redevelopment plan, as determined by the Secretary or to a mortgage insured under subsection (r) of this section.

(*o*) Mortgage insurance over maximum limits involving dwellings of community sponsored programs of concentrated redevelopment or revitalization

The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 20 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section if the mortgage relates to a dwelling in an urban neighborhood where the Secretary determines that a community sponsored program of concentrated redevelopment or revitalization is being undertaken and the Secretary determines that such action is necessary to enable eligible families residing in the area who occupy substandard housing or are being involuntarily displaced to remain in the area in decent, safe, and sanitary housing.

(p) Mortgage insurance over maximum limits involving dwellings to be occupied by physically handicapped persons; applicability, etc.

The Secretary may insure a mortgage under this section involving a principal obligation which exceeds, by not more than 10 per centum, the maximum limits specified under subsection (b)(2) or (i)(3) of this section, or, if applicable, the maximum principal obligation insurable pursuant to subsection (*o*) of this section, if the mortgage relates to a dwelling to be occupied by a physically handicapped person and the Secretary determines that such action is necessary to reflect the cost of making such dwelling accessible to and usable by such person.

(q) Periodic assistance payments for emergency stimulation of housing market; contracts, terms and conditions, eligibility, etc., for payments

(1) Notwithstanding any other provision of this section, except subsection (n), if the Secretary determines that there is a substantial need for emergency stimulation of the housing market, the Secretary is authorized to make and enter into contracts to make periodic assistance payments, to the extent of not to exceed 75 per centum of the authority available pursuant to subsection (h)(1) of this section, on behalf of homeowners, including owners of manufactured homes, to mortgagees or other lenders holding mortgages, loans, or advances of credit which meet the requirements of this subsection. The Secretary may establish such criteria, terms, and conditions relating to homeowners and mortgages, loans, or advances of credit assisted under this subsection as the Secretary deems appropriate, consistent with the provisions of this subsection. The Secretary is authorized to insure a mortgage which meets the requirements of and is to be assisted under this subsection. The authority to enter into contracts to provide assistance payments and to insure mortgages under this subsection shall terminate on September 30, 1989, or at such earlier date as the Secretary may deem appropriate, upon a determination by the Secretary that the conditions which gave rise to the exercise of authority under this subsection are no longer present, except pursuant to a commitment entered into prior to such date.

(2) Payments under this subsection may be made only on behalf of a homeowner who satisfies such eligibility requirements as may be prescribed by the Secretary and who—

(A)(i) is a mortgagor under a mortgage which meets the requirements of and is insured under this subsection, or (ii) is the original owner of a new manufactured home consisting of two or more modules and a lot on which the manufactured home is situated, where insurance under section 1703 of this title covering the loan, advance of credit, or purchase of an obligation representing such loan or advance of credit to finance the purchase of such manufactured home and lot has been granted to the lender making such loan, advance of credit, or purchase of an obligation; and

(B) has a family income, at the time of initial occupancy, which does not exceed 130 per centum of the area median income for the area (with adjustments for smaller and larger families, unusually high or low median family income, or other factors), as determined by the Secretary.

(3) Assistance payments to a mortgagee or other lender by the Secretary on behalf of a homeowner shall be made only during such time as the homeowner shall continue to occupy the property which secures the mortgage, loan, or advance of credit. The Secretary may, where a mortgage insured under this subsection has been assigned to the Secretary, continue making such assistance payments.

(4) The amount of the assistance payments in the case of a mortgage shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, taxes, insurance, and any mortgage insurance premium due under the mortgage remaining unpaid after applying a minimum of 25 per centum of the mortgagor's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and any mortgage insurance premium which would be required if the mortgage were a level payment mortgage bearing interest at a rate equal to the maximum interest rate which is applicable to level payment mortgages insured under section 1709(b) of this title, other than mortgages subject to section 1709–1(2)[1] of this title, and the monthly payment for principal and interest which the mortgagor would be obligated to pay if the mortgage were a level payment mortgage bearing interest at the rate of at least 9½ per centum per annum.

(5) Assistance payments on behalf of the owner of a manufactured home shall not at any time exceed the lesser of—

(A) the balance of the monthly payment for principal, interest, real and personal property taxes, insurance, and insurance premium chargeable under section 1703 of this title due under the loan or advance of credit remaining unpaid after applying a minimum of 25 per centum of the manufactured homeowner's income, except that the Secretary may reduce such per centum of income to the extent he deems necessary, but not lower than 20 per centum of the mortgagor's income; or

(B) the difference between the amount of the monthly payment for principal, interest, and insurance premium chargeable under section 1703 of this title which the manufactured homeowner is obligated to pay under the loan or advance of credit and the monthly payment of principal and interest which the owner would be obligated to pay if the loan or advance of credit were to bear an interest rate determined by the Secretary which shall not be less than 12 per centum per annum.

(6) The Secretary may include in the payment to the mortgagee or other lender such amount, in addition to the amount computed under para-

[1] See References in Text note below.

graph (4) or (5), as the Secretary deems appropriate to reimburse the mortgagee or other lender for its reasonable and necessary expenses in handling the mortgage, loan, or advance of credit.

(7) The Secretary shall prescribe such regulations as the Secretary deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not greater than the appraised value as determined by the Secretary.

(8) Assistance payments pursuant to paragraph (5) shall not be made with respect to more than 20 per centum of the total number of units with respect to which assistance is approved under this subsection.

(9) The Secretary may, in addition to mortgages insured under subsection (i) or (j) of this section, insure, upon application by the mortgagee, a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under paragraph (2). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(10) To be eligible for insurance under this subsection, a mortgage shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease which meets terms and conditions established by the Secretary;

(B) have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(C) involve a one- to four-family dwelling which has been approved by the Secretary prior to the beginning of construction, or if not so approved, has been completed within one year prior to the filing of the application for insurance and which has never been sold other than to the mortgagor;

(D) involve a principal residence the sales price of which does not exceed 82 per centum of the applicable maximum principal obligation of a mortgage which may be insured in the area pursuant to section 1709(b)(2) of this title, determined without regard to the last sentence of such section;

(E) have maturity and amortization provisions satisfactory to the Secretary;

(F) bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed the applicable maximum rate for mortgages insured pursuant to section 1709(b) of this title;

(G) be executed by a mortgagor who shall have paid in cash or its equivalent, on account of the property, at least an amount equal to 3 per centum of the Secretary's estimate of the cost of acquisition; and

(H) contain such other terms and conditions as the Secretary may prescribe.

(11) The Secretary shall, to the extent practicable, insure mortgages under this subsection which are secured by properties which contribute to the conservation of land and energy resources.

(12) A mortgage to be assisted under this subsection shall, where the Secretary deems it appropriate, provide for graduated payments pursuant to section 1715z–10 of this title.

(13) The Secretary shall develop and utilize a system to allocate assistance under this subsection in a manner which assures a reasonable distribution of such assistance among the various regions of the country and which takes into consideration such factors as population, relative decline in building permits, the need for increased housing production, and other factors he deems appropriate. Assistance provided under this subsection shall not be subject to section 1439 of title 42.

(14) Upon the disposition by the homeowner of any property assisted pursuant to this subsection, or where the homeowner rents the property (or the owner's unit in the case of a two- to four-family residence) for a period longer than one year, the Secretary shall provide for the recapture of an amount equal to the lesser of (A) the amount of assistance actually received under this subsection, other than any amount provided under paragraph (6), or (B) an amount at least equal to 50 per centum of the net appreciation of the property, as determined by the Secretary. For the purpose of this paragraph, the term ''net appreciation of the property'' means any increase in the value of the property over the original purchase price, less the reasonable costs of sale, the reasonable costs of improvements made to the property, and any increase in the mortgage balance as of the time of sale over the original mortgage balance due to the mortgage being insured pursuant to section 1715z–10 of this title. In providing for such recapture, the Secretary shall include incentives for the homeowner to maintain the property in a marketable condition. Notwithstanding any other provision of law, any such assistance shall constitute a debt secured by the property to the extent that the Secretary may provide for such recapture.

(15) Procedures shall be adopted by the Secretary for recertification of the homeowner's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of such assistance payments within the limits of the formula described in paragraph (4) or (5).

(r) Refinancing

(1) The Secretary is authorized, upon application of a mortgagee, to insure under this subsection a mortgage the proceeds of which are used to refinance a mortgage insured under this section.

(2) To be eligible for insurance under this subsection, a mortgage must be executed by a mortgagor meeting the requirements of paragraph (3) and shall—

(A) be a first lien on real estate held in fee simple, or on a leasehold under a lease—

(i) for not less than 99 years which is renewable; or

(ii) having a period of not less than 10 years to run beyond the maturity date of the mortgage;

(B) have been made to, and held by, a mortgagee approved by the Secretary;

(C) be in an amount not exceeding the outstanding principal balance, including any unpaid interest, due on the mortgage being refinanced;

(D) have a maturity not exceeding the unexpired term of the mortgage being refinanced;

(E) bear an interest rate not exceeding such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary finds necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; to the extent that the amounts described in paragraphs (4)(A) and (B) are not otherwise paid by the Secretary, the foregoing interest rate may be increased, in the discretion of the Secretary, to compensate the mortgagee for its payment to, or on behalf of, the mortgagor of such amounts; and

(F) meet the criteria for refinancing as determined by the Secretary.

(3) Notwithstanding the provisions of subsection (h)(2) of this section, assistance payments in connection with mortgages insured under paragraph (2) shall be made only with respect to a family who is eligible for, and receiving assistance payments with respect to, the insured mortgage being refinanced.

(4) The Secretary is authorized and, to the extent provided in appropriation Acts, may pay to the mortgagor (directly, through the mortgagee, or otherwise)—

(A) an amount, as approved by the Secretary, as an incentive to the mortgagor to refinance a mortgage insured under this section; and

(B) an amount as approved by the Secretary for costs incurred in connection with the refinancing, including but not limited to discounts, loan origination fees, and closing costs.

(5) Amounts of budget authority required for assistance payments contracts with respect to mortgages insured under this subsection shall be derived from amounts recaptured from assistance payments contracts relating to mortgages that are being refinanced. For purposes of subsection (c)(3)(A) of this section, the amount of recaptured budget authority that the Secretary commits for assistance payments contracts relating to mortgages insured under this subsection shall not be construed as ''unused''.

(6) The Secretary is authorized to take any actions to identify and communicate with any mortgagor of a mortgage insured under this section to implement the refinancing of such mortgages with insurance under this subsection. The Secretary may take such actions directly, or under contract. Notwithstanding the restriction of section 552a(b) of title 5, upon the request of an approved mortgagee, the Secretary may disclose to such mortgagee the name and address of any mortgagor of a mortgage insured under this section that meets the criteria for refinancing, pursuant to paragraph (2)(F), and the unpaid principal balance and interest rate on such mortgage.

(7) The Secretary shall implement the provisions of this subsection by a notice published in the Federal Register.

(June 27, 1934, ch. 847, title II, § 235, as added Aug. 1, 1968, Pub. L. 90–448, title I, § 101(a), 82 Stat. 477; amended Dec. 24, 1969, Pub. L. 91–152, title I, §§ 101(d), 106, 107(a), 109, 113(i), title IV, §§ 412(b), 418(a), 83 Stat. 379, 381, 385, 398, 402; Dec. 31, 1970, Pub. L. 91–609, title I, §§ 101(d), 102(a), 105–107, 84 Stat. 1770, 1771; Oct. 18, 1972, Pub. L. 92–503, § 1(d), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(d), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(d), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title II, § 211, 88 Stat. 671; Aug. 3, 1976, Pub. L. 94–375, § 3(a)–(c), (e), (f), 90 Stat. 1068, 1069; Oct. 12, 1977, Pub. L. 95–128, title II, § 205, title III, §§ 301(d), 303(f), 91 Stat. 1130, 1131, 1132; Sept. 30, 1978, Pub. L. 95–406, § 1(d), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, § 301(d), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, § 1(d), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, § 1(d), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title II, § 213, title III, § 301(d), 93 Stat. 1111; Oct. 3, 1980, Pub. L. 96–372, § 1(d), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title II, §§ 206(a), (b)(1), 207, title III, §§ 301(d), 308(c)(1), (2), 94 Stat. 1630, 1631, 1638, 1640; Aug. 13, 1981, Pub. L. 97–35, title III, §§ 328, 331(d), 95 Stat. 407, 412; Dec. 26, 1981, Pub. L. 97–110, title III, § 304, 95 Stat. 1515; May 24, 1982, Pub. L. 97–185, 96 Stat. 100; Sept. 8, 1982, Pub. L. 97–253, title II, § 201(f), 96 Stat. 790; Oct. 6, 1982, Pub. L. 97–289, § 1(d), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, § 1(d), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(d), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title II, § 226, title IV, §§ 401(d), 404(b)(12), 423(b)(5), 97 Stat. 1194, 1207, 1209, 1217; Oct. 17, 1984, Pub. L. 98–479, title I, §§ 102(a)(1), 104(a)(3), title II, § 204(a)(8), 98 Stat. 2221, 2224, 2232; Oct. 8, 1985, Pub. L. 99–120, § 1(d), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, § 1(d), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, § 1(d), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, § 1(d), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(d), 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; Feb. 5, 1988, Pub. L. 100–242, §§ 170(a), 401(c), 406(b)(18), (19), 101 Stat. 1867, 1898, 1901; Nov. 9, 1989, Pub. L. 101–144, title II, 103 Stat. 852; Dec. 15, 1989, Pub. L. 101–235, title I, § 125(a)–(c), 103 Stat. 2022–2024.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (h)(1), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. 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.

Section 101 of the Housing and Urban Development Act of 1965, referred to in subsec. (i)(3)(A), is section 101 of Pub. L. 89–117, title I, Aug. 10, 1965, 79 Stat. 451, as amended, which enacted section 1701s of this title and amended sections 1451 and 1465 of Title 42.

Section 1709–1 of this title, referred to in subsec. (q)(4)(B), was repealed by Pub. L. 98–181, title IV, § 404(a), Nov. 30, 1983, 97 Stat. 1208.

AMENDMENTS

1989—Subsec. (c)(1). Pub. L. 101–235, § 125(c)(1), inserted '', other than a contract in connection with a re-

financing under subsection (r) of this section,'' after ''any new contract'' in second sentence.

Subsec. (c)(3)(A). Pub. L. 101–235, § 125(c)(2), which directed the insertion of ''(except to the extent provided in subsection (r) of this section for mortgages insured under such subsection)'' after ''refinanced,'' in second sentence, was executed by making the insertion after ''refinanced'' as the probable intent of Congress.

Subsec. (c)(3)(C). Pub. L. 101–235, § 125(b), inserted at end ''Notwithstanding the preceding sentence, any amounts of budget authority or contract authority recaptured from assistance payments contracts relating to mortgages that are being refinanced that are not required for assistance payments contracts relating to mortgages insured under this subsection, shall be rescinded.''

Subsec. (e). Pub. L. 101–235, § 125(c)(3), inserted reference to subsec. (r).

Subsec. (h)(1). Pub. L. 101–235, § 125(c)(4), inserted ''(other than obligations in connection with mortgages insured under subsection (r) of this section)'' in third sentence, ''(except under subsection (r) of this section)'' in sixth sentence, and ''(other than a contract in connection with a mortgage insured under subsection (r) of this section)'' in seventh sentence.

Subsec. (h)(3). Pub. L. 101–235, § 125(c)(5), inserted sentence at end providing that the preceding sentence shall not apply to contracts in connection with mortgages insured under subsec. (r).

Subsec. (m). Pub. L. 101–235, § 125(c)(6), inserted ''(except a mortgage insured under subsection (r) of this section)'' after ''No mortgage''.

Subsec. (n). Pub. L. 101–235, § 125(c)(7), inserted ''or to a mortgage insured under subsection (r) of this section'' before period at end.

Subsec. (r). Pub. L. 101–235, § 125(a), amended subsec. (r) generally. Prior to amendment, subsec. (r) read as follows:

''(1) REVIEW OF ASSISTANCE PAYMENTS CONTRACTS.—

''(A) The Secretary shall periodically review each contract under which the Secretary is making assistance payments under this section to determine if a refinancing of the mortgage, loan, or advance of credit involved will result in a sufficient reduction in assistance payments to warrant such refinancing.

''(B) In the case of assistance payments contracts in effect on November 9, 1989, the Secretary shall complete such review within 60 days in order to permit the refinancing to be completed during fiscal year 1990.

''(2) REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall offer financial assistance appropriate to encourage the refinancing. The assistance may include the following:

''(A) For lenders and mortgagees providing refinancing, the payment of reasonable mortgage or loan origination fees, discount points, and other expenses required to refinance; and

''(B) For the homeowner or cooperative member involved, the payment of an amount that does not exceed 1 percent of the principal amount refinanced.

''(3) METHOD OF PAYMENT OF REFINANCING ASSISTANCE.—In any case in which the Secretary determines that refinancing is warranted, the Secretary shall provide incentives in a manner that does not increase total expenditures in fiscal year 1990. The Secretary shall structure refinancings as follows:

''(A) Lenders and mortgagees providing refinancings under this subsection may charge an interest rate for refinancing that is not greater than 0.5 percent higher than the prevailing market rate for refinancing.

''(B) Payments to the homeowner or cooperative member to encourage refinancing shall be paid through a reduction in the monthly payment of the homeowner or cooperative member under the mortgage, loan, or advance of credit.

''(4) REVISION OF CONTRACTS AND RESCISSION OF EXCESS AMOUNTS.—

''(A) The Secretary shall make such revisions in any assistance payments contract (including the amount of assistance payments made under the contract) as are necessary to reflect a refinancing obtained pursuant to this subsection. A revised assistance payments contract under this paragraph shall not be considered to be a new contract under this section.

''(B) Any contract authority that becomes available as a result of the revision of an assistance payments contract under this paragraph shall be rescinded.''

Pub. L. 101–144 added subsec. (r).

1988—Subsec. (h)(1). Pub. L. 100–242, § 401(c), substituted ''September 30, 1989'' for ''March 15, 1988''.

Subsec. (i)(3)(A). Pub. L. 100–242, § 406(b)(18), struck out ''one of the units of which is to be occupied by the owner and'' after ''three-family dwelling''.

Subsec. (i)(3)(C). Pub. L. 100–242, § 170(a), substituted ''(including'' for ''including''.

Subsec. (j)(6). Pub. L. 100–242, § 406(b)(19), struck out ''if one of the units is to be occupied by the owner'' after ''Secretary''.

Subsecs. (m), (q)(1). Pub. L. 100–242, § 401(c), substituted ''September 30, 1989'' for ''March 15, 1988''.

1987—Subsecs. (h)(1), (m), (q)(1). 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—Subsecs. (h)(1), (m), (q)(1). 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—Subsecs. (h)(1), (m), (q)(1). Pub. L. 99–219 substituted ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

1984—Subsec. (h)(1). Pub. L. 98–479, § 102(a)(1), inserted ''utilizing amounts approved in appropriation Acts before November 30, 1983,'' before ''except (i)'' and substituted ''September 30, 1985'' for ''November 30, 1983'' in last sentence.

Subsec. (i)(3)(C). Pub. L. 98–479, § 204(a)(8), substituted ''Secretary'' for ''Seretary'' before ''authorizes an increase''.

Subsec. (j)(2)(C). Pub. L. 98–479, § 104(a)(3), substituted ''bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets'' for ''bear interest (exclusive of premium charges for insurance and service charge, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market''.

1983—Subsec. (c)(1). Pub. L. 98–181, § 226(a), substituted ''Subject to the second sentence of this paragraph, the'' for ''The'', and inserted provision limiting to a 10-year period assistance payments pursuant to any new contract entered into after Sept. 30, 1983, utilizing authority approved in appropriation Acts for any fiscal year beginning after such date.

Subsec. (c)(3). Pub. L. 98–181, § 226(b), added par. (3).

Subsec. (h)(1). Pub. L. 98–181, § 226(c), struck out ''and'' after ''on July 1, 1971'', and inserted '', and by

such sums as may be approved in an appropriation Act on or after October 1, 1983 (from the additional authority to enter into contracts made available on such date under the first sentence of section 1437c(c)(1) of title 42). The aggregate amount that may be obligated over the duration of the contracts entered into with the authority provided on or after October 1, 1983, may not exceed such sums of new budget authority as may be appropriated after November 30, 1983. The Secretary shall begin issuing new commitments and reservations to provide mortgage insurance and assistance payments under this section before the expiration of the 30-day period following the approval in any appropriation Act of budget authority for this section after November 30, 1983.''

Pub. L. 98–109, § 1(d)(1), substituted ''November 30, 1983'' for ''September 30, 1983''.

Subsec. (i)(3)(A). Pub. L. 98–181, § 226(d)(1), substituted ''three-family'' for ''two-family'', and ''involve a single-family or a two-family'' for ''involve a single-family''.

Subsec. (i)(3)(B), (C). Pub. L. 98–181, § 423(b)(5)(A), (B), 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 ''$55,000, respectively''.

Subsec. (i)(3)(D). Pub. L. 98–181, § 423(b)(5)(C), 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 ''cost levels so require)''.

Pub. L. 98–181, § 226(d)(2), inserted ''or three-family'' and substituted ''$60,000'' for ''$55,000'' and ''$66,250'' for ''$61,250''.

Subsec. (i)(3)(F). Pub. L. 98–181, § 404(b)(12), added subpar. (F).

Subsec. (i)(4), (5). Pub. L. 98–181, § 226(d)(3), added pars. (4) and (5).

Subsec. (j)(6). Pub. L. 98–181, § 226(e)(1), substituted ''two- to three-family'' for ''two-family''.

Subsec. (j)(9). Pub. L. 98–181, § 226(e)(2), added par. (9).

Subsec. (m). Pub. L. 98–181, § 401(d)(1), substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109, § 1(d)(2), substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35, § 1(d)(1), substituted ''September 30, 1983'' for ''May 20, 1983''.

Subsec. (q)(1). Pub. L. 98–181, § 401(d)(2), substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109, § 1(d)(3), substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35, § 1(d)(2), substituted ''September 30, 1983'' for ''May 20, 1983''.

1982—Subsec. (h)(1). Pub. L. 97–289, § 1(d)(1), substituted ''May 20, 1983'' for ''September 30, 1982'' in two places.

Subsec. (i)(3)(B). Pub. L. 97–253, § 201(f)(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. (i)(3)(C). Pub. L. 97–253, § 201(f)(2), 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. (i)(3)(D). Pub. L. 97–253, § 201(f)(3), 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. (i)(3)(E). Pub. L. 97–253, § 201(f)(4), inserted ''(excluding the mortgage insurance premium paid at the time the mortgage is insured)'' after ''cost of acquisition''.

Subsec. (m). Pub. L. 97–289, § 1(d)(2), substituted ''May 20, 1983'' for ''September 30, 1982''.

Subsec. (q)(1). Pub. L. 97–289, § 1(d)(3), substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (c)(2)(A). Pub. L. 97–35, § 328(a), struck out provisions relating to homeowner ceasing to make payments for a period of 90 continuous days or more under the mortgage, etc.

Subsec. (h)(1). Pub. L. 97–110 expanded enumeration of exceptions to provision that the Secretary not enter into new contracts for assistance payments under this section after March 31, 1982, by designating the two existing exceptions as cls. (i) and (ii) and by adding cl. (iii).

Pub. L. 97–35, § 328(b), inserted provisions prohibiting new contracts for assistance under this section after Mar. 1, 1982, except pursuant to specified exceptions.

Subsec. (m). Pub. L. 97–35, § 331(d)(1), substituted ''1982'' for ''1981''.

Subsec. (q)(1). Pub. L. 97–35, § 331(d)(2), substituted ''September 30, 1982'' for ''June 1, 1981''.

Subsec. (q)(14). Pub. L. 97–35, § 328(c), struck out provisions relating to homeowner ceasing to make payments for a period of 90 continuous days or more under the mortgage, etc.

1980—Subsec. (a)(2)(A). Pub. L. 96–399, § 308(c)(1), substituted ''manufactured home'' for ''mobile home'' wherever appearing.

Subsec. (a)(2)(B). Pub. L. 96–399, § 308(c)(2), substituted ''manufactured homeowner'' and ''manufactured homeowner's'' for ''mobile homeowner'' and ''mobile homeowner's'', respectively.

Subsec. (b)(2). Pub. L. 96–399, § 206(a)(1), substituted in last proviso ''$40,000'' for ''$32,000'', ''$47,500'' for ''$38,000'' in two places, and ''$55,000'' for ''$44,000''.

Subsec. (c). Pub. L. 96–399, § 206(b)(1), designated existing provisions as par. (1), redesignated existing pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

Subsec. (i)(3)(B) to (D). Pub. L. 96–399, § 206(a)(2), (3), substituted ''$40,000'' for ''$32,000'', ''$47,500'' for ''$38,000'', ''$55,000'' for ''$44,000'', and ''$61,250'' for ''$49,000''.

Subsec. (m). Pub. L. 96–399, § 301(d), substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372 substituted ''October 15, 1980'' for ''September 30, 1980''.

Subsec. (p). Pub. L. 96–399, § 206(a)(4), added subsec. (p).

Subsec. (q). Pub. L. 96–399, § 207, added subsec. (q).

1979—Subsec. (a)(1). Pub. L. 96–153, § 213(a), inserted provision that the Secretary give preference to low-income families who are likely to be displaced without assistance and that the assistance may include the acquisition of a condominium or membership in a cooperative association.

Subsec. (c)(2). Pub. L. 96–153, § 213(c)(2), inserted parenthetical reference to 4 per centum per annum rate in the case of a mortgage described in subsec. (*o*) of this section.

Subsec. (i)(3)(A). Pub. L. 96–153, § 213(b), substituted ''standards as the Secretary may prescribe:'' for ''standards as the Secretary may prescribe, if the mortgagor qualifies as a displaced family as defined in section 1715*l*(f) of this title, or a family which includes five or more minor persons, or a family occupying low-rent public housing:''.

Subsec. (m). Pub. L. 96–153, § 301(d), substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979''.

Subsec. (*o*). Pub. L. 96–153, § 213(c)(1), added subsec. (*o*).

1978—Subsec. (m). Pub. L. 95–557 substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (b)(2). Pub. L. 95–128, §§ 205, 303(f)(1), inserted reference to section 1715*l*(d)(3) of this title and substituted in last proviso ''$32,000'' for ''$25,000'', ''$38,000'' for ''$29,000'' in two places, and ''$44,000'' for ''$33,000''.

Subsec. (i)(3)(B) to (E). Pub. L. 95–128, § 303(f)(2)–(4), substituted in subpar. (B) ''$32,000'' for ''$25,000'',

''$38,000'' for ''$29,000'' in two places, and ''$44,000'' for ''$33,000'', added subpars. (C) and (D), and redesignated former subpar. (C) as (E).

Subsec. (m). Pub. L. 95–128, § 301(d), substituted ''September 30, 1978'' for ''September 30, 1977''.

Subsec. (n). Pub. L. 95–128, § 303(f)(5), added subsec. (n).

1976—Subsec. (a). Pub. L. 94–375, § 3(f)(1), designated existing provisions as par. (1) and added par. (2).

Subsec. (b)(2). Pub. L. 94–375, § 3(b), substituted ''$25,000'' for ''$21,600'', ''$29,000'' for ''$25,200'' in two places, and ''$33,000'' for ''$28,800''.

Subsec. (e). Pub. L. 94–375, § 3(f)(2), inserted ''(a)(2)(B),'' after ''computed under subsection''.

Subsec. (h)(2). Pub. L. 94–375, § 3(e), substituted ''95 per centum'' for ''80 per centum'' wherever appearing.

Subsec. (i)(3)(B). Pub. L. 94–375, § 3(c), substituted ''$25,000'' for ''$21,600'', ''$29,000'' for ''$25,200'' in two places, and ''$33,000'' for ''$28,800''.

Subsec. (m). Pub. L. 94–375 § 3(a), substituted ''September 30, 1977'' for ''June 30, 1976''.

1974—Subsec. (a). Pub. L. 93–383, § 211(b), inserted provisions relating to mortgages assisted under a State or local program providing assistance through loans, etc.

Subsec. (b)(2). Pub. L. 93–383, § 211(c)(1), substituted ''$21,600'' for ''$18,000'', ''$25,200'' for ''$21,000'' in two places, and ''$28,800'' for ''$24,000''.

Subsec. (h)(1). Pub. L. 93–383, § 211(a)(1), (2), inserted provisions relating to increases by such sums as may be approved in appropriations Acts after June 30, 1974, and prior to July 1, 1976, and provisions prohibiting new contracts for assistance payments upon the expiration of one year following Aug. 22, 1974.

Subsec. (h)(2). Pub. L. 93–383, § 211(a)(3), substituted provisions setting forth requirements for assistance payments for families for provisions setting forth maximum income limits of families receiving assistance payments under contracts and provisions relating to annual report to Congressional Committees with respect to income levels of families.

Subsec. (h)(3)(B). Pub. L. 93–383, § 211(a)(4), substituted ''on or after July 1, 1969'' for ''prior to July 1, 1972''.

Subsec. (i)(1). Pub. L. 93–383, § 211(a)(5), inserted provisions authorizing insurance of advances for property construction or rehabilitation pursuant to self-help programs.

Subsec. (i)(3)(B). Pub. L. 93–383, § 211(c)(2), substituted ''$21,600'' for ''$18,000'', ''$25,200'' for ''$21,000'' in two places, and ''$28,800'' for ''$24,000''.

Subsec. (i)(3)(C). Pub. L. 93–383, § 211(a)(6), struck out provisions relating to execution by a mortgagor in the case of a family whose income is not in excess of 135 per centum of the maximum income limits established in the area pursuant to specified limitations or any other family.

Subsec. (m). Pub. L. 93–383, § 211(a)(7), substituted ''June 30, 1976'' for ''October 1, 1974''.

1973—Subsec. (m). 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. (m). Pub. L. 92–503 substituted ''June 30, 1973'' for ''October 1, 1972''.

1970—Subsec. (b)(2). Pub. L. 91–609, § 107, designated existing provisions as cl. (A) and added cl. (B).

Subsec. (h)(1). Pub. L. 91–609, § 102(a), in second sentence, inserted ''outstanding'' before ''contracts'' where first appearing and substituted ''$150,000,000 on July 1, 1970'' and ''$200,000,000 on July 1, 1971'' for ''$125,000,000 on July 1, 1970'' and ''$170,000,000 on July 1, 1971''.

Subsec. (h)(3)(B). Pub. L. 91–609, § 105(1), substituted ''July 1, 1972'' for ''July 1, 1971''.

Subsec. (h)(4). Pub. L. 91–609, § 105(2), added par. (4).

Subsec. (i)(3)(A). Pub. L. 91–609, § 106, substituted ''and which is approved by the Secretary'' for ''if the dwelling is purchased with the assistance of a nonprofit organization and is approved by the Secretary''.

Subsec. (m). Pub. L. 91–609, § 101(d), substituted ''October 1, 1972'' for ''October 1, 1971''.

1969—Subsec. (b)(2). Pub. L. 91–152, §§ 106(b), 113(i), substituted provisions qualifying for assistance payments the transferee of any cooperative member who has received assistance payments, provided that such transferee undertakes the obligation to pay occupancy charges, for provisions qualifying for assistance payments the transferee of the initial cooperative member receiving assistance payments, and substituted ''$18,000'' for ''$15,000'', ''$21,000'' for ''$17,500'' wherever appearing, and ''$24,000'' for ''$20,000''.

Subsec. (c). Pub. L. 91–152, §§ 106(a), 418(a), inserted reference to subsection (i) of this section, and inserted the further proviso authorizing the Secretary to continue making assistance payments.

Subsec. (h)(1). Pub. L. 91–152, § 107(a), substituted ''$125,000,000 on July 1, 1969, by ''$125,000,000 on July 1, 1970, and by $170,000,000 on July 1, 1971'' for ''$100,000,000 on July 1, 1969, and by $125,000,000 on July 1, 1970''.

Subsec. (h)(2). Pub. L. 91–152, § 412(b), required the Secretary to report semiannually instead of annually to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (h)(3)(A). Pub. L. 91–152, § 109(1), inserted ''and'' after ''July 1, 1969''.

Subsec. (h)(3)(B). Pub. L. 91–152, § 109(2), substituted ''30 per centum'' for ''15 per centum'' and ''July 1, 1971,'' for ''July 1, 1970, and''.

Subsec. (h)(3)(C). Pub. L. 91–152, § 109(2), struck out subsec. (h)(3)(C) which limited the amount available for home-ownership assistance payments to 10 per centum of the total additional amount of contracts for assistance payments authorized by appropriation Acts made prior to July 1, 1971.

Subsec. (i)(3)(B). Pub. L. 91–152, § 113(i), substituted ''$18,000'' for ''$15,000'', ''$21,000'' for ''$17,500'' wherever appearing, and ''$24,000'' for ''$20,000''.

Subsec. (m). Pub. L. 91–152, § 101(d), added subsec. (m).

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 406(b)(18), (19) 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 1983 AMENDMENT

For effective date of amendment by section 423(b)(5) 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.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 206(b)(2) of Pub. L. 96–399 provided: ''The amendment made by paragraph (1) [amending this section] does not apply to any assistance contract under section 235 of the National Housing Act [this section] entered into pursuant to a commitment issued within 6 months following the date of enactment of this Act [Oct. 8, 1980].''

TERMINATION OF PROGRAM; SAVINGS PROVISION

Section 125(d) of Pub. L. 101–235 provided that: ''Notwithstanding the termination of the program under section 235 [this section] pursuant to section 401(d) of the Housing and Community Development Act of 1987 [Pub. L. 100–242, set out below], the Secretary of Housing and Urban Development shall have authority to insure mortgages under section 235(r), to make assistance payments with respect to such insured mortgages, and to make any other payment or take any other action related to the refinancing of mortgages insured under section 235.''

Section 401(d) of Pub. L. 100–242 provided that:

''(1) IN GENERAL.—Effective on October 1, 1989, the program under section 235 of the National Housing Act [this section] shall terminate.

''(2) SAVINGS PROVISION.—The provisions of paragraph (1) shall not affect—

''(A) any mortgage insurance commitment issued; or

''(B) any assistance pursuant to a reservation of funds made;

under section 235 of the National Housing Act prior to October 1, 1989.''

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.

STUDY AND REPORT RESPECTING APPLICATION OF SUBSECTION (n) TO SUBSECTIONS (a) AND (q) PROGRAMS

Section 206(c) of Pub. L. 96–399 directed Secretary of Housing and Urban Development to conduct a study of effects which application of subsec. (n) of this section has had or is likely to have on program established by subsec. (a). If program established by subsec. (q) was implemented, Secretary was to include in study an analysis of effects on subsec. (q) program of application of subsec. (n) to such program. Secretary to transmit to Congress, not later than Jan. 1, 1982, a report containing findings and conclusions of study.

FINANCING PURCHASE OF DWELLING FROM NONPROFIT ORGANIZATION AFTER AUGUST 1, 1968

Section 101(c)(4) of Pub. L. 90–448 provided that: ''The purchase of any individual dwelling, sold by a nonprofit organization pursuant to the provisions of section 221(h)(5) of the National Housing Act [12 U.S.C. 1715*l*(h)(5)] after the date of enactment of this section [Aug. 1, 1968], may be financed with a mortgage insured under the provisions of section 235(j)(4) of such Act [12 U.S.C. 1715z(j)(4)], but such mortgage shall bear interest at the rate provided in section 235(j)(2)(C) of such Act.''

CEILING ON TOTAL HOMEOWNERSHIP ASSISTANCE PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90–608, ch. IV, §401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act [this section] shall not exceed $25,000,000.

Pub. L. 91–47, title II, §201, July 22, 1969, 83 Stat. 53, increased by $45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 235 of the National Housing Act, as amended (82 Stat. 477) [this section].

CROSS REFERENCES

Mortgages for one- to four-family dwellings, authority to increase maximum amount by amount of mortgage insurance premium paid at time insured, see section 1709 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701w, 1701x, 1709, 1715c, 1715q, 1715z–2, 1715z–3, 1735b, 1735c of this title; title 15 section 2227; title 26 section 32; title 31 section 1305; title 42 sections 1436a, 1436b, 1490a, 2982c.

§1715z–1. Rental and cooperative housing for lower income families

(a) Authorization for periodic interest reduction payments on behalf of owner of rental housing project

For the purpose of reducing rentals for lower income families, the Secretary is authorized to make, and to contract to make, periodic interest reduction payments on behalf of the owner of a rental housing project designed for occupancy by lower income families, which shall be accomplished through payments to morgagees[1] holding mortgages meeting the special requirements specified in this section.

(b) Restrictions on payments; payments with respect to projects financed under State or local programs; mortgage insurance premium

Interest reduction payments with respect to a project shall only be made during such time as the project is operated as a rental housing project and is subject to a mortgage which meets the requirements of, and is insured under, subsection (j) of this section: *Provided*, That the Secretary is authorized to continue making such interest reduction payments where the mortgage has been assigned to the Secretary: *Provided further*, That interest reduction payments may be made with respect to a mortgage or part thereof on a rental or cooperative housing project owned by a private nonprofit corporation or other private nonprofit entity, a limited dividend corporation or other limited dividend entity, public[2] entity, or a cooperative housing corporation, which is financed under a State or local program providing assistance through loans, loan insurance, or tax abatements, and which may involve either new or existing construction and which is approved for receiving the benefits of this section. The term ''mortgage insurance premium'', when used in this section in relation to a project financed by a loan under a State or local program, means such fees and charges, approved by the Secretary, as are payable by the mortgagor to the State or local agency mortgagee to meet reserve requirements and administrative expenses of such agency.

(c) Amount of payments

The interest reduction payments to a mortgagee by the Secretary on behalf of a project owner shall be in an amount not exceeding the difference between the monthly payment for principal, interest, and mortgage insurance premium which the project owner as a mortgagor is obligated to pay under the mortgage and the monthly payment for principal and interest such project owner would be obligated to pay if the mortgage were to bear interest at the rate of 1 per centum per annum.

(d) Mortgage handling expenses

The Secretary may include in the payment to the mortgagee such amount, in addition to the amount computed under subsection (c) of this section, as he deems appropriate to reimburse the mortgagee for its expenses in handling the mortgage.

(e) Operation of project in accordance with requirements respecting tenant eligibility and rents prescribed by Secretary

As a condition for receiving the benefits of interest reduction payments, the project owner

[1] So in original. Probably should be ''mortgagees''.

[2] So in original. Probably should be preceded by ''a''.

shall operate the project in accordance with such requirements with respect to tenant eligibility and rents as the Secretary may prescribe. Procedures shall be adopted by the Secretary for review of tenant incomes at intervals of one year (or at shorter intervals where the Secretary deems it desirable).

(f) Establishment of basic and fair market rental charges; rental for dwelling units; separate utility metering; additional assistance payments for low-income tenants; limitations; amounts; approval of payments

(1) For each dwelling unit there shall be established with the approval of the Secretary (A) a basic rental charge determined on the basis of operating the project with payments of principal and interest due under a mortgage bearing interest at the rate of 1 per centum per annum; and (B) a fair market rental charge determined on the basis of operating the project with payments of principal, interest, and mortgage insurance premium which the mortgagor is obligated to pay under the mortgage covering the project. The rental for each dwelling unit shall be at the basic rental charge or such greater amount, not exceeding the fair market rental charge, as represents 30 per centum of the tenant's adjusted income. With respect to those projects which the Secretary determines have separate utility metering for some or all dwelling units, the Secretary is authorized—

(i) to permit the basic rental charge and the fair market rental charge to be determined on the basis of operating the project without the payment of the cost of utility services used by such dwelling units; and

(ii) to permit the charging of a rental for such dwelling units at such an amount less than 30 per centum of a tenant's adjusted income as the Secretary determines represents a proportionate decrease for the utility charges to be paid by such tenant, but in no case shall such rental be lower than 25 per centum of a tenant's adjusted income.

(2) With respect to 20 per centum of the dwelling units in any project made subject to a contract under this section after August 22, 1974, the Secretary shall make, and contract to make, additional assistance payments to the project owner on behalf of tenants whose incomes are too low for them to afford the basic rentals (including the amount allowed for utilities in the case of a project with separate utility metering) with 30 per centum of their adjusted income. The additional assistance payments authorized by this paragraph with respect to any dwelling unit shall be the amount required to reduce the rental payment (including the amount allowed for utilities in the case of a project with separate utility metering) by the tenant to the highest of the following amounts, rounded to the nearest dollar:

(A) 30 per centum of the tenant's monthly adjusted income;

(B) 10 per centum of the tenant's monthly income; or

(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

Notwithstanding the foregoing provisions of this paragraph, the Secretary may—

(A) reduce such 20 per centum requirement in the case of any project if he determines that such action is necessary to assure the economic viability of the project; or

(B) increase such 20 per centum requirement in the case of any project if he determines that such action is necessary and feasible in order to, assure, insofar as is practicable, that there is in the project a reasonable range in the income levels of tenants, or that such action is to be taken to meet the housing needs of elderly or handicapped families.

(3) The Secretary shall utilize amounts credited to the fund described in subsection (g) of this section for the sole purpose of carrying out the purposes of section 201 of the Housing and Community Development Amendments of 1978. No payments may be made from such fund unless approved in an appropriation Act. No amount may be so approved for any fiscal year beginning after September 30, 1994.

(4) To ensure that eligible tenants occupying that number of units with respect to which assistance was being provided under this subsection immediately prior to November 30, 1983, receive the benefit of assistance contracted for under paragraph (2), the Secretary shall offer annually to amend contracts entered into under this subsection with owners of projects assisted but not subject to mortgages insured under this section to provide sufficient payments to cover 100 percent of the necessary rent increases and changes in the incomes of eligible 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 paragraph (2).

(5)(A) 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 assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) 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—

(i) 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 1437f(c) of title 42;

(ii) phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

(iii) limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent.

(B) Assistance under section 1437f of title 42 shall be provided, to the extent available under appropriations Acts, if necessary to mitigate any adverse effects on income-eligible tenants.

(6)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 1437f(b) of title 42 for the jurisdiction in which the housing is located.

(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1)[3] of this section.

(g) Collection and deposit of excess rental charges for reserve fund for additional assistance payments

The project owner shall, as required by the Secretary, accumulate, safeguard, and periodically pay to the Secretary all rental charges collected in excess of the basic rental charges. Such excess charges shall be credited to a reserve fund to be used by the Secretary to make additional assistance payments as provided in paragraph (3) of subsection (f) of this section.

(h) Rules and regulations

In addition to establishing the requirements specified in subsection (e) of this section, 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.

(i) Authorization of appropriations; aggregate amount of contracts; contracts for assistance payments; income limitations; availability of amounts for projects approved prior to rehabilitation and projects for occupancy by elderly or handicapped families; definitions

(1) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, including such sums as may be necessary to make interest reduction payments under contracts entered into by the Secretary under this section. The aggregate amount of outstanding contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $75,000,000 per annum prior to July 1, 1969, which maximum dollar amount shall be increased by $125,000,000 on July 1, 1969, by $150,000,000 on July 1, 1970, by $200,000,000 on July 1, 1971 and by $75,000,000 on July 1, 1974. 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 subsection (f)(2) of this section to contracts for assistance under section 1437f of title 42 or otherwise for the purpose of making assistance payments, including amendments as provided in subsection (f)(4) of this section, with respect to housing projects assisted, but not subject to mortgages insured, under this section that remain covered by assistance under subsection (f)(2) of this section.

(2) Contracts for assistance payments under this section may be entered into only with respect to tenants whose incomes do not exceed 80 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of his findings that such variations are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or other factors.

(3) Not less than 10 per centum of the total amount of contracts for assistance payments authorized by appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to dwellings, or dwelling units in projects, which are approved by the Secretary prior to rehabilitation.

(4) At least 20 per centum of the total amount of contracts for assistance payments authorized in appropriation Acts to be made after June 30, 1974, shall be available for use only with respect to projects which are planned in whole or in part for occupancy by elderly or handicapped families. As used in this paragraph, the term ''elderly families'' means families which consist of two or more persons the head of which (or his spouse) is sixty-two years of age or over or is handicapped. Such term also means a single person who is sixty-two years of age or over or is handicapped. A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions.

(j) Insurance of mortgages; definitions; eligibility for insurance; mortgage requirements; property or project requirements; sale of individual dwelling units; release of mortgagor from liability or release of property from lien of mortgage

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage (including advances on such mortgage during construction) which meets the requirements of this subsection. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as he may prescribe.

(2) As used in this subsection—

(A) the terms ''family'' and ''families'' shall have the same meaning as in section 1715*l* of this title;

(B) the term ''elderly or handicapped families'' shall have the same meaning as in section 1701q of this title; and

(C) the terms ''mortgage'', ''mortgagee'', and ''mortgagor'' shall have the same meaning as in section 1707 of this title.

[3] So in original. Probably should be subsection ''(g)''.

(3) To be eligible for insurance under this subsection, a mortgage shall meet the requirements specified in subsections (d)(1) and (d)(3) of section 1715*l* of this title, except as such requirements are modified by this subsection. In the case of a project financed with a mortgage insured under this subsection which involves a mortgagor other than a cooperative or a private nonprofit corporation or association and which is sold to a cooperative or a nonprofit corporation or association, the Secretary is further authorized to insure under this subsection a mortgage given by such purchaser in an amount not exceeding the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis, after payment of all operating expenses, taxes, and required reserves.

(4) A mortgage to be insured under this subsection shall—

(A) be executed by a mortgagor eligible under subsection (d)(3) or (e) of section 1715*l* of this title;

(B) bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets; and

(C) provide for complete amortization by periodic payments within such term as the Secretary may prescribe.

(5) The property or project shall—

(A) comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of the property for mortgage insurance and may include such nondwelling facilities as the Secretary deems adequate and appropriate to serve the occupants and the surrounding neighborhood: *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: *Provided further*, That, in the case of a project designed primarily for occupancy by elderly or handicapped families, the project may include related facilities for use by elderly or handicapped families, including cafeterias or dining halls, community rooms, workshops, infirmaries, or other inpatient or outpatient health facilities, and other essential service facilities;

(B) include five or more dwelling units, but 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

(C) be designed primarily for use as a rental project to be occupied by lower income families or by elderly or handicapped families: *Provided*, That lower income persons who are less than sixty-two years of age shall be eligible for occupancy in such a project.

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 first proviso in subparagraph (A) except the requirement that the project be predominantly residential).

(6) With the approval of the Secretary, the mortgagor may sell the individual dwelling units to lower income or elderly or handicapped purchasers. The Secretary may consent to the release of the mortgagor from his liability under the mortgage and the credit instrument secured thereby, or consent to the release of 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.

(k) Definitions

As used in this section the term ''tenant'' includes a member of a cooperative; the term ''rental housing project'' includes a cooperative housing project; and the terms ''rental'' and ''rental charge'' mean, with respect to members of a cooperative, the charges under the occupancy agreements between such members and the cooperative.

(*l*) Allocation and transfer of reasonable portion of total authority to contract to make payments to Secretary of Agriculture for use in rural areas and small towns

The Secretary shall from time to time allocate and transfer to the Secretary of Agriculture, for use (in accordance with the terms and conditions of this section) in rural areas and small towns, a reasonable portion of the total authority to contract to make periodic interest reduction payments as approved in appropriation Acts under subsection (i) of this section.

(m) "Income" defined

For the purpose of this section the term ''income'' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary, except that any amounts not actually received by the family may not be considered as income under this subsection. 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.

(n) Termination date for insurance of mortgages; exception

No mortgage shall be insured under this section after November 30, 1983, except pursuant to a commitment to insure before that date. A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) of

this section the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.

(*o*) State funding of interest reduction payments

The Secretary is authorized to enter into agreements with any State or agency thereof under which such State or agency thereof contracts to make interest reduction payments, subject to all the terms and conditions specified in this section and in rules, regulations and procedures adopted by the Secretary under this section, with respect to all or a part of a project covered by a mortgage insured under this section. Any funds provided by a State or agency thereof for the purpose of making interest reduction payments shall be administered, disbursed and accounted for by the Secretary in accordance with the agreements entered into by the Secretary with the State or agency thereof and for such fees as shall be specified therein. Before entering into any agreements pursuant to this subsection the Secretary shall require assurances satisfactory to him that the State or agency thereof is able to provide sufficient funds for the making of interest reduction payments for the full period specified in the interest reduction contract.

(p) Contracts with State or local agencies for monitoring and supervision of management by private sponsors of assisted projects

The Secretary is authorized to enter into contracts with State or local agencies approved by him to provide for the monitoring and supervision by such agencies of the management by private sponsors of projects assisted under this section. Such contracts shall require that such agencies promptly report to the Secretary any deficiencies in the management of such projects in order to enable the Secretary to take corrective action at the earliest practicable time.

(q) Assistance to residents of covered projects; contracting authority; applicability

The Secretary may provide assistance under section 1437f of title 42 with respect to residents of units in a project assisted under this section. In entering into contracts under section 1437c(c) of title 42 with respect to the additional authority provided on October 1, 1980, the Secretary shall not utilize more than $20,000,000 of such additional authority to provide assistance for elderly or handicapped families which, at the time of applying for assistance under such section 1437f of title 42, are residents of a project assisted under this section and are expending more than 50 percent of their income on rental payments.

(r) 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, including without limitation rent supplement and rental assistance payment unit increases and mortgage increases for any eligible purpose under this section, including without limitation operating deficit loans.

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 hereunder are to be utilized only 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 calculation of the amount of assistance to be provided under an interest reduction contract pursuant to this subsection shall be made on the basis of an assumed mortgage term equal to the lesser of a 40-year amortization period or the term of that part of the mortgage which relates to the additional assistance provided under this subsection, even though the additional assistance may be provided for a shorter period. 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.

(June 27, 1934, ch. 847, title II, §236, as added Aug. 1, 1968, Pub. L. 90–448, title II, §201(a), 82 Stat. 498; amended Dec. 24, 1969, Pub. L. 91–152, title I, §§101(e), 107(b), 108, title IV, §§412(c), 418(b), 83 Stat. 379, 381, 398, 402; Dec. 31, 1970, Pub. L. 91–609, title I, §§101(e), 102(b), 108, 114(b), 114[115](b), 117(c), 118(a), 121, 84 Stat. 1770, 1772–1776; Oct. 18, 1972, Pub. L. 92–503, §1(e), 86 Stat. 906; Aug. 10, 1973. Pub. L. 93–85, §1(e), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, §1(e), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title II, §212, 88 Stat. 672; Dec. 23, 1975, Pub. L. 94–173, §4(b), 89 Stat. 1027; Aug. 3, 1976, Pub. L. 94–375, §4, 90 Stat. 1070; Oct. 12, 1977, Pub. L. 95–128, title II, §206(a)–(c), title III, §301(e), 91 Stat. 1130, 1131; Sept. 30, 1978, Pub. L. 95–406, §1(e), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title II, §201(k), formerly (i), title III, §301(e), 92 Stat. 2087, 2096, as renumbered Aug. 13, 1981, Pub. L. 97–35, title III, §321(f)(2)(A), 95 Stat. 400; Sept. 28, 1979, Pub. L. 96–71, §1(e), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, §1(e), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title II, §§203(b), 205(b), title III, §301(e), 93 Stat. 1107, 1108, 1111; Oct. 3, 1980, Pub. L. 96–372, §§1(e), 2, 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title II, §204(b), 211, title III, §301(e), 94

Stat. 1629, 1636, 1638; Aug. 13, 1981, Pub. L. 97–35, title III, §§ 321(f)(3), 322(f), 331(e), 95 Stat. 400, 403, 413; Oct. 6, 1982, Pub. L. 97–289, § 1(e), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, § 1(e), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(e), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title II, §§ 217(c), 218, 97 Stat. 1186, 1187; Oct. 17, 1984, Pub. L. 98–479, title I, §§ 102(a)(2), 104(a)(4), title II, § 204(a)(9), 98 Stat. 2221, 2225, 2232; Feb. 5, 1988, Pub. L. 100–242, title I, §§ 167(a)(1), (b), 170(b), 186(a), title IV, §§ 429(f), 430(a), 101 Stat. 1864, 1867, 1877, 1919; Dec. 15, 1989, Pub. L. 101–235, title II, § 203(a)(1), title III, § 301, 103 Stat. 2037, 2043; Nov. 28, 1990, Pub. L. 101–625, title V, § 578(a), title VI, §§ 611(a), (b)(1), 612(a), 104 Stat. 4244, 4278, 4279; Oct. 28, 1992, Pub. L. 102–550, title III, § 331, title IV, § 408(b), 106 Stat. 3773, 3778.)

REFERENCES IN TEXT

Section 201 of the Housing and Community Development Amendments of 1978, referred to in subsec. (f)(3), (5)(A), is section 201 of Pub. L. 95–557, title II, Oct. 31, 1978, 92 Stat. 2084, which enacted section 1715z–1a of this title and amended this section.

Section 236 contracts, referred to in subsec. (r)(2), refer to contracts under this section.

CODIFICATION

Subsec. (*o*), added as subsec. (n) by Pub. L. 91–609, § 121(a), designated subsec. (*o*) in the Code as a prior subsec. (n) was added by Pub. L. 91–152, and amended by Pub. L. 91–609, § 101(e).

AMENDMENTS

1992—Subsec. (f)(3). Pub. L. 102–550, § 408(b), substituted ''September 30, 1994'' for ''September 30, 1992''.

Subsec. (j)(4)(A). Pub. L. 102–550, § 331, struck out ''private'' before ''mortgagor''.

1990—Subsec. (f)(3). Pub. L. 101–625, § 578(a), substituted ''September 30, 1992'' for ''September 30, 1991''.

Subsec. (f)(5). Pub. L. 101–625, § 611(b)(1), added par. (5).

Subsec. (f)(6). Pub. L. 101–625, § 612(a), added par. (6).

Subsec. (m). Pub. L. 101–625, § 611(a), inserted before period at end of first sentence '', except that any amounts not actually received by the family may not be considered as income under this subsection''.

1989—Subsec. (b). Pub. L. 101–235, § 203(a)(1), inserted ''public entity,'' after ''dividend entity,''.

Subsec. (f)(3). Pub. L. 101–235, § 301, substituted ''September 30, 1991'' for ''September 30, 1989''.

1988—Subsec. (f)(3). Pub. L. 100–242, § 186(a), substituted ''September 30, 1989'' for ''September 30, 1985''.

Subsec. (f)(4). Pub. L. 100–242, § 167(a)(1), substituted ''100 percent'' for ''90 per centum''.

Subsec. (i)(1). Pub. L. 100–242, §§ 170(b), 429(f), amended par. (1) identically, substituting ''subsection (f)(4) of this section'' for ''subsection (h) of this section''.

Subsec. (n). Pub. L. 100–242, § 167(b), inserted at end ''A mortgage may be insured under this section after the date in the preceding sentence in order to refinance a mortgage insured under this section or to finance pursuant to subsection (j)(3) of this section the purchase, by a cooperative or nonprofit corporation or association, of a project assisted under this section.''

Subsec. (r). Pub. L. 100–242, § 430(a), added subsec. (r).

1984—Subsec. (f)(4). Pub. L. 98–479, § 102(a)(2), struck out ''up to'' before ''90 per centum''.

Subsec. (j)(4)(B). Pub. L. 98–479, § 104(a)(4), substituted ''bear interest at a rate not to exceed such percent per annum on the amount of the principal obligation outstanding at any time as the Secretary determines is necessary to meet the mortgage market, taking into consideration the yields on mortgages in the primary and secondary markets'' for ''bear interest (exclusive of premium charges for insurance and service charges, if any) at not to exceed such per centum per annum (not in excess of 6 per centum), on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market''.

Subsec. (j)(5). Pub. L. 98–479, § 204(a)(9), substituted ''of residents'' for ''or residents'' in provision following subpar. (C).

1983—Subsec. (f)(3). Pub. L. 98–181, § 217(c), substituted ''September 30, 1985'' for ''September 30, 1982''.

Subsec. (f)(4). Pub. L. 98–181, § 218(a), added par. (4).

Subsec. (i)(1). Pub. L. 98–181, § 218(b), inserted provision relating to utilization by the Secretary of any authority under this section that it recaptured.

Subsec. (n). Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

1982—Subsec. (n). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (e). Pub. L. 97–35, § 322(f)(1), substituted ''one year'' for ''two years''.

Subsec. (f)(1). Pub. L. 97–35, § 322(f)(2), (3), substituted provisions respecting applicability of specific percentage of tenant's adjusted income, for provisions respecting applicability of specific percentage of tenant's income.

Subsec. (f)(2). Pub. L. 97–35, § 322(f)(4)–(6), substituted provisions respecting applicability of specific percentage of tenant's adjusted income, for provisions respecting applicability of specific percentage of tenant's income, and struck out provisions relating to reduction of rental payment.

Subsec. (f)(3). Pub. L. 97–35, §§ 321(f)(3), 322(f)(7), struck out subpar. (A) which related to establishment of an initial operating expense level, redesignated subpar. (B) as entire provision and substituted ''1982'' for ''1981''.

Subsec. (m). Pub. L. 97–35, § 322(f)(8), substituted provisions defining ''income'' as income from all sources of each member of the household, subject to certain exclusions, for provisions defining term ''income'' as income determined under section 1437f of title 42.

Subsec. (n). Pub. L. 97–35, § 331(e), substituted ''1982'' for ''1981''.

1980—Subsec. (f)(3)(B). Pub. L. 96–399, § 204(b), substituted ''September 30, 1981'' for ''October 15, 1980'' in third sentence, and struck out ''on or after October 1, 1978, or credited to such fund prior to October 1, 1978, but remaining unobligation on October 31, 1978,'' in first sentence.

Pub. L. 96–372, § 2, substituted ''October 15, 1980'' for ''September 30, 1980''.

Subsec. (n). Pub. L. 96–399, § 301(e), substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372, § 1(e), substituted ''October 15, 1980'' for ''September 30, 1980''.

Subsec. (q). Pub. L. 96–399, § 211, added subsec. (q).

1979—Subsec. (f)(3)(B). Pub. L. 96–153, § 205(b), substituted ''after October 1, 1978, or credited to such fund prior to October 1, 1978, but remaining unobligated on October 31, 1978,'' for ''after October 1, 1978,'', and in provision relating to the restriction on approval of funds, substituted ''September 30, 1980'' for ''September 30, 1979''.

Subsec. (m). Pub. L. 96–153, § 203(b), substituted definition of ''income'' by reference to section 1437f of title 42 for provisions requiring deduction of $300 for each minor member of the family in determining the income and further providing that the earnings of a minor not be included in the income of person or family.

Subsec. (n). Pub. L. 96–153, § 301(e), substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979.''

1978—Subsec. (f)(3). Pub. L. 95–557, § 201(k)(1), formerly § 201(i)(1), designated existing provisions as par. (A), substituted ''For each fiscal year prior to the fiscal year 1979, the'' for ''The'', and added par. (B).

Subsec. (g). Pub. L. 95–557, § 201(k)(2), formerly § 201(i)(2), struck out provisions authorizing, that if

during any period the balance in reserve fund was adequate to meet additional assistance payments, such excess charges be credited to the appropriation authorized by subsec. (i), and be available until the end of the next fiscal year for purpose of making assistance payments with respect to rental housing projects, and that for purpose of this subsection and par. (3) of subsec. (f), initial operating expense level for any project assisted under a contract entered into prior to Oct. 12, 1977, be established by the Secretary not later than 180 days after Oct. 12, 1977.

Subsec. (n). Pub. L. 95–557, §301(e), substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (f)(3). Pub. L. 95–128, §206(a), (b), substituted ''The Secretary is authorized to make, and shall contract to make to the extent of the moneys in the reserve fund established under subsection (g) of this section and to the further extent of funds authorized in appropriation Acts, an additional monthly assistance payment to the project owner up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level.'' for ''At any time subsequent to the establishment of an initial operating expense level, the Secretary is authorized to make, and contract to make, additional assistance payments to the project owner in an amount up to the amount by which the sum of the cost of utilities and local property taxes exceeds the initial operating expense level, but not to exceed the amount required to maintain the basic rentals of any units at levels not in excess of 30 per centum or such lower per centum not less than 25 per centum as shall reflect the reduction permitted in clause (ii) of the last sentence of paragraph (1), of the income of tenants occupying such units.'', inserted sentence ''Such payment shall be used by the project owner solely to effect, and there shall be, a reduction in the basic rental charges established for the project.'', and substituted ''Any contract to make additional monthly assistance payments shall be for a one-year period and shall be adjusted periodically to provide, to the extent approved in appropriation Acts, for continuation of the payments and for an appropriate adjustment in the amount of the assistance payments.'' for ''Any contract to make additional assistance payments may be amended periodically to provide for appropriate adjustments in the amount of the assistance payments.''; and substituted in last sentence ''unless the Secretary finds that the increase in the cost of utilities or local property taxes is not reasonable or not'' for ''only if the Secretary finds that the increase in the cost of utilities or local property taxes, is reasonable and is''.

Subsec. (g). Pub. L. 95–128, §206(c), substituted date of enactment of Pub. L. 95–128, which is October 12, 1977, for date of enactment of Pub. L. 93–383, which was August 22, 1974.

Subsec. (n). Pub. L. 95–128, §301(e), substituted ''September 30, 1978'' for ''September 30, 1977''.

1976—Subsec. (f)(2). Pub. L. 94–375, §4(b), inserted ''(including the amount allowed for utilities in the case of a project with separate utility metering)'' after ''basic rentals'' and ''reduce the rental payment'', and struck out ''or such lower per centum as may be established pursuant to the provisions of clause (ii) of the last sentence of paragraph (1)'' after ''25 per centum of their income'' and ''25 per centum of the tenant's income''.

Subsec. (n). Pub. L. 94–375, §4(a), substituted ''September 30, 1977'' for ''June 30, 1976''.

1975—Subsec. (j)(5)(C). Pub. L. 94–173 struck out provision limiting to 10 per centum the number of dwelling units available to lower income persons under the age of 62.

1974—Subsec. (f). Pub. L. 93–383, §212(1), (2), redesignated existing subsec. (f) as (f)(1) and cls. (1) and (2) as (A) and (B), respectively, and inserted provisions relating to separate utility metering and pars. (2) and (3).

Subsec. (g). Pub. L. 93–383, §212(3), substituted provisions authorizing the creation of a reserve fund of excess rental charges and providing for use of such fund for making additional assistance payments, for provisions authorizing the Secretary to deposit excess charges in a revolving fund used for making interest reduction payments to any housing project receiving assistance, and authorizing investment of monies in United States obligations.

Subsec. (i)(1). Pub. L. 93–383, §212(4), inserted authorization for increase by $75,000,000 on July 1, 1974.

Subsec. (i)(2). Pub. L. 93–383, §212(5), substituted provisions relating to contracts for assistance payments and income limitations with respect to families involved in such contracts, for provisions relating to contracts for interest reduction payments, income limitations with respect to families involved in such contracts, and semiannual reports to Congressional Committees on income levels of families living in assisted projects.

Subsec. (i)(3). Pub. L. 93–383, §212(5), substituted provisions relating to availability of not less than 10 per centum of the total amount of contracts for assistance payments, for provisions relating to contracts for not more than 10 per centum of the total amount of interest reduction payments.

Subsec. (i)(4). Pub. L. 93–383, §212(5), added par. (4).

Subsec. (n). Pub. L. 93–383, §212(6), substituted ''June 30, 1976'' for ''October 1, 1974''.

Subsec. (p). Pub. L. 93–383, §212(7), added subsec. (p).

1973—Subsec. (n). 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. (n). Pub. L. 92–503 substituted ''June 30, 1973'' for ''October 1, 1972''.

1970—Subsec. (b). Pub. L. 91–609, §§108, 118(a), inserted definition of ''mortgage insurance premium'' 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. (g). Pub. L. 91–609, §117(c), provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Subsec. (i)(1). Pub. L. 91–609, §§102(b), 121(b), in second sentence inserted ''outstanding'' before ''contracts'' where first appearing and substituted ''$150,000,000 on July 1, 1970'' and ''$200,000,000 on July 1, 1971'' for ''$125,000,000 on July 1, 1970'' and ''$170,000,000 on July 1, 1971'', respectively, and in first sentence inserted ''by the Secretary'' after ''entered into''.

Subsec. (i)(3). Pub. L. 91–609, §114[115](b)(2), added par. (3).

Subsec. (j)(5). Pub. L. 91–609, §§114(b), 114[115](b)(1), provided for use of certain housing facilities for classroom purposes where public schools in the community are overcrowded due in part to attendance of residents of the property or project, but dispensed with need for kitchen facilities in dwelling units in projects for displaced, elderly, or handicapped families.

Subsec. (n). Pub. L. 91–609, §101(e), substituted ''October 1, 1972'' for ''October 1, 1971''.

Subsec. *(o)*. Pub. L. 91–609, §121(a), added subsec. (*o*). See Codification note above.

1969—Subsec. (b). Pub. L. 91–152, §§108, 418(b), inserted proviso authorizing the Secretary to continue making interest reduction payments where the mortgage has been assigned to him, and inserted ''mortgage or part thereof on a'' after ''with respect to a''.

Subsec. (i)(1). Pub. L. 91–152, §107(b), substituted ''$125,000,000 on July 1, 1969, by $125,000,000 on July 1, 1970, and by $170,000,000 on July 1, 1971'' for ''$100,000,000 on July 1, 1969, and by $125,000,000 on July 1, 1970''.

Subsec. (i)(2). Pub. L. 91–152, §412(c), required the Secretary to report semiannually instead of annually to the respective Committees on Banking and Currency of the Senate and House of Representatives.

Subsec. (n). Pub. L. 91–152, §101(e), added subsec. (n).

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

Amendment by section 203(b) of Pub. L. 96–153 effective Dec. 21, 1979, and maximum amount of tenant contribution applicable, see section 203(c) of Pub. L. 96–153, set out as a note under section 1701s of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 201(k), formerly (i), of Pub. L. 95–557, as redesignated by Pub. L. 97–35, title III, § 321(f)(2)(A), Aug. 13, 1981, 95 Stat. 400, provided that the amendment made by that section is effective Oct. 1, 1978.

EFFECTIVE DATE OF 1977 AMENDMENT; APPLICABILITY

Section 206(d) of Pub. L. 95–128 provided that: ''The amendments made by this section [amending this section] shall become effective on October 1, 1977, and shall apply to assistance payments pursuant to section 236(f)(3) of the National Housing Act [subsec. (f)(3) of this section] with respect only to periods commencing on or after such date.''

RENTAL HOUSING ASSISTANCE; EXTENSION OF TIME WITHIN WHICH TO SUBMIT APPLICATION

Pub. L. 101–45, title II, June 30, 1989, 103 Stat. 127, provided: ''That notwithstanding the second sentence of such section 236(r) [12 U.S.C. 1715z–1(r)], an application shall be eligible for assistance under such section if the mortgagee submits an application within five hundred and forty-eight days after the effective date of this Act [June 30, 1989].''

DIRECT FINANCING STUDY BY SECRETARY OF HOUSING AND URBAN DEVELOPMENT AND SECRETARY OF TREASURY; REPORT TO CONGRESS; TRANSMITTAL NOT LATER THAN ONE YEAR AFTER AUGUST 22, 1974

Section 822 of Pub. L. 93–383 directed Secretary of Housing and Urban Development and Secretary of the Treasury to study feasibility of financing programs authorized under section 236 of the National Housing Act [this section] and section 802 of this Act [42 U.S.C. 1440] through various financing methods, including direct loans from Federal Financing Bank, with a view to determining whether there was any method that would result in net savings to Federal Government (after taking into account direct and indirect effects of such method) and to transmit to Congress a report on study not later than one year after Aug. 22, 1974.

TRANSFER OF INSURANCE OF MORTGAGES NOT FINALLY ENDORSED FOR INSURANCE UNDER SECTION 1715*l*(d)(3) OF THIS TITLE

Section 201(c) of Pub. L. 90–448 provided that: ''The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to transfer to section 236(j) of the National Housing Act [subsec. (j) of this section] the insurance of a mortgage which has not be [sic] finally endorsed for insurance under section 221(d)(3) of such Act [section 1715*l*(d)(3) of this title] and which has been approved for the below-market interest rate prescribed in the proviso of section 221(d)(5) of such Act [section 1715*l*(d)(5) of this title].''

INSURANCE OF MORTGAGES GIVEN TO REFINANCE MORTGAGE LOANS MADE UNDER SECTION 1701q OF THIS TITLE

Section 201(d) of Pub. L. 90–448 provided that: ''The Secretary of Housing and Urban Development is authorized, upon such terms and conditions as he may prescribe, to insure under section 236(j) of the National Housing Act [subsec. (j) of this section] a mortgage meeting the requirements of such section which is given to refinance a mortgage loan made under section 202 of the Housing Act of 1959 [section 1701q of this title]: *Provided*, That the application for such insurance is filed with the Secretary on or before the date of project completion, or within such reasonable time thereafter as the Secretary may permit.''

CEILING ON TOTAL INTEREST REDUCTION PAYMENTS IN ANY FISCAL YEAR

Pub. L. 90–608, ch. IV, § 401, Oct. 21, 1968, 82 Stat. 1193, provided in part that the total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act [this section] shall not exceed $25,000,000.

Pub. L. 91–47, title II, § 201, July 22, 1969, 83 Stat. 53, increased by $45,000,000 the limitation on total payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (82 Stat. 498) [this section].

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701s, 1701u, 1701z–11, 1715c, 1715r, 1715z, 1715z–1, 1715z–1a, 1715z–2, 1715z–3, 1715z–6, 1715z–9, 1715z–19, 1717, 1735c, 4109, 4119 of this title; title 26 sections 32, 42, 1250; title 31 section 1305; title 42 sections 1436a, 1436b, 1490c, 2982c, 4851b, 8011, 8231, 11905, 13641.

§ 1715z–1a. Assistance for troubled multifamily housing projects

(a) Purpose

The purposes of this section are to provide assistance to restore or maintain the financial soundness, to assist in the improvement of the management, to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing, and to maintain the low- to moderate-income character of certain projects assisted or approved for assistance under the National Housing Act [12 U.S.C. 1701 et seq.], the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the Housing Act of 1959, or the Housing and Urban Development Act of 1965, without regard to whether such projects are insured under the National Housing Act.

(b) Availability of financial assistance

The Secretary of Housing and Urban Development (hereinafter referred to in this section as the ''Secretary'') may make available, and contract to make available, to such extent and in such amounts as may be approved in appropriation Acts, financial assistance to owners of rental or cooperative housing projects meeting the requirements of this section. Such assistance shall be made on an annual basis and in accordance with the provisions of this section, without regard to whether such projects are insured under the National Housing Act [12 U.S.C. 1701 et seq.].

(c) Eligibility for financial assistance

A rental or cooperative housing project is eligible for assistance under this section only if such project—

(1)(A) is assisted under section 236 [12 U.S.C. 1715z–1] or the proviso of section 221(d)(5) of the National Housing Act [12 U.S.C. 1715*l*(d)(5)], or under section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], or received a loan under section 202 of the Housing Act of 1959 [12 U.S.C. 1701q] more than 15 years before the date on which assistance is made available under this section;

(B) is assisted under section 23 of the United States Housing Act of 1937 [42 U.S.C. 1421b], as in effect immediately before January 1, 1975, section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f] following conversion to such assistance from assistance under section 236 of the National Housing Act [12 U.S.C. 1715z–1] or section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s]; or

(C) met the criteria specified in subparagraph (A) of this paragraph before the acquisition of such project by the Secretary and has been sold by the Secretary, subject to a mortgage insured or held by the Secretary and subject to an agreement (in effect during the period of assistance under this section) which provides that the low- and moderate-income character of the project will be maintained; except that, with respect to projects sold after October 1, 1978, assistance shall be available for a period not to exceed three years; and

(2) meets such other requirements consistent with the purposes of this section as the Secretary may prescribe.

(d) Criteria for granting financial assistance

No assistance may be made available under this section unless the Secretary has determined that—

(1) such assistance, when considered with other resources available to the project, is necessary and, in the determination of the Secretary, will restore or maintain the financial or physical soundness of the project and maintain the low- and moderate-income character of the project, and the owner has agreed to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage;

(2) the assistance which could reasonably be expected to be provided over the useful life of the project will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could maintain the low- and moderate-income character of the project;

(3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act [12 U.S.C. 1701 et seq.], has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine;

(4) the project is or can reasonably be made structurally sound, as determined on the basis of information obtained as a result of an onsite inspection of the project;

(5) the management of the project is being conducted by persons who meet minimum levels of competency and experience prescribed by the Secretary;

(6) the project is being operated and managed in accordance with a management-improvement-and-operating plan which is designed to reduce the operating costs of the project, which has been approved by the Secretary, and which includes the following: (A) a detailed maintenance schedule; (B) a schedule for correcting past deficiencies in maintenance, repairs, and replacements; (C) a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary; (D) a plan to improve financial and management control systems; (E) a detailed annual operating budget taking into account such standards for operating costs in the area as may be determined by the Secretary; and (F) such other requirements as the Secretary may determine; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved;

(7) all reasonable attempts have been made to take all appropriate actions and provide suitable housing for project residents;

(8) the project has a feasible plan to involve the residents in project decisions;

(9) the affirmative fair housing marketing plan meets applicable requirements; and

(10) the owner certifies that it will comply with various equal opportunity statutes.

(e) Consultation with local officials

Prior to making assistance available to a project, the Secretary shall consult with the appropriate officials of the unit of local government in which such project is located and seek assurances that—

(1) the community in which the project is located is or will provide essential services to the project in keeping with the community's general level of such services;

(2) the real estate taxes on the project are or will be no greater than would be the case if the property were assessed in a manner consistent with normal property assessment procedures for the community; and

(3) assistance to the project under this section would not be inconsistent with local plans and priorities.

(f) Amount of financial assistance

(1) The Secretary may, with respect to any year, provide assistance under this section, and make commitments to provide such assistance, with respect to any project (except a project assisted only for capital improvements) in any amount which the Secretary determines is consistent with the project's management-improvement-and-operating plan described in subsection (d)(6) of this section and which does not exceed the sum of—

(A) an amount determined by the Secretary to be necessary to correct deficiencies in the project which exist at the beginning of the first year with respect to which assistance is made available for the project under this section, which were caused by the deferral of regularly scheduled maintenance and repairs or the failure to make necessary and timely replacements of equipment and other components of the project, and for which payment has not previously been made;

(B) an amount determined by the Secretary to be necessary to maintain the low- and moderate-income character of the project by reducing deficiencies, which exist at the beginning of the first year with respect to which assistance is made available for the project under this section and for which payment has not previously been made, in the reserve funds established by the project owner for the purpose of replacing capital items;

(C) an amount not greater than the amount by which the estimated operating expenses (as described in paragraph (2) of this subsection) for the year with respect to which such assistance is made available exceeds the estimated revenues to be received (as described in paragraph (2) of this subsection) by the project during such year; and

(D) an amount determined by the Secretary to be necessary to carry out a plan to upgrade the project to meet cost-effective energy efficiency standards prescribed by the Secretary.

(2) The estimated revenues for any project under paragraph (1)(C) of this subsection with respect to any year shall be equal to the sum of—

(A) the estimated amount of rent which is to be expended by the tenants of such project during such year, as determined by the Secretary without regard to section 236(f)(1) of the National Housing Act [12 U.S.C. 1715z–1(f)(1)];

(B) the estimated amount of rental assistance payments to be made on behalf of such tenants during such year, other than assistance made under this section;

(C) the estimated amount of assistance payments to be made on behalf of the owner of such project under section 221(d)(5) or section 236 of the National Housing Act [12 U.S.C. 1715*l*(d)(5) or 1715z–1] during such year; and

(D) other income attributable to the project as determined by the Secretary;

except that—

(E) in computing the estimated amount of rent to be expended by tenants, the Secretary shall provide that (i) at least 25 percent (or such lesser percentage as is provided for under any other Federal housing assistance program in which such tenant is participating) of the income of each such tenant is included, or (ii) in the case of a tenant paying his or her own utilities, a percentage of income which is less than 25 percent and which takes into account the reasonable costs of such utilities; except that no amount shall be provided for any tenant under clause (i) or (ii) which exceeds the fair market rental charge as determined pursuant to section 236(f)(1) of the National Housing Act [12 U.S.C. 1715z–1(f)(1)] for such tenant; and

(F) in computing the estimated amount of rent to be expended by tenants and the estimated amount of rental assistance payments to be made on behalf of such tenants, the Secretary may permit a delinquency-and-vacancy allowance of not more than 6 per centum of the estimated amount of such rent and payments computed without regard to such allowance; except that, with respect to the first three years in which assistance is provided to a project under this section, the Secretary may permit such allowance for such project to exceed such 6 percent by an amount which the Secretary determines is appropriate to carry out the purposes of this section.

For purposes of computing estimated operating expenses of any such project with respect to any year, the Secretary shall include all estimated operating costs which the Secretary determines to be necessary and consistent with the management-improvement-and-operating plan for the project for such year, including, but not limited to, taxes, utilities, maintenance and repairs (except for maintenance and repairs which should have been performed in previous years), management, insurance, debt service, and payments made by the owner for the purpose of establishing or maintaining a reserve fund for replacement costs. The Secretary may not include in such estimated operating expenses any return on the equity investment of the owner in such project.

(3) In order to carry out the purposes of this section, the Secretary may, notwithstanding the provisions of section 236(f)(1) of the National Housing Act [12 U.S.C. 1715z–1(f)(1)], provide that, for purposes of establishing a rental charge under such section, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments made for the project under this section.

(4) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals, but at least quarterly, as the Secretary may determine, and may be in any amount (which the Secretary determines to be consistent with the purpose of this section), except that the sum of such assistance payments for any year for a project (other than a project receiving assistance only for capital improvements) may not exceed the amount computed pursuant to paragraph (1) of this subsection. The Secretary shall review the operations of the project at the time of such payments to determine that such operations are consistent with the management-improvement-and-operating plan.

(g) Rules and regulations

The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including regulations requiring the establishment of a project reserve or such other safeguards as the Secretary determines to be necessary for the financial soundness of any project for which assistance payments are provided, to the extent applicable.

(h) Limitation on use of financial assistance

The Secretary may not use any of the assistance available under this section during any fiscal year beginning on or after October 1, 1981, to supplement any contract to make rental assistance payments which was made pursuant to section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s].

(i) Repealed. Pub. L. 103–233, title I, §103(b)(1), Apr. 11, 1994, 108 Stat. 359

(j) Flexible Subsidy Fund

(1) For purposes of carrying out the provisions of this section, there is hereby established in the Treasury of the United States a revolving fund, to be known as the Flexible Subsidy Fund. The Fund shall, to the extent approved in appropriation Acts, be available to the Secretary to provide assistance under this section (including assistance for capital improvements) and shall not (except as provided in Public Law 100–4–4[1] (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose.

(2) The Fund shall consist of (A) any amount appropriated to carry out the purposes of this section; (B) any amount repaid on any assistance provided under this section; (C) any amounts credited to the reserve fund described in section 236(g) of the National Housing Act [12 U.S.C. 1715z–1(g)]; (D) any other amount received by the Secretary under this section (including any amount realized under paragraph (3)),[2] and (E) any amount received by the Secretary pursuant to section 537 of the National Housing Act [12 U.S.C. 1735f–15] and section 202a of the Housing Act of 1959 [12 U.S.C. 1701q–1].

(3) Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this section shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

(4) The Secretary shall, to the extent of approvable applications and subject to paragraph (1), use not less than $30,000,000 or 40 percent (whichever is less) of the amounts available from the Fund in any fiscal year for purposes of providing assistance for capital improvements in accordance with this section. Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.

(5) There is authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $52,200,000 for fiscal year 1993 and $54,392,400 for fiscal year 1994.

(k) Assistance for capital improvements; loans as medium of assistance; owner contributions; priority of projects

(1) Assistance for capital improvements under this section shall include assistance for any major repair or replacement of a capital item in a multifamily housing project, including any such repair or replacement required as a result of deferred or inadequate maintenance. Capital improvements do not include maintenance of any such item. Assistance for capital improvements under this section shall be in the form of a loan.

(2) The owner of a project receiving assistance for capital improvements shall agree to contribute assistance to such project in such amounts, from such sources, and in such manner as the Secretary determines to be appropriate.

(3) The Secretary may provide assistance for capital improvements under this section if the Secretary finds that the reserve funds established by the owner of a project for the purpose of making capital improvements are insufficient to finance both the capital improvements for which such assistance is to be used and other capital improvements that are reasonably expected to be required in the near future, and such insufficiency is not the result of the failure of such owner to comply with any standard established by the Secretary for management of such reserve funds.

(*l*) Amount of assistance for capital improvements; term of loan; rate of interest; allowance for administrative costs and probable program losses; nondischargeable liability; other forms for loans

(1) The principal amount of any assistance for capital improvements under this section that is provided to the owner of a project shall not exceed the difference between the contribution made by the owner in accordance with subsection (k)(2) of this section and the sum of—

(A) the amount determined by the Secretary to be necessary for such owner to make capital improvements with respect to capital items that have failed, or are likely to deteriorate seriously or fail in the near future, in such projects;

(B) the amount determined by the Secretary to be necessary to carry out a plan to upgrade the capital items being improved, and any other capital items determined by the Secretary to be associated with such capital items being improved and to require upgrading, to meet cost-effective energy efficiency standards prescribed by the Secretary; and

(C) the amount determined by the Secretary to be necessary to comply with the requirements of section 794 of title 29.

(2)(A) The term of any assistance for capital improvements in the form of a loan under this section shall not exceed the remaining term of the mortgage of the project with respect to which such loan is provided.

(B) Each loan for capital improvements provided under this section shall bear interest at a rate determined by the Secretary to be appropriate, except that—

(i) such rate shall not be more than 3 percentage points below 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 date on which the loan is made, adjusted to the nearest 1/8 of 1 percent, plus an allowance adequate in the judgment of the Secretary of Housing and Urban Development to cover administrative costs and probable losses under the program; and

(ii) such interest rate plus such allowance shall not exceed 6 percent per annum nor be less than 3 percent per annum.

(C) Each loan for capital improvements provided under this section shall be considered to be a liability of the project involved, and shall

[1] See References in Text note below.

[2] So in original. The comma probably should be a semicolon.

not be dischargeable in any bankruptcy proceeding under section 727, 1141, or 1328(b) of title 11.

(D) The Secretary may establish such additional conditions on loans provided under this section as the Secretary determines to be appropriate. The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term ''remaining useful life'' means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.

(E) The Secretary may provide more than one loan or assistance in any other form to any project under this section, if each loan or other assistance complies with the provisions of this section.

(m) Rental payment increases; minimization of increases

(1) Increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project subject to a plan of action approved under subtitle B of the Emergency Low Income Housing Preservation Act of 1987 shall be governed by the rent agreements entered into under such subtitle.

(2) In order to minimize any increases in rental payments that may occur as a result of the debt service and other expenses of a loan for capital improvements provided under this section for a project and that would be incurred by lower income residents of the project involved whose rental payments are, or would as a result of such expenses be, in excess of the amount allowable if section 3(a) of the United States Housing Act of 1937 [42 U.S.C. 1437a(a)] were applicable to such residents, or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987, the Secretary may take any or all of the following actions:

(A) Provide assistance with respect to such project under section 8(b)(1) of the United States Housing Act of 1937 [42 U.S.C. 1437f(b)(1)], to the extent amounts are available for such assistance and without regard to section 16 of such Act [42 U.S.C. 1437n].

(B) Notwithstanding subsection (*l*)(2)(B) of this section, reduce the rate of interest charged on such loan to a rate of not less than 1 percent.

(C) Increase the term of such loan to a term that does not exceed the remaining term of the mortgage on such project.

(D) Increase the amount of assistance to be provided by the owner of such project under subsection (k)(2) of this section, if applicable, to an amount not to exceed 30 percent of the total estimated cost of the capital improvements involved.

(E) Permit repayment of the debt service to be deferred as long as the low and moderate income character of the project is maintained in accordance with subsection (d) of this section.

(n) Allocation of assistance

(1) Set-aside

In providing, and contracting to provide, assistance for capital improvements under this section, in each fiscal year the Secretary shall set aside an amount, as determined by the Secretary, for projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987, as such section existed before November 28, 1990. The Secretary may make such assistance available on a noncompetitive basis.

(2) General rules for allocation

Except as provided in paragraph (3), with respect to assistance under this section not set aside for projects under paragraph (1), the Secretary—

(A) may award assistance on a noncompetitive basis; and

(B) shall award assistance to eligible projects on the basis of—

(i) the extent to which the project is physically or financially troubled, as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992; and

(ii) the extent to which such assistance is necessary and reasonable to prevent the default of federally insured mortgages.

(3) Exceptions

The Secretary may make exceptions to selection criteria set forth in paragraph (2)(B) to permit the provision of assistance to eligible projects based upon—

(A) the extent to which such assistance is necessary to prevent the imminent foreclosure or default of a project whose owner has not submitted a comprehensive needs assessment pursuant to title IV of the Housing and Community Development Act of 1992;

(B) the extent to which the project presents an imminent threat to the life, health, and safety of project residents; or

(C) such other criteria as the Secretary may specify by regulation or by notice printed in the Federal Register.

(4) Considerations

In providing assistance under this section, the Secretary shall take into consideration—

(A) the extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management corporation, as appropriate) to be involved in the management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives); and

(B) the extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative requirements.

(*o*) Coordination of assistance

The Secretary shall coordinate the allocation of assistance under this section with assistance

made available under section 8(v) of the United States Housing Act of 1937 [42 U.S.C. 1437f(v)] and section 1701z–11 of this title to enhance the cost effectiveness of the Federal response to troubled multifamily housing.

(Pub. L. 95–557, title II, §201, Oct. 31, 1978, 92 Stat. 2084; Pub. L. 96–153, title II, §§205(a), 211(c), Dec. 21, 1979, 93 Stat. 1108, 1110; Pub. L. 96–399, title II, §204(a), Oct. 8, 1980, 94 Stat. 1629; Pub. L. 97–35, title III, §§321(f)(1), (2), 329C, Aug. 13, 1981, 95 Stat. 399, 400, 409; Pub. L. 98–181, title II, §217(a), (b), Nov. 30, 1983, 97 Stat. 1186; Pub. L. 98–479, title II, §204(n)(1), (2), Oct. 17, 1984, 98 Stat. 2234; Pub. L. 100–242, title I, §§185, 186(b), Feb. 5, 1988, 101 Stat. 1873, 1877; Pub. L. 100–628, title X, §1011(a), Nov. 7, 1988, 102 Stat. 3268; Pub. L. 101–235, title I, §109(c), title II, §203(a)(2), Dec. 15, 1989, 103 Stat. 2011, 2037; Pub. L. 101–625, title V, §578(b), (c), Nov. 28, 1990, 104 Stat. 4244, 4245; Pub. L. 102–550, title IV, §§405, 406, 408(a), Oct. 28, 1992, 106 Stat. 3776, 3778; Pub. L. 103–233, title I, §103(b), Apr. 11, 1994, 108 Stat. 359.)

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in subsecs. (a), (b), (c)(1)(A), and (d)(3), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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 United States Housing Act of 1937, referred to in subsec. (a), 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.

The Housing Act of 1959, referred to in subsec. (a), is Pub. L. 86–372, Sept. 23, 1959, 73 Stat. 654, as amended. 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 Urban Development Act of 1965, as amended, referred to in subsecs. (a), (c)(1)(A), (B), and (h), is Pub. L. 89–117, Aug. 10, 1965, 79 Stat. 451, as amended. Section 101 of the Act enacted section 1701s of this title and amended sections 1451 and 1465 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title of 1965 Amendment note set out under section 1701 of this title and Tables.

Section 23 of the United States Housing Act of 1937, referred to in subsec. (c)(1)(B), was classified to section 1421b of Title 42 and was omitted in 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.

Public Law 100–4–4 (102 Stat. 1018), referred to in subsec. (j)(1), probably means Pub. L. 100–404, Aug. 19, 1988, 102 Stat. 1014, known as the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989. Provisions appearing on 102 Stat. 1018 of Pub. L. 100–404 relating to transfer of funds from the ''Flexible subsidy fund'' for carrying out community development grants programs are not classified to the Code.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsecs. (m) and (n)(1), 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. Section 224(b) and subtitle B of title II, which were formerly set out as a note under section 1715*l* of this title and which amended section 1715z–6 of this title, were amended generally by Pub. L. 101–625 on Nov. 28, 1990, and are classified generally to subchapter I (§4101 et seq.) of chapter 42 of this title. For provisions similar to those contained in former section 224(b), see section 4109(b) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

The Housing and Community Development Act of 1992, referred to in subsec. (n)(2)(B)(i), (3)(A), is Pub. L. 102–550, Oct. 28, 1992, 106 Stat. 3672. Title IV of the Act amended this section, section 1715z–1 of this title, and section 12710 of Title 42, The Public Health and Welfare, and enacted provisions set out as a note below. 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.

CODIFICATION

Another subsec. (k) of section 201 of Pub. L. 95–557 amended section 1715z–1 of this title.

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

1994—Subsec. (i). Pub. L. 103–233, §103(b)(1), struck out subsec. (i) which read as follows: ''Notwithstanding any other provision of law, in exercising any authority relating to the approval or disapproval of rentals charged tenants residing in projects which are eligible for assistance under this section, the Secretary—

''(1) shall consider whether the mortgagor could control increases in utility costs by securing more favorable utility rates, by undertaking energy conservation measures which are financially feasible and cost effective, or by taking other financially feasible and cost-effective actions to increase energy efficiency or to reduce energy consumption; and

''(2) may, in his discretion, adjust the amount of a proposed rental increase where he finds the mortgagor could exercise such control.''

Subsec. (k)(2). Pub. L. 103–233, §103(b)(2), substituted a period for '', except that—

''(A) such contribution shall not be less than 20 percent of the total estimated cost of the capital improvements involved, unless the Secretary, upon application of the owner, determines that such contribution is financially infeasible and waives or reduces such contribution to the extent necessary;

''(B) the Secretary may not require an amount to be contributed, from the reserve funds established by the owner of such projects for the purpose of making capital improvements, in excess of 50 percent of the amount of such reserve funds on the date of such loan;

''(C) The Secretary shall waive the requirements of this paragraph if such owner is a private nonprofit corporation or an association; and

''(D) the Secretary shall give owners credit for advances made to the project during a 3-year period prior to the application for assistance.''

Subsec. (n). Pub. L. 103–233, §103(b)(3), amended subsec. (n) generally. Prior to amendment, subsec. (n) read as follows:

''(n)(1) The Secretary shall award assistance under this section to eligible projects on the basis of the following selection criteria:

''(A) The extent to which the project presents an imminent threat to the life, health, and safety of project residents.

''(B) The extent to which the project is financially troubled.

''(C) The extent of physical improvements needed by the project as evidenced by the comprehensive needs assessment submitted in accordance with title IV of the Housing and Community Development Act of 1992.

''(D) The extent to which there is evidence that there will be significant opportunities for residents (including a resident council or resident management

corporation, as appropriate) to be involved in management of the project (except that this paragraph shall have no application to projects that are owned as cooperatives).

''(E) The extent to which there is evidence that the project owner has provided competent management and complied with all regulatory and administrative instructions (including such instructions with respect to the comprehensive servicing of multifamily projects as the Secretary may issue).

''(F) Such other criteria as the Secretary may specify by regulation or in a Federal Register notice of fund availability.

''(2) Eligible projects that have federally insured mortgages in force are to be selected for award of assistance under this section before any other eligible project.''

Subsecs. (*o*), (p). Pub. L. 103–233, § 103(b)(4) redesignated subsec. (p) as (*o*) and struck out former subsec. (*o*) which read as follows: ''Projects receiving assistance under this section are not eligible for prepayment incentives under the Emergency Low-Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Projects receiving financial assistance under such Acts are not eligible for assistance under this section.''

1992—Subsec. (d)(5). Pub. L. 102–550, § 405(a)(1), struck out ''and'' at end.

Subsec. (d)(6). Pub. L. 102–550, § 406, which directed insertion, before period at end, of ''; and except that the Secretary shall review and approve or disapprove each plan not later than the expiration of the 30-day period beginning upon the date of submission of the plan to the Secretary by the owner, but if the Secretary fails to inform the owner of approval or disapproval of the plan within such period the plan shall be considered to have been approved'', was executed by making the insertion before the concluding semicolon to reflect the probable intent of Congress and the intervening amendment by Pub. L. 102–550, § 405(a)(2). See below.

Pub. L. 102–550, § 405(a)(2), substituted semicolon for period at end.

Subsec. (d)(7) to (10). Pub. L. 102–550, § 405(a)(3), added pars. (7) to (10).

Subsec. (j)(5). Pub. L. 102–550, § 408(a), amended par. (5) generally. Prior to amendment, par. (5) read as follows: ''There are authorized to be appropriated for assistance under the flexible subsidy fund not to exceed $50,000,000 for fiscal year 1991 and $52,200,000 for fiscal year 1992.''

Subsec. (k)(2)(D). Pub. L. 102–550, § 405(e), added subpar. (D).

Subsec. (k)(4). Pub. L. 102–550, § 405(b)(1), struck out par. (4) which read as follows: ''In providing, and contracting to provide, assistance for capital improvements under this section, the Secretary shall—

''(A) give priority to projects that are eligible for incentives under section 224(b) of the Emergency Low Income Housing Preservation Act of 1987; and

''(B) with respect to any amounts not required for projects under subparagraph (A), give priority among other projects based on the extent to which—

''(i) the capital improvements for which such assistance is requested are immediately required;

''(ii) the projects serve as the residences of lower income families, and the extent which other suitable housing is unavailable for such families in the areas in which such projects are located;

''(iii) the capital improvements for which such assistance is requested involve the life, safety, or health of the residents of the project or involve major capital improvements in the projects; and

''(iv) the projects demonstrate the greatest financial distress, while continuing to meet the requirements of subsection (d)(1) of this section.''

Subsec. (*l*)(2)(D). Pub. L. 102–550, § 405(c), inserted at end ''The Secretary may require owners receiving assistance for capital improvements under this section to retain the housing as housing affordable for very low-income families or persons, low-income families or persons and moderate-income families or persons for the remaining useful life of the housing. For purposes of this section, the term 'remaining useful life' means, with respect to housing assisted under this section, the period during which the physical characteristics of the housing remain in a condition suitable for occupancy, assuming normal maintenance and repairs are made and major systems and capital components are replaced as becomes necessary.''

Subsec. (n). Pub. L. 102–550, § 405(b)(2), added subsec. (n).

Subsec. (*o*). Pub. L. 102–550, § 405(d), added subsec. (*o*).

Subsec. (p). Pub. L. 102–550, § 405(f), added subsec. (p).

1990—Subsec. (j)(1). Pub. L. 101–625, § 578(c), inserted before period at end ''and shall not (except as provided in Public Law 100–4–4 (102 Stat. 1018), as in effect on October 1, 1988) be made available for any other purpose''.

Subsec. (j)(5). Pub. L. 101–625, § 578(b), added par. (5).

1989—Subsec. (j)(2). Pub. L. 101–235, § 109(c), added cl. (E).

Subsec. (m)(2). Pub. L. 101–235, § 203(a)(2)(B)(i), (ii), struck out ''not subject to paragraph (1)'' after ''for a project'' and inserted '', or where appropriate to implement a plan of action under subtitle B of the Emergency Low Income Housing Preservation Act of 1987'' after second reference to ''residents''.

Subsec. (m)(2)(B). Pub. L. 101–235, § 203(a)(2)(A), substituted ''Notwithstanding subsection (*l*)(2)(B) of this section, reduce'' for ''Reduce''.

Subsec. (m)(2)(E). Pub. L. 101–235, § 203(a)(2)(B)(iii), added subpar. (E).

1988—Pub. L. 100–242, § 185(h), struck out ''Operating'' before ''assistance'' in section catchline.

Subsec. (a). Pub. L. 100–242, § 185(a), inserted ''to permit capital improvements to be made to maintain certain projects as decent, safe, and sanitary housing,'' after ''management,''.

Pub. L. 100–242, § 186(b)(1), inserted reference to Housing Act of 1959.

Subsec. (c)(1)(A). Pub. L. 100–242, § 186(b)(2), inserted before semicolon at end '', or received a loan under section 202 of the Housing Act of 1959 more than 15 years before the date on which assistance is made available under this section''.

Subsec. (c)(1)(B). Pub. L. 100–242, § 185(b), inserted ''section 23 of the United States Housing Act of 1937, as in effect immediately before January 1, 1975,'' after ''is assisted under''.

Subsec. (d)(1). Pub. L. 100–242, § 185(c)(1), inserted ''or physical'' after ''maintain the financial''.

Subsec. (d)(6). Pub. L. 100–242, § 185(c)(2), inserted at end ''; except that the Secretary may excuse an owner from compliance with the plan requirement set forth in this paragraph in any case in which such owner seeks only assistance for capital improvements under this section''.

Subsec. (f)(1). Pub. L. 100–242, § 185(d)(1), inserted parenthetical exception relating to projects assisted only for capital improvements.

Subsec. (f)(4). Pub. L. 100–242, § 185(d)(2), substituted ''payments for any year for a project (other than a project receiving assistance only for capital improvements) may not exceed'' for ''payments for any year may not exceed''.

Subsec. (g). Pub. L. 100–242, § 185(e), inserted '', to the extent applicable'' after ''provided''.

Subsec. (j). Pub. L. 100–242, § 185(f), in amending subsec. (j) generally, substituted provisions relating to the establishment, contents, and use of a revolving fund to be known as the Flexible Subsidy Fund, for provisions authorizing appropriations under this section for fiscal years 1979 through 1982.

Subsec. (j)(4). Pub. L. 100–628 substituted ''shall, to the extent of approvable applications and subject to paragraph (1), use not less than $30,000,000 or 40 percent (whichever is less) of the amounts available'' for ''may use not more than $50,000,000''; and inserted at end ''Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.''

Subsecs. (k) to (m). Pub. L. 100–242, §185(g), added subsecs. (k) to (m).

1984—Subsec. (c). Pub. L. 98–479, §204(n)(1), substituted ''A'' for ''a'' in provisions before subpar. (A).

Subsec. (j). Pub. L. 98–479, §204(n)(2), substituted ''section 236(f)(3)'' for ''section 236(f)(3)(B)''.

1983—Subsec. (a). Pub. L. 98–181, §217(a)(1), (b)(1), inserted ''without regard to whether such projects are insured under the National Housing Act'', and substituted '', the United States Housing Act of 1937, or'' for ''or under''.

Subsec. (b). Pub. L. 98–181, §217(a)(2), inserted '', without regard to whether such projects are insured under the National Housing Act''.

Subsec. (c)(1)(A). Pub. L. 98–181, §217(a)(3), struck out ''; except that, in the case of any such project which is not insured under the National Housing Act such assistance may not be provided before October 1, 1979'' after ''Act of 1965''.

Subsec. (c)(1)(B), (C). Pub. L. 98–181, §217(b)(2), added subpar. (B) and redesignated former subpar. (B) as (C).

1981—Subsec. (f)(1)(D). Pub. L. 97–35, §329C(1), added subpar. (D).

Subsec. (h). Pub. L. 97–35, §321(f)(2), added subsec. (h). Former subsec. (h) redesignated (j).

Subsec. (i). Pub. L. 97–35, §329C(2), added subsec. (i).

Subsec. (j). Pub. L. 97–35, §321(f)(1), (2)(A), redesignated former subsec. (h) as (j) and authorized appropriation for fiscal year 1982.

1980—Subsec. (h). Pub. L. 96–399 authorized appropriations for fiscal year 1981.

1979—Subsec. (d)(1). Pub. L. 96–153, §211(c), inserted requirement that the owner agree to maintain the low- and moderate-income character of such project for a period at least equal to the remaining term of the project mortgage.

Subsec. (h). Pub. L. 96–153, §205(a), authorized appropriations for fiscal year 1980.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 103(c) of Pub. L. 103–233 provided that:

''(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by subsections (a) and (b) [amending this section and provisions set out below] shall apply with respect to amounts made available for fiscal year 1994 and fiscal years thereafter.

''(2) EXCEPTION.—Section 201(n)(1) of the Housing and Community Development Amendments of 1978 [subsec. (n)(1) of this section] (as added by the amendment made by subsection (b)(3) of this section) shall take effect on the date of enactment of this Act [Apr. 11, 1994].

''(3) NOTICE.—The Secretary shall, by notice published in the Federal Register, establish any requirements necessary to implement the amendments made by subsections (a) and (b). The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into consideration any public comments received.''

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.

ALTERNATIVE USES FOR PREVENTION OF DEFAULT

Section 103(h) of Pub. L. 103–233 provided that:

''(1) IN GENERAL.—Subject to notice to and comment by existing tenants, to prevent the imminent default of a multifamily housing project subject to a mortgage insured under title II of the National Housing Act [12 U.S.C. 1707 et seq.], the Secretary may authorize the mortgagor to use the project for purposes not contemplated by or permitted under the regulatory agreement, if—

''(A) such other uses are acceptable to the Secretary;

''(B) such other uses would be otherwise insurable under title II of the National Housing Act;

''(C) the outstanding principal balance on the mortgage covering such project is not increased;

''(D) any financial benefit accruing to the mortgagor shall, subject to the discretion of the Secretary, be applied to project reserves or project rehabilitation; and

''(E) such other use serves a public purpose.

''(2) DISPLACEMENT PROTECTION.—The Secretary may take actions under paragraph (1) only if—

''(A) 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

''(B) the Secretary determines that sufficient habitable, affordable (as such term is defined in section 203(b) of the Housing and Community Development Amendments of 1978 [12 U.S.C. 1701z–11(b)]) rental housing is available in the market area in which the project is located to ensure use of such assistance.

''(3) IMPLEMENTATION.—The Secretary shall, by notice published in the Federal Register, which shall take effect upon publication, establish such requirements as may be necessary to implement the amendments made by this subsection. The notice shall invite public comments and, not later than 12 months after the date on which the notice is published, the Secretary shall issue final regulations based on the initial notice, taking into account any public comments received.''

MULTIFAMILY HOUSING PLANNING AND INVESTMENT STRATEGIES

Pub. L. 102–550, title IV, §§401–404, Oct. 28, 1992, 106 Stat. 3773–3775, as amended by Pub. L. 103–233, title I, §103(a)(1)–(5), Apr. 11, 1994, 108 Stat. 358, 359, provided that:

''SEC. 401. DEFINITIONS.

''For purposes of this title [amending this section, section 1715z–1 of this title and section 12710 of Title 42, The Public Health and Welfare]:

''(1) COVERED MULTIFAMILY HOUSING PROPERTY.—The term 'covered multifamily housing property' means any housing—

''(A) that is—

''(i) reserved for occupancy by very low-income elderly persons pursuant to section 202(d)(1) of the Housing Act of 1959 [12 U.S.C. 1701q(d)(1)];

''(ii) assisted under the provisions of section 202 of the Housing Act of 1959 (as such section existed before the effectiveness of the amendment made by section 801(a) of the Cranston-Gonzalez National Affordable Housing Act [Pub. L. 101–625]);

''(iii) financed by a loan or mortgage insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act [12 U.S.C. 1715z–1]; or

''(iv) financed by a loan or mortgage insured or held by the Secretary pursuant to section 221(d)(3) of the National Housing Act [12 U.S.C. 1715*l*(d)(3)]; and

''(B) that is not eligible for assistance under—

''(i) the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4101 et seq.];

''(ii) the provisions of the Emergency Low Income Housing Preservation Act of 1987 [see References in Text note above] (as in effect immediately before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [Nov. 28, 1990]); or

''(iii) the HOME Investment Partnerships Act [42 U.S.C. 12721 et seq.].

''(2) COVERED MULTIFAMILY HOUSING PROPERTY FOR THE ELDERLY.—The term 'covered multifamily housing property for the elderly' means any multifamily housing project that was designed or designated to serve, or is serving, elderly persons or families and is assisted under a program administered by the Secretary.

''(3) SECRETARY.—The term 'Secretary' means the Secretary of Housing and Urban Development.

''SEC. 402. REQUIRED SUBMISSION.

''(a) IN GENERAL.—The owner of each covered multifamily housing property, and the owner of each covered multifamily housing property for the elderly, shall submit to the Secretary of Housing and Urban Development a comprehensive needs assessment of the property under this title. The assessment shall be prepared by an entity that does not have an identity of interest with the owner.

''(b) TIMING.—To ensure that assessments for all covered multifamily housing properties will be submitted on or before the conclusion of fiscal year 1997, the Secretary shall require the owners of such properties, including covered multifamily housing properties for the elderly, to submit the assessments for the properties in accordance with the following schedule:

''(1) For fiscal year 1994, 10 percent of the aggregate number of such properties.

''(2) For each of fiscal years 1995, 1996, and 1997, an additional 30 percent of the aggregate number of such properties.

''SEC. 403. CONTENTS.

''(a) IN GENERAL.—Each comprehensive needs assessment submitted under this title for a covered multifamily housing property or a covered multifamily housing property for the elderly shall contain the following information with respect to the property:

''(1) A description of any financial or other assistance currently needed for the property to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project.

''(2) A description of any financial or other assistance for the property that, at the time of the assessment, is reasonably foreseeable as necessary to ensure that the property is maintained in a livable condition and to ensure the financial viability of the project, during the remaining useful life of the property.

''(3) A description of any resources available for meeting the current and future needs of the property described under paragraphs (1) and (2) and the likelihood of obtaining such resources.

''(4) A description of any assistance needed for the property under programs administered by the Secretary.

''(b) PROJECTS FOR THE ELDERLY.—Each comprehensive needs assessment for a covered multifamily housing property for the elderly shall include, in addition to the information required under subsection (a), the following information with respect to the property:

''(1) A description of the supportive service needs of such residents and any supportive services provided to elderly residents of the property.

''(2) A description of any modernization needs and activities for the property.

''(3) A description of any personnel needs for the property.

''SEC. 404. SUBMISSION AND REVIEW.

''(a) FORM.—The Secretary shall establish the form and manner of submission of the comprehensive needs assessments under this title.

''(b) RESIDENT REVIEW.—The Secretary shall require each owner of a covered multifamily housing property and each owner of a covered multifamily housing property for the elderly to make available to the residents of the property the comprehensive needs assessment that is to be submitted to the Secretary. The Secretary shall require each owner to provide for such residents to submit comments and opinions regarding the assessment to the owner before the submission of the assessment.

''(c) STATE HOUSING FINANCE AGENCY REVIEW.—To the extent that a covered multifamily housing property or a covered multifamily housing property for the elderly is financed or assisted by a State housing finance agency (as such term is defined in section 802 of the Housing and Community Development Act of 1974 [42 U.S.C. 1440]), the Secretary shall require the owner of the property to submit the comprehensive needs assessment for the property to the State housing finance agency upon submitting the assessment to the Secretary.

''(d) REVIEW.—

''(1) IN GENERAL.—The Secretary shall review each comprehensive needs assessment for completeness and adequacy before the expiration of the 90-day period beginning on the receipt of the assessment and shall notify the owner of the property for which the assessment was submitted of the findings of such review.

''(2) INCOMPLETE OR INADEQUATE ASSESSMENTS.—If the Secretary determines that the assessment is substantially incomplete or inadequate, the Secretary shall—

''(A) notify the owner of the portion or portions of the assessment requiring completion or other revision; and

''(B) require the owner to submit an amended assessment to the Secretary not later than 30 days after such notification.

''(e) COST OF PREPARATION OF STRATEGY.—The Secretary shall consider any costs relating to preparing a comprehensive needs assessment under this title for a covered multifamily housing property that do not exceed $5,000 for the property as an eligible project expense for the property. The Secretary shall provide that an owner may not increase the rental charge for any unit in a covered multifamily housing property to provide for the cost of preparing a comprehensive needs assessment.

''(f) PUBLICATION OF METHOD FOR RECEIVING CAPITAL NEEDS ASSESSMENT.—The Secretary shall cause to be published in the Federal Register the method by which the Secretary determines which capital needs assessments will be received each year in accordance with section 402(b) and subsection (d) of this section.

''(g) ANNUAL REVIEW AND REPORT OF FUNDING AND TARGETING FOR COVERED MULTIFAMILY PROPERTIES FOR THE ELDERLY.—

''(1) REVIEW.—The Secretary shall annually conduct a comprehensive review of—

''(A) the funding levels required to fully address the needs of covered multifamily housing properties for the elderly identified in the comprehensive needs assessments under section 403(b), specifically identifying any expenses necessary to make substantial repairs and add features (such as congregate dining facilities and commercial kitchens) resulting from development of a property in compliance with cost-containment requirements established by the Secretary;

''(B) the adequacy of the geographic targeting of resources provided under programs of the Department with respect to covered multifamily housing properties for the elderly, based on information acquired pursuant to section 403(b); and

''(C) local housing markets throughout the United States, with respect to the need, availability, and cost of housing for elderly persons and families, which shall include review of any information and plans relating to housing for elderly persons and families included in comprehensive housing affordability strategies submitted by jurisdictions pursuant to section 105 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12705].

''(2) REPORT.—The Secretary of Housing and Urban Development shall submit a report to the Congress annually describing the results of the annual comprehensive needs assessments under section 402 for covered multifamily housing properties for the elderly and the annual review conducted under paragraph (1) of this subsection, which shall contain a description of the methods used by project owners and by the Secretary to acquire the information described in

section 402(b) and any findings and recommendations of the Secretary pursuant to the review.''

FUNDING OF MULTIFAMILY HOUSING PROJECTS; OPERATING, CAPITAL IMPROVEMENT AND LOAN MANAGEMENT ASSISTANCE; AMOUNTS

Pub. L. 102–550, title IV, § 409, as added by Pub. L. 103–233, title I, § 103(a)(6), Apr. 11, 1994, 108 Stat. 359, provided that:

''(a) ALLOCATION OF ASSISTANCE.—Based upon needs identified in comprehensive needs assessments, and subject to otherwise applicable program requirements, including selection criteria, the Secretary may allocate the following assistance to owners of covered multifamily housing projects and may provide such assistance on a noncompetitive basis:

''(1) Operating assistance and capital improvement assistance for troubled multifamily housing projects pursuant to section 201 of the Housing and Community Development Amendments of 1978 [Pub. L. 95–557, enacting this section, amending section 1715z–1 of this title, and enacting provisions set out as a note under section 1715z–1 of this title], except for assistance set aside under section 201(n)(1) [subsec. (n)(1) of this section].

''(2) Loan management assistance available pursuant to section 8 of the United States Housing Act of 1937 [42 U.S.C. 1437f].

''(b) OPERATING ASSISTANCE AND CAPITAL IMPROVEMENT ASSISTANCE.—In providing assistance under subsection (a) the Secretary shall use the selection criteria set forth in section 201(n) of the Housing and Community Development Amendments of 1978.

''(c) AMOUNT OF ASSISTANCE.—The Secretary may fund all or only a portion of the needs identified in the capital needs assessment of an owner selected to receive assistance under this section.''

CAPITAL ASSESSMENT STUDY

Section 204(c) of Pub. L. 101–235, as amended by Pub. L. 101–625, title V, § 583, Nov. 28, 1990, 104 Stat. 4249, directed Secretary of Housing and Urban Development to conduct a study to determine physical renovation needs of Nation's federally-assisted multifamily housing inventory that is distressed, to estimate cost of correcting deficiencies and subsequently maintaining that inventory in adequate physical condition, and to establish criteria to determine what housing qualifies as distressed, with such criteria to include factors such as serious deficiencies in original design, deferred maintenance, physical deterioration or obsolescence of major systems and other serious deficiencies in physical plant of a project, such study to examine and assess adequacy of existing tools that are available to the Secretary for modernization efforts including mortgage insurance for rehabilitation loans, operating assistance and capital improvement loans under the Flexible Subsidy Program, with a detailed examination and assessment of Flexible Subsidy Program required, and rental assistance, and not later than Mar. 1, 1992, to submit to Congress a detailed report setting forth findings as a result of the study.

NATIONAL COMMISSION ON SEVERELY DISTRESSED PUBLIC HOUSING

Title V of Pub. L. 101–235, as amended by Pub. L. 102–550, title I, § 127(a), Oct. 28, 1992, 106 Stat. 3710, established a National Commission on Severely Distressed Public Housing to identify those public housing projects in the Nation that are in a severe state of distress, to assess most promising strategies to improve condition of severely distressed public housing projects that have been implemented by public housing authorities, other Government agencies at Federal, State and local level, public housing tenants, and private sector, and to develop national action plan to eliminate by year 2000 unfit living conditions in public housing projects determined by Commission to be most severely distressed, provided for membership, functions, and powers of the Commission, directed that, not later than 12 months after Commission is established, Commission submit a final report to Secretary and to Congress containing information, evaluations, and recommendations, authorized appropriations for Commission of not to exceed $2,000,000 for fiscal year 1990 and $1,000,000 for fiscal year 1991, and terminated Commission at the end of Sept. 30, 1992.

MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE; REGULATIONS FOR IMPLEMENTATION OF PROGRAM

Section 1011(b) of Pub. L. 100–628 provided that: ''To implement the amendments made by section 185 of the Housing and Community Development Act of 1987 [Pub. L. 100–242, amending this section], the Secretary of Housing and Urban Development shall issue regulations that become effective not later than February 5, 1989.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1701q–1, 1715*l*, 1715z–1, 1715z–1b, 1735f–15, 4109 of this title; title 42 section 3535.

§ 1715z–1b. Tenant participation in multifamily housing projects

(a) Purpose; definitions

The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term ''multifamily housing project'' means a project which is eligible for assistance as described in section 1715z–1a(c) of this title or section 1701q of this title.

(b) Rights of tenants

The Secretary shall assure that—

(1) where the Secretary's written approval is required with respect to an owner's request for rent increase, conversion of residential rental units to any other use (including commercial use or use as a unit in any condominium or cooperative project), partial release of security, or major physical alterations or where the Secretary proposes to sell a mortgage secured by a multifamily housing project, tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on such actions (and in the case of a project owned by the Secretary, any proposed disposition of the project) and that such comments are taken into consideration by the Secretary;

(2) project owners not interfere with the efforts of tenants to obtain rent subsidies or other public assistance;

(3) leases approved by the Secretary provide that tenants may not be evicted without good cause or without adequate notice of the reasons therefor and do not contain unreasonable terms and conditions; and

(4) project owners do not impede the reasonable efforts of resident tenant organizations to represent their members or the reasonable efforts of tenants to organize.

(c) Regulations

The Secretary shall promulgate regulations to carry out the provisions of this section not later than 90 days after October 31, 1978.

(Pub. L. 95–557, title II, § 202, Oct. 31, 1978, 92 Stat. 2088; Pub. L. 97–35, title III, § 329F, Aug. 13, 1981, 95 Stat. 410; Pub. L. 100–242, title I, § 183(a), (b), Feb. 5, 1988, 101 Stat. 1872.)

CODIFICATION

This 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

1988—Subsec. (a). Pub. L. 100–242, § 183(a), inserted reference to section 1701q of this title.

Subsec. (b)(1). Pub. L. 100–242, § 183(b), substituted ''or where the Secretary proposes to sell a mortgage secured by a multifamily housing project'' for ''and the Secretary deems it appropriate''.

1981—Subsec. (b)(1). Pub. L. 97–35 substituted provisions relating to request by the owner for rent increases, etc., for provisions relating to action by the owner.

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.

§ 1715z–1c. Regulation of rents in insured projects

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act [12 U.S.C. 1701 et seq.] if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to deregulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 1437f of title 42 (other than under the existing housing certificate program of section 1437f(b)(1) of title 42); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 1437a(a)(2) of title 42).

(Pub. L. 100–242, title IV, § 425, Feb. 5, 1988, 101 Stat. 1915.)

REFERENCES IN TEXT

The National Housing Act, as amended, referred to in text, is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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 Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

§ 1715z–2. Special mortgage insurance assistance

(a) Purpose

The purpose of this section is to help provide adequate housing for families of low and moderate income, including those who, for reasons of credit history, irregular income patterns caused by seasonal employment, or other factors, are unable to meet the credit requirements of the Secretary for the purchase of a single-family home financed by a mortgage insured under section 1709, 1715k, 1715*l*, 1715y, or 1715z(j)(4) of this title, but who, through the incentive of homeownership and counseling assistance, appear to be able to achieve homeownership.

(b) Authorization to insure mortgages meeting requirements of section

The Secretary is authorized upon application by the mortgagee to insure under this section any mortgage meeting the requirements of this section.

(c) Eligibility for insurance

To be eligible for insurance under this section, a mortgage shall—

(1) meet the requirements of section 1709 (except subsection (m)),[1] 1715k(d)(3)(A), 1715*l*(d)(2), (h)(5), (i), 1715y(c), or 1715z(j)(4) of this title, except as such requirements are modified by this section;

(2) involve a principal obligation (including such initial service charges, and such appraisal, inspection, and other fees, as the Secretary shall approve) in an amount not to exceed $18,000: *Provided*, That the Secretary may increase the amount to not exceed $21,000 in any geographical area where he finds that cost levels so require: *Provided further*, That no mortgage meeting the requirements of section 1709 (h) or (i) of this title shall be eligible for insurance under this section if its principal obligation is in excess of the maximum limits prescribed in such section;

(3) be executed by a mortgagor who the Secretary has determined, after a full and complete study of the case, would not be an acceptable credit risk for mortgage insurance purposes under sections 1709, 1715k, 1715*l*, 1715y, or 1715z(j)(4) of this title, because of his credit standing, debt obligations, total annual income, or income characteristics, but who the Secretary is satisfied would be a reasonably satisfactory credit risk, consistent with the objectives stated in subsection (a) of this section, if he were to receive budget, debt management, and related counseling: *Provided*, That, in determining whether the mortgagor is a reasonably satisfactory credit risk, the Secretary shall review the credit history of the applicant giving special consideration to those delinquent accounts which were ultimately paid by the applicant and to extenuating factors which may have caused credit ac-

[1] See References in Text note below.

counts of the applicant to become delinquent; and the Secretary shall also give special consideration to income characteristics of applicants whose total income over the two years prior to their applications has remained at levels of eligibility (as required under paragraph (4) of this subsection), but who, because of the character of this seasonal employment or for other reasons, have not maintained continuous employment under one employer during that time; and

(4) require monthly payments which, in combination with local real estate taxes on the property involved, do not exceed 25 per centum of the applicant's income, based on his average monthly income during the year prior to his application or the average monthly income during the three years prior to his application, whichever is higher.

(d) Preferences in approving mortgage insurance applications and in providing counseling services; eligible families

The Secretary shall give preference in approving mortgage insurance applications and in providing counseling services under this section (1) to families which are eligible for assistance payments under section 1715z of this title, and (2) to families living in public housing units, especially those families required to leave public housing because their incomes have risen beyond the maximum prescribed income limits, and families eligible for residence in public housing who have been displaced from federally assisted urban renewal areas.

(e) Budget, debt management, and related counseling services

The Secretary 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 this section as he determines to be necessary to meet the objectives of this section. The Secretary may also provide such counseling to otherwise eligible families who lack sufficient funds to supply a down payment to help them to save an amount necessary for that purpose.

(f) Aggregate principal balance of mortgages insured

The aggregate principal balance of all mortgages insured under this section and outstanding at one time shall not exceed $200,000,000.

(g) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of subsection (e) of this section.

(June 27, 1934, ch. 847, title II, § 237, as added Aug. 1, 1968, Pub. L. 90–448, title I, § 102(a), 82 Stat. 485; amended Dec. 24, 1969, Pub. L. 91–152, title I, §§ 110, 113(j), 83 Stat. 382, 385.)

REFERENCES IN TEXT

Section 1709(m) of this title, referred to in subsec. (c)(1), was repealed by Pub. L. 100–242, title IV, § 406(c), Feb. 5, 1988, 101 Stat. 1902.

AMENDMENTS

1969—Subsec. (c)(2). Pub. L. 91–152, § 113(j), substituted ''$21,000'' for ''$17,500'' and ''$18,000'' for ''$15,000''.

Subsec. (d). Pub. L. 91–152, § 110, inserted provision requiring the Secretary to give a preference in providing counseling services to the specified families, inserted text designated as cl. (1), and designated existing text as cl. (2).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715q, 1715z, 1715z–3, 1735c of this title.

§ 1715z–3. Special Risk Insurance Fund

(a) Entitlement to benefits; computation and payment of benefits to mortgagee

(1) Any mortgagee under a mortgage insured under section 1715z(i), (j)(4), 1715z–2, or 1715z–8 of this title 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 1709 of this title. The provisions of subsections (b), (c), (d), (g), (j), and (k) of section 1710 of this title shall be applicable to mortgages insured under section 1715z(i), (j)(4), 1715z–2, or 1715z–8 of this title, except that all references therein to the ''Mutual Mortgage Insurance Fund'' shall be construed to refer to the ''Special Risk Insurance Fund'', and all references therein to section 1709 of this title shall be construed to refer to section 1715z(i), (j)(4), 1715z–2, or 1715z–8 of this title, as may be appropriate.

(2) Any mortgagee under a mortgage insured under section 1715z(j)(1) or 1715z–1 of this title shall be entitled to receive the benefits of insurance as provided in section 1713(g) of this title with respect to mortgages insured under section 1713 of this title. The provisions of subsections (d), (e), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to mortgages insured under section 1715z(j)(1) or 1715z–1 of this title, except that all references therein to the ''General Insurance Fund'' shall be construed to refer to the ''Special Risk Insurance Fund'' and the premium charge provided in section 1713(d) of this title shall be payable only in cash or debentures of the Special Risk Insurance Fund.

(3) In lieu of the amount of insurance benefits computed pursuant to paragraph (1) or (2) of this subsection the Secretary, in his discretion and in accordance with such regulations as he may prescribe, may (with respect to any mortgage loan acquired by him) compute and pay insurance benefits to the mortgagee in 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.

(b) Creation of fund; authorization for advancements; repayment; crediting of charges and fees; payments from fund; authorization of appropriations for losses; deposits to fund; open-market purchases of debentures which are obligations of fund

There is hereby created a Special Risk Insurance Fund (hereinafter referred to as the ''fund'') which shall be used by the Secretary as a revolving fund for carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title, and the Secretary is hereby authorized to advance to the fund, at such times and in

such amounts as he may determine to be necessary, a total sum of $20,000,000 from the General Insurance Fund established pursuant to the provisions of section 1735c of this title. Such advance shall be repayable at such times and at such rates of interest as the Secretary deems appropriate. Premium charges, adjusted premium charges, inspection and other fees, service charges, and any other income received by the Secretary under sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title, together with all earnings on the assets of the fund, shall be credited to the fund. All payments made pursuant to claims of mortgagees with respect to mortgages insured under sections 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title or pursuant to section 1715n(e) of this title, cash adjustments, the principal of and interest paid on debentures which are the obligation of the fund, expenses incurred in connection with or as a consequence of the acquisition and disposal of property acquired under such sections, and all administrative expenses in connection with the mortgage insurance operations under such sections shall be paid out of the fund. Moneys in the fund not needed for current operations of the fund 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 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, with the approval of the Secretary of the Treasury, may purchase in the open market debentures which are the obligation of the fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtained from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(c) Mortgage insurance for military impacted areas; criteria; obligation of Special Risk Insurance Fund; establishment of premiums and other charges

(1) Notwithstanding the provisions of this chapter or any other Act, and without regard to limitations upon eligibility contained in any section of this subchapter, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this subchapter a mortgage executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.

(3) The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

(June 27, 1934, ch. 847, title II, § 238, as added Aug. 1, 1968, Pub. L. 90–448, title I, § 104(a), 82 Stat. 486; amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 415, 83 Stat. 401; July 24, 1970, Pub. L. 91–351, title V, § 503, 84 Stat. 461; Dec. 31, 1970, Pub. L. 91–609, title I, § 117(d), 84 Stat. 1775; Aug. 22, 1974, Pub. L. 93–383, title III, § 318, 88 Stat. 685; Oct. 12, 1977, Pub. L. 95–128, title III, § 309, 91 Stat. 1135; Apr. 11, 1994, Pub. L. 103–233, title I, §§ 103(g)(1), 105(a), 108 Stat. 362, 363.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103–233, § 105(a), struck out after fourth sentence "There is authorized to be appropriated such sums as may be needed from time to time to cover losses sustained by the fund in carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1, 1715z–2, and 1715z–8 of this title."

Subsec. (c)(3). Pub. L. 103–233, § 103(g)(1), added par. (3).

1977—Subsec. (c). Pub. L. 95–128 substituted provisions of pars. (1) and (2) respecting mortgage insurance for military impacted areas, criteria therefore, and establishment of premiums and other charges for prior subsec. (c), which had authorized use of the Special Risk Insurance Fund to carry out mortgage insurance obligations of sections 1709 and 1713 of this title to provide housing for military personnel, Federal civilian employees, and Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces in federally impacted areas where in the judgment of the Secretary (1) the residual housing requirements for persons not associated with such installations were insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installations, and (2) the benefits to be derived from such use outweighed the risk of possible cost to the Government.

1974—Subsec. (c). Pub. L. 93–383 added subsec. (c).

1970—Subsec. (a)(1). Pub. L. 91–351, § 503(1), inserted references to section 1715z–8 of this title wherever appearing.

Subsec. (b). Pub. L. 91–609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Pub. L. 91–351, § 503(2), inserted references to section 1715z–8 of this title wherever appearing.

1969—Subsec. (b). Pub. L. 91–152 increased from $5,000,000 to a total sum of $20,000,000, at such times and in such amounts as he may determine to be necessary,

the amount authorized to be advanced by the Secretary to the Fund.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715v, 1715z–19, 1735f–20 of this title.

§1715z–4. Modifications in terms of mortgages covering multifamily projects; requests for extensions to cure defaults or for modification of mortgage terms; regulations

The Secretary shall not consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, as defined in the regulations of the Secretary, or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by the mortgagor from the property covered by the mortgage which is not required to meet actual and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, or for a modification of the term of such mortgage, without regard to the foregoing requirement, in any case or class of cases in which an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

(June 27, 1934, ch. 847, title II, §239, as added Aug. 1, 1968, Pub. L. 90–448, title III, §302, 82 Stat. 506; amended Feb. 5, 1988, Pub. L. 100–242, title IV, §416(c), 101 Stat. 1908.)

AMENDMENTS

1988—Pub. L. 100–242 struck out ''insured'' before ''mortgages'' in section catchline, and struck out subsec. (a) designation and subsec. (b) which related to violations and penalties imposed for violations of the provisions of former subsec. (a).

§1715z–4a. Double damages remedy for unauthorized use of multifamily housing project assets and income

(a) Action to recover assets or income

(1) The Secretary of Housing and Urban Development (referred to in this section as the ''Secretary'') may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project whose mortgage is insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.]; or (B) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the project and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.], the term ''any person'' shall mean any person or entity which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.

(b) Initiation of proceedings and temporary relief

The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement and any applicable regulation and to prevent loss of value of the realty and personalty involved.

(c) Amount recoverable

In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the project that the court determines to have been used in violation of the regulatory agreement or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the project or to the applicable insurance fund under the National Housing Act [12 U.S.C. 1701 et seq.].

(d) Time limitation

Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of project assets and income in violation of the regulatory agreement or any applicable regulation.

(e) Continued availability of other remedies

The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

(Pub. L. 100–242, title IV, §421, Feb. 5, 1988, 101 Stat. 1913.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (c), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to this chapter (§1701 et seq.). Title II of the National Housing Act is

classified generally to this subchapter (§ 1707 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 Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

§ 1715z–5. Purchase of fee simple title from lessors

(a) Authorization to insure loans for purpose of financing purchases

The Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure and to insure loans made by financial institutions for the purpose of financing purchases by homeowners of the fee simple title to property on which their homes are located.

(b) Definitions

As used in this section—

(1) 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; and

(2) the term ''homeowner'' means a lessee under a long-term ground lease.

(c) Eligibility for insurance

To be eligible for insurance under this section, a loan shall—

(1) relate to property on which there is located a dwelling designed principally for a one-, two-, three-, or four-family residence;

(2) not exceed the cost of purchasing the fee simple title, or $10,000 ($30,000, if the property is located in Hawaii) per family unit, whichever is the lesser;

(3) 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 applicable mortgage limit prescribed in section 1709(b) of this title;

(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(5) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan; and

(6) comply with such other terms, conditions, and restrictions as the Secretary may prescribe.

(d) Applicability of other provisions of law

The provisions of paragraphs (3), (5), (6), (7), (8), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this section and, as applied to loans insured under this section, references in those paragraphs to ''home improvement loans'' and ''this subsection'' shall be construed to refer to loans under this section.

(June 27, 1934, ch. 847, title II, § 240, as added Aug. 1, 1968, Pub. L. 90–448, title III, § 304(a), 82 Stat. 507; amended Oct. 31, 1978, Pub. L. 95–557, title III, § 314, 92 Stat. 2099; Oct. 8, 1980, Pub. L. 96–399, title III, § 333(f), 94 Stat. 1653; Nov. 30, 1983, Pub. L. 98–181, title IV, § 404(b)(13), 97 Stat. 1210; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(10), 98 Stat. 2232.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–479 substituted ''purchases'' for ''purchasers''.

1983—Subsec. (c)(4). Pub. L. 98–181 substituted provision that the interest rate be such rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions, and such other charges as approved by the Secretary.

1980—Subsec. (c)(5). Pub. L. 96–399 struck out ''or three-quarters of the remaining economic life of the home, whichever is the lesser'' after ''loan''.

1978—Subsec. (c)(2). Pub. L. 95–557 inserted ''($30,000, if the property is located in Hawaii)'' after ''$10,000''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1464 of this title.

§ 1715z–6. Supplemental loans for multifamily projects

(a) Authorization to insure; "supplemental loan" defined

With respect to a multifamily project, hospital, or group practice facility covered by a mortgage insured under any section or subchapter of this chapter or covered by a mortgage held by the Secretary, the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure, and to insure, supplemental loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. As used in this section, ''supplemental 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 improvements or additions to such project, hospital, or facility: *Provided*, That a loan involving a nursing home, hospital, or a group practice facility may also be made for the purpose of financing equipment to be used in the operation of such nursing home, hospital, or facility.

(b) Eligibility for insurance

To be eligible for insurance under this section, a supplemental loan shall—

(1) be limited to 90 per centum of the amount which the Secretary estimates will be the value of such improvements, additions, and equipment, except that such amount when added to the outstanding balance of the mortgage covering the project or facility, shall not exceed the maximum mortgage amount insurable under the section or subchapter pursuant to which the mortgage covering such project or facility is insured or an amount acceptable to the Secretary;

(2) have a maturity satisfactory to the Secretary;

(3) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(4) be secured in such manner as the Secretary may require;

(5) be governed by the labor standards provisions of section 1715c of this title that are ap-

plicable to the section or subchapter pursuant to which the mortgage covering the project or facility is insured or pursuant to which the original mortgage covering the project or facility was insured; and

(6) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(c) Applicability of other provisions of law

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), *(l)*, and (n) of section 1713 of this title shall be applicable to loans insured under this section, except that (1) all references to the term ''mortgage'' shall be construed to refer to the term ''loan'' as used in this section, (2) loans involving projects covered by a mortgage insured under section 1715e of this title that is the obligation of the Cooperative Management Housing Insurance Fund shall be insured under and shall be the obligation of such fund, and (3) loans involving projects covered by a mortgage insured under section 1715z–1 of this title shall be insured under and shall be the obligation of the Special Risk Insurance Fund.

(d) Authorization to insure loans for improvements or additions; terms and conditions; limitation on amount

Notwithstanding the foregoing, the Secretary may insure a loan for improvements or additions to a multifamily housing project, or a group practice or medical practice facility or hospital or other health facility approved by the Secretary, which is not covered by a mortgage insured under this chapter, if he finds that such a loan would assist in preserving, expanding, or improving housing opportunities, or in providing protection against fire or other hazards. Such loans shall have a maturity satisfactory to the Secretary and shall meet such other conditions as the Secretary may prescribe. In no event shall such a loan be insured if it is for an amount in excess of the maximum amount which could be approved if the outstanding indebtedness, if any, covering the property were a mortgage insured under this chapter. At any sale under foreclosure of a mortgage on a project or facility which is not insured under this chapter but which is senior to a loan assigned to the Secretary pursuant to subsection (c) of this section, the Secretary is authorized to bid, in addition to amounts authorized under section 1713(k) of this title, any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c) of this section, the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this chapter, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.

(e) Loan insurance for energy conserving improvements and solar energy systems

(1) Notwithstanding any other provision of this section, the Secretary may insure a loan for purchasing and installing energy conserving improvements (as defined in subparagraph (2) of the last paragraph of section 1703(a) of this title), for purchasing and installing a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title), and for purchasing or installing (or both) individual utility meters in a multifamily housing project if such meters are purchased or installed in connection with other energy conserving improvements or with a solar energy system or the project meets minimum standards of energy conservation established by the Secretary, without regard to whether the project is covered by a mortgage under this chapter.

(2) Notwithstanding the provisions of subsection (b) of this section, a loan insured under this subsection shall—

(A) not exceed an amount which the Secretary determines is necessary for the purchase and installation of individual utility meters plus an amount which the Secretary deems appropriate taking into account amounts which will be saved in operation costs over the period of repayment of the loan by reducing the energy requirements of the project as a result of the installation of energy conserving improvements or a solar energy system therein;

(B) be insured for 90 percent of any loss incurred by the person holding the note for the loan; except that, for cooperative multifamily projects receiving assistance under section 1715z–1 of this title or financed with a below market interest rate mortgage insured under section 1715*l*(d)(3) of this title, 100 percent of any such loss may be insured;

(C) bear an interest rate not to exceed an amount which the Secretary determines, after consulting with the Secretary of Energy, to be necessary to meet market demands;

(D) have a maturity satisfactory to the Secretary;

(E) be insured pursuant to a premium rate established on a sound actuarial basis to the extent practicable;

(F) be secured in such manner as the Secretary may require;

(G) be an acceptable risk in that energy conservation or solar energy benefits to be derived outweigh the risks of possible loss to the Federal Government; and

(H) contain such other terms, conditions, and restrictions as the Secretary may prescribe.

(3) The provisions of subsection (c) of this section shall apply to loans insured under this subsection.

(4) The Secretary shall provide that any person obligated on the note for any loan insured under this section be regulated or restricted, until the termination of all obligations of the Secretary under the insurance, by the Secretary as to rents or sales, charges, capital structure, rate of return, and methods of operations of the multifamily project to such an extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment.

(f) Insurance for second mortgage financing

(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans and acquisition loans made by financial institutions approved by the Secretary and State housing finance agencies that enter into risk-sharing agreements with the Secretary.

(2)(A) For purposes of this section, the term ''equity loan'' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4119]) who agrees to extend the low-income affordability restrictions on the housing pursuant to an approved plan of action under such Act [12 U.S.C. 4101 et seq.].

(B) To be eligible for insurance under this paragraph, an equity loan shall—

(i) be limited to an amount equal to the amount of rehabilitation costs required by the plan of action and related charges and the lesser of (I) 70 percent of the preservation equity in the project, as determined by the Secretary under such Act [12 U.S.C. 4101 et seq.], or (II) the amount the Secretary determines can be supported by the project on the basis of an 8 percent return on the preservation equity (assuming normal debt service coverages); and

(ii) provide for the lender to deposit (on behalf of the borrowing owner) 10 percent of the loan amount in an escrow account, controlled by the Secretary or a State housing finance agency approved by the Secretary, which shall be made available to the owner upon the expiration of the 5-year period beginning on the date the loan is made, subject to compliance with section 222(d) of such Act [12 U.S.C. 4112(d)];[1]

(3)(A) For purposes of this section, the term ''acquisition loan'' means a loan or advance of credit to a qualified purchaser of eligible low-income housing (as defined in section 231 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4121]) acquiring the housing under section 220 or 221 of such Act [12 U.S.C. 4110 or 4111] who agrees to extend the low-income affordability restrictions pursuant to an approved plan of action under such Act [12 U.S.C. 4101 et seq.].

(B) To be eligible for insurance under this paragraph, an acquisition loan shall be limited to 95 percent of the preservation equity of the housing determined under section 229(8) of the Low-Income Housing Preservation and Resident Homeownership Act of 1990 [12 U.S.C. 4119(8)] and the amount of rehabilitation costs required by the plan of action and related charges and,[2] except that the loan may include, if the qualified purchaser is a priority purchaser as defined under section 231 of such Act [12 U.S.C. 4121], any expenses associated with the acquisition, loan closing, and implementation of the plan of action, subject to approval by the Secretary.

(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall be applicable to loans insured under this subsection, except that—

(A) all references to the term ''mortgage'' shall be construed to refer to the term ''loan'' as used in this subsection;

(B) loans involving projects covered by a mortgage insured under section 1715z–1 of this title shall be insured under and shall be the obligations of the Special Risk Insurance Fund; and

(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity or acquisition loan to the Secretary or bid the amount necessary to acquire the project and convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

(ii) if the equity or acquisition loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 1713(k) of this title, any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity or acquisition loan, plus taxes, insurance, foreclosure costs, fees, and other expenses.

(5) Loans insured under this subsection shall—

(A)(i) in the case of equity loans, have a term not to exceed 40 years and amortization provisions which will, to the extent practicable, support the loan amount authorized under paragraph (2)(B); and

(ii) in the case of acquisition loans, have a term of not less than 40 years; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and mortgagee and be secured in such manner as the Secretary may require; and

(C) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

(6) When underwriting an equity or acquisition loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 222 of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12752] will be extended for the full term of the contract entered into under such Act. The Secretary may accelerate repayment of a loan under this subsection if rental assistance is not extended under section 222(b) of such Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.

(7) If the Secretary is unable to extend the term of rental assistance for the full term of the contract entered into under section 222(b) of the Cranston-Gonzalez National Affordable Housing Act [42 U.S.C. 12752(b)], the Secretary may take such actions as the Secretary determines to be appropriate to avoid default, avoid disruption of

[1] So in original. The semicolon probably should be a period.

[2] So in original. The word ''and'' probably should not appear.

the sound ownership and management of the housing, and otherwise minimize the cost to the Federal Government.

(8) A mortgagee approved by the Secretary may not withhold consent to an equity or acquisition loan on a property on which that mortgagee holds a mortgage.

(10)[3] The Secretary shall renegotiate and modify the terms of an equity loan insured under this subsection, at the request of the owner of the project for which the loan is made, if—

(1) the loan was made during the period beginning 30 days before October 28, 1992, and ending 90 days after October 28, 1992, under this subsection; and

(2) the loan was made pursuant to a plan of action under the provisions of the Emergency Low Income Housing Preservation Act of 1987 and accepted by the Secretary for processing in December 1991.

(g) Extension of rental assistance for term of loan

(1) When underwriting a rehabilitation loan under this section in connection with eligible multifamily housing, the Secretary may assume that any rental assistance provided for purposes of servicing the additional debt will be extended for the term of the rehabilitation loan. The Secretary shall exercise prudent underwriting practices in insuring rehabilitation loans under this section. For purposes of this subsection, the term ''eligible multifamily housing'' means any housing financed by a loan or mortgage that is—

(A) insured or held by the Secretary under section 1715*l*(d)(3) of this title and assisted under section 1701s of this title or section 1437f of title 42;

(B) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 1715*l*(d)(5) of this title; or

(C) insured, assisted or held by the Secretary under section 1715z–1 of this title.

(2) A mortgagee approved by the Secretary may not withhold consent to a rehabilitation loan insured in connection with eligible multifamily housing on which that mortgagee holds a mortgage.

(June 27, 1934, ch. 847, title II, §241, as added Aug. 1, 1968, Pub. L. 90–448, title III, §307, 82 Stat. 508; amended Dec. 31, 1970, Pub. L. 91–609, title I, §111, 84 Stat. 1772; Aug. 22, 1974, Pub. L. 93–383, title III, §313, 88 Stat. 684; Aug. 3, 1976, Pub. L. 94–375, §5, 90 Stat. 1070; Oct. 31, 1978, Pub. L. 95–557, title III, §311(b), 92 Stat. 2098; Nov. 9, 1978, Pub. L. 95–619, title II, §247, 92 Stat. 3234; Dec. 21, 1979, Pub. L. 96–153, title III, §319, 93 Stat. 1119; Oct. 8, 1980, Pub. L. 96–399, title III, §314, 94 Stat. 1645; Nov. 30, 1983, Pub. L. 98–181, title IV, §404(b)(14), 97 Stat. 1210; Oct. 17, 1984, Pub. L. 98–479, title II, §204(a)(11), (12), 98 Stat. 2232; Feb. 5, 1988, Pub. L. 100–242, title II, §231, title IV, §429(c), 101 Stat. 1884, 1918; Dec. 15, 1989, Pub. L. 101–235, title II, §§203(c), (d), 204(b), 103 Stat. 2038, 2039; Nov. 28, 1990, Pub. L. 101–625, title VI, §602(a), 104 Stat. 4275; Oct. 28, 1992, Pub. L. 102–550, title III, §§316(a), (b), 317(c), 106 Stat. 3771, 3772.)

[3] So in original. Probably should be ''(9)''.

REFERENCES IN TEXT

The Low-Income Housing Preservation and Resident Homeownership Act of 1990, referred to in subsec. (f)(2), (3), is title II of Pub. L. 100–242, Feb. 5, 1988, 101 Stat. 1877, as amended, which is classified principally to chapter 42 (§4101 et seq.) of this title. 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. (f)(6), is Pub. L. 101–625, Nov. 28, 1990, 104 Stat. 4079. For complete classification of this Act to the Code, see Short Title note set out under section 12701 of Title 42, The Public Health and Welfare, and Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in subsec. (f)(10)(2), 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. Subtitles A and B of title II, which were formerly set out as a note under section 1715*l* of this title and which amended this section, were amended generally by Pub. L. 101–625 and are classified to subchapter I (§4101 et seq.) of chapter 42 of this title. Subtitles C and D of title II amended section 1715z–15 of this title and sections 1437f, 1472, 1485, and 1487 of Title 42. Another subtitle C of title II of Pub. L. 100–242, as added by Pub. L. 102–550, is classified generally to subchapter II (§4141 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

AMENDMENTS

1992—Subsec. (f)(2)(B)(i). Pub. L. 102–550, §316(a)(1), inserted ''the amount of rehabilitation costs required by the plan of action and related charges and'' after ''equal to''.

Subsec. (f)(2)(B)(ii). Pub. L. 102–550, §317(c)(1), struck out ''and'' at end.

Subsec. (f)(3)(B). Pub. L. 102–550, §316(a)(2), inserted ''and the amount of rehabilitation costs required by the plan of action and related charges and'' after ''1990''.

Subsec. (f)(5)(A). Pub. L. 102–550, §316(a)(3)(B), added subpar. (A) and struck out former subpar. (A) which read as follows: ''have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require; and''.

Subsec. (f)(5)(B), (C). Pub. L. 102–550, §316(a)(3), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(6). Pub. L. 102–550, §317(c)(2), which directed the substitution of ''acquisition loan'' for ''acquisiton loan'' in par. (7), was executed by making the substitution in par. (6) to reflect the probable intent of Congress and the intervening redesignation of par. (7) as (6) by Pub. L. 102–550, §316(a)(5). See below.

Pub. L. 102–550, §316(a)(4), (5), redesignated par. (7) as (6) and struck out former par. (6) which read as follows: ''The Secretary may provide for combination of loans insured under subsection (d) of this section with equity and acquisition loans insured under this subsection.''

Subsec. (f)(7) to (9). Pub. L. 102–550, §316(a)(5), redesignated pars. (7) to (9) as (6) to (8), respectively.

Subsec. (f)(10). Pub. L. 102–550, §316(b), added par. (10).

1990—Subsec. (f). Pub. L. 101–625 amended subsec. (f) generally, substituting present provisions for provisions relating to insurance of ''equity loans'' under the Emergency Low Income Housing Preservation Act of 1987, providing for eligibility for such insurance, providing that a qualified nonprofit organization or limited equity tenant cooperative corporation may constitute an owner of housing for purposes of receiving an insured loan, providing for applicability of certain provisions of section 1713 of this title, and providing that an approved mortgagee may not withhold consent to an equity loan on property on which mortgagee holds a mortgage.

1989—Subsec. (f)(2). Pub. L. 101–235, § 203(c)(1), inserted at end ''When underwriting an equity loan under this subsection, the Secretary may assume that the rental assistance provided in accordance with an approved plan of action under section 225(b) of the Emergency Low Income Housing Preservation Act of 1987 will be extended for the full term of the contract entered into under section 225(c) of that Act. The Secretary may accelerate repayment of a loan under this section in the event rental assistance is not extended under section 225(c) of that Act or the Secretary is unable to develop a revised package of incentives to the owner comparable to those received under the original approved plan of action.''

Subsec. (f)(3). Pub. L. 101–235, § 203(c)(2), inserted ''public entity,'' after ''A''.

Subsec. (f)(6). Pub. L. 101–235, § 203(d), added par. (6).

Subsec. (g). Pub. L. 101–235, § 204(b), added subsec. (g).

1988—Subsec. (b)(3). Pub. L. 100–242, § 429(c), substituted ''borrower and the financial institution'' for ''mortgagor and the mortgagee''.

Subsec. (f). Pub. L. 100–242, § 231, added subsec. (f).

1984—Subsec. (a). Pub. L. 98–479, § 204(a)(11), substituted ''to make'' for ''to made''.

Subsec. (b)(1). Pub. L. 98–479, § 204(a)(12), substituted ''or facility'' for ''of facility'' before ''is insured''.

1983—Subsec. (b)(3). Pub. L. 98–181 substituted provision that the interest rate be such a 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, not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions.

1980—Subsec. (e)(1). Pub. L. 96–399 inserted provisions respecting requirements for purchase or installation in connection with other energy conserving improvements, etc.

1979—Subsec. (b)(2). Pub. L. 96–153 struck out ''but not to exceed the remaining term of the mortgage'' after ''the Secretary''.

1978—Subsec. (d). Pub. L. 95–557 inserted provision relating to the amounts the Secretary is authorized to bid at any sale under foreclosure of a mortgage on a project or facility which is not insured under this chapter but which is senior to a loan assigned to the Secretary pursuant to subsection (c), and such other steps the Secretary is authorized to take to preserve or protect his interest in the project or facility.

Subsec. (e). Pub. L. 95–619 added subsec. (e).

1976—Subsec. (a). Pub. L. 94–375 inserted '', hospital,'' after ''multifamily project'', ''additions to such project'', ''involving a nursing home'', and ''of such nursing home''.

1974—Subsec. (d). Pub. L. 93–383 added subsec. (d).

1970—Subsec. (a). Pub. L. 91–609, § 111(1), (2), inserted in first sentence ''or covered by a mortgage held by the Secretary'' after ''this chapter'' and substituted in proviso ''a nursing home or a group practice facility'' for ''a nursing home covered by a mortgage insured under section 1715w of this title or a loan involving a group practice facility covered by a mortgage insured under subchapter IX–B of this chapter'', respectively.

Subsec. (b)(1). Pub. L. 91–609, § 111(3), inserted ''or an amount acceptable to the Secretary'' before semicolon at end.

Subsec. (b)(5). Pub. L. 91–609, § 111(4), inserted ''or pursuant to which the original mortgage covering the project or facility was insured'' before semicolon at end.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 231 of Pub. L. 100–242 applicable to any project that is eligible low income housing on or after Nov. 1, 1987, see section 235 of Pub. L. 100–242.

REGULATIONS

Section 316(c) of Pub. L. 102–550 provided that: ''Not later than the expiration of the 45-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], the Secretary shall issue regulations implementing section 241(f)(1) of the National Housing Act [12 U.S.C. 1715z–6(f)(1)]. The regulations shall not be subject to the requirements of subsections (b) and (c) of section 553 of title 5, United States Code.''

DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101–625, set out as a note under section 1713 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715z–19, 4109, 4110, 4112, 4119 of this title; title 42 section 4822.

§ 1715z–7. Mortgage insurance for hospitals

(a) Purpose

The purpose of this section is to assist the provision of urgently needed hospitals for the care and treatment of persons who are acutely ill or who otherwise require medical care and related services of the kind customarily furnished only (or most effectively) by hospitals. Such assistance shall be provided regardless of the amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.

(b) Definitions

For the purposes of this section—

(1) the term ''hospital'' means a facility—

(A) which provides community service for inpatient medical care of the sick or injured (including obstetrical care);

(B) not more than 50 per centum of the total patient days of which during any year are customarily assignable to the categories of chronic convalescent and rest, drug and alcoholic, epileptic, mentally deficient, mental, nervous and mental, and tuberculosis; and

(C) which is a public facility, proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located); and

(2) the terms ''mortgage'' and ''mortgagor'' shall have the meanings respectfully set forth in section 1713(a) of this title.

(c) Authorization to insure; prohibition of premiums on guarantees of principal and interest under title VII of the Public Health Service Act

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior

to the date of its execution or disbursement thereon. No mortgage insurance premium shall be charged with respect to the amount of principal and interest guaranteed by the Department of Health and Human Services under title VII of the Public Health Service Act [42 U.S.C. 292 et seq.].

(d) Insurance of mortgages covering new or rehabilitated hospitals, including equipment; terms and conditions

In order to carry out the purpose of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated hospital, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed $100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased 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.

(2) The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including—

(A) equipment to be used in the operation of the hospital, when the proposed improvements are completed and the equipment is installed; and

(B) 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.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(4) The Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521[1] of the Public Health Service Act [42 U.S.C. 291d(a)(1) or 300m] for the State in which is located the hospital covered by the mortgage, a certification that (A) there is a need for such hospital, and (B) there are in force in such State or the political subdivision of the State in which the proposed hospital would be located reasonable minimum standards of licensure and methods of operation for hospitals. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any hospital located in the State for which mortgage insurance is provided under this section. If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the hospital as set forth in clause (A) of the first sentence, the Secretary shall not insure any mortgage under this section unless (A) the State in which the hospital is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (i) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (ii) assesses, on a marketwide basis, the impact of the proposed hospital on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the hospital; (iii) is addressed to and is acceptable to the Secretary in form and substance; and (iv) in the event the State does not prepare the study, is prepared by a financial consultant selected by the State and approved by the Secretary; and (B) the State complies with the other provisions of this paragraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521[1] of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence.

(5) The Secretary shall not insure any mortgage or approve any modification of an existing mortgage insured pursuant to this section or section 1715n(f) of this title if such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 1721 of this title, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt, except that the Secretary shall not refuse to insure such a mortgage or approve such a modification solely on the basis that such insurance or modification is to be made in connection with a guarantee, as authorized pursuant to section 1721 of this title, of a trust certificate or other security which is exempt from Federal taxation or which is to be used to collateralize obligations which are so exempt if—

(A) a written application for such insurance or modification submitted at the express direction of the hospital has been submitted to the appropriate office of the Department of Health and Human Services prior to March 29, 1979; or

(B) in the case of a nonprofit mortgagor which is seeking refinancing or modification

[1] See References in Text note below.

of an existing mortgage insured pursuant to this section or section 1715n(f) of this title, the mortgagor (i) had engaged an investment banker for the purpose of obtaining such refinancing or modification, or had undertaken or arranged for the undertaking of a market or feasibility study with respect to the advisability of obtaining such refinancing or modification, and had made written notification of its interest in such refinancing or modification to the Department of Health and Human Services or the Department of Housing and Urban Development prior to June 7, 1979; and (ii) receives from the programs established under titles XVIII [42 U.S.C. 1395 et seq.] and XIX [42 U.S.C. 1396 et seq.] of the Social Security Act a percentage of its total revenue which is greater than 125 per centum of the national average for hospitals which derive revenue from such titles.

This paragraph shall not limit the authority of the Secretary to approve a mortgage increase on any mortgage eligible for insurance under this paragraph at any time prior to final endorsement of the loan for insurance; except that such mortgage increase may not be approved for the cost of constructing any improvements not included in the original plans and specifications approved by the Department of Health and Human Services unless approved by the Secretary of Housing and Urban Development and by the Secretary of Health and Human Services.

(6) To the extent that a private nonprofit or public facility mortgagor is required by the Secretary to provide cash equity in excess of the amount of the mortgage to complete the project, the mortgagor shall be entitled, at the option of the mortgagee, to fund the excess with a letter of credit. In such event, mortgage proceeds may be advanced to the mortgagor prior to any demand being made on the letter of credit.

(e) Release of part of property or project from lien

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) Encouragement of programs undertaking responsibility to provide comprehensive health care; immediate processing of applications for public hospitals

The activities and functions provided for in this section shall be carried out by the agencies involved so as to encourage programs that undertake responsibility to provide comprehensive health care, including outpatient and preventive care, as well as hospitalization, to a defined population, and, in the case of public hospitals, to encourage programs that are undertaken to provide essential health care services to all residents of a community regardless of ability to pay. The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.

(g) Insurance of mortgages providing permanent financing or refinancing of existing mortgage indebtedness; aggregate principal balance of mortgages

(1) Notwithstanding any of the other provisions of this subchapter, the Secretary may insure under this section a mortgage which provides permanent financing or refinancing of existing mortgage indebtedness in the case of a hospital whose permanent financing is presently lacking, if the construction of such hospital was completed between January 1, 1966, and August 1, 1968.

(2) The aggregate principal balance of all mortgages insured under paragraph (1) and outstanding at any one time shall not exceed $20,000,000.

(h) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (*l*), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall be deemed to refer to this section.

(June 27, 1934, ch. 847, title II, § 242, as added Aug. 1, 1968, Pub. L. 90–448, title XV, § 1501, 82 Stat. 599; amended Dec. 31, 1970, Pub. L. 91–609, title I, §§ 109, 110(a), 84 Stat. 1772; Aug. 22, 1974, Pub. L. 93–383, title III, § 304(i), 88 Stat. 678; Oct. 12, 1977, Pub. L. 95–128, title III, § 308, 91 Stat. 1135; Oct. 17, 1979, Pub. L. 96–88, title V, § 509(b), 93 Stat. 695; Dec. 21, 1979, Pub. L. 96–153, title III, § 315, 93 Stat. 1117; Oct. 8, 1980, Pub. L. 96–399, title III, § 310(h), 94 Stat. 1643; Aug. 13, 1981, Pub. L. 97–35, title III, § 339H, 95 Stat. 418; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 404(b)(15), 436, 97 Stat. 1210, 1222; Oct. 17, 1984, Pub. L. 98–479, title II, §§ 201(a)(1), 204(a)(13), 98 Stat. 2227, 2232; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 411(a), 412(a)–(d), 101 Stat. 1905, 1906.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (c), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title VII of the Act was added by act July 30, 1956, ch. 779, § 2, 70 Stat. 717, and is classified generally to subchapter V (§ 292 et seq.) of chapter 6A 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 201 of Title 42 and Tables.

Section 8211 of title 42, referred to in subsec. (d)(2)(B), was omitted from the Code pursuant to section 8229 of Title 42, which terminated authority under that section on June 30, 1989.

Section 1521 of the Public Health Service Act, referred to in subsec. (d)(4), is section 1521 of act July 1, 1944, which was classified to section 300m of Title 42, prior to repeal, effective Jan. 1, 1987, by Pub. L. 99–660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799.

The Social Security Act, referred to in subsec. (d)(5), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–242, § 412(a), inserted at end "Such assistance shall be provided regardless of the

amount of public financial or other support a hospital may receive, and the Secretary shall neither require additional security or collateral to guarantee such support, nor impose more stringent eligibility or other requirements on publicly owned or supported hospitals.''

Subsec. (d)(2). Pub. L. 100–242, §412(b), substituted ''The mortgage shall involve a principal obligation in the amount requested by the mortgagor if such amount does not exceed 90 percent of the estimated replacement cost of the property or project including'' for ''The mortgage shall involve a principal obligation in an amount not to exceed 90 per centum of the estimated replacement cost of the property or project including''.

Subsec. (d)(4). Pub. L. 100–242, §411(a), inserted provisions at end relating to authority of Secretary to insure a mortgage under this section covering new or rehabilitated hospitals, including equipment, in cases where no State agency exists, or where such agency does exist but is not empowered to provide a certification for the need of such hospital as required under this section.

Subsec. (d)(6). Pub. L. 100–242, §412(c), added par. (6).

Subsec. (f). Pub. L. 100–242, §412(d), inserted at end ''The Secretary shall begin immediately to process applications of public facilities for mortgage insurance under this section in accordance with regulations, guidelines, and procedures applicable to facilities of private nonprofit corporations and associations.''

1984—Subsec. (c). Pub. L. 98–479, §201(a)(1), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (d)(3)(A). Pub. L. 98–479, §204(a)(13), substituted a semicolon for the comma at end.

1983—Subsec. (b)(1)(C). Pub. L. 98–181, §436(1), inserted ''public facility,'' after ''which is a''.

Subsec. (d)(3)(B). Pub. L. 98–181, §404(b)(15), substituted provision that the interest rate be such a 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, not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet the mortgage market.

Subsec. (f). Pub. L. 98–181, §436(2), inserted '', and in the case of public hospitals, to encourage programs that are undertaken to provide essential health care services to all residents of a community regardless of ability to pay'' after ''defined population''.

1981—Subsec. (d)(5). Pub. L. 97–35 inserted provisions respecting limitation on authority of the Secretary to approve mortgage increases on eligible mortgages.

1980—Subsec. (d)(2). Pub. L. 96–399 revised existing provisions into introductory paragraph and subpar. (A) and added subpar. (B).

1979—Subsec. (d)(5). Pub. L. 96–153 added par. (5).

1977—Subsec. (c). Pub. L. 95–128, §308(b), prohibited charging any mortgage insurance premium with respect to the amount of principal and interest guaranteed by the Department of Health, Education, and Welfare under title VII of the Public Health Service Act.

Subsec. (d)(4). Pub. L. 95–128, §308(a), inserted reference to section 1521.

1974—Subsec. (d)(2). Pub. L. 93–383 struck out ''not to exceed $50,000,000, and'' after ''an amount''.

1970—Subsec. (b)(1)(C). Pub. L. 91–609, §110(a), substituted as definition of ''hospital'' a facility ''which is a proprietary facility, or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing or regulation by the State, by the municipality or other political subdivision in which the facility is located)'' for ''prior definition as a facility which is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual''.

Subsec. (d)(2). Pub. L. 91–609, §109, increased limitation on amount of mortgage from $25,000,000 to $50,000,000.

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.

CHANGE OF NAME

''Department of Health and Human Services'' substituted for ''Department of Health, Education, and Welfare'' in subsec. (d)(5)(A), (B) pursuant to section 509(b) of Pub. L. 96–88, which is classified to section 3508(b) of Title 20, Education.

REGULATIONS

Section 411(b) of Pub. L. 100–242 directed Secretary of Housing and Urban Development to issue regulations to carry out amendment of this section by not later than expiration of 90-day period following Feb. 5, 1988.

Secretary of Housing and Urban Development directed to issue regulations implementing amendments to this section by section 436 of Pub. L. 98–181, not later than Oct. 31, 1984, see section 104(f) of Pub. L. 98–479, set out as a note under section 1715b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1715n, 1715z–19 of this title; title 42 section 4822.

§1715z–8. Mortgage assistance payments for middle-income families

(a) Determination by Secretary of necessity; interest subsidy payments; effective date

Whenever he determines such action to be necessary in furtherance of the purposes set forth in section 501 of the Emergency Home Finance Act of 1970, the Secretary is authorized to make, and to contract to make, periodic assistance payments on behalf of families of middle income. The assistance shall be accomplished through interest subsidy payments to the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation (hereinafter referred to as ''the investor'') with respect to mortgages meeting the special requirements specified in this section and made after July 24, 1970.

(b) Qualifications of mortgagor for assistance payments

To qualify for assistance payments a middle-income family shall be a mortgagor under a mortgage which is (1) insured under subsection (j) of this section, (2) guaranteed under chapter 37 of title 38, or (3) a conventional mortgage meeting the requirements of subsection (j)(3) of this section. In addition to the foregoing requirement, the Secretary may require that the mortgagor have an income, at the time of acquisition of the property, of not more than the median income for the area in which the property is located, as determined by the Secretary, with appropriate adjustments for smaller and larger families.

(c) Termination of interest subsidy payments

The interest subsidy payments authorized by this section shall cease when (1) the mortgagor no longer occupies the property which secures the mortgage, (2) the mortgages are no longer held by the investor, or (3) the rate of interest paid by the mortgagor reaches the rate of interest specified on the mortgage.

(d) Monthly mortgage payments as determining eligibility for interest subsidy payments; mortgage assistance payments for middle-income cooperative members; interest subsidy payments; applicability of provisions to cooperative mortgagors

(1) Interest subsidy payments shall be on mortgages on which the mortgagor makes monthly payments towards principal and interest equal to an amount which would be required if the mortgage bore an effective interest rate of 7 per centum per annum including any discounts or charges in the nature of points or otherwise (but not including premiums, if any, for mortgage insurance) or such higher rate (not to exceed the rate specified in the mortgage), which the mortgagor could pay by applying at least 20 per centum of his income towards homeownership expenses. As used in this subsection, the term ''monthly homeownership expense'' includes the monthly payment for principal, interest, mortgage insurance premium, insurance, and taxes due under the mortgage.

(2) In addition to the mortgages eligible for assistance under paragraph (1) of this subsection, the Secretary is authorized to make periodic assistance payments on behalf of cooperative members of middle income. Such assistance payments shall be accomplished through interest subsidy payments to the investor with respect to mortgages insured (subsequent to July 24, 1970) under section 1715e of this title which are executed by cooperatives, the membership in which is limited to middle-income families. For purposes of this paragraph—

(A) the term ''mortgagor'', when used in subsection (b) of this section in the case of a mortgage covering a cooperative housing project, means a member of the cooperative;

(B) the term ''acquisition of the property'', when used in subsection (b) of this section, means the family's application for a dwelling unit; and

(C) in the case of a cooperative mortgagor, subsection (c) of this section shall not apply and the interest subsidy payments shall cease when the mortgage is no longer held by the investor or the cooperative fails to limit membership to families whose incomes at the time of their application for a dwelling unit meets such requirements as are laid down by the Secretary pursuant to subsection (b) of this section.

(e) Amount of interest subsidy payments

The interest subsidy payments shall be in an amount equal to the difference, as determined by the Secretary, between the total amount of interest per calendar quarter received by the investor on mortgages assisted under this section and purchased by it and the total amount of interest which the investor would have received if the yield on such mortgages was equal to the sum of (1) the average costs (expressed as an annual percentage rate) to it of all borrowed funds outstanding in the immediately preceding calendar quarter, and (2) such per centum per annum as will provide for administrative and other expenses of the investor and a reasonable economic return, as determined by the Secretary to be necessary and appropriate taking into account the purpose of this section to provide additional mortgage credit at reasonable rates of interest to middle-income families.

(f) Adoption of procedures for recertifications of mortgagor's income

Procedures shall be adopted by the Secretary for recertifications of the mortgagor's income at intervals of two years (or at shorter intervals where the Secretary deems it desirable) for the purpose of adjusting the amount of the mortgagor's payments pursuant to subsection (d) of this section.

(g) Regulations to assure that sales price or other consideration paid is not increased above appraised value

The Secretary shall prescribe such regulations as he deems necessary to assure that the sales price of, or other consideration paid in connection with, the purchase by a homeowner of the property with respect to which assistance payments are to be made is not increased above the appraised value on which the maximum mortgage which the Secretary will insure is computed.

(h) Authorization of appropriations; aggregate amount of assistance payment contracts; termination date

(1) There are authorized to be appropriated such sums as may be necessary to enable the Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed $105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional $105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

(i) Determination of family income; exclusion of income of minors

In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

(j) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b) of this section. Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements

of section 1715*l*(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection: *Provided, however*, That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

(3) A mortgage to be insured under this section shall—

(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of $20,000 (which amount may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires); and

(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account of the property (A) 3 per centum of the first $15,000 of the appraised value of the property, (B) 10 per centum of such value in excess of $15,000 but not in excess of $25,000, and (C) 20 per centum of such value in excess of $25,000.

(June 27, 1934, ch. 847, title II, § 243, as added July 24, 1970, Pub. L. 91–351, title V, § 502, 84 Stat. 458; amended Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(14), (15), 98 Stat. 2232.)

REFERENCES IN TEXT

Section 501 of the Emergency Home Finance Act of 1970, referred to in subsec. (a), is section 501 of Pub. L. 91–351, which is set out as a note below.

AMENDMENTS

1984—Subsec. (d)(2). Pub. L. 98–479, § 204(a)(14), redesignated subpars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively.

Subsec. (j)(3)(ii). Pub. L. 98–479, § 204(a)(15), substituted ''; and'' for period at end.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 501 of Pub. L. 91–351 provided that: ''The Congress finds that—

''(1) periodic episodes of monetary stringency and high interest rates make it extremely difficult for families of middle income to obtain mortgage credit at rates which they can afford to pay;

''(2) periods of monetary stringency and high interest rates are directly related to the Government's monetary and fiscal policies;

''(3) a disproportionate share of the burden of sustaining these anti-inflationary policies of the Government falls on families of middle income who are buyers or prospective buyers of homes; and

''(4) the Government has a responsibility to lessen the disproportionate burden which such families bear as a result of such policies.

It is the purpose of this title [enacting this section, and amending sections 1715z–3 and 1719 of this title] to provide, during periods of high mortgage interest rates, a source of mortgage credit for such families which is within their financial means.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715z–3, 1719 of this title.

§ 1715z–9. Co-insurance of eligible mortgage, advance, or loan

(a) Authority of Secretary; request of mortgagee; premium charges; provisions of contract of co-insurance; non-applicability of state insurance laws

In addition to providing insurance as otherwise authorized under this chapter, and notwithstanding any other provision of this chapter inconsistent with this section, the Secretary, upon request of any mortgagee and for such mortgage insurance premium as he may prescribe (which premium, or other charges to be paid by the mortgagor, shall not exceed the premium, or other charges, that would otherwise be applicable), may insure and make a commitment to insure under any provision of this subchapter any mortgage, advance, or loan otherwise eligible under such provision, pursuant to a co-insurance contract providing that the mortgagee will—

(1) assume a percentage of any loss on the insured mortgage, advance, or loan in direct proportion to the amount of the co-insurance, which co-insurance shall not be less than 10 per centum, subject to any reasonable limit or limits on the liability of the mortgagee that may be specified in the event of unusual or catastrophic losses that may be incurred by any one mortgagee; and

(2) carry out (under a delegation or otherwise and with or without compensation but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition, or other functions as the Secretary, pursuant to regulations, shall approve as consistent with the purposes of this chapter.

Any contract of co-insurance under this section shall contain such provisions relating to the sharing of premiums on a sound actuarial basis, establishment of mortgage reserves, manner of calculating insurance benefits, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees (which may elect not to be subject to the loss sharing provisions), and other similar matters as the Secretary may prescribe pursuant to regulations. A mortgagee which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.

(b) Inspection of construction of dwellings or projects as prerequisite; minimum standards or criteria applicable

No insurance shall be granted pursuant to this section with respect to dwellings or projects approved for insurance prior to the beginning of construction unless the inspection of such con-

struction is conducted in accordance with at least the minimum standards and criteria used with respect to dwellings or projects approved for mortgage insurance pursuant to other provisions of this subchapter.

(c) Repealed. Pub. L. 100–242, title IV, § 414(a), Feb. 5, 1988, 101 Stat. 1907

(d) Repealed. Pub. L. 100–242, title IV, § 401(a)(3), Feb. 5, 1988, 101 Stat. 1898

(e) Availability unaffecting insurance otherwise authorized; criteria for exercise of authority by Secretary

The Secretary shall not withdraw, deny, or delay insurance otherwise authorized under any other provision of this chapter by reason of the availability of insurance pursuant to this section. The Secretary shall exercise his authority under this section only to the extent that he finds that the continued exercise of such authority will not adversely affect the flow of mortgage credit to older and declining neighborhoods and to the purchasers of older and lower cost housing.

(f) Multifamily housing project; contract provisions; aggregate principal amount of all mortgages insured; loans on defaulted mortgages; insurance for state assisted projects and projects under construction; definitions; amount of reserves

(1) Where the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

(2) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

(3) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the fist sentence of section 1715z–1(b) of this title, and (B) a mortgage or advance on a mortgage made to a public housing agency on a project under construction which is not approved for insurance prior to construction.

(4) As used in this subsection, the term ''public housing agency'' has the meaning given such term in section 1437a(b)(6) of title 42.

(5) Notwithstanding any other provision of this chapter, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made to a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency's procedures and underwriting standards.

(g) Redesignated (f)

(h) Acceptable co-insurance provisions for rental rehabilitation; termination date

Notwithstanding any other provision of this section, in the case of a mortgage insured under section 1715n(f) of this title secured by property which is to be rehabilitated or developed under section 1437*o*[1] of title 42, such co-insurance may include provisions that—

(1) insurance benefits shall equal the sum of (A) 90 per centum of the mortgage on the date of institution of foreclosure proceedings (or on the date of acquisition of the property otherwise after default), and (B) 90 per centum of interest arrears on the date benefits are paid;

(2) the mortgagee shall remit to the Secretary, for credit to the General Insurance Fund, 90 per centum of any proceeds of the property, including sale proceeds, net of the mortgagee's actual and reasonable costs related to the property and the enforcement of security;

(3) payment of such benefits shall be made in cash unless the mortgagee submits a written request for debenture payment; and

(4) the underwriter of co-insurance may reinsure 10 per centum of the mortgage amount with a private mortgage insurance company or with a State mortgage insurance agency.

(i)[2] Authority of mortgagee to assign its interest in any note or mortgage subject to a contract of co-insurance; terms and conditions respecting retention of co-insurance risk of such note or mortgage

Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.

(i)[2] Annual review of, and assessment of compliance with, requirements; report; adjustment of requirements

The Secretary shall, by January 15 and July 15 of each year (1) review the adequacy of capital and other requirements for mortgagees under this section, (2) assess the compliance by mortgagees with such requirements, and (3) make such adjustment to such requirements as the Secretary, after providing opportunity for hearing, determines to be appropriate to improve the long-term financial soundness of the Federal Housing Administration funds. Such requirements shall include the minimum capital or net worth of mortgagees; the ratio that mortgagees

[1] See References in Text note below.

[2] So in original. Two subsecs. (i) have been enacted.

shall maintain between the mortgagee's capital and the volume of mortgages co-insured by such mortgagee; and such other requirements as the Secretary determines to be appropriate to ensure the long-term financial soundness of the Federal Housing Administration funds. The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the review and assessment under the previous sentence, and an explanation of the Secretary's reasons for making any adjustment in requirements authorized under this section.

(June 27, 1934, ch. 847, title II, §244, as added Aug. 22, 1974, Pub. L. 93–383, title III, §307, 88 Stat. 679; amended Aug. 3, 1976, Pub. L. 94–375, §6, 90 Stat. 1070; June 30, 1977, Pub. L. 95–60, §1(d), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, §1(d), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, §301(f), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95–406, §1(f), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, §301(f), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, §1(f), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, §1(f), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, §301(f), 93 Stat. 1111; Oct. 3, 1980, Pub. L. 96–372, §1(f), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, §301(f), 94 Stat. 1638; Oct. 19, 1980, Pub. L. 96–470, title I, §107(a), 94 Stat. 2238; Aug. 13, 1981, Pub. L. 97–35, title III, §331(f), 95 Stat. 413; Oct. 6, 1982, Pub. L. 97–289, §1(f), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, §1(f), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, §1(f), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title III, §303(a), title IV, §§401(e), 434, 97 Stat. 1206, 1207, 1222; Oct. 17, 1984, Pub. L. 98–479, title I, §104(a)(5), 98 Stat. 2225; Oct. 8, 1985, Pub. L. 99–120, §1(e), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, §1(e), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, §1(e), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, §1(e), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, §3007(e), 100 Stat. 105; 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; Feb. 5, 1988, Pub. L. 100–242, title IV, §§401(a)(3), 414, 429(g), 101 Stat. 1898, 1907, 1919; Dec. 15, 1989, Pub. L. 101–235, title I, §139(a), 103 Stat. 2029.)

REFERENCES IN TEXT

Section 1437*o* of title 42, referred to in subsec. (h), was repealed by Pub. L. 101–625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

AMENDMENTS

1989—Subsec. (i). Pub. L. 101–235 added subsec. (i) relating to annual review of, and assessment of compliance with, requirements.

1988—Subsec. (c). Pub. L. 100–242, §414(a), struck out subsec. (c) which read as follows: "No insurance shall be granted pursuant to this section unless the Secretary has, after due consultation with the mortgage lending industry, determined that the demonstration program of co-insurance authorized by this section will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under this chapter."

Subsec. (d). Pub. L. 100–242, §401(a)(3), struck out subsec. (d) which read as follows: "No mortgage, advance, or loan shall be insured pursuant to this section after March 15, 1988, except pursuant to a commitment to insure made before that date."

Subsec. (f). Pub. L. 100–242, §429(g)(1), which directed that subsec. (g) be amended by striking out par. (2) which read: "The second sentence of subsection (d) of this section shall not apply to mortgages made to public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortgages insured under this subchapter.", and by redesignating former pars. (3) to (6) as (2) to (5), was executed to subsec. (f) to reflect the probable intent of Congress, because of the prior redesignation of subsec. (g) as (f) by Pub. L. 96–470, §107(a).

Subsec. (h). Pub. L. 100–242, §§414(b)(1), 429(g)(2), made identical amendments, substituting "co-insurance" for "coinsurance" in introductory provision and par. (4).

Pub. L. 100–242, §401(a)(3), struck out at end "No commitment for insurance pursuant to this subsection may be issued after March 15, 1988."

Subsec. (i). Pub. L. 100–242, §414(b)(2), added subsec. (i).

1987—Subsecs. (d), (h). 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—Subsecs. (d), (h). 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. (d). Pub. L. 99–219, §1(e)(1), substituted "March 17, 1986" for "December 15, 1985".

Pub. L. 99–156, §1(e)(1), substituted "December 15, 1985" for "November 14, 1985".

Pub. L. 99–120, §1(e)(1), substituted "November 14, 1985" for "September 30, 1985".

Subsec. (h). Pub. L. 99–219, §1(e)(2), substituted "after March 17, 1986" for "on or after December 16, 1985".

Pub. L. 99–156, §1(e)(2), substituted "December 16, 1985" for "November 15, 1985".

Pub. L. 99–120, §1(e)(2), substituted "November 15, 1985" for "October 1, 1985".

1984—Subsec. (d). Pub. L. 98–479 amended subsec. (d) generally, thereby striking out last sentence which provided: "The aggregate principal amount of mortgages and loans insured pursuant to this section in any fiscal year beginning on or after July 1, 1974, and ending prior to October 1, 1985, shall not exceed 20 per centum of the aggregate principal amount of all mortgages and loans insured under this subchapter during such fiscal year."

1983—Subsec. (d). Pub. L. 98–181, §401(e)(3), which directed that last two sentences of subsec. (d) be struck out was executed by striking out last sentence which provided that the overall percentage limitation specified in the preceding sentence also apply separately within each of the categories of mortgages and loans covering one- to four-family dwellings and mortgages and loans covering projects with five or more dwelling units, as the probable intent of Congress, in view of the amendment to the next to last sentence by section 401(e)(2) of Pub. L. 98–181.

Pub. L. 98–181, §401(e)(1), (2), substituted "September 30, 1985" for "November 30, 1983" and "October 1, 1985" for "December 1, 1983".

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983'' and ''December 1, 1983'' for ''October 1, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983'' and ''October 1, 1983'' for ''May 21, 1983''.

Subsec. (f)(1). Pub. L. 98–181, § 434(1), struck out ''the mortgagee is a public housing agency or an insured depository institution and'' after ''Where''. Notwithstanding the directory language that amendment be made to subsec. (g)(1), the amendment was executed to subsec. (f)(1) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (f) by Pub. L. 96–470.

Subsec. (f)(5). Pub. L. 98–181, § 434(2), substituted reference to section 1437a(b)(6) of title 42 for reference to section 1437a(6) of title 42 and struck out provision which defined the term ''insured depository institution'' as any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State. Notwithstanding the directory language that amendment be made to subsec. (g)(5), the amendment was executed to subsec. (f)(5) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (f) by Pub. L. 96–470.

Subsec. (h). Pub. L. 98–181, § 303(a), added subsec. (h).

1982—Subsec. (d). Pub. L. 97–289 substituted ''May 20, 1983'' and ''May 21, 1983'' for ''September 30, 1982'' and ''October 1, 1982'', respectively.

1981—Subsec. (d). Pub. L. 97–35 substituted ''1982'' for ''1981'' in two places.

1980—Subsec. (d). Pub. L. 96–399 substituted ''September 30, 1981'' and ''October 1, 1981'' for ''October 15, 1980'' and ''October 16, 1980'', respectively.

Pub. L. 96–372 substituted ''October 15, 1980'' and ''October 16, 1980'' for ''September 30, 1980'' and ''October 1, 1980'', respectively.

Subsecs. (f), (g). Pub. L. 96–470 struck out subsec. (f) and redesignated subsec. (g) as (f).

1979—Subsec. (d). Pub. L. 96–153 substituted ''September 30, 1980'' for ''November 30, 1979'' and ''October 1, 1980'' for ''December 1, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' and ''December 1, 1979'' for ''October 31, 1979'' and ''November 1, 1979'', respectively.

Pub. L. 96–71 substituted ''October 31, 1979'' and ''November 1, 1979'' for ''September 30, 1979'' and ''October 1, 1979'', respectively.

1978—Subsec. (d). Pub. L. 95–557 substituted ''September 30, 1979'' for ''October 31, 1978'' and ''October 1, 1979'' for ''November 1, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978'' and ''November 1, 1978'' for ''October 1, 1978''.

1977—Subsec. (d). Pub. L. 95–128 substituted ''September 30, 1978'' for ''September 30, 1977'' and ''October 1, 1978'' for ''October 1, 1977''.

Pub. L. 95–80 substituted ''September 30, 1977'' for ''July 31, 1977''.

Pub. L. 95–60 substituted ''July 31, 1977'' for ''June 30, 1977''.

1976—Subsec. (a). Pub. L. 94–375, § 6(b), inserted, in text following par. (2), a provision excluding a mortgagee which enters into a contract under this section from regulation by state insurance laws.

Subsec. (g). Pub. L. 94–375, § 6(a), added subsec. (g).

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.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715z–19 of this title; title 42 section 1437f.

§ 1715z–10. Graduated payment and indexed mortgages

(a) Criteria; principal obligation limitation; termination date

The Secretary may insure under any provision of this subchapter mortgages and loans with provisions of varying rates of amortization corresponding to anticipated variations in family income or with monthly payments and outstanding balances adjusted by a percentage change in a selected price index to the extent he determines such mortgages or loans (1) have promise for expanding housing opportunities or meet special needs, (2) can be developed to include any safeguards for mortgagors or purchasers that may be necessary to offset special risks of such mortgages, and (3) have a potential for acceptance in the private market. Notwithstanding any other provision of this subchapter, except as provided in subsections (b) and (c) of this section, the principal obligation (including all interest to be deferred and added to principal) of a mortgage insured pursuant to this subsection may not exceed 97 per centum of the appraised value of the property covered by the mortgage as of the date the mortgage is accepted for insurance, or if the mortgagor is a veteran and the mortgage is to be insured in accordance with the provisions of section 1709 of this title, such higher percentage of appraised value as is provided for purposes of determining the maximum mortgage amount eligible for insurance under section 1709(b)(2) of this title in the case of veterans.

(b) Inapplicability of principal obligation limitations

Notwithstanding the provisions of subsection (a) of this section, the Secretary may insure under any provision of this subchapter a mortgage or loan which meets the requirements of the first sentence of subsection (a) of this section and which has provisions for varying rates of amortization if the Secretary determines—

(1) the mortgagor could not reasonably afford to purchase the dwelling unit by means of a mortgage insured under subsection (a) of this section or any other mortgage insurance program under this subchapter;

(2) the principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 1709(b) of this title as of the date the mortgage or loan is accepted for insurance;

(3) the principal obligation of the mortgage or loan thereafter (including all interest to be deferred and added to principal) will not at any time be scheduled to exceed 97 per centum, or, if the mortgagor is a veteran, such higher percentage as is provided under section 1709(b)(2) of this title for veterans, of the projected value of the property; and

(4) the principal obligation of the mortgage thereafter will not exceed 113 per centum of the initial appraised value of the property.

Mortgage insurance under this subsection shall be limited to mortgages executed by mortgagors

who, as determined by the Secretary, have not owned dwelling units within the preceding three years. For the purpose of this subsection, the projected value of the property shall be calculated by the Secretary by increasing the initial appraised value of the property at a rate not in excess of 2½ per centum per annum. The number of mortgages which are insured in accordance with this subsection in any fiscal year may not exceed (A) that number of mortgages the aggregate initial principal obligation of which equals 10 per centum of the aggregate amount of the initial principal obligation of all mortgages secured by properties improved by one- to four-family residences which are insured under this subchapter during the preceding fiscal year, or (B) 50,000 mortgages, whichever is greater. No loan or mortgage may be insured under this subsection after February 5, 1988, except pursuant to a commitment to insure entered into on or before February 5, 1988.

(c) Mortgages with monthly adjustments based on selected price index; priority; regulations; number

Notwithstanding the provisions of subsection (a) of this section, the Secretary may insure under any provision of this subchapter a mortgage or loan that meets the requirements of the first sentence of subsection (a) of this section and that has provisions permitting adjustment of monthly payments and outstanding principal according to changes or percentages of changes in a selected price index if the Secretary determines—

(1) the principal obligation of the mortgage or loan initially does not exceed the percentage of the initial appraised value of the property specified in section 1709(b) of this title as of the date the mortgage or loan is accepted for insurance; and

(2) the monthly payments and principal obligation of the mortgage or loan thereafter will not at any time be increased at a rate greater than the percentage change in the price index stipulated in the initial mortgage or loan contract.

In carrying out this subsection, the Secretary shall give a priority to mortgages executed by mortgagors who, as determined by the Secretary, have not owned dwelling units within the preceding 3 years. The Secretary shall, not later than March 31, 1984, prescribe regulations establishing guidelines governing mortgages and loans described in this subsection and shall, to the extent practicable, conduct a demonstration program to insure mortgages and loans in accordance with this subsection during fiscal years 1984 and 1985. The aggregate number of mortgages and loans insured under this subsection and section 1715z–17 of this title in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

(d) Multifamily housing

(1) The Secretary may insure, under any provision of this subchapter relating to multifamily housing projects, mortgages and loans with provisions of varying rates of amortization corresponding to anticipated variations in project income, to the extent the Secretary determines such mortgages or loans (A) have promise for expanding housing opportunities or meet special needs; (B) can be developed to include any safeguards for mortgagors, tenants, or purchasers that may be necessary to offset special risks of such mortgages; and (C) have a potential for acceptance in the private market.

(2) Notwithstanding any other provision of this subchapter, the principal obligation of a mortgage or loan insured pursuant to this subsection—

(A) may not exceed initially the percentage of the initial appraised value or replacement cost of the property involved that is required by the provision of this subchapter under which such property is insured; and

(B) thereafter (including all interest to be deferred and added to principal) may not at any time be scheduled to exceed 100 percent of the projected value of such property.

(3) For purposes of this subsection, the projected value of a property shall be calculated by the Secretary by increasing the initial appraised value of such property at a rate not in excess of 2.5 percent per annum.

(e) Inapplicability of State constitution, etc., provision limiting interest or requiring minimum amortization of principal

Any mortgage or loan insured pursuant to this section which contains or sets forth any graduated mortgage provisions (including but not limited to provisions for adding deferred interest to principal) which are authorized under this section and applicable regulations, or which have been insured on the basis of their being so authorized, shall not be subject to any State constitution, statute, court decree, common law, or rule or public policy (1) limiting the amount of interest which may be charged, taken, received, or reserved, or the manner of calculating such interest (including but not limited to prohibitions against the charging of interest on interest), if such constitution, statute, court decree, common law, or rule would not apply to the mortgage or loan in the absence of such graduated payment mortgage provisions, or (2) requiring a minimum amortization of principal under the mortgage or loan.

(June 27, 1934, ch. 847, title II, §245, as added Aug. 22, 1974, Pub. L. 93–383, title III, §308, 88 Stat. 680; amended Aug. 3, 1976, Pub. L. 94–375, §7, 90 Stat. 1071; Oct. 12, 1977, Pub. L. 95–128, title III, §§301(g), 310, 91 Stat. 1131, 1136; Sept. 30, 1978, Pub. L. 95–406, §1(g), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, §301(g), 92 Stat. 2096; Nov. 10, 1978, Pub. L. 95–630, title XV, §1503, 92 Stat. 3713; Sept. 28, 1979, Pub. L. 96–71, §1(g), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, §1(g), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, §§301(g), 311(b), 93 Stat. 1112, 1115; Oct. 3, 1980, Pub. L. 96–372, §1(g), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, §301(g), 94 Stat. 1638; Aug. 13, 1981, Pub. L. 97–35, title III, §331(g) 95 Stat. 413; Oct. 6, 1982, Pub. L. 97–289, §1(g), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, §1(g), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, §1(g), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV,

§§ 401(f), 441, 442, 97 Stat. 1208, 1223, 1224; Oct. 8, 1985, Pub. L. 99–120, § 1(f), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, § 1(f), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, § 1(f), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, § 1(f), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(f), 100 Stat. 105; 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; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 401(a)(4), 408(b), 415(b)(1), 101 Stat. 1898, 1903, 1907.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100–242, § 401(a)(4), struck out at end ''A mortgage or loan may not be insured pursuant to this subsection after March 15, 1988, except pursuant to a commitment entered into prior to such date.''

Subsec. (b). Pub. L. 100–242, § 408(b), inserted at end ''No loan or mortgage may be insured under this subsection after February 5, 1988, except pursuant to a commitment to insure entered into on or before such date.''

Subsec. (c). Pub. L. 100–242, § 415(b)(1), struck out reference to section 1715z–16 of this title in last sentence.

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 ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

1983—Subsec. (a). Pub. L. 98–181, § 441(a), inserted ''or with monthly payments and outstanding balances adjusted by a percentage change in a selected price index'' after ''family income'' and substituted ''subsections (b) and (c) of this section'' for ''subsection (b) of this section''.

Pub. L. 98–181, § 401(f), substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

Subsecs. (c) to (e). Pub. L. 98–181, §§ 441(b), 442, added subsecs. (c) and (d) and redesignated former subsec. (c) as (e).

1982—Subsec. (a). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (a). Pub. L. 97–35 substituted ''1982'' for ''1981''.

1980—Subsec. (a). Pub. L. 96–399 substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372 substituted ''October 15, 1980'' for ''September 30, 1980''.

1979—Subsec. (a). Pub. L. 96–153, §§ 301(g), 311(a)(1)–(4), designated existing provisions as subsec. (a) and struck out provisions that mortgages or loans insured pursuant to this section which contained or set forth graduated mortgage provisions shall not be subject to local usury laws and laws requiring a minimum amortization of principal or otherwise relating to amortization of principal under the mortgage or loan, and substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979''.

Subsecs. (b), (c). Pub. L. 96–153, § 311(5), added subsecs. (b) and (c).

1978—Pub. L. 95–630 inserted ''(1)'' before ''limiting the amount of interest'' and '', or (2) requiring a minimum amortization of principal or otherwise relating to the amortization of principal under the mortgage or loan'' after ''payment mortgage provisions''.

Pub. L. 95–557 substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Pub. L. 95–128 substituted ''September 30, 1978'' for ''September 30, 1977'', struck out ''on an experimental basis'' after ''may insure'', substituted provision respecting limitation of principal obligation for prior provision respecting limitation of outstanding aggregate principal amount of mortgages authorized, and made any State law interest limitation inapplicable to graduated mortgage provisions.

1976—Pub. L. 94–375 substituted ''September 30, 1977'' for ''June 30, 1976''.

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 1978 AMENDMENT

Amendment by Pub. L. 95–630 effective Nov. 10, 1978, see section 1505 of Pub. L. 95–630, set out as a note under section 27 of this title.

SHORT TITLE OF 1979 AMENDMENT

For short title of section 311 of Pub. L. 96–153, which amended this section, as the ''Homeownership Opportunity Act of 1979'', see section 311(a) of Pub. L. 96–153, set out as a note under section 1701 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715n, 1715z, 1715z–14, 1715z–17 of this title.

§ 1715z–11. Sale to cooperatives of multifamily housing projects acquired by Secretary; acceptance of purchase money mortgage for sale or insurance of mortgage; principal amount of mortgage; expenditures for repairs, etc., prior to sale

In any case which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this chapter to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall

be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provisions for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.

(June 27, 1934, ch. 847, title II, §246, as added Aug. 22, 1974, Pub. L. 93–383, title III, §315, 88 Stat. 684; amended Oct. 31, 1978, Pub. L. 95–557, title III, §322, 92 Stat. 2102.)

AMENDMENTS

1978—Pub. L. 95–557 inserted ''or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary'' after ''dwellings to members'' and ''or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate'' after ''purchase money mortgage'' and substituted ''the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of property when operated on a nonprofit basis after payment of all operating expenses, taxes, and required reserves; except that the Secretary may add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate'' for ''the sum of (1) the appraised value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis and after payment of all operating expenses, taxes and required reserves, and (2) the amount of prepaid expenses and costs involved in achieving cooperative ownership''.

§1715z–12. Single-family mortgage insurance on Hawaiian home lands

(a) One- to four-family residence; eligibility

The Secretary, subject to such conditions as the Secretary may prescribe, may insure under any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Hawaiian home lands, if—

(1) the mortgage is executed by a native Hawaiian on property located within Hawaiian home lands covered under a homestead lease issued under section 207(a) of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 5);

(2) the property will be used as the principal residence of the mortgagor; and

(3) the Department of Hawaiian Home Lands of the State of Hawaii (A) is a comortgagor; (B) guarantees to reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian home lands; or (C) offers other security acceptable to the Secretary.

(b) Construction advances

Notwithstanding any other provision of this chapter, the Secretary may, with respect to mortgages eligible for insurance under subsection (a) of this section, insure and make commitments to insure advances made during construction if the Secretary determines that the proposed construction is otherwise acceptable and that no feasible financing alternative is available.

(c) Insurance of mortgage as obligation of General Insurance Fund

Notwithstanding any other provision of this chapter, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 1735c of this title. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 1710 of this title with respect to mortgages insured pursuant to this section, 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) all references in section 1710 of this title to section 1709 of this title shall be construed to refer to the section under which the mortgage is insured.

(d) "Native Hawaiian" and "Hawaiian home lands" defined

For purposes of this section:

(1) The term ''native Hawaiian'' means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778 (or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 5)).

(2) The term ''Hawaiian home lands'' means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved March 18, 1959 (73 Stat. 5).

(June 27, 1934, ch. 847, title II, §247, as added Nov. 30, 1983, Pub. L. 98–181, title IV, §421, 97 Stat. 1213; amended Dec. 22, 1987, Pub. L. 100–202, §101(f) [title I, §101], 101 Stat. 1329–187, 1329–191; Feb. 5, 1988, Pub. L. 100–242, title IV, §§413(a), (b), 429(h), 101 Stat. 1906, 1919; Nov. 7, 1988, Pub. L. 100–628, title X, §1065, 102 Stat. 3275.)

REFERENCES IN TEXT

The Hawaiian Homes Commission Act, 1920, referred to in subsecs. (a)(1) and (d), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended. Sections 204, 207, and 209 of that Act were classified to sections 698, 701, and 703 of Title 48, Territories and Insular Possessions, and were omitted from the Code.

Section 4 of the Act entitled ''An Act to provide for the admission of the State of Hawaii into the Union'', approved Mar. 18, 1959 (73 Stat. 5), referred to in subsecs. (a)(1) and (d), is section 4 of Pub. L. 86–3, Mar. 18, 1959, 73 Stat. 5, which is set out as a note preceding section 491 of Title 48.

AMENDMENTS

1988—Subsec. (a)(2). Pub. L. 100–242, § 429(h), substituted ''mortgagor'' for ''Mortgagor''.

Subsecs. (c), (d). Pub. L. 100–628 clarified amendment by Pub. L. 100–242, § 413(a), (b).

Pub. L. 100–242, § 413(a), (b), made amendment identical to Pub. L. 100–202. See 1987 Amendment note below.

1987—Subsec. (c). Pub. L. 100–202 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100–202 extended subsec. (c)(1) term ''native Hawaiian'' to include in the case of succession in an interest in a lease of Hawaiian homelands any descendant of a percentage less than one-half of the blood of the races inhabiting the Hawaiian Islands before Jan. 1, 1778, as may be established under statute or constitution for succession; and redesignated subsec. (c), including such par. (1), as subsec. (d).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title; title 42 section 1437dd.

§ 1715z–13. Single family mortgage insurance on Indian reservations

(a) One- to four-family residence; eligibility

The Secretary, subject to such special conditions as the Secretary may prescribe, may insure under any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Indian reservations if the mortgage (1) is executed by an Indian tribe and the property is located on trust or otherwise restricted land; or (2) is executed by a member of an Indian tribe who will use the property as a principal residence and the property is on trust or otherwise restricted land.

(b) Construction advances; percentage limitation on amount of principal obligation; pledge of income from tribal resources or assets

Notwithstanding any other provision of this chapter, with respect to mortgages covering a property upon which there is located a one- to four-family residence—

(1) the Secretary may insure and make commitments to insure under this subchapter pursuant to this section advances made during construction where the Secretary determines that the proposed construction is otherwise acceptable and meets an applicable tribal or national model building code, and that no feasible financing alternative is available;

(2) the applicable percentage limitation on the amount of the principal obligation of a mortgage based on the appraised value or replacement cost, as appropriate, of a one- to four-family owner-occupied residence contained in this subchapter shall apply in the case of all mortgages insured pursuant to this section without regard to whether the residences are owner-occupied where the residences are owned by the tribe; and

(3)(A) the Secretary may require an Indian tribe, only as a condition of insurance made under this subchapter pursuant to this section, to pledge income from tribal resources or income from tribal assets not subject to a restriction by the Secretary of the Interior or pledge grants under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] or any other Federal grant program administered by the Secretary of Housing and Urban Development to be used to reimburse the Secretary for any mortgage insurance claims paid in connection with residences insured pursuant to this section; or

(B) in the case of an individual Indian mortgagor, the Secretary may require a pledge of his or her share of distributed income from tribal resources or income from tribal assets, excluding any Federal grants received by the tribe.

(c) Lack of tribal or trust fund income

The Secretary may not refuse to insure a mortgage under this section to an individual home purchaser because there is no distributed tribal or trust fund income attributable to that purchaser.

(d) Availability of tribal eviction procedures

Before making any commitment to insure a mortgage under this section with respect to property located on trust or otherwise restricted land, the Secretary shall require a showing by the tribe that it has adopted eviction procedures to be used in the event of a default.

(e) Assumption of mortgage

A mortgage insured under this section may be assumed, subject to credit approval by the lender and the consent of the tribe to an assumption of the existing lease or the grant of a new lease, without an adjustment of the interest rate. Any other sale of a property subject to a mortgage insured under this section may be made only if a new lease is granted, except that a sale following a foreclosure may be accompanied by an assumption of the lease with the consent of the tribe.

(f) Insurance of mortgage as obligation of General Insurance Fund

Notwithstanding any other provision of this chapter, the insurance of a mortgage using the authority contained in this section shall be the obligation of the General Insurance Fund established in section 1735c of this title. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 1710 of this title with respect to mortgages insured pursuant to this section, 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) all references in section 1710 of this title to section

1709 of this title shall be construed to refer to the section under which the mortgage is insured.

(g) Availability of status and payment history of loans; entitlement to benefit of insurance; reinstatement of loan upon cure of default; garnishment proceedings; foreclosure proceedings

(1) The Secretary shall make information regarding the status and payment history of loans insured under this section available to local credit bureaus and prospective creditors. Prior to accepting assignment of a mortgage, the Secretary shall require mortgagees to submit documentation that mortgagors have been counseled in a face-to-face interview, informed of the provisions of this subsection or other available assistance, and provided with the names and addresses of officials of the Department of Housing and Urban Development to whom further communications shall be addressed.

(2) Notwithstanding the requirement for conveyance of title under section 1710 of this title, a mortgagee under this section shall be entitled to receive the benefit of insurance under this section in the case of a mortgage which is more than 90 days in default upon conveyance of the lease agreement and the mortgage documents.

(3) In the event that any default is cured, the Secretary shall seek to reinstate the loan with the mortgagee or another mortgagee. For purposes of this paragraph, the Secretary may provide appropriate financial incentives to reinstate the loan commensurate with sound management of the General Insurance Fund.

(4) If the Secretary determines that a mortgagor is not making a good-faith effort to cure a default, and that trust fund or tribal income is available under subsection (b)(3)(B) of this section, the Secretary shall commence proceedings for the garnishment of the mortgagor's distributed share of tribal or trust fund income in order to collect loan payments that are past due. Proceedings under this paragraph may be instituted in a tribal court, court of competent jurisdiction designated by the tribe, or Federal district court.

(5) If the Secretary determines such action is necessary to protect the General Insurance Fund from undue loss, the Secretary may initiate foreclosure proceedings with respect to any mortgage acquired under this subsection. Such proceeding may take place in a tribal court, a court of competent jurisdiction, or Federal district court. Any such court shall have jurisdiction to convey to the Secretary the remaining life of a lease on the real property and to order eviction of the delinquent mortgagor.

(h) Premium charge for insurance; report to Congress

In the administration of this section, the Secretary shall establish a premium charge for insurance that will be sufficient to cover the full costs of the mortgage insurance program under this section, except that such charge may not exceed 3 percent per annum of the principal amount of the mortgage outstanding at any time. Not later than September 30, 1984, the Secretary shall determine and report to the Congress on the feasibility of eliminating any excess amount of the premium under this section over the premium under section 1709 of this title. In the event such premiums are not sufficient to cover the full costs of the mortgage insurance program under this section, the Secretary shall make recommendations to the Congress about changes to the program.

(i) "Indian tribe" and "trust or otherwise restricted land" defined

For purposes of this section:

(1) The term ''Indian tribe'' means any Indian or Alaska native tribe, band, nation, or other organized group or community of Indians or Alaska natives recognized as eligible for the services provided to Indians or Alaska natives by the Secretary of the Interior because of its status as such an entity, or that was an eligible recipient under chapter 67 of title 31, prior to the repeal of such chapter.

(2) The term ''trust or otherwise restricted land'' means (A) that area of land, as defined by the Secretary of the Interior, over which an Indian tribe is recognized by the United States as having governmental jurisdiction; (B) land held in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation; or (C) land acquired by Alaska natives under the Alaska Native Claims Settlement Act [43 U.S.C. 1601 et seq.] or any other land acquired by Alaska natives pursuant to statute by virtue of their unique status as Alaska natives.

(June 27, 1934, ch. 847, title II, §248, as added Nov. 30, 1983, Pub. L. 98–181, title IV, §422, 97 Stat. 1214; amended Apr. 7, 1986, Pub. L. 99–272, title XIV, §14001(b)(7), 100 Stat. 329; Feb. 5, 1988, Pub. L. 100–242, title IV, §§413(c), 429(i), 101 Stat. 1906, 1919.)

REFERENCES IN TEXT

The Housing and Community Development Act of 1974, referred to in subsec. (b)(3)(A), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. 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.

Chapter 67 of title 31, referred to in subsec. (i)(1), was repealed by Pub. L. 99–272, title XIV, §14001(a)(1), Apr. 7, 1986, 100 Stat. 327. A new chapter 67 of Title 31, Money and Finance, was added by Pub. L. 103–322, title III, §31001(a), Sept. 13, 1994, 108 Stat. 1859.

The Alaska Native Claims Settlement Act, referred to in subsec. (i)(2), is Pub. L. 92–203, Dec. 18, 1971, 85 Stat. 688, as amended, which is classified generally to chapter 33 (§1601 et seq.) of Title 43, Public Lands. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 43 and Tables.

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100–242, §429(i)(1), substituted ''land'' for ''lands''.

Subsec. (a)(2). Pub. L. 100–242, §429(i)(2), substituted ''on trust or otherwise restricted land'' for ''on trust lands or otherwise restricted land''.

Subsec. (d). Pub. L. 100–242, §429(i)(3), substituted ''trust or otherwise restricted land'' for ''tribal or trust land''.

Subsec. (f). Pub. L. 100–242, §413(c)(3), added subsec. (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 100–242, §413(c)(1), (2), redesignated former subsec. (f) as (g) and substituted ''General

Insurance Fund'' for ''insurance fund'' in pars. (3) and (5). Former subsec. (g) redesignated (h).

Subsecs. (h), (i). Pub. L. 100–242, § 413(c)(2), redesignated former subsecs. (g) and (h) as (h) and (i), respectively.

1986—Subsec. (h)(1). Pub. L. 99–272 substituted ''was an eligible recipient under chapter 67 of title 31, prior to the repeal of such chapter'' for ''is an eligible recipient under chapter 67 of title 31''.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–272 effective Oct. 18, 1986, see section 14001(e) of Pub. L. 99–272.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title; title 42 section 1437dd.

§ 1715z–13a. Loan guarantees for Indian housing

(a) Authority

To provide access to sources of private financing to Indian families and Indian housing authorities who otherwise could not acquire housing financing because of the unique legal status of Indian trust land, the Secretary may guarantee not to exceed 100 percent of the unpaid principal and interest due on any loan eligible under subsection (b) of this section made to an Indian family or Indian housing authority.

(b) Eligible loans

Loans guaranteed pursuant to this section shall meet the following requirements:

(1) Eligible borrowers

The loans shall be made only to borrowers who are Indian families or Indian housing authorities.

(2) Eligible housing

The loan shall be used to construct, acquire, or rehabilitate 1- to 4-family dwellings that are standard housing and are located on trust land or land located in an Indian or Alaska Native area.

(3) Security

The loan may be secured by any collateral authorized under existing Federal law or applicable State or tribal law.

(4) Lenders

The loan shall be made only by a lender approved by and meeting qualifications established by the Secretary, except that loans otherwise insured or guaranteed by an agency of the Federal Government or made by an organization of Indians from amounts borrowed from the United States shall not be eligible for guarantee under this section. The following lenders are deemed to be approved under this paragraph:

(A) Any mortgagee approved by the Secretary of Housing and Urban Development for participation in the single family mortgage insurance program under title II of the National Housing Act [12 U.S.C. 1707 et seq.].

(B) Any lender whose housing loans under chapter 37 of title 38 are automatically guaranteed pursuant to section 1802(d)[1] of such title.

(C) Any lender approved by the Secretary of Agriculture to make guaranteed loans for single family housing under the Housing Act of 1949 [42 U.S.C. 1441 et seq.].

(D) Any other lender that is supervised, approved, regulated, or insured by any agency of the Federal Government.

(5) Terms

The loan shall—

(A) be made for a term not exceeding 30 years;

(B) bear interest (exclusive of the guarantee fee under section 404[2] and service charges, if any) at a rate agreed upon by the borrower and the lender and determined by the Secretary to be reasonable, which may not exceed the rate generally charged in the area (as determined by the Secretary) for home mortgage loans not guaranteed or insured by any agency or instrumentality of the Federal Government;

(C) involve a principal obligation not exceeding—

(i) 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 loan is accepted for guarantee, and (II) 95 percent of such value in excess of $25,000; and

(ii) the amount approved by the Secretary under this section; and

(D) involve a payment on account of the property (i) in cash or its equivalent, or (ii) through the value of any improvements to the property made through the skilled or unskilled labor of the borrower, as the Secretary shall provide.

(c) Certificate of guarantee

(1) Approval process

Before the Secretary approves any loan for guarantee under this section, the lender shall submit the application for the loan to the Secretary for examination. If the Secretary approves the loan for guarantee, the Secretary shall issue a certificate under this paragraph as evidence of the guarantee.

(2) Standard for approval

The Secretary may approve a loan for guarantee under this section and issue a certificate under this paragraph only if the Secretary determines there is a reasonable prospect of repayment of the loan.

(3) Effect

A certificate of guarantee issued under this paragraph by the Secretary shall be conclusive evidence of the eligibility of the loan for guarantee under the provisions of this section and the amount of such guarantee. Such evidence shall be incontestable in the hands of the bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

(4) Fraud and misrepresentation

This subsection may not be construed to preclude the Secretary from establishing defenses

[1] So in original. Probably should be section ''3702(d)''.

[2] So in original. Probably should be ''subsection (d) of this section''.

against the original lender based on fraud or material misrepresentation or to bar the Secretary from establishing by regulations in effect on the date of issuance or disbursement, whichever is earlier, partial defenses to the amount payable on the guarantee.

(d) Guarantee fee

The Secretary shall fix and collect a guarantee fee for the guarantee of loans under this section, which may not exceed the amount equal to 1 percent of the principal obligation of the loan. The fee shall be paid by the lender at time of issuance of the guarantee and shall be adequate, in the determination of the Secretary, to cover expenses and probable losses. The Secretary shall deposit any fees collected under this subsection in the Indian Housing Loan Guarantee Fund established under subsection (i) of this section.

(e) Liability under guarantee

The liability under a guarantee provided under this section shall decrease or increase on a pro rata basis according to any decrease or increase in the amount of the unpaid obligation under the provisions of the loan agreement.

(f) Transfer and assumption

Notwithstanding any other provision of law, any loan guaranteed under this section, including the security given for the loan, may be sold or assigned by the lender to any financial institution subject to examination and supervision by an agency of the Federal Government or of any State or the District of Columbia.

(g) Disqualification of lenders and civil money penalties

(1) In general

If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) of this section has failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, to exercise proper credit or underwriting judgment, or has engaged in practices otherwise detrimental to the interest of a borrower or the United States, the Secretary may—

(A) refuse, either temporarily or permanently, to guarantee any further loans made by such lender or holder;

(B) bar such lender or holder from acquiring additional loans guaranteed under this section; and

(C) require that such lender or holder assume not less than 10 percent of any loss on further loans made or held by the lender or holder that are guaranteed under this section.

(2) Civil money penalties for intentional violations

If the Secretary determines that any lender or holder of a guarantee certificate under subsection (c) of this section has intentionally failed to maintain adequate accounting records, to adequately service loans guaranteed under this section, or to exercise proper credit or underwriting judgment, the Secretary may impose a civil money penalty on such lender or holder in the manner and amount provided under section 536 of the National Housing Act [12 U.S.C. 1735f–14] with respect to mortgagees and lenders under such Act.

(3) Payment on loans made in good faith

Notwithstanding paragraphs (1) and (2), the Secretary may not refuse to pay pursuant to a valid guarantee on loans of a lender or holder barred under this subsection if the loans were previously made in good faith.

(h) Payment under guarantee

(1) Lender options

(A) In general

In the event of default by the borrower on a loan guaranteed under this section, the holder of the guarantee certificate shall provide written notice of the default to the Secretary. Upon providing such notice, the holder of the guarantee certificate shall be entitled to payment under the guarantee (subject to the provisions of this section) and may proceed to obtain payment in one of the following manners:

(i) Foreclosure

The holder of the certificate may initiate foreclosure proceedings in a court of competent jurisdiction (after providing written notice of such action to the Secretary) and upon a final order by the court authorizing foreclosure and submission to the Secretary of a claim for payment under the guarantee, the Secretary shall pay to the holder of the certificate the pro rata portion of the amount guaranteed (as determined pursuant to subsection (e) of this section) plus reasonable fees and expenses as approved by the Secretary. The Secretary shall be subrogated to the rights of the holder of the guarantee and the lender holder shall assign the obligation and security to the Secretary.

(ii) No foreclosure

Without seeking a judicial foreclosure (or in any case in which a foreclosure proceeding initiated under clause (i) continues for a period in excess of 1 year), the holder of the guarantee may submit to the Secretary a claim for payment under the guarantee and the Secretary shall only pay to such holder for a loss on any single loan an amount equal to 90 percent of the pro rata portion of the amount guaranteed (as determined under subsection (e) of this section). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(B) Requirements

Before any payment under a guarantee is made under subparagraph (A), the holder of the guarantee shall exhaust all reasonable possibilities of collection. Upon payment, in whole or in part, to the holder, the note or judgment evidencing the debt shall be assigned to the United States and the holder shall have no further claim against the bor-

rower or the United States. The Secretary shall then take such action to collect as the Secretary determines appropriate.

(2) Assignment by Secretary

Notwithstanding paragraph (1), upon receiving notice of default on a loan guaranteed under this section from the holder of the guarantee, the Secretary may accept assignment of the loan if the Secretary determines that the assignment is in the best interests of the United States. Upon assignment the Secretary shall pay to the holder of the guarantee the pro rata portion of the amount guaranteed (as determined under subsection (e) of this section). The Secretary shall be subrogated to the rights of the holder of the guarantee and the holder shall assign the obligation and security to the Secretary.

(3) Limitations on liquidation

In the event of a default by the borrower on a loan guaranteed under this section involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence.

(i) Indian Housing Loan Guarantee Fund

(1) Establishment

There is established in the Treasury of the United States the Indian Housing Loan Guarantee Fund for the purpose of providing loan guarantees under this section.

(2) Credits

The Guarantee Fund shall be credited with—

(A) any amounts, claims, notes, mortgages, contracts, and property acquired by the Secretary under this section, and any collections and proceeds therefrom;

(B) any amounts appropriated under paragraph (7);

(C) any guarantee fees collected under subsection (d) of this section; and

(D) any interest or earnings on amounts invested under paragraph (4).

(3) Use

Amounts in the Guarantee Fund shall be available, to the extent provided in appropriation Acts, for—

(A) fulfilling any obligations of the Secretary with respect to loans guaranteed under this section, including the costs (as such term is defined in section 661a of title 2) of such loans;

(B) paying taxes, insurance, prior liens, expenses necessary to make fiscal adjustment in connection with the application and transmittal of collections, and other expenses and advances to protect the Secretary for loans which are guaranteed under this section or held by the Secretary;

(C) acquiring such security property at foreclosure sales or otherwise;

(D) paying administrative expenses in connection with this section; and

(E) reasonable and necessary costs of rehabilitation and repair to properties that the Secretary holds or owns pursuant to this section.

(4) Investment

Any amounts in the Guarantee Fund determined by the Secretary to be in excess of amounts currently required to carry out this section may be invested in obligations of the United States.

(5) Limitation on commitments to guarantee loans and mortgages

(A) Requirement of appropriations

The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent or in such amounts as are or have been provided in appropriations Acts for such fiscal year.

(B) Limitations on costs of guarantees

The authority of the Secretary to enter into commitments to guarantee loans under this section shall be effective for any fiscal year only to the extent that amounts in the Guarantee Fund are or have been made available in appropriation Acts to cover the costs (as such term is defined in section 661a of title 2) of such loan guarantees for such fiscal year.

(C) Limitation on outstanding aggregate principal amount

Subject to the limitations in subparagraphs (A) and (B), the Secretary may enter into commitments to guarantee loans under this section in each of fiscal years 1993 and 1994 with an aggregate outstanding principal amount not exceeding such amount as may be provided in appropriation Acts for each such year.

(6) Liabilities

All liabilities and obligations of the assets credited to the Guarantee Fund under paragraph (2)(A) shall be liabilities and obligations of the Guarantee Fund.

(7) Authorization of appropriations

There are authorized to be appropriated to the Guarantee Fund to carry out this section such sums as may be necessary for fiscal year 1993 and $50,000,000 for fiscal year 1994.

(j) Requirements for standard housing

The Secretary shall, by regulation, establish housing safety and quality standards for use under this section. Such standards shall provide sufficient flexibility to permit the use of various designs and materials in housing acquired with loans guaranteed under this section. The standards shall require each dwelling unit in any housing so acquired to—

(1) be decent, safe, sanitary, and modest in size and design;

(2) conform with applicable general construction standards for the region;

(3) contain a heating system that—

(A) has the capacity to maintain a minimum temperature in the dwelling of 65 de-

grees Fahrenheit during the coldest weather in the area;

(B) is safe to operate and maintain;

(C) delivers a uniform distribution of heat; and

(D) conforms to any applicable tribal heating code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(4) contain a plumbing system that—

(A) uses a properly installed system of piping;

(B) includes a kitchen sink and a partitional bathroom with lavatory, toilet, and bath or shower; and

(C) uses water supply, plumbing, and sewage disposal systems that conform to any applicable tribal code or, if there is no applicable tribal code, the minimum standards established by the applicable county or State;

(5) contain an electrical system using wiring and equipment properly installed to safely supply electrical energy for adequate lighting and for operation of appliances that conforms to any applicable tribal code or, if there is no applicable tribal code, an appropriate county, State, or National code;

(6) be not less than—

(A)(i) 570 square feet in size, if designed for a family of not more than 4 persons;

(ii) 850 square feet in size, if designed for a family of not less than 5 and not more than 7 persons; and

(iii) 1020 square feet in size, if designed for a family of not less than 8 persons, or

(B) the size provided under the applicable locally adopted standards for size of dwelling units;

except that the Secretary, upon the request of a tribe or Indian housing authority, may waive the size requirements under this paragraph; and

(7) conform with the energy performance requirements for new construction established by the Secretary under section 526(a) of the National Housing Act [12 U.S.C. 1735f–4(a)].

(k) Definitions

For purposes of this section:

(1) The term ''family'' means 1 or more persons maintaining a household, as the Secretary shall by regulation provide.

(2) The term ''Guarantee Fund'' means the Indian Housing Loan Guarantee Fund established under subsection (i) of this section.

(3) The term ''Indian'' means person recognized as being Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.

(4) The term ''Indian area'' means the area within which an Indian housing authority is authorized to provide housing.

(5) The term ''Indian housing authority'' means any entity that—

(A) is authorized to engage in or assist in the development or operation of low-income housing for Indians; and

(B) is established—

(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

(6) The term ''Secretary'' means the Secretary of Housing and Urban Development.

(7) The term ''standard housing'' means a dwelling unit or housing that complies with the requirements established under subsection (j) of this section.

(8) The term ''tribe'' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.

(9) The term ''trust land'' means land title to which is held by the United States for the benefit of an Indian or Indian tribe or title to which is held by an Indian tribe subject to a restriction against alienation imposed by the United States.

(Pub. L. 102–550, title I, § 184, Oct. 28, 1992, 106 Stat. 3739.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (b)(4)(A), 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 this chapter. 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. (b)(4)(C), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended, 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 and Community Development Act of 1992, and not as part of the National Housing Act which comprises this chapter.

§ 1715z–14. Reinsurance contracts

(a) Demonstration mortgage reinsurance program; areas; number of mortgages

The purpose of this section is to authorize a demonstration mortgage reinsurance program designed to test the feasibility of entering into reinsurance contracts with private mortgage insurers in order to reduce Government risk and administrative costs, and to speed mortgage processing. The Secretary shall limit the demonstration under this section to not more than two administrative regions of the Department of Housing and Urban Development, and shall assure that the program is in the financial interest of the Government and will not result in loss of employment by any employees of the Department of Housing and Urban Development before March 15, 1988. The aggregate number of mortgages insured under this section in any administrative region of the Department of Housing and Urban Development in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter in such region during the preceding fiscal year.

(b) One- to four-family dwellings; requirements for private mortgage insurance companies

Notwithstanding any other provision of this chapter inconsistent with this section, the Sec-

retary is authorized to provide mortgage insurance with respect to one- to four-family dwellings under sections 1709(b), 1715y, and 1715z–10 of this title through reinsurance contracts with private mortgage insurance companies which have been determined to be qualified insurers under section 1717(b)(2)(C) of this title. Such contracts shall require private mortgage insurance companies to—

(1) assume a percentage of loss on any mortgage insured pursuant to section 1709(b), 1715y, or 1715z–10 of this title covering a one- to four-family dwelling, which percentage of loss shall be set forth in the reinsurance contract; and

(2) carry out (under appropriate delegation) such credit approval, appraisal, inspection, commitment, claims processing, property disposition, or other function as the Secretary pursuant to regulations, shall approve as consistent with the purposes of this section.

(c) Required contract provisions

Any contract of reinsurance under this section shall contain such provisions relating to the sharing of premiums on a sound actuarial basis, establishment of insurance reserves, manner of calculating claims on such insurance, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, right of assignees, and other similar matters as the Secretary may prescribe pursuant to regulations. Pursuant to a contract under this section, a private mortgage insurance company shall endorse loans for insurance and take such other actions on behalf of the Secretary and in the Secretary's name as the Secretary may authorize.

(d) Mortgages offered for inclusion by Secretary

The Secretary shall require any private mortgage insurance company participating in the program under this section to provide reinsurance for those mortgages offered by the Secretary for inclusion in the program.

(June 27, 1934, ch. 847, title II, § 249, as added Nov. 30, 1983, Pub. L. 98–181, title IV, § 428(a), 97 Stat. 1219; amended Oct. 8, 1985, Pub. L. 99–120, § 1(g), 99 Stat. 502; Nov. 15, 1985, Pub. L. 99–156, § 1(g), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, § 1(g), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, § 1(g), 100 Stat. 73; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(g), 100 Stat. 105; 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.)

AMENDMENTS

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 ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

EVALUATION OF REINSURANCE PROGRAM; REPORT TO CONGRESS

Section 428(b) of Pub. L. 98–181 provided that: ''The Secretary of Housing and Urban Development shall evaluate the reinsurance program under section 249 of the National Housing Act [this section] and, not later than March 1, 1985, submit to the Congress a report setting forth the results of such evaluation. Such report shall include an evaluation of the possible effect of a reinsurance program on the characteristics of the pool of mortgages remaining wholly under the applicable insurance funds and the actuarial soundness of such funds under such conditions.''

§ 1715z–15. Limitation on prepayment of mortgages on multifamily rental housing

(a) Acceptance of offer to prepay; qualifications

During any period in which an owner of a multifamily rental housing project is required to obtain the approval of the Secretary for prepayment of the mortgage, the Secretary shall not accept an offer to prepay the mortgage on such project or permit a termination of an insurance contract pursuant to section 1715t of this title unless—

(1) the Secretary has determined that such project is no longer meeting a need for rental housing for lower income families in the area;

(2) the Secretary (A) has determined that the tenants have been notified of the owner's request for approval of a prepayment; (B) has provided the tenants with an opportunity to comment on the owner's request; and (C) has taken such comments into consideration; and

(3) the Secretary has ensured that there is a plan for providing relocation assistance for adequate, comparable housing for any lower income tenant who will be displaced as a result of the prepayment and withdrawal of the project from the program.

(b) Approval prior to foreclosure

A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project (as such term is defined in section 4119 of this title) only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

(c) "Lower income families" defined

For purposes of this section, the term ''lower income families'' has the meaning given such term in section 1437a(b)(2) of title 42.

(June 27, 1934, ch. 847, title II, § 250, as added Nov. 30, 1983, Pub. L. 98–181, title IV, § 433, 97 Stat. 1221; amended Feb. 5, 1988, Pub. L. 100–242,

title II, §261, 101 Stat. 1890; Dec. 15, 1989, Pub. L. 101–235, title II, §202(d)(1), 103 Stat. 2037; Nov. 28, 1990, Pub. L. 101–625, title VI, §602(b), (c), 104 Stat. 4277.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–625, §602(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''In the case of a project assisted under section 1715z–1 of this title or the proviso to section 1715*l*(d)(5) of this title, section 101 of the Housing and Urban Development Act of 1965, or section 1701q of this title where the owner has the right to prepay the mortgage covering the assisted project without the Secretary's approval, the Secretary shall give a priority for additional assistance under section 1437f of title 42 and section 201 of the Housing and Community Development Amendments of 1978 to tenants and applicants to become tenants of the project, if—

''(1) funds to provide such additional assistance are available; and

''(2) the Secretary determines that making such additional assistance available to the project is necessary to prevent the owner from prepaying the mortgage.''

Subsecs. (c), (d). Pub. L. 101–625, §602(c), redesignated subsec. (d) as (c) and struck out former subsec. (c) which read as follows: ''Any owner of a multifamily rental housing project referred to in subsection (b) of this section who receives additional assistance under section 1437f of title 42 under the priority established in subsection (b) of this section shall—

''(1) fully utilize the assistance which is available;

''(2) grant a priority to applicants to become tenants who have the lowest incomes; and

''(3) maintain the low-income character of the project for a period at least equal to the remaining term of the project mortgage to the extent that assistance is provided.''

1989—Subsec. (a). Pub. L. 101–235 inserted ''or permit a termination of an insurance contract pursuant to section 1715t of this title'' after second reference to ''project''.

1988—Subsec. (a)(1). Pub. L. 100–242 struck out ''or that the needs of lower income families in such project can more efficiently and effectively be met through other Federal housing assistance taking into account the remaining time the project could meet such needs'' after ''families in the area''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715t of this title.

§1715z–16. Adjustable rate single family mortgages

(a) One- to four-family dwellings; maximum term of mortgage; adjustments in effective rate of interest

The Secretary may insure under any provision of this subchapter a mortgage involving property upon which there is located a dwelling designed principally for occupancy by one to four families, where the mortgage provides for periodic adjustments by the mortgagee in the effective rate of interest charged. Such interest rate adjustments may be accomplished through adjustments in the monthly payment amount, the outstanding principal balance, or the mortgage term, or a combination of these factors, except that in no case may any extension of a mortgage term result in a total term in excess of 40 years. Adjustments in the effective rate of interest shall correspond to a specified national interest rate index approved in regulations by the Secretary, information on which is readily accessible to mortgagors from generally available published sources. Adjustments in the effective rate of interest shall (1) be made on an annual basis; (2) be limited, with respect to any single interest rate increase, to no more than 1 percent on the outstanding loan balance; and (3) be limited to a maximum increase of 5 percentage points above the initial contract interest rate over the term of the mortgage.

(b) Written explanation of mortgage features

The Secretary shall issue regulations requiring 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 5 years of the mortgage term.

(c) Number of mortgages and loans

The aggregate number of mortgages and loans insured under this section in any fiscal year may not exceed 30 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

(June 27, 1934, ch. 847, title II, §251, as added Nov. 30, 1983, Pub. L. 98–181, title IV, §443, 97 Stat. 1225; amended Feb. 5, 1988, Pub. L. 100–242, title IV, §415(a), 101 Stat. 1907.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–242 amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: ''The aggregate number of mortgages and loans insured under this section, section 1715z–10(c) of this title, and section 1715z–17 of this title in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title; title 38 section 3707.

§1715z–17. Shared appreciation mortgages for single family housing

(a) One- to four-family dwellings; requirements

Notwithstanding any provision of this subchapter that is inconsistent with this section, the Secretary may insure, under any provision of this subchapter providing for insurance of mortgages on properties upon which there is located a dwelling designed principally for occupancy by one to four families, a mortgage secured by a first lien on such a property or on the stock allocated to a dwelling unit in a residential cooperative housing corporation, which—

(1) provides for the mortgagee to share in a predetermined percentage of the property's or stock's net appreciated value;

(2) bears interest at a rate which meets criteria prescribed by the Secretary;

(3) provides for amortization over a period of not to exceed 30 years, but the actual term of the mortgage (excluding any refinancing) may be not less than 10 nor more than 30 years, and contains such provisions relating to refinancing of the principal balance of the mortgage

and any contingent deferred interest as the Secretary may provide; and

(4) meets such other conditions as the Secretary may require by regulation.

(b) Payment of mortgagee's share of net appreciated value; "net appreciated value" defined

The mortgagee's share of a property's or stock's net appreciated value shall be payable upon sale or transfer (as defined by the Secretary) of the property or stock or payment in full of the mortgage, whichever occurs first. For purposes of this section, the term ''net appreciated value'' means the amount by which the sales price of the property or stock (less the mortgagor's selling costs) exceeds the value of the property or stock at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract). If there has been no sale or transfer at the time the mortgagee's share of net appreciated value becomes payable, the sales price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

(c) Entitlement of mortgagee upon default

In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 1710(a) of this title, but such insurance benefits shall not include the mortgagee's share of net appreciated value. The term ''original principal obligation of the mortgage'' as used in section 1710 of this title shall not include the mortgagee's share of net appreciated value.

(d) Inapplicability of State constitution, statute, etc., limiting or prohibiting increases in outstanding loan balance

Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

(e) Encouraged use of insurance by low and moderate income families

In carrying out the provisions of this section, the Secretary shall encourage the use of insurance under this section by low and moderate income tenants who would otherwise be displaced by the conversion of their rental housing to condominium or cooperative ownership.

(f) Consumer protections and disclosure requirements

The Secretary shall prescribe adequate consumer protections and disclosure requirements with respect to mortgages insured under this section, and may prescribe such other terms and conditions as may be appropriate to carry out the provisions of this section.

(g) Number of mortgages and loans

The aggregate number of mortgages and loans insured under this section and section 1715z–10(c) of this title in any fiscal year may not exceed 10 percent of the aggregate number of mortgages and loans insured by the Secretary under this subchapter during the preceding fiscal year.

(June 27, 1934, ch. 847, title II, § 252, as added Nov. 30, 1983, Pub. L. 98–181, title IV, § 444, 97 Stat. 1225; amended Feb. 5, 1988, Pub. L. 100–242, title IV, § 415(b)(2), 101 Stat. 1907.)

AMENDMENTS

1988—Subsec. (g). Pub. L. 100–242 struck out reference to section 1715z–16 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715z–10 of this title.

§ 1715z–18. Shared appreciation mortgages for multifamily housing

(a) Five or more family units; requirements

Notwithstanding any provision of this subchapter that is inconsistent with this section, the Secretary may insure, under any provision of this subchapter providing for insurance of mortgages on properties including 5 or more family units, a mortgage secured by a first lien on the property that (1) provides for the mortgagee to share in a predetermined percentage of the property's net appreciated value; and (2) meets such other conditions, including limitations on the rate of interest which may be charged, as the Secretary may require by regulation.

(b) Payment of mortgagee's share of net appreciated value; term of mortgage; repayment; "net appreciated value" defined

The mortgagee's share of a property's net appreciated value shall be payable upon maturity or upon payment in full of the loan or sale or transfer (as defined by the Secretary) of the property, whichever occurs first. The term of the mortgage shall not be less than 15 years, and shall be repayable in equal monthly installments of principal and fixed interest during the mortgage term in an amount which would be sufficient to retire a debt with the same principal and fixed interest rate over a period not exceeding 30 years. In the case of a mortgage which will not be completely amortized during the mortgage term, the principal obligation of the mortgage may not exceed 85 percent of the estimated value of the property or project. For purposes of this section, the term ''net appreciated value'' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary. If there has been no sale or transfer at the time the mortgagee's share of net appreciated value becomes payable, the sales price for purposes of this section shall be determined by means of an appraisal conducted in accordance with procedures approved by the Secretary and provided for in the mortgage.

(c) Entitlement of mortgagee upon default

In the event of a default, the mortgagee shall be entitled to receive the benefits of insurance in accordance with section 1713 of this title, but such insurance benefits shall not include the

mortgagee's share of net appreciated value. The term ''original principal face amount of the mortgage'' as used in section 1713 of this title shall not include the mortgagee's share of net appreciated value.

(d) Maximum percentage of net appreciated value; disclosure requirements

The Secretary shall establish by regulation the maximum percentage of net appreciated value which may be payable to a mortgagee as the mortgagee's share. The Secretary shall also establish disclosure requirements applicable to mortgagees making mortgage loans pursuant to this section, to assure that mortgagors are informed of the characteristics of such mortgages.

(e) Inapplicability of State constitution, statute, etc., limiting or prohibiting increases in outstanding loan balance

Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

(f) Number of dwelling units

The number of dwelling units included in properties covered by mortgages insured pursuant to this section in any fiscal year may not exceed 5,000.

(June 27, 1934, ch. 847, title II, § 253, as added Nov. 30, 1983, Pub. L. 98–181, title IV, § 445, 97 Stat. 1226; amended Feb. 5, 1988, Pub. L. 100–242, title IV, § 429(j), 101 Stat. 1919.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–242, § 429(j)(1), substituted ''For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary'' for ''For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the value (or replacement cost, as appropriate) of the property at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract)''.

Subsec. (c). Pub. L. 100–242, § 429(j)(2), (3), substituted ''in accordance with section 1713 of this title'' for ''in accordance with section 1710 of this title'' and ''The term 'original principal face amount of the mortgage' as used in section 1713 of this title shall not include the mortgagee's share of net appreciated value'' for ''The term 'original principal obligation of the mortgage' as used in section 1710(a) of this title shall not include the mortgagee's share of net appreciated value''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title.

§ 1715z–19. Equity skimming penalty

Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 1709, 1713, 1715e, 1715k, 1715*l*(d)(3), 1715*l*(d)(4), 1715n(f), 1715v, 1715w, 1715y, 1715z–1, 1715z–3(c), 1715z–6, 1715z–7, 1715z–9, 1743, or 1748h–2 of this title, or subchapter IX–B of this chapter, or is made pursuant to section 1701q of this title, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.

(June 27, 1934, ch. 847, title II, § 254, as added Feb. 5, 1988, Pub. L. 100–242, title IV, § 416(b), 101 Stat. 1908.)

§ 1715z–20. Demonstration program of insurance of home equity conversion mortgages for elderly homeowners

(a) Purpose

The purpose of this section is to authorize the Secretary to carry out a demonstration program of mortgage insurance designed—

(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets;

(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners; and

(3) to require the evaluation of data to determine—

(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.

(b) Definitions

For purposes of this section:

(1) The terms ''elderly homeowner'' and ''homeowner'' mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

(2) The terms ''mortgage'', ''mortgagee'', ''mortgagor'', and ''State'' have the meanings given such terms in section 1707 of this title.

(3) The term ''home equity conversion mortgage'' means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing

creditor (as defined in section 3802(2) of this title) is authorized to make (A) under any law of the United States (other than section 3803 of this title) or applicable agency regulations thereunder; (B) in accordance with section 3803 of this title, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

(c) Insurance authority

The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

(3) have a potential for acceptance in the mortgage market.

(d) Eligibility requirements

To be eligible for insurance under this section, a mortgage shall—

(1) have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;

(2) have been executed by a mortgagor who—

(A) qualifies as an elderly homeowner;

(B) has received adequate counseling by a third party (other than the lender) as provided in subsection (f) of this section; and

(C) meets any additional requirements prescribed by the Secretary;

(3) be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor;

(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or

(B) the insurance benefits paid pursuant to subsection (i)(1)(C) of this section;

(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe;

(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

(A) based upon a line of credit;

(B) on a monthly basis over a term specified by the mortgagor;

(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

(D) on a monthly basis over the tenure of the mortgagor;

(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

(F) on any other basis that the Secretary considers appropriate; and

(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility.

(e) Disclosures by mortgagee

The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f) of this section;

(2) at least 10 days prior to loan closing, a statement informing the homeowner that the liability of the homeowner under the mortgage is limited and explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require;

(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year; and

(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

(A) the cost for a short-term mortgage; and

(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.

(f) Information services for mortgagors

The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B) of this section. Such information shall be discussed with the mortgagor and shall include—

(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

(3) the financial implications of entering into a home equity conversion mortgage;

(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

(5) any other information that the Secretary may require.

(g) Limitation on insurance authority

No mortgage may be insured under this section after September 30, 1995, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 25,000. In no case may the benefits of insurance under this section exceed the maximum dollar amount established under section 1709(b)(2) of this title for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located.

(h) Administrative authority

The Secretary may—

(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or desirable to carry out the purposes of this section; and

(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate.

(i) Protection of homeowner and lender

(1) Notwithstanding any other provision of law, and in order to further the purposes of the demonstration program authorized in this section, the Secretary shall take any action necessary—

(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) of this section to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

(2) Actions under paragraph (1) may include—

(A) disbursing funds to the mortgagor or mortgagee from the General Insurance Fund;

(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

(E) imposing premium charges.

(j) Safeguard to prevent displacement of homeowner

The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term ''homeowner'' includes the spouse of a homeowner. Section 1647(b) of title 15) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.

(k) Reports to Congress

(1) The Secretary shall, not later than September 30, 1989, submit an interim report to Congress describing—

(A) design and implementation of the demonstration;

(B) number and types of reverse mortgages written to date;

(C) profile of participant homeowner-borrowers, including incomes, home equity, and regional distribution; and

(D) problems encountered in implementation, including impediments associated with State or Federal laws or regulations governing taxes, insurance, securities, public benefits, banking, and any other problems in implementation that the Secretary encounters.

(2) Not later than March 30, 1992, the Secretary shall submit to Congress a preliminary evaluation of the program authorized in this section. Such evaluation shall include an updated report on the matters referred to in paragraph (1) and shall in addition—

(A) describe the types of mortgages appropriate for inclusion in such program;

(B) describe any changes in the insurance programs under this subchapter, or in other Federal regulatory provisions, determined to be appropriate;

(C) describe any risk created under such mortgages to mortgagors and mortgagees or the insurance programs under this subchapter, and whether the risk is adequately covered by the premiums under the insurance programs;

(D) evaluate whether such program has improved the financial situation or otherwise met the special needs of participating elderly homeowners;

(E) evaluate whether such program has included appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

(F) evaluate whether home equity conversion mortgages have a potential for acceptance in the mortgage markets.

(3) The preliminary evaluation shall incorporate comments and recommendations solicited by the Secretary from the Board of Governors of the Federal Reserve System, the Secretary of Health and Human Services, the Federal Council on Aging, Federal Home Loan Bank Board, the Comptroller of the Currency, and the National Credit Union Administration Board regarding any of the matters referred to in paragraph (1) or (2).

(4) Following submission of the preliminary evaluation, the Secretary shall, on a biennial basis, submit to the Congress an updated report and evaluation covering the period since the most recent report under this subsection and shall include analysis of the repayment of the home equity conversion mortgages under this demonstration during such period.

(June 27, 1934, ch. 847, title II, § 255, as added Feb. 5, 1988, Pub. L. 100–242, title IV, § 417(a), 101 Stat. 1908; amended Nov. 7, 1988, Pub. L. 100–628, title X, § 1066, 102 Stat. 3275; Nov. 5, 1990, Pub. L. 101–508, title II, § 2106, 104 Stat. 1388–20; Nov. 28, 1990, Pub. L. 101–625, title III, § 334(b)–(d), 104 Stat. 4141, 4142; Oct. 6, 1992, Pub. L. 102–389, title II, 106 Stat. 1592; Oct. 28, 1992, Pub. L. 102–550, title V, §§ 503(c)(2), 520, 106 Stat. 3779, 3793.)

AMENDMENTS

1992—Subsec. (g). Pub. L. 102–389 and Pub. L. 102–550, § 503(c)(2), amended subsec. (g) identically, substituting ''for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located'' for ''for a 1-family residence''.

Subsec. (j). Pub. L. 102–550, § 520, inserted at end ''Section 1647(b) of title 15) and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.''

1990—Subsec. (d)(7)(A). Pub. L. 101–625, § 334(c), added subpar. (A) and struck out former subpar. (A) which read as follows: ''the foreclosure sale; or''.

Subsec. (d)(9), (10). Pub. L. 101–625, § 334(b), added pars. (9) and (10).

Subsec. (e)(2). Pub. L. 101–625, § 334(d)(1), substituted ''statement informing the homeowner that the liability of the homeowner under the mortgage is limited and'' for ''statement'' and struck out ''and'' at end.

Subsec. (e)(4). Pub. L. 101–625, § 334(d)(2), (3), added par. (4).

Subsec. (g). Pub. L. 101–508, § 2106, substituted ''September 30, 1995'' for ''September 30, 1991'' and ''may not exceed 25,000'' for ''may not exceed 2,500''.

1988—Subsec. (b)(3). Pub. L. 100–628, § 1066(a), made technical amendment to reference to section 3802(2) of this title to correct reference to corresponding provision of original act.

Subsec. (d)(3). Pub. L. 100–628, § 1066(b), struck out ''and that has a value not to exceed the maximum dollar amount established by the Secretary under section 1709(b)(2) of this title for a 1-family residence'' after ''by the mortgagor''.

REGULATIONS

Section 417(b) of Pub. L. 100–242 directed Secretary of Housing and Urban Development, not later than 6 months after Feb. 5, 1988, to consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing this section and not later than 9 months after Feb. 5, 1988, to issue proposed regulations implementing this section.

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.

SUBCHAPTER III—NATIONAL MORTGAGE ASSOCIATIONS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1705, 4541, 4562, 4564, 4566, 4603, 4631, 4636 of this title; title 26 section 162.

§ 1716. Declaration of purposes of subchapter

The Congress declares that the purposes of this subchapter are to establish secondary market facilities for residential mortgages, to provide that the operations thereof shall be financed by private capital to the maximum extent feasible, and to authorize such facilities to—

(1) provide stability in the secondary market for residential mortgages;

(2) respond appropriately to the private capital market;

(3) 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;

(4) 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; and

(5) manage and liquidate federally owned mortgage portfolios in an orderly manner, with a minimum of adverse effect upon the residential mortgage market and minimum loss to the Federal Government.

(June 27, 1934, ch. 847, title III, § 301, 48 Stat. 1252; May 28, 1935, ch. 150, § 30, 49 Stat. 300; Feb. 3, 1938, ch. 13, §§ 4, 5, 52 Stat. 23; June 3, 1939, ch. 175, §§ 15, 16, 53 Stat. 808; Mar. 28, 1941, ch. 31, § 5, 55 Stat. 62; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Aug. 10, 1948, ch. 832, title II, §§ 201, 202, 62 Stat. 1275; Aug. 8, 1949, ch. 403, § 4, 63 Stat. 576; Oct. 25, 1949, ch. 729, § 7, 63 Stat. 906; Apr. 20, 1950, ch. 94, title I, §§ 116, 122, 64 Stat. 57, 59; Sept. 1, 1951, ch. 378, title II, § 205, title VI, § 608(b), 65 Stat. 303, 315; Apr. 9, 1952, ch. 173, 66 Stat. 51; July 14, 1952, ch. 723, §§ 3(a), 10(a)(2), 66 Stat. 602, 603; June 30, 1953, ch. 170, §§ 12, 13(a), 67 Stat. 125; June 29, 1954, ch. 410, § 1(1), 68 Stat. 320; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 612; Aug. 1, 1968, Pub. L. 90–448, title VIII, § 802(b), 82 Stat. 536; Aug. 9, 1989, Pub. L. 101–73, title VII, § 731(m)(1), 103 Stat. 435; Oct. 28, 1992, Pub. L. 102–550, title XIII, § 1381(a), 106 Stat. 3994.)

AMENDMENTS

1992—Pub. L. 102–550, §1381(a)(1), substituted ''residential'' for ''home'' in introductory provisions.

Par. (1). Pub. L. 102–550, §1381(a)(1), substituted ''residential'' for ''home''.

Par. (3). Pub. L. 102–550, §1381(a)(1), (2), substituted ''residential'' for ''home'' in two places, substituted ''(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)'' for ''(including mortgages securing housing for low- and moderate-income families involving a reasonable economic return)'', and struck out ''and'' at end.

Par. (4). Pub. L. 102–550, §1381(a)(3), (4), added par. (4) and redesignated former par. (4) as (5).

Par. (5). Pub. L. 102–550, §1381(a)(1), (3), redesignated par. (4) as (5) and substituted ''residential'' for ''home''.

1989—Pub. L. 101–73 added pars. (1) to (3), struck out subsecs. (a) and (b), and redesignated subsec. (c) as par. (4). Prior to amendment, subsecs. (a) and (b) related to supplementary assistance to the secondary market and to provision of special assistance, respectively.

1968—Pub. L. 90–448 struck out provisions which established in the Federal Government a secondary market facility for home mortgages in view of section 1716b of this title which created two separate and distinct corporations.

1954—Act Aug. 2, 1954, amended section generally, substituting entirely new provisions for provisions now covered by section 1717 of this title and other sections in this subchapter.

Subsec. (a)(1)(G). Act June 29, 1954, substituted in first sentence ''August 1, 1954'' for ''July 1, 1954''.

1953—Subsec. (a)(1)(E). Act June 30, 1953, §12, in cl. (2), substituted ''principal amount to be paid therefor'' for ''unpaid principal balance thereof'', and ''aggregate principal amount'' for ''aggregate amount''; and substituted three provisos for former proviso which made such cl. (2) and any terms therein inapplicable to any defense or disaster mortgages as defined in subpar. (G) of par. (1).

Subsec. (a)(1)(G). Act June 30, 1953, §13(a), substituted in first sentence ''July 1, 1954'' for ''July 1, 1953''.

1952—Subsec. (a)(1). Act July 14, 1952, §3(a)(1), authorized the FNMA to purchase Government-insured or guaranteed home mortgages other than defense or disaster mortgages if they are insured after Feb. 29, 1952.

Subsec. (a)(1)(E). Act July 14, 1952, §3(a)(2), (3), changed the base date from Apr. 30, 1948 to Feb. 29, 1952, and exempted defense or disaster mortgages from the limitation of this subparagraph.

Subsec. (a)(1)(G). Act July 14, 1952, §3(a)(4), increased the FNMA commitment powers from $252,000,000 to $1,152,000,000 outstanding at any one time if the commitments relate to defense or disaster mortgages.

S.J. Res. Apr. 9, 1952, increased the $200,000,000 authorization to $252,000,000 and struck out Dec. 31, 1951, deadline, (1) with respect to programed defense housing for which applications were received prior to Dec. 28, 1951, and (2) with respect to subchapter VIII military housing if the commitment to insure the mortgage was issued after Dec. 27 and before Dec. 31, 1951.

Subsec. (c)(4). Act July 14, 1952, inserted ''Guam,'' after ''District of Columbia''.

1951—Subsec. (a)(1). Act Sept. 1, 1951, §205, inserted reference to subchapter X of this chapter.

Subsec. (a)(1)(G). Act Sept. 1, 1951, §608(b), inserted proviso.

1950—Act Apr. 20, 1950, §122, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

Subsec. (a)(1). Act Apr. 20, 1950, §116(1), (2), inserted ''or section 1706c of this title'' and first proviso.

Subsec. (a)(1)(E). Act Apr. 20, 1950, §116(3), substituted new proviso for former proviso.

Subsec. (a)(1)(F). Act Apr. 20, 1950, §116(4), substituted provision that no loan made to finance the purchase price or construction cost of a dwelling was to be purchased by the Federal National Mortgage Association unless the Administrator of Veterans' Affairs certifies that such dwelling conforms with minimum construction requirements prescribed by the Administrator for former provision that such certification was to be given by the mortgagee and that minimum construction standards were to be determined by the provisions within the National Housing Act.

Subsec. (a)(1)(G). Act Apr. 20, 1950, §116(5), added par. (1)(G).

1949—Subsec. (a). Act Aug. 8, 1949, inserted reference to subchapter VIII in par. (1), and inserted proviso at end of par. (1)(E).

Subsec. (a)(1)(E). Joint Res. Oct. 25, 1949, struck out proviso and inserted new proviso.

1948—Act July 1, 1948, amended section generally to create a Federal National Mortgage Association with power to purchase, service, or sell insured or guaranteed mortgage, provide for the powers and succession of the Association, and to eliminate the former national mortgage association.

Subsec. (a)(1). Act Aug. 10, 1948, §§201, 202, substituted ''subchapter II or VI of this chapter'' for ''section 1709 or 1738 of this title'', inserted ''after April 30, 1948'', after ''or guaranteed'', and substituted ''50'' for ''25'' in cl. (2) of par. (1) (E).

1941—Subsec. (a)(2). Act Mar. 28, 1941, substituted ''subchapters II and VI'' for ''subchapter II''.

1939—Subsec. (b). Act June 3, 1939, amended last sentence.

Subsec. (c)(4). Act June 3, 1939, inserted ''Alaska, Hawaii or Puerto Rico''.

1938—Subsec. (a). Act Feb. 3, 1938, amended provisions generally, and among other changes, substituted ''60 per centum'' in subsec. (a)(3), for ''80 per centum''.

Subsec. (d). Act Feb. 3, 1938, substituted ''$2,000,000'' for ''$5,000,000,'' and ''that at least 25 per centum thereof has been paid in cash,'' for ''paid in full in cash'', and inserted ''or in first mortgages or such other first liens as are described in section 301 (a) hereof, which mortgages or liens shall be taken at such value as the Administrator may determine, not exceeding (except as to mortgages insured under title II of this Act) 60 per centum of the appraised value of the property as of the date of subscription, and that the remainder of the subscription to such capital stock is payable in the same manner and at such time as may be determined by the Administrator: *Provided*, That no association shall issue notes, bonds, debentures, or other such obligations until such time as such subscriptions are paid in full in cash or Government securities at their par value or in mortgages or other liens as hereinbefore set forth''.

1935—Subsec. (d). Act May 28, 1935, substituted ''$5,000,000'' for ''$2,000,000''.

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 1949 AMENDMENT

Section 7 of Joint Res. Oct. 25, 1949, provided in part: ''That the amendment made by this section 7 with respect to mortgages guaranteed under section 501 of the Servicemen's Readjustment Act of 1944, as amended [this section], shall apply only to such mortgages guaranteed after the date of enactment of this Act [Oct. 25, 1949].''

SHORT TITLE

Section 312 of title III of act June 27, 1934, as added Aug. 2, 1954, ch. 649, §201, 68 Stat. 622, provided: ''This title III [this subchapter] may be referred to as the 'Federal National Mortgage Association Charter Act'.''

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of Housing and Urban Development, see Ex. Ord. No. 11732, July 30, 1973, 38 F.R. 20429, set out as a note under section 301 of Title 3, The President.

SERVICE OR SALE OF MORTGAGES PURCHASED PRIOR TO JULY 1, 1948; FULFILLMENT OF PRIOR COMMITMENTS

Section 2 of act July 1, 1948, provided that: ''Nothing in the amendment made by the first section of this Act [amending sections 1716, 1717 to 1721 of this title] shall limit the authority of the Federal National Mortgage Association to service or sell any mortgage purchased prior to the date of the enactment of this Act [July 1, 1948], or to purchase, service, or sell any mortgage with respect to which a commitment to purchase was made prior to the date of the enactment of this Act [July 1, 1948].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1717, 1719, 1721, 4561 of this title.

§§ 1716–1, 1716a. Repealed. Aug. 2, 1954, ch. 649, title II, § 206, 68 Stat. 622

Section 1716–1, acts Oct. 30, 1951, ch. 642, 65 Stat. 599; June 30, 1953, ch. 170, § 14, 67 Stat. 125, related to special authority of the Federal National Mortgage Association to make advance commitments, under certain conditions, with respect to insured cooperative-housing mortgages under section 1715e of this title.

Section 1716a, act Sept. 1, 1951, ch. 378, title VI, § 608(a), 65 Stat. 315, required that one of the persons constituting the Board of Directors of the Federal National Mortgage Association be appointed by the Administrator of Veterans' Affairs from among personnel of the Veterans' Administration.

§ 1716b. Partition of Federal National Mortgage Association into Federal National Mortgage Association and Government National Mortgage Association; assets and liabilities; operations

The purposes of this title include the partition of the Federal National Mortgage Association as heretofore existing into two separate and distinct corporations, each of which shall have continuity and corporate succession as a separated portion of the previously existing corporation. One of such corporations, to be known as Federal National Mortgage Association, will be a Government-sponsored private corporation, will retain the assets and liabilities of the previously existing corporation accounted for under section 1719 of this title, and will continue to operate the secondary market operations authorized by such section 1719. The other, to be known as Government National Mortgage Association, will remain in the Government, will retain the assets and liabilities of the previously existing corporation accounted for under sections 1720[1] and 1721 of this title, and will continue to operate the special assistance functions and management and liquidating functions authorized by such sections 1720[1] and 1721.

(Pub. L. 90–448, title VIII, § 801, Aug. 1, 1968, 82 Stat. 536.)

REFERENCES IN TEXT

This title, referred to in text, means title VIII of Pub. L. 90–448, which enacted this section, amended sections 24, 378, 1431, 1436, 1464, 1716, 1717 to 1723a, 1723c and 1757 of this title, section 709 of Title 18, Crimes and Criminal Procedure, section 846 of former Title 31, Money and Finance, section 1820 [now 3720] of Title 38, Veterans' Benefits, section 612 of Title 40, Public Buildings, Property, and Works, and sections 1452b, 3534 and 3535 of Title 42, The Public Health and Welfare, and enacted provisions set out as notes under this section and section 1721 of this title.

Section 1720 of this title, referred to in text, was repealed by Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240.

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 or the Federal National Mortgage Association Charter Act which comprises this subchapter.

EFFECTIVE DATE

Section 808 of title VIII of Pub. L. 90–448 provided that: ''The amendments made by this title [enacting this section and amending sections 24, 378, 1431, 1436, 1464, 1716, 1717 to 1723a, 1723c and 1757 of this title, section 709 of Title 18, Crimes and Criminal Procedure, section 846 of former Title 31, Money and Finance, section 1820 [now 3720] of Title 38, Veterans' Benefits, section 612 of Title 40, Public Buildings, Property, and Works, sections 1452b, 3534 and 3535 of Title 42, The Public Health and Welfare, and notes under this section and section 1721 of this title] shall be effective from and after a date, no more than one hundred and twenty days following the date of enactment of this Act [Aug. 1, 1968], as established by the Secretary of Housing and Urban Development. Notice of the establishment of such effective date shall be published in the Federal Register at least thirty days prior thereto.''

SAVINGS PROVISION

Section 809 of Pub. L. 90–448 provided that:

''(a) No cause of action by or against the Federal National Mortgage Association existing prior to the effective date established pursuant to section 808 [set out above] shall abate by reason of the enactment of this title. Any such cause of action may thereafter be asserted by or against the appropriate corporate body named in section 302(a)(2) of the National Housing Act [section 1717(a)(2) of this title].

''(b) No suit, action, or other proceeding commenced by or against the Federal National Mortgage Association, or any officer thereof in his official capacity, prior to the effective date established pursuant to section 808 shall abate by reason of the enactment of this title. A court may at any time thereafter during the pendency of any such litigation, on its own motion or that of any party, order that the litigation may be maintained by or against the appropriate corporate body named in section 302(a)(2) of the National Housing Act [section 1717(a)(2) of this title] or the appropriate corresponding officer thereof.''

TRANSITIONAL PROVISIONS

Section 810 of Pub. L. 90–448, as amended by Pub. L. 91–609, title IX, § 901(e), Dec. 31, 1970, 84 Stat. 1807; Pub. L. 93–383, title VIII, § 806(*l*), Aug. 22, 1974, 88 Stat. 728; Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(a) On the effective date established pursuant to section 808 of this Act [set out above], each share of outstanding nonvoting common stock, with a par value of $100 per share, of the Federal National Mortgage Association shall be changed into and shall become one share of voting common stock, without par value, of such corporation. For the purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954, Title 26], no gain or loss is recognized by the holders of such stock on such change, and the basis and holding period of such stock in the hands of the stockholders immediately after such change are the same as the basis and holding period of such stock in their hands immediately prior to such change.

''(b), (c). [Repealed. Pub. L. 93–383, title VIII, § 806(*l*), Aug. 22, 1974, 88 Stat. 728].

''(d) Those persons who are the officers and employees of the Federal National Mortgage Association im-

[1] See References in Text note below.

mediately prior to the effective date established pursuant to section 808 [set out as a note above] shall become the officers and employees of the Government National Mortgage Association on such date. The Federal National Mortgage Association and the Government National Mortgage Association shall provide by contract for the conditions and methods under which and by which the Federal National Mortgage Association during the transitional period may employ those individuals who are employees of the Government National Mortgage Association on such effective date; and may provide by contract for the operation by either of such corporations of any of the functions of the other. The Secretary of Housing and Urban Development shall make every reasonable effort to place in other comparable Federal positions any individuals who are career or career-conditional employees of the Government National Mortgage Association on such effective date and who are subsequently during the transitional period neither employed by the Federal National Mortgage Association nor retained by the Government National Mortgage Association.''

§1717. Federal National Mortgage Association and Government National Mortgage Association

(a) Creation; succession; principal and other offices

(1) There is created a body corporate to be known as the ''Federal National Mortgage Association'', which shall be in the Department of Housing and Urban Development. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(2) On September 1, 1968, the body corporate described in the foregoing paragraph shall cease to exist in that form and is hereby partitioned into two separate and distinct bodies corporate, each of which shall have continuity and corporate succession as a separated portion of the previously existing body corporate, as follows:

(A) One of such separated portions shall be a body corporate without capital stock to be known as Government National Mortgage Association (hereinafter referred to as the ''Association''), which shall be in the Department of Housing and Urban Development and which shall retain the assets and liabilities acquired and incurred under sections 1720[1] and 1721 of this title prior to such date, including any and all liabilities incurred pursuant to subsection (c) of this section. The Association shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. Agencies or offices may be established by the Association in such other place or places as it may deem necessary or appropriate in the conduct of its business.

(B) The other such separated portion shall be a body corporate to be known as Federal National Mortgage Association (hereinafter referred to as the ''corporation''), which shall retain the assets and liabilities acquired and incurred under sections 1718 and 1719 of this title prior to such date. The corporation shall have succession until dissolved by Act of Congress. It shall maintain its principal office in the District of Columbia or the metropolitan area thereof and shall be deemed, for purposes of jurisdiction and venue in civil actions, to be a District of Columbia corporation.

(3) The partition transaction effected pursuant to the foregoing paragraph constitutes a reorganization within the meaning of section 368(a)(1)(E) of title 26; and for the purposes of such title 26, no gain or loss is recognized by the previously existing body corporate by reason of the partition, and the basis and holding period of the assets of the corporation immediately following such partition are the same as the basis and holding period of such assets immediately prior to such partition.

(b) Purchase and sale of insured and conventional mortgages; transactions in loans and advances of credit

(1) For the purposes set forth in section 1716 of this title and subject to the limitations and restrictions of this subchapter, each of the bodies corporate named in subsection (a)(2) of this section is authorized pursuant to commitments or otherwise, to purchase, service, sell, or otherwise deal in any mortgages which are insured under this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38; and to purchase, service, sell, or otherwise deal in any loans made or guaranteed under part B of title VI of the Public Health Service Act [42 U.S.C. 291j–1 et seq.]; and the corporation is authorized to lend on the security of any such mortgages and to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 1721(g) of this title: *Provided*, That (1) the Association may not purchase any mortgage at a price exceeding 100 per centum of the unpaid principal amount thereof at the time of purchase, with adjustments for interest and any comparable items; (2) the Association may not purchase any mortgage, except a mortgage insured under title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], if it is offered by, or covers property held by, a State, territorial, or municipal instrumentality; and (3) the Association may not purchase any mortgage under section 1720[2] of this title, except a mortgage insured under section 1715k of this title or subchapter VIII of this chapter or section 1709(k) of this title, or under subchapter IX–A[2] of this chapter with respect to a new community approved under section 1749cc–1[2] of this title, or insured under section 1715e of this title and covering property located in an urban renewal area, or a mortgage covering property located in Alaska, Guam, or Hawaii, if the original principal obligation thereof exceeds or exceeded $55,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $60,000 in the case of a two- or three-family residence; or $68,750 in the case of a four-family residence; or, in the case of a prop-

[1] See References in Text note below.

[2] See References in Text note below.

erty containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use. Notwithstanding the provisions of clause (3) of the preceding sentence, the Association may purchase a mortgage under section 1720[2] of this title with an original principal obligation which exceeds the otherwise applicable maximum amount per dwelling unit if the mortgage is insured under section 1713(c)(3), 1715e(b)(2), 1715k(d)(3)(B)(iii), 1715*l*(d)(3)(ii), 1715*l*(d)(4)(ii), 1715v(c)(2), 1715y(e)(3), or 1715z–1 of this title. For the purposes of this subchapter, the terms ''mortgages'' and ''home mortgages'' shall be inclusive of any mortgages or other loans insured under any of the provisions of this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

(2) For the purposes set forth in section 1716(a) of this title, the corporation is authorized, pursuant to commitments or otherwise, to purchase, service, sell, lend on the security of, or otherwise deal in mortgages which are not insured or guaranteed as provided in paragraph (1) (such mortgages referred to hereinafter as ''conventional mortgages''). No such purchase of a conventional mortgage secured by a property comprising one- to four-family dwelling units shall be made 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. For the purpose of this section, the term ''conventional mortgages'' shall include a mortgage, lien, or other security interest on the stock or membership certificate issued to a tenant-stockholder or resident-member of 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 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 $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. 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 1713(c)(3) of this title, 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. 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.

(3) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit for the purchase and installation of home improvements, including energy conserving improvements or solar energy systems described in the last paragraph of section 1703(a) of this title and residential energy conservation measures as described in section 210(11) of the National Energy Conservation Policy Act [42 U.S.C. 8211(11)][3] and financed by a public utility in accordance with the requirements of title II of such Act [42 U.S.C. 8211 et seq.]. To be eligible for purchase, any such loan or advance of credit (other than a loan or advance made with respect to energy conserving improvements or solar energy systems or residential energy conservation measures) not insured under subchapter I of this chapter shall be secured by a lien against the property to be improved.

(4) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in loans or advances of credit secured by mortgages or other liens against manufactured homes.

(5)(A) The corporation is authorized to purchase, service, sell, lend on the security of, and otherwise deal in (i) conventional mortgages that are secured by a subordinate lien against a one- to four-family residence that is the prin-

[3] See References in Text note below.

cipal residence of the mortgagor; and (ii) conventional mortgages that are secured by a subordinate lien against a property comprising five or more family dwelling units. If the corporation, pursuant to paragraphs (1) through (4), 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 conventional mortgages described in subparagraph (A). 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 described in subparagraph (A) 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 (ii) of such sentence.

(6) 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 of this title.

(c) Administration of trusts; obligations of departments and agencies of the United States; exemption of interest income from taxation; authorization of appropriations for differential reimbursements

(1) Notwithstanding any other provision of this chapter or of any other law, the Association is authorized under section 1721 of this title to create, accept, execute, and otherwise administer in all respects such trusts, receiverships, conservatorships, liquidating or other agencies, or other fiduciary and representative undertakings and activities, hereinafter in this subsection called ''trusts'', as might be appropriate for financing purposes; and in relation thereto the Association may acquire, hold and manage, dispose of, and otherwise deal in any mortgages or other types of obligations in which any department or agency of the United States listed in paragraph (2) of this subsection may have a financial interest. The Association may join in any such undertakings and activities, hereinafter in this subsection called ''trusts''; notwithstanding that it is also serving in a fiduciary or representative capacity; and is authorized to guarantee any participations or other instruments, whether evidence of property rights or debt, issued for such financing purposes. Participations or other instruments issued by the Association pursuant to this subsection shall to the same extent as securities which 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 laws administered by the Securities and Exchange Commission. The amounts of any mortgages and their obligations acquired by the Association under section 1721 of this title, pursuant to this subsection, shall not be included in the total amounts set forth in section 1721(c) of this title.

(2) Subject to the limitations provided in paragraph (4) of this subsection, one or more trusts may be established as provided in this subsection by each of the following departments or agencies:

(A) The Farmers Home Administration of the Department of Agriculture, but only with respect to operating loans, direct farm ownership loans, direct housing loans, and direct soil and water loans. Such trusts may not be established with respect to loans for housing for the elderly under sections 502 and 515(a) of the Housing Act of 1949 [42 U.S.C. 1472 and 1485(a)], nor with respect to loans for nonfarm recreational development.

(B) The Department of Education, but only with respect to loans made by the Secretary of Education for construction of academic facilities, and loans to help finance student loan programs.

(C) The Department of Housing and Urban Development.

(D) The Department of Veterans Affairs.

(E) The Export-Import Bank.

(F) The Small Business Administration.

The head of each such department or agency, hereinafter in this subsection called the ''trustor,'' is authorized to set aside a part or all of any obligations held by the trustor and subject them to a trust or trusts and, incident thereto, shall guarantee to the trustee timely payment thereof. The trust instrument may provide for the issuance and sale of beneficial interests or participations, by the trustee, in such obligations or in the right to receive interest and principal collections therefrom; and may provide for the substitution or withdrawal of such obligations, or for the substitution of cash for obligations. The trust or trusts shall be exempt from all taxation. The trust instrument may also contain other appropriate provisions in keeping with the purposes of this subsection. The Association shall be named and shall act as trustee of any such trusts and, for the purposes thereof,

the title to such obligations shall be deemed to have passed to the Association in trust. The trust instrument shall provide that custody, control, and administration of the obligations shall remain in the trustor subjecting the obligations to the trust, subject to transfer to the trustee in event of default or probable default, as determined by the trustee, in the payment of principal and interest of the beneficial interests or participations. Collections from obligations subject to the trust shall be dealt with as provided in the instrument creating the trust. The trust instrument shall provide that the trustee will promptly pay to the trustor the full net proceeds of any sale of beneficial interests or participations to the extent they are based upon such obligations or collections. Such proceeds shall be dealt with as otherwise provided by law for sales or repayment of such obligations. The effect of both past and future sales of any issue of beneficial interests or participations shall be the same, to the extent of the principal of such issue, as the direct sale with recourse of the obligations subject to the trust. Any trustor creating a trust or trusts hereunder is authorized to purchase, through the facilities of the trustee, outstanding beneficial interests or participations to the extent of the amount of the trustor's responsibility to the trustee on beneficial interests or participations outstanding, and to pay the trustor's proper share of the costs and expenses incurred by the Association as trustee pursuant to the trust instrument.

(3) When any trustor guarantees to the trustee the timely payment of obligations the trustor subjects to a trust pursuant to this subsection, and it becomes necessary for such trustor to meet his responsibilities under such guaranty, the trustor is authorized to fulfill such guaranty.

(4) Beneficial interests or participations shall not be issued for the account of any trustor in an aggregate principal amount greater than is authorized with respect to such trustor in an appropriation Act. Any such authorization shall remain available only for the fiscal year for which it is granted and for the succeeding fiscal year.

(5) The Association, as trustee, is authorized to issue and sell beneficial interests or participations under this subsection, notwithstanding that there may be an insufficiency in aggregate receipts from obligations subject to the related trust to provide for the payment by the trustee (on a timely basis out of current receipts or otherwise) of all interest or principal on such interests or participations (after provision for all costs and expenses incurred by the trustee, fairly prorated among trustors). There are authorized to be appropriated without fiscal year limitation such sums as may be necessary to enable any trustor to pay the trustee such insufficiency as the trustee may require on account of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection. Such trustor shall make timely payments to the trustee from such appropriations, subject to and in accord with the trust instrument. In the event that the insufficiency required by the trustee is on account of principal maturities of outstanding beneficial interests or participations authorized to be issued pursuant to paragraph (4) of this subsection, or pursuant hereto, the trustee is authorized to elect to issue additional beneficial interests or participations for refinancing purposes in lieu of requiring any trustor or trustors to make payments to the trustee from appropriated funds or other sources. Each such issue of beneficial interests or participations shall be in an amount determined by the trustee but not in excess of the aggregate amount which the trustee would otherwise require the trustor or trustors to pay from appropriated funds or other sources, and may be issued without regard to the provisions of paragraph (4) of this subsection. All refinancing issues of beneficial interests or participations shall be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

(June 27, 1934, ch. 847, title III, § 302, 48 Stat. 1254; May 28, 1935, ch. 150, § 31, 49 Stat. 300; Feb. 3, 1938, ch. 13, § 6, 52 Stat. 24; Mar. 28, 1941, ch. 31, § 6, 55 Stat. 62; July 1, 1948, ch. 784, § 1, 62 Stat. 1208; July 19, 1949, ch. 351, § 1, 63 Stat. 446; Oct. 25, 1949, ch. 729, § 1(3), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, § 117, 64 Stat. 57; July 14, 1952, ch. 723, § 3(b), 66 Stat. 602; June 30, 1953, ch. 170, § 13(b), 67 Stat. 125; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 613; Aug. 7, 1956, ch. 1029, title II, § 201, 70 Stat. 1096; Sept. 2, 1958, Pub. L. 85–857, § 13(g), 72 Stat. 1265; Sept. 23, 1959, Pub. L. 86–372, title III, § 301, 73 Stat. 669; June 30, 1961, Pub. L. 87–70, title I, § 102(c), title VI, §§ 602, 603(a), 75 Stat. 158, 176; Sept. 2, 1964, Pub. L. 88–560, title VII, §§ 701(a), 702, 78 Stat. 800, 802; Aug. 10, 1965, Pub. L. 89–117, title I, § 102(d), title II, § 201(b)(1), title VIII, §§ 802(a), 803, 804, title X, § 1004(a), 79 Stat. 454, 465, 493, 494, 501; May 24, 1966, Pub. L. 89–429, § 2, 80 Stat. 164; Nov. 3, 1966, Pub. L. 89–751, § 7, 80 Stat. 1236; Nov. 3, 1966, Pub. L. 89–754, title IV, § 405, 80 Stat. 1273; May 25, 1967, Pub. L. 90–19, § 1(a)(2), (3), (j)(1), 81 Stat. 17, 18; Aug. 1, 1968, Pub. L. 90–448, title VIII, §§ 802(c)–(g), 803, 82 Stat. 536, 537, 542; Dec. 24, 1969, Pub. L. 91–152, title I, § 114, 83 Stat. 385; June 30, 1970, Pub. L. 91–296, title II, § 202, 84 Stat. 350; July 24, 1970, Pub. L. 91–351, title II, § 201(a), title IV, § 402, 84 Stat. 450, 458; Dec. 31, 1970, Pub. L. 91–609, title IX, § 901(d), 84 Stat. 1807; Aug. 22, 1974, Pub. L. 93–383, title VIII, §§ 806(a)–(f), 807, 88 Stat. 727, 728; Dec. 26, 1974, Pub. L. 93–541, § 2, 88 Stat. 1739; Oct. 12, 1977, Pub. L. 95–128, title IV, § 408(a), 91 Stat. 1138; Oct. 31, 1978, Pub. L. 95–557, title I, § 101(c)(3), title III, § 318(a), 92 Stat. 2083, 2100; Nov. 9, 1978, Pub. L. 95–619, title II, § 246, 92 Stat. 3233; Dec. 21, 1979, Pub. L. 96–153, title III, § 317, 93 Stat. 1119; June 30, 1980, Pub. L. 96–294, title V, § 534(b), 94 Stat. 741; Oct. 8, 1980, Pub. L. 96–399, title III, §§ 309, 313(a), 339(a)(1), (b)(1), 94 Stat. 1641, 1644, 1657; Dec. 26, 1981, Pub. L. 97–110, title II, § 202(c), 95 Stat. 1514; Oct. 3, 1984, Pub. L. 98–440, title II, §§ 201(a), 203(a), 205(a), 206(a), 98 Stat. 1692, 1693, 1695; Oct. 17, 1984, Pub. L. 98–479, title II, §§ 201(b), 204(a)(16), 98 Stat. 2227, 2232; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095; Sept. 30, 1987, Pub. L. 100–122, § 2(b)(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; Feb. 5, 1988, Pub. L. 100–242, title IV, §443(a), 101 Stat. 1922; Nov. 7, 1988, Pub. L. 100–628, title X, §1068(a), 102 Stat. 3276; Aug. 9, 1989, Pub. L. 101–73, title VII, §731(f)(1), 103 Stat. 433; June 13, 1991, Pub. L. 102–54, §13(d)(2)(A), 105 Stat. 274; Oct. 28, 1992, Pub. L. 102–550, title XIII, §1381(b), (c), (s)(1), 106 Stat. 3995, 4001.)

REFERENCES IN TEXT

Section 1720 of this title, referred to in subsecs. (a)(2)(A) and (b)(1), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

The Housing Act of 1949, referred to in subsec. (b)(1), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. 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.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (b)(1), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, 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 Public Health Service Act, referred to in subsec. (b)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part B of title VI of the Public Health Service Act is classified generally to part B (§291j–1 et seq.) of subchapter IV of chapter 6A 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 201 of Title 42 and Tables.

Subchapter IX–A of this chapter and section 1749cc–1 of this title, referred to in subsec. (b)(1), were repealed by Pub. L. 101–235, title I, §133(a), Dec. 15, 1989, 103 Stat. 2027.

The National Energy Conservation Policy Act, referred to in subsec. (b)(3), is Pub. L. 95–619, Nov. 9, 1978, 92 Stat. 3208, as amended. Title II of the National Energy Conservation Policy 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 on 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. (b)(2). Pub. L. 102–550, §1381(b), (c)(1), in first sentence, struck out ''and with the approval of the Secretary of Housing and Urban Development,'' before ''the corporation'' and in last sentence, substituted ''Hawaii, and the Virgin Islands'' for ''and Hawaii''.

Subsec. (b)(3), (4). Pub. L. 102–550, §1381(c)(2), (3), struck out '', with the approval of the Secretary of Housing and Urban Development,'' after ''corporation is authorized''.

Subsec. (b)(6). Pub. L. 102–550, §1381(c)(4), added par. (6).

Subsec. (c)(2). Pub. L. 102–550, §1381(s)(1)(A), in first sentence of concluding provisions, substituted ''the trustor'' for ''him'' after ''obligations held by'' and in last sentence, substituted ''the trustor's'' for ''his'' in two places.

Subsec. (c)(3). Pub. L. 102–550, §1381(s)(1)(B), substituted ''the trustor'' for ''he'' after ''obligations'' and ''guaranty,''.

1991—Subsec. (c)(2)(D). Pub. L. 102–54 substituted ''Department of Veterans Affairs'' for ''Veterans' Administration''.

1989—Subsec. (b)(2). Pub. L. 101–73 substituted ''Resolution Trust Corporation'' for ''Federal Savings and Loan Insurance Corporation'' and ''Federal Housing Finance Board'' for ''Federal Home Loan Bank Board''.

1988—Subsec. (b)(5)(A)(i). Pub. L. 100–242 struck out ''through March 15, 1988,'' before ''conventional mortgages''.

Subsec. (b)(5)(A)(ii). Pub. L. 100–628 struck out ''until October 1, 1985,'' before ''conventional mortgages''.

1987—Subsec. (b)(5)(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''.

1986—Subsecs. (a)(3), (b)(2). 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. (b)(2). Pub. L. 98–479, §204(a)(16), substituted ''corporation'' for ''Corporation'' in fourth sentence after ''The''.

Subsec. (b)(2). Pub. L. 98–440, §§201(a), 205(a), 206(a), in second sentence substituted ''No such purchase of a conventional mortgage secured by a property comprising one- to four-family dwelling units'' for ''No such purchase of a conventional mortgage'', in sixth sentence 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'', and in penultimate sentence 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 require any increase in the dollar amount limitations under such section.

Subsec. (b)(5). Pub. L. 98–440, §203(a), added par. (5).

Subsec. (c)(2)(B). Pub. L. 98–479, §201(b), substituted ''Department of Education'' for ''Department of Health, Education, and Welfare'' and ''Secretary of Education'' for ''Commissioner of Education''.

1981—Subsec. (b)(2). Pub. L. 97–110 substituted provisions empowering 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 empowered 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 purchase did not exceed 20 per centum of the cumulative aggregate of the principal balances of all conventional mortgages purchased by the Corporation.

1980—Subsec. (b)(1). Pub. L. 96–399, §309, struck out ''(1)'' before ''the mortgage'' and cl. (2) relating to requirement respecting assistance under contracts au-

thorized by section 1437f of title 42 for at least 20 per centum of covered units.

Subsec. (b)(2). Pub. L. 96–399, § 313(a), substituted provisions defining term ''conventional mortgages'', and limitations respecting amounts, adjustments, etc., for such mortgages, for provisions establishing limitations for the maximum principal obligation of conventional mortgages purchased by the corporation and maximum amount of such limitations.

Subsec. (b)(3). Pub. L. 96–399, § 339(a)(1), substituted provisions relating to authority, with the approval of the Secretary of Housing and Urban Development, to deal in loans or advances of credit for the purchase and installation of home improvements, and provisions respecting eligibility for purchases of loans or advances of credit, for provisions relating to authority to deal in loans or advances of credit made for energy conserving improvements and solar energy systems, etc., and provisions respecting eligibility for purchases of loans.

Pub. L. 96–294 inserted provisions relating to loans or advances of credit by public utilities for purpose of financing residential energy conservation measures in a residential building.

Subsec. (b)(4). Pub. L. 96–399, § 339(b)(1), added par. (4).

1979—Subsec. (b)(1). Pub. L. 96–153 substituted ''(1) if the mortgage is insured under section 1713(c)(3), 1715e(b)(2), 1715k(d)(3)(B)(iii), 1715*l*(d)(3)(ii), 1715*l*(d)(4)(ii), 1715v(c)(2), 1715y(e)(3), or 1715z–1 of this title, and (2) at least 20 per centum of the units covered by such mortgage are assisted under contracts authorized by section 1437f of title 42'' for ''if the mortgage (1) is insured under section 1715z–1 of this title or is a below-market interest rate mortgage insured under section 1715*l*(d)(3) of this title, and (2) covers property which has the benefit of local tax abatement in an amount determined by the Secretary of Housing and Urban Development to be sufficient to make possible rentals not in excess of those that could be approved by the Secretary if the mortgage amount did not exceed the otherwise applicable maximum amount per dwelling unit and if local tax abatement were not provided''.

1978—Subsec. (b)(3). Pub. L. 95–619 added par. (3).

Subsec. (b)(1). Pub. L. 95–557 substituted ''or subchapter VIII of this chapter or section 1709(k) of this title'' for ''or subchapter VIII of this chapter'' and ''if the original principal obligation thereof exceeds or exceeded $55,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $60,000 in the case of a two- or three-family residence; or $68,750 in the case of a four-family residence; or, in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use'' for ''if the original principal obligation thereof exceeds or exceeded $33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require), for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms)''.

1977—Subsec. (b)(2). Pub. L. 95–128 inserted ''by more than 25 per centum'' after ''exceed'' in last sentence.

1974—Subsec. (a)(2). Pub. L. 93–383, § 806(a)(1), substituted ''September 1, 1968'' for ''the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968''.

Subsec. (a)(2)(A). Pub. L. 93–383, § 806(a)(2), struck out ''effective'' before ''date''.

Subsec. (a)(2)(B). Pub. L. 93–383, § 806(a)(2), (b), struck out ''effective'' before ''date'', inserted ''or metropolitan area thereof'' before ''and shall'' and ''jurisdiction'' before ''venue'', and substituted ''District of Columbia corporation'' for ''resident thereof''.

Subsec. (b)(1). Pub. L. 93–541 substituted ''or guaranteed under part B of title VI of the Public Health Service Act'' for ''to a public agency under part B of title VI of the Public Health Service Act''.

Pub. L. 93–383, § 807, substituted ''$33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require)'' for ''$22,000''.

Subsec. (b)(2). Pub. L. 93–383, § 806(c)–(f), substituted ''80'' for ''75'' and ''exceed 20'' for ''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 to mortgages insured under sections 1709(b) or 1713 of this title.

1970—Subsec. (a)(3). Pub. L. 91–609 added par. (3).

Subsec. (b). Pub. L. 91–351, §§ 201(a), 402, designated existing provisions as par. (1), inserted ''is insured under section 1715z–1 of this title or'' before ''is a below-market interest rate mortgage insured under section 1715*l*(d)(3) of this title'', and added par. (2).

Pub. L. 91–296 inserted provisions authorizing the purchase, service, sale, or other dealing in loans made to a public agency under part B of title VI of the Public Health Service Act.

1969—Subsec. (b). Pub. L. 91–152 substituted ''$22,000'' or ''the otherwise applicable maximum amount'' for ''$17,500'' wherever appearing.

1968—Subsec. (a)(1). Pub. L. 90–448, § 802(c)(1), (2), designated existing provisions as par. (1), and struck out ''(hereinafter referred to as the 'Association')''.

Subsec. (a)(2). Pub. L. 90–448, § 802(c)(3), added par. (2).

Subsec. (b). Pub. L. 90–448, § 802(d), substituted ''each of the bodies corporate named in subsection (a) (2) of this section is authorized'' for ''the Association is authorized'', and inserted provisions empowering the corporation to purchase, sell, or otherwise deal in any securities guaranteed by the Association under section 1721(g) of this title.

Subsec. (c)(1). Pub. L. 90–448, § 802(e), struck out '', consistent with section 1722 of this title,'' before ''to guarantee any participations''.

Subsec. (c)(2). Pub. L. 90–448, § 802(f), (g), struck out provisions from par. (C) which prohibited the Department of Housing and Urban Development from exercising the authority with respect to secondary market operations of the Federal National Mortgage Association, and in last sentence substituted ''incurred by the Association'' for ''incurred by the Federal National Mortgage Association''.

Subsec. (c)(5). Pub. L. 90–448, § 803, inserted provisions authorizing the trustee, in the event that the insufficiency required by the trustee is on account of principal maturities of outstanding beneficial interests or participations to be issued pursuant to paragraph (4) of this subsection, or pursuant hereto, to elect to issue additional beneficial interests or participations for refinancing purposes in lieu of requiring any trustor or trustors to make payments to the trustee from appropriated funds or other sources, limiting each such issue of beneficial interests or participations, and directing that all refinancing issues be deemed to have been issued pursuant to the authority contained in the appropriation Act or Acts under which the beneficial interests or participations were originally issued.

1967—Subsec. (a). Pub. L. 90–19, § 1(j)(1), substituted ''in the Department of Housing and Urban Development'' for ''a constituent agency of the Housing and Home Finance Agency''.

Subsec. (b). Pub. L. 90–19, § 1(a)(2), (3), substituted ''Secretary of Housing and Urban Development'' and ''Secretary'' for ''Federal Housing Commissioner'' and ''Commissioner'', respectively.

1966—Subsec. (b). Pub. L. 89–754 inserted ''or under subchapter IX–A of this chapter with respect to a new community approved under section 1749cc–1 of this title''.

Subsec. (c). Pub. L. 89–429 designated existing provisions as par. (1), gave the name ''trusts'', for the purpose of the entire subsection, to trusts, receiverships,

conservatorships, liquidating or other agencies, or other fiduciary and representative undertakings which the Association is authorized to administer, expanded the types of securities in which the Association is authorized to deal so as to include an expanded array of obligations in which any department or agency of the United States listed in par. (2) of the subsection might have a financial interest, exempted participation certificates or other instruments issued pursuant to this subsection from all regulation by the Securities and Exchange Commission, repealed existing authority for issuance of participations based on below-market interest rate mortgages insured under section 1715*l*(d)(3) of this title, and added pars. (2) to (5).

Subsec. (c)(2)(B). Pub. L. 89–751 substituted ''The Department of Health, Education, and Welfare, but only with respect to loans made by the Commissioner of Education for construction of academic facilities, and loans to help finance student loan programs'' for ''The Office of Education of the Department of Health, Education, and Welfare, but only with respect to loans for construction of academic facilities''.

1965—Subsec. (b). Pub. L. 89–117, §§201(b)(1), 802(a)(1), 803, 804, and 1004(a), defined ''home mortgages'', removed mortgages offered by or covering property held by a federal instrumentality from the list of prohibited purchases, inserted parenthetical material which, in the case of family dwelling units having four or more bedrooms, placed an additional amount of $2,500 to the $17,500 per unit limit on purchasable mortgages, inserted provision excepting below-market mortgages from the $17,500 per unit limit on purchasable mortgages if local tax abatement were granted sufficient to keep rentals at the level where they would be if the mortgage amount did not exceed $17,500 per dwelling unit, and authorized the Association to purchase loans insured under subchapter III of chapter 8A of Title 42 in its secondary market operations.

Subsec. (c). Pub. L. 89–117, §§102(d), 802(a)(2), (3), authorized appropriations to reimburse the Association for differential amounts resulting when mortgages bearing a below-market interest rate and insured under section 1715*l*(d)(3) of this title after August 10, 1965, are included within one or more of the trusts or other agencies created under this section authorized the Association to deal, in addition to first mortgages, in obligations offered to it by the Housing and Home Finance Agency or its Administrator, or by such Agency's constituent units or agencies or the heads thereof, and inserted ''and other obligations'' after ''mortgages'' in last sentence.

1964—Subsec. (b). Pub. L. 88–560, §702, substituted ''any mortgage under section 1720 of this title'' for ''any mortgage'' and deleted proviso reading ''*Provided*, That with respect to mortgages purchased under section 1719 of this title the principal obligation shall not exceed $20,000''.

Subsec. (c). Pub. L. 88–560, §701(a), added subsec. (c).

1961—Subsec. (b). Pub. L. 87–70 substituted ''authorized, pursuant to commitments or otherwise, to purchase, lend (under section 1719 of this title) on the security of, service, sell, or otherwise deal in any mortgages which are insured'' for ''authorized to make commitments to purchase and to purchase, service, or sell, any residential or home mortgages (or participations therein) which are insured'', and ''section 1715k of this title or subchapter VIII of this chapter for ''section 1715k or 1748b of this title'', permitted the purchase of mortgages insured under section 1715e of this title and covering property located in an urban renewal area, and defined term ''mortgage''.

1959—Subsec. (b). Pub. L. 86–372 included within cl. (3) mortgages insured under section 1715k of this title, increased the limitation on the original principal obligation from $15,000 to $17,500, and established a limitation of not more than $20,000 with respect to mortgages purchased under section 1719 of this title.

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

1956—Subsec. (b). Act Aug. 7, 1956, substituted ''(2)'' for ''and (2)'', ''if'' for ''if (i)''; and ''(3) the Association may not purchase any mortgage, except a mortgage insured under section 1748b of this title or a mortgage covering property located in Alaska, Guam, or Hawaii, if'' for ''or (ii)''.

1954—Act Aug. 2, 1954, amended section generally to recharter the Association, substituting provisions formerly covered in section 1716 of this title for provisions now covered by sections 1719 to 1721 of this title.

1953—Act June 30, 1953, struck out proviso at end of first sentence, which limited purchase of mortgages other than defense or disaster mortgages to $2,750,000,000.

1952—Act July 14, 1952, increased purchasing power of the Association from $2,750,000,000 to $3,650,000,000 but limited purchases of mortgages other than defense or disaster mortgages to $2,750,000,000.

1950—Act Apr. 20, 1950, substituted ''$2,750,000,000'' for ''$2,500,000,000''.

1949—Joint Res. Oct. 25, 1949, substituted ''$2,500,000,000'' for ''$1,500,000,000'' in first sentence.

Act July 19, 1949, increased authorization to $1,500,000,000 which would be based on the outstanding amount of mortgage purchases and commitments in place of the former complicated formula.

1948—Act July 1, 1948, amended section generally to make it applicable to the Association instead of to the former national mortgage associations, and increased the borrowing capacity from twenty times to forty times the capital and surplus.

1941—Act Mar. 28, 1941, inserted ''and VI'' in cl. (2).

1938—Act Feb. 3, 1938, among other changes, substituted ''twenty times the amount of its paid-up capital and surplus'' for ''twelve times the aggregate par value of its outstanding capital stock'', and inserted last sentence and proviso.

1935—Act May 28, 1935, substituted ''twelve times'' for ''ten times'' in cl. (1).

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 101(c)(3) of Pub. L. 95–557 effective Oct. 1, 1978, see section 104 of Pub. L. 95–557, set out as a note under section 1709 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 1958 AMENDMENT

For effective date of amendment by Pub. L. 85–857, see section 2 of Pub. L. 85–857, set out as an Effective Date note preceding Part I of Title 38, Veterans' Benefits.

TRANSFER OF FUNCTIONS

For retransfer of functions described in section 2 of Reorg. Plan No. 22 of 1950, set out below, from Housing and Home Finance Administrator to Federal National Mortgage Association, see section 1723d of this title.

PROPOSAL BY FEDERAL NATIONAL MORTGAGE ASSOCIATION RESPECTING AUTHORITY TO IMPLEMENT SECTION 339(a)(1), (b)(1) OF PUB. L. 96–399; APPROVAL, ETC.

Section 339(a)(2), (b)(2) of Pub. L. 96–399 provided that when Federal National Mortgage Association submits its proposal to Secretary of Housing and Urban Development to implement authority granted by amendment of this section, Secretary of Housing and Urban Development shall, within 75 days, approve such proposal or transmit to Congress a report explaining why such proposal has not been approved.

WAIVER OF CERTAIN LIMITATIONS APPLICABLE TO THE PURCHASE OF MORTGAGES BY THE GOVERNMENT NATIONAL MORTGAGE ASSOCIATION UNTIL OCTOBER 1, 1974

Pub. L. 92–213, §3, Dec. 22, 1971, 85 Stat. 775, as amended by Pub. L. 92–335, §6, July 1, 1972, 86 Stat. 405; Pub.

L. 92–503, § 2, Oct. 18, 1972, 86 Stat. 906; Pub. L. 93–85, § 3, Aug. 10, 1973, 87 Stat. 221; Pub. L. 93–117, § 4, Oct. 2, 1973, 87 Stat. 422, provided that when the Secretary of Housing and Urban Development determined that such action was necessary to avoid excessive discounts on federally insured or guaranteed mortgages, the Government National Mortgage Association could, until Oct. 1, 1974, issue commitments to purchase mortgages with original principal obligations not more than 50 per centum in excess of the limitations imposed by clause (3) of the proviso to the first sentence of section 302(b)(1) of the National Housing Act [subsec. (b)(1) of this section], and it could purchase the mortgages so committed to be purchased.

EXCEPTION TO LIMITATION ON PRINCIPAL AMOUNT OF PARTICIPATIONS IN GOVERNMENT MORTGAGE LIQUIDATION TRUST AND SMALL BUSINESS ADMINISTRATION TRUST SOLD DURING FISCAL 1966

Section 9 of Pub. L. 89–429 authorized Federal National Mortgage Association during fiscal year 1966 to sell (1) additional participations in Government Mortgage Liquidation Trust, and (2) participations in a trust to be established by Small Business Administration, each without regard to the provisions of subsec. (c)(4) of this section.

TRUST AGREEMENTS WITH ADMINISTRATOR OF VETERANS' AFFAIRS

Section 6(a) of Pub. L. 89–429 provided that: ''Nothing in this Act [enacting section 1717a of this title and section 745 of Title 20, Education, amending this section and sections 1720, 1749, and 1757 of this title, section 1988 of Title 7, Agriculture, and section 743 of Title 20, and enacting material set out as notes under this section] shall be construed to repeal or modify the provisions of section 1820(e) [now 3720(e)] of title 38, United States Code, respecting the authority of the Administrator of Veterans' Affairs [now Secretary of Veterans Affairs].''

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. *c*16, 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. *c*74. 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.

REORGANIZATION PLAN NO. 22 OF 1950

Eff. July 9, 1950, 15 F.R. 4365, 64 Stat. 1277

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see 5 U.S.C. 901 et seq.].

FEDERAL NATIONAL MORTGAGE ASSOCIATION

SECTION 1. TRANSFER OF ASSOCIATION AND ITS FUNCTIONS

The Federal National Mortgage Association, together with its functions, is hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Agency and shall be administered subject to the direction and control of the Housing and Home Finance Administrator.

SEC. 2. TRANSFERS TO THE HOUSING ADMINISTRATOR

There are hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Administrator—

(1) the notes of the Federal National Mortgage Association payable to the Reconstruction Finance Corporation;

(2) the capital stock of the Federal National Mortgage Association;

(3) the function of the Reconstruction Finance Corporation of making payments on its notes issued to the Secretary of the Treasury in an amount equal to (a) the unpaid principal of, and accrued interest on, the notes of the Federal National Mortgage Association transferred under (1) above, (b) any funds of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, (c) the book value of any office furniture and equipment of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, and (d) the par value of the capital stock of the Federal National Mortgage Association plus the amount of its surplus paid in by the Reconstruction Finance Corporation;

(4) the function of issuing notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended [15 U.S.C. 606], in an amount not in excess of that necessary to finance at any one time the outstanding balances of the investments, loans, and purchases held by the Federal National Mortgage Association, taking into consideration other balance-sheet items;

(5) except as otherwise provided in this reorganization plan, all other functions of the Reconstruction Finance Corporation (including functions of the Board of Directors of such Corporation and functions of the Chairman of the Board of Directors of such Corporation) with respect to the Federal National Mortgage Association; and

(6) all functions of the Federal Housing Commissioner with respect to the Federal National Mortgage Association.

SEC. 3. BOARD OF DIRECTORS AND OFFICERS

Functions with respect to serving, including eligibility to serve, as members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency.)

SEC. 4. PERFORMANCE OF FUNCTIONS OF ADMINISTRATOR

The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

SEC. 5. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred with the functions transferred by this reorganization plan, respectively, all of the assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations and other funds, available or to be made available, of the Federal National Mortgage Association, and so much of the assets, liabilities, contracts, property, records, personnel, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Reconstruction Finance Corporation and relating to functions transferred by the provisions of this reorganization plan, as the Director of the Bureau of the Budget shall determine to be necessary for the administration of such functions, excluding, however, (1) the members of the Board of Directors of the Federal National Mortgage Association in office immediately prior to the taking effect of the provisions of this reorganization plan, and (2) the officers of the Association then in office. Such further

measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect 60 days after they would take effect under section 6(a) of the Reorganization Act of 1949 in the absence of this section [Eff. date July 9, 1950, in operation Sept. 7, 1950].

[Housing and Home Finance Agency lapsed and functions were transferred to Secretary of Housing and Urban Development, see section 9(c) of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 670, set out as a note under 42 U.S.C. 3531.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715z–14, 1717a, 1723a, 1723c, 4542 of this title; title 26 section 895; title 42 sections 291j–7, 300q–2.

§1717a. Prohibition against sale of obligations by Federal departments and agencies after June 30, 1966, without compliance with requirements of section 1717(c) of this title or without approval by Secretary of the Treasury; exemption

After June 30, 1966, no department or agency listed in section 1717(c)(2) of this title may sell any obligation held by it except as provided in section 1717(c) of this title, or as approved by the Secretary of the Treasury, except that this prohibition shall not apply to the Government National Mortgage Association.

(Pub. L. 89–429, §6(b), May 24, 1966, 80 Stat. 167; Pub. L. 90–448, title VIII, §807(g), Aug. 1, 1968, 82 Stat. 545.)

CODIFICATION

Section was enacted as a part of the Participation Sales Act of 1966, and not as a part of the National Housing Act, which comprises this chapter or the Federal National Mortgage Association Charter Act which comprises this subchapter.

AMENDMENTS

1968—Pub. L. 90–448 substituted ''the Government National Mortgage Association'' for ''secondary market operations carried on by the Federal National Mortgage Association''.

EFFECTIVE DATE OF 1968 AMENDMENT

For effective date of amendment by 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.

§1718. Capitalization of Federal National Mortgage Association

(a) Common stock; preferred stock; transferability of shares

The corporation shall have common stock, without par value, which shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors. The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered. The corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe. The free transferability of the 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. The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.

(b) Fees and charges; annual transfer of earnings to general surplus account

(1) The corporation may impose charges or fees, which may be regarded as elements of pricing, with the objective that all costs and expenses of the operations of the corporation should be within its income derived from such operations and that such operations should be fully self-supporting.

(2) All earnings from the operations of the corporation shall annually be transferred to the general surplus account of the corporation. At any time, funds of the general surplus account may, in the discretion of the board of directors, be transferred to reserves.

(c) Capital distributions from general surplus account; minimum capitalization levels

(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. All capital distributions shall be charged against the general surplus account of the corporation.

(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 Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development.

(d) Institutions eligible to purchase stock

Notwithstanding any other provision of law, any institution, including a national bank or State member bank of the Federal Reserve System or any member of the Federal Deposit Insurance Corporation, trust company, or other banking organization, organized under any law of the United States, including the laws relating to the District of Columbia, shall be authorized to purchase shares of common stock of the corporation and to hold or dispose of such stock, subject to the provisions of this subchapter.

(June 27, 1934, ch. 847, title III, §303, 48 Stat. 1254; Feb. 3, 1938, ch. 13, §7, 52 Stat. 24; July 1, 1948, ch. 784, §1, 62 Stat. 1206; Aug. 2, 1954, ch. 649, title II, §201, 68 Stat. 613; Aug. 7, 1956, ch. 1029, title II, §202, 70 Stat. 1096; Mar. 27, 1957, Pub. L. 85–10, §1(a), (b), 71 Stat. 7; July 12, 1957, Pub. L. 85–104, title II, §§201, 202, 71 Stat. 298; June 30, 1961, Pub.

L. 87–70, title VI, § 603(b), (c), 75 Stat. 176; Aug. 10, 1965, Pub. L. 89–117, title X, § 1004(b), 79 Stat. 501; Sept. 10, 1966, Pub. L. 89–566, § 2, 80 Stat. 738; May 25, 1967, Pub. L. 90–19, § 1(j)(2), *(l)*, 81 Stat. 18; Aug. 1, 1968, Pub. L. 90–448, title VIII, § 802 (i)–(n), (s), 82 Stat. 537, 538; Dec. 31, 1970, Pub. L. 91–609, title IX, § 902, 84 Stat. 1808; Aug. 22, 1974, Pub. L. 93–383, title VIII, § 806(g)–(i), 88 Stat. 727, 728; Oct. 15, 1982, Pub. L. 97–320, title VII, § 707(a), 96 Stat. 1540; Feb. 5, 1988, Pub. L. 100–242, title IV, § 442, 101 Stat. 1921; Oct. 28, 1992, Pub. L. 102–550, title XIII, § 1381(d), 106 Stat. 3995.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550, § 1381(d)(1), inserted at end ''The corporation may issue shares of common stock in return for appropriate payments into capital or capital and surplus.''

Subsecs. (b), (c). Pub. L. 102–550, § 1381(d)(2), added subsecs. (b) and (c) and struck out former subsec. (b) which related to accumulation of surplus, fees and charges, and transfer of surplus funds to reserves and former subsec. (c) which related to issuance of common stock for capital contributions and payment of dividends.

Subsecs. (d), (f). Pub. L. 102–550, § 1381(d)(3), (4), redesignated subsec. (f) as (d), struck out ''to make payments to the corporation of the nonrefundable capital contributions referred to in subsection (b) of this section, to receive stock of the corporation evidencing such capital contributions,'' after ''shall be authorized'', and substituted ''shares of common stock of the corporation'' for ''additional shares of such stock,''.

1988—Subsec. (a). Pub. L. 100–242 inserted after first sentence ''The corporation may eliminate such rights of cumulative voting by a resolution adopted by its board of directors and approved by the holders of a majority of the shares of common stock voting in person or by proxy at the annual meeting, or other special meeting, at which such resolution is considered.''

1982—Subsec. (a). Pub. L. 97–320, § 707(a)(1), inserted provision that the corporation may have preferred stock on such terms and conditions as the board of directors shall prescribe.

Pub. L. 97–320, § 707(a)(2), struck out ''common'' before ''stock at all times''.

1974—Subsec. (a). Pub. L. 93–383, § 806(g), struck out provisions relating to issuance, par value, retirement, etc., of nonvoting preferred stock.

Subsec. (c). Pub. L. 93–383, § 806(h), substituted provisions relating to purchases subsequent to Sept. 1, 1968, for provisions relating to purchases subsequent to the effective date established under section 808 of the Housing and Urban Development Act of 1968, and struck out provisions relating to retirement of all outstanding preferred stock.

Subsec. (d). Pub. L. 93–383, § 806(i), struck out subsec. (d) authorizing issuance of preferred stock to Secretary of the Treasury.

Subsec. (e). Pub. L. 93–383, § 806(i), struck out subsec. (e) relating to exchange of preferred stock delivered to Secretary of the Treasury pursuant to subsec. (d) of this section.

1970—Subsec. (b). Pub. L. 91–609 substituted ''may accumulate'' and ''private sources'' for ''shall accumulate'' and ''private and other sources'', respectively, struck out ''nor less than 1 per centum'' after ''2 per centum'', and inserted ''with the approval of the Secretary of Housing and Urban Development'' after ''as determined from time to time by the corporation''.

1968—Subsec. (a). Pub. L. 90–448, § 802(i), (s)(1), changed common stock of the Association from nonvoting common stock with a par value of $100 to common stock, without par value, vested with all voting rights and each share entitled to one vote with rights of cumulative voting at all elections of directors, provided that the free transferability of the common stock shall not be restricted except that, as to the corporation, it shall be transferable only on the books of the corporation, struck out provisions which permitted retirement of the preferred stock only out of funds of the capital surplus and the general surplus accounts of the Association, and which prohibited retirements of common stock if, as a consequence, the amount thereof remaining outstanding would be less than $100,000,000, and substituted provisions requiring retirement of preferred stock to be made as rapidly as possible subsequent to the effective date of section 808 of the Housing and Urban Development Act of 1968, for provisions which required retirement as rapidly as the Association shall deem feasible, and ''corporation'' for ''Association'' in six places.

Subsec. (b). Pub. L. 90–448, § 802(j), (s)(1), substituted ''corporation'' for ''Association'' in six places, and ''fees, which may be regarded as elements of pricing, with'' for ''fees for its services with'', and struck out sentence which stated this subsection shall be subject to the exceptions set forth in section 1722 of this title.

Subsec. (c). Pub. L. 90–448, § 802(k), (s)(1), substituted ''corporation'' for ''Association'' in five places, and ''the aggregate amount of cash dividends paid on account of any share of such stock shall not exceed any rate which may be determined from time to time by the Secretary of Housing and Urban Development to be a fair rate of return after consideration of the current earnings and capital condition of the corporation'' for ''the general surplus account of the Association shall not be reduced through the payment of dividends applicable to such common stock which exceed in the aggregate 5 per centum of the par value of the outstanding common stock of the Association'', inserted provisions authorizing the corporation to issue additional shares in return for appropriate payments into capital or capital and surplus, directing the corporation to require each services of its mortgages to own a minimum amount of common stock of the corporation, and prescribing the minimum amount, and struck out provisions which related to issuance of common stock only in denominations of $100 or multiples thereof.

Subsec. (d). Pub. L. 90–448, § 802(*l*), (s), substituted ''corporation'' for ''Association'' in six places, and ''corporation's'' for ''Association's'', and inserted provisions prohibiting issuance of preferred stock subsequent to the effective date established pursuant to section 808 of the Housing and Urban Development Act of 1968.

Subsec. (e). Pub. L. 90–448, § 802(s), substituted ''corporation'' for ''Association'' in four places, and ''corporation's'' for ''Association's''.

Subsec. (f). Pub. L. 90–448, § 802(m), (s)(1), substituted ''corporation'' for ''Association'' in two places and inserted provisions authorizing purchase of additional shares of stock of the corporation.

Subsec. (g). Pub. L. 90–448, § 802(n), repealed subsec. (g) which directed Secretary of Housing and Urban Development to transmit recommendations for eventual transfer of operations to private shareholders.

1967—Subsec. (a). Pub. L. 90–19, § 1(j)(2), substituted ''Secretary of the Treasury's'' for ''Secretary's'' in last sentence.

Subsec. (g). Pub. L. 90–19, § 1(*l*), substituted ''Secretary of Housing and Urban Development'' for ''Housing and Home Finance Administrator''.

1966—Subsec. (d). Pub. L. 89–566, § 2(a), raised from $115,000,000 to $225,000,000 the amount of the par value of the preferred stock of the Association which the Secretary of the Treasury is authorized and directed to accept in addition to the original $21,000,000.

Subsec. (e). Pub. L. 89–566, § 2(b), substituted ''$225,000,000'' for ''$115,000,000'' in second sentence.

1965—Subsec. (b). Pub. L. 89–117 inserted ''other'' sources to private sources as the areas from which the Association shall accumulate funds for its capital surplus account.

1961—Subsec. (b). Pub. L. 87–70, § 603(b), directed the Association to require each borrower to make payments, equal to not more than one-half of one per centum of the amount lent to the borrower under section 1719 of this title.

Subsec. (c). Pub. L. 87–70, § 603(c), required issuance of stock to borrowers and inserted ''(adjusted by reason of any payments into surplus required by the Association)''.

1957—Subsec. (b). Pub. L. 85–104, § 201, substituted provisions which fixed capital contributions payments at maximum of 2 percent and minimum of 1 percent of unpaid principal amounts of mortgages purchased or to be purchased under section 1719 of this title, for former provisions which provided for capital contributions payments equal to 2 percent of the unpaid principal amounts of mortgages purchased by the Association or equal to such greater or lesser percentage but not less than 1 percent, as the Association might determine.

Subsec. (d). Pub. L. 85–104, § 202(a), substituted ''$115,000,000'' for ''$50,000,000'' in second sentence.

Pub. L. 85–10, § 1(a), inserted sentence directing Secretary of Treasury to accept additional $50,000,000 of preferred stock issued by Association.

Subsec. (e). Pub. L. 85–104, § 202(b), substituted ''$115,000,000'' for ''$50,000,000'' in second sentence.

Pub. L. 85–10, § 1(b), inserted ''the first sentence of'' before ''subsection (d)'' in first sentence, and inserted sentence providing that Association stock delivered to Treasury pursuant to second sentence of subsec. (d) of this section be in exchange for Association notes of $50,000,000.

1956—Subsec. (b). Act Aug. 7, 1956, substituted provisions which required mortgage sellers to make contributions equal to not more than 2 percent of the unpaid principal amount of mortgages or greater or lesser percentage as the Association may determine, but not less than 1 percent, for former provisions that contributions equal 3 percent of the unpaid amount of the mortgages or such greater percentage as from time to time the Association may determine.

1954—Act Aug. 2, 1954, amended section generally to substitute provisions relating to capitalization (formerly covered in section 1716 of this title) and to general financial arrangements and operations for provisions relating merely to use and investment of moneys not invested in mortgages or in operating facilities (such provisions now being covered by section 1723b of this title), and the maintenance of necessary reserves.

1948—Act July 1, 1948, made section applicable to the Association instead of to any of the national mortgage associations.

1938—Act Feb. 3, 1938, inserted ''or in bonds or other obligations'' and inserted ''and may purchase in the open market notes, bonds, debentures, or such other obligations issued under section 1717 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.

SPECIAL ASSISTANCE FUNDS OF ASSOCIATION FOR FINANCING LOW-COST HOMES

Section 1006 of Pub. L. 89–754, title X, Nov. 3, 1966, 80 Stat. 1285, provided that the Congress found that the sharp decline in new home construction over the past year threatened to undercut the present high level of prosperity and employment as such declines had in the past; that the substantial reduction which had taken place had its greatest impact on families of modest income who were seeking to achieve the goal of homeownership; that this decline in homebuilding was due primarily to the shortage of mortgage financing on terms which moderate income families could afford; and that national policy objectives in the field of housing and community development were thereby being thwarted. The Congress therefore expressed its intent that the special assistance funds made available to the Federal National Mortgage Association for the financing of new low-cost homes by the Act of September 10, 1966 (Public Law 89–556) [amending sections 1718, 1719, and 1720 of this title], should be released immediately to halt the continuing decline in the construction of new homes for families of moderate incomes.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1717, 1721, 4513 of this title; title 26 sections 162, 1054.

§ 1719. Secondary market operations

(a) Purchase and sale of mortgages; secondary market operations; advance of funds or origination of loans; settlement or extinguishment of borrower's rights

(1) To carry out the purposes set forth in paragraph (a)[1] of section 1716 of this title, the operations of the corporation under this section shall be confined, so far as practicable, to 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. In the interest of assuring sound operation, the prices to be paid by the corporation for mortgages purchased in its secondary market operations under this section, should be established, from time to time, within the range of market prices for the particular class of mortgages involved, as determined by the corporation. The volume of the corporation's purchases and sales, and the establishment of the purchase prices, sale prices, and charges or fees, in its secondary market operations under this section, should be determined by the corporation from time to time, and such determinations should be consistent with the objectives that such purchases and sales should be effected only at such prices and on such terms as will reasonably prevent excessive use of the corporation's facilities, and that the operations of the corporation under this section should be within its income derived from such operations and that such operations should be fully self-supporting. Nothing in this subchapter shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments under section 1715z–8 of this title.

(2) 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 section, should be determined by the corporation from time to time; and such determinations, in conjunction with determinations made under paragraph (1), should be consistent with the objectives that the lending activities should 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 section should be within its income derived from such operations and that such operations should be fully self-supporting. The corporation shall not be permitted to use its lending authority (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 empowered, in connection with

[1] See References in Text note below.

any loan under this section, 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) Obligations of the Corporation

For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the corporation with the approval of the Secretary of the Treasury, to be redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, 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. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) Purchase of obligations by Treasury; conditions and restrictions

The Secretary of the Treasury is authorized in the Secretary's discretion to purchase any obligations issued pursuant to subsection (b) of this section, as 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, and the purposes for which securities may be issued under chapter 31 of title 31 are extended to include such purchases. The Secretary of the Treasury shall not at any time purchase any obligations under this subsection if such purchase would increase the aggregate principal amount of the Secretary's then outstanding holdings of such obligations under this subsection to an amount greater than $2,250,000,000. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate determined by the Secretary of the Treasury, 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 such purchase. The Secretary of the Treasury may, at any time, sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary 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.

(d) Mortgage-backed securities; issuance; maturities; rates of interest; exempt securities; adequacy of mortgages to permit principal and interest payments; statement in securities

To provide a greater degree of liquidity to the mortgage investment market and an additional means of financing its operations under this section, the corporation is authorized to set aside any mortgages held by it under this section, and, upon approval of the Secretary of the Treasury, to issue and sell securities based upon the mortgages so set aside. Securities issued under this subsection may be in the form of debt obligations or trust certificates of beneficial interest, or both. Securities issued under this subsection 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. Securities issued by the corporation under this subsection shall, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal and interest by the United States, be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission. Mortgages set aside pursuant to this subsection shall at all times be adequate to enable the corporation to make timely principal and interest payments on the securities issued and sold pursuant to this subsection. The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such 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.

(e) Subordinated or convertible obligations; issuance; maturities; rate of interest; redemption; exempt securities; debt or obligation of United States; purchases in open market

For the purposes of this section, the corporation is authorized to issue, upon the approval of the Secretary of the Treasury, obligations which are subordinated to any or all other obligations of the corporation, including subsequent obligations. The obligations issued under this subsection 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 and may be made redeemable at the option of the corporation before maturity in such manner as may be stipulated in such obligations. Any of such obligations may be made convertible into shares of common stock in such manner, at such price or prices, and at such time or times as may be stipulated therein. Obligations issued by the corporation under this subsection shall, to the same extent as securities which 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 laws administered by the Securities and Exchange Commission. The corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, 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 of any agency or instrumentality thereof other than the corporation. The corporation is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(f) Prohibition on assessment or collection of fee or charge by United States

Except for fees paid pursuant to section 1723a(g) 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, trust certificate of beneficial interest, or other security by the corporation. No provision of this subsection shall affect the purchase of any obligation by the Secretary of the Treasury pursuant to subsection (c) of this section.

(June 27, 1934, ch. 847, title III, §304, 48 Stat. 1254; July 1, 1948, ch. 784, §1, 62 Stat. 1206; Aug. 2, 1954, ch. 649, title II, §201, 68 Stat. 615; Aug. 7, 1956, ch. 1029, title II, §§203, 204, 70 Stat. 1096; Mar. 27, 1957, Pub. L. 85–10, §1(c), 71 Stat. 7; July 12, 1957, Pub. L. 85–104, title II, §203, 71 Stat. 298; Sept. 23, 1959, Pub. L. 86–372, title III, §§302, 305(a), 73 Stat. 669, 670; June 30, 1961, Pub. L. 87–70, title VI, §603(d), (e), 75 Stat. 176, 177; Sept. 2, 1964, Pub. L. 88–560, title VII, §§701(b)(2), 703, 704, 78 Stat. 800, 802; Sept. 10, 1966, Pub. L. 89–566, §1, 80 Stat. 738; Nov. 3, 1966, Pub. L. 89–754, title X, §1007, 80 Stat. 1285; Aug. 1, 1968, Pub. L. 90–448, title VIII, §§802(p)–(s), 804(a), 805, 82 Stat. 538, 542, 543; July 24, 1970, Pub. L. 91–351, title V, §504, 84 Stat. 461; Aug. 22, 1974, Pub. L. 93–383, title VIII, §806(j), 88 Stat. 728; Oct. 15, 1982, Pub. L. 97–320, title VII, §707(b), 96 Stat. 1540; Oct. 17, 1984, Pub. L. 98–479, title II, §203(a)(1), 98 Stat. 2229; Feb. 5, 1988, Pub. L. 100–242, title IV, §441(a), 101 Stat. 1921; Aug. 9, 1989, Pub. L. 101–73, title VII, §731(m)(2), 103 Stat. 436; Oct. 28, 1992, Pub. L. 102–550, title XIII, §1381(e)–(g), (s)(2), 106 Stat. 3996, 4001.)

REFERENCES IN TEXT

Paragraph (a) of section 1716 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 101–73, title VII, §731(m)(1)(A), Aug. 9, 1989, 103 Stat. 435. See section 1716(3) of this title.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–550, §1381(e)(1), substituted a period for "; but the aggregate amount of obligations of the corporation under this subsection outstanding at any one time shall not exceed fifteen times the sum of its capital, capital surplus, general surplus, reserves, and undistributed earnings unless a greater ratio shall be fixed at any time or from time to time by the Secretary of Housing and Urban Development. In no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the corporation's ownership pursuant to this section, free from any liens or encumbrances, of cash, mortgages or other security holdings, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds." after "in such obligations".

Subsec. (c). Pub. L. 102–550, §1381(s)(2), substituted "the Secretary's" for "his" in two places, "the Secretary" for "he" after "such price or prices as", and "the Secretary" for "him" after "the obligations acquired by".

Subsec. (d). Pub. L. 102–550, §1381(f), inserted at end "The corporation shall insert appropriate language in all of the securities issued under this subsection clearly indicating that such 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."

Subsec. (e). Pub. L. 102–550, §1381(e)(2), struck out after third sentence "The outstanding total principal amount of such obligations, which are entirely subordinated to the obligations of the corporation issued or to be issued under subsection (b) of this section, shall be deemed to be capital of the corporation for the purpose of determining the aggregate amount of obligations issued under subsection (b) of this section which may be outstanding at any one time."

Subsec. (f). Pub. L. 102–550, §1381(g), inserted "of this title and assessments pursuant to section 4516 of this title" in first sentence.

1989—Subsec. (a)(2). Pub. L. 101–73 inserted after third sentence "The corporation shall not be permitted to use its lending authority (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." and struck out first two sentences which read as follows: "In the further interest of assuring sound operation, any loan made by the corporation in its secondary market operations under this section, and any extension or renewal thereof, shall not exceed 90 per centum of the unpaid principal balances of the mortgages securing the loan, and shall bear interest at a rate consistent with general loan policies established from time to time by the corporation's board of directors. Any such loan shall mature in not more than twelve months and the term of any extension or renewal shall not exceed twelve months."

1988—Subsec. (f). Pub. L. 100–242 added subsec. (f).

1984—Subsec. (c). Pub. L. 98–479 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as now or hereafter in force" in two places.

1982—Subsec. (e). Pub. L. 97–320 struck out provision that the total principal amount of subordinated obligations which could be outstanding at any one time could not exceed two times the sum of (1) the capital of the corporation represented by its outstanding common stock and (2) its surplus and undistributed earnings at such time.

1974—Subsec. (a)(1). Pub. L. 93–383 substituted "section 243 of the National Housing Act", classified to section 1715z–8 of this title, for "section 502 of the Emergency Home Finance Act of 1970", which enacted such section 1715z–8. For purposes of amendment of subsec. (a)(1) of this section no change in text was required.

1970—Subsec. (a)(1). Pub. L. 91–351 inserted provision that nothing in this subchapter shall prohibit the corporation from purchasing, and making commitments to purchase, any mortgage with respect to which the Secretary of Housing and Urban Development has entered into a contract with the corporation to make interest subsidy payments pursuant to section 1715z–8 of this title.

1968—Subsec. (a)(1). Pub. L. 90–448, §802(p), (s), substituted "corporation" for "Association" in six places, and "corporation's" for "Association's" in two places, and struck out provisions which prohibited the Association from purchasing any mortgage insured or guaranteed prior to Aug. 2, 1954.

Subsec. (a)(2). Pub. L. 90–448, §802(s), substituted "corporation" for "Association" in five places, and "corporation's" for "Association's", in three places.

Subsec. (b). Pub. L. 90–448, § 802(q), (s), substituted ''corporation'' for ''Association'' in seven places, and ''corporation's'' for ''Association's'', and inserted provisions permitting the Secretary to establish a greater ratio than fifteen times for the aggregate amount of obligations outstanding.

Subsec. (c). Pub. L. 90–448, § 802(r), struck out provisions which prohibited the Secretary of the Treasury from purchasing obligations under this subsection if all of the preferred stock of the Association held by him has been retired.

Subsec. (d). Pub. L. 90–448, § 804(a), added subsec. (d). A prior subsec. (d) was repealed by Pub. L. 88–560.

Subsec. (e). Pub. L. 90–448, § 805, added subsec. (e).

1966—Subsec. (a)(1). Pub. L. 89–754 struck out requirement that Association's advance commitments to purchase mortgages in its secondary market operations be issued at prices which are sufficient to facilitate home financing, but which are sufficiently below the price then offered by the Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

Subsec. (b). Pub. L. 89–566 raised limit on maximum amount of obligations outstanding under the subsection from ten times the sum of capital, capital surplus, general surplus, reserves, and undistributed earnings to fifteen times that sum.

1964—Subsec. (a)(2). Pub. L. 88–560, § 703, substituted ''90 per centum'' for ''80 per centum''.

Subsec. (b). Pub. L. 88–560, § 701(b)(2), substituted ''or obligations, participations, or other instruments which are lawful investments'' for ''or obligations which are lawful investments''.

Subsec. (d). Pub. L. 88–560, § 704, repealed provisions which prohibited the Association from purchasing participations in its operations under this section.

1961—Subsec. (a). Pub. L. 87–70, § 603(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (b). Pub. L. 87–70, § 603(e), inserted ''or other security holdings'' after ''mortgages''.

1959—Subsec. (a). Pub. L. 86–372, § 302, substituted ''home financing'' for ''advance planning of home construction'' after ''sufficient to facilitate''.

Subsec. (b). Pub. L. 86–372, § 305(a), substituted ''and obligations of the United States or guaranteed thereby, or obligations which are lawful investments for fiduciary, trust, or public funds'' for ''and bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States''.

1957—Subsec. (c). Pub. L. 85–104 substituted ''$2,250,000,000'' for ''$1,350,000,000''.

Pub. L. 85–10 substituted ''$1,350,000,000'' for ''$500,000,000'' plus an amount equal to the total of such reductions in the maximum dollar amount prescribed by section 1721(c) of this title as have theretofore been effected pursuant to that section: *Provided*, That such aggregate principal amount under this subsection shall in no event exceed $1,000,000,000''.

1956—Subsec. (a). Act Aug. 7, 1956, §§ 203, 204(a), substituted in second sentence ''within the range of market prices'' for ''at the market prices''; and inserted sentence that advance commitments to purchase mortgages in secondary market operations shall be issued only at prices which are sufficient to facilitate advance planning of home construction but sufficiently below price then offered by Association for immediate purchase to prevent excessive sales to the Association pursuant to such commitments.

Subsec. (d). Act Aug. 7, 1956, § 204(b), struck out provisions prohibiting Association from making advance contracts or commitments to purchase mortgages but allowed Association to issue a purchase contract in an amount not exceeding the amount of the sale of mortgages purchased from the Association, entitling the holder to sell to the Association mortgages in the amount of the contract, upon terms prescribed by the Association.

1954—Act Aug. 2, 1954, amended section generally to substitute new provisions (formerly covered in sections 1716 and 1717 of this title) for provisions which related to exemption from taxation. See section 1723a(c) of this title.

1948—Act July 1, 1948, amended section generally to provide for exemption from taxation for the Association.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1716b, 1717, 1721, 4542 of this title.

§ 1720. Repealed. Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240

Section, acts June 27, 1934, ch. 847, title III, § 305, 48 Stat. 1254; July 1, 1948, ch. 784, § 1, 62 Stat. 1206; Apr. 20, 1950, ch. 94, title I, § 118, 64 Stat. 57; Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 616; Aug. 11, 1955, ch. 783, title I, § 103, title IV, § 402, 69 Stat. 636, 651; Aug. 7, 1956, ch. 1029, title II, §§ 205–208, 70 Stat. 1096; Mar. 27, 1957, Pub. L. 85–10, § 2, 71 Stat. 8; July 12, 1957, Pub. L. 85–104, title II, §§ 204–207, 71 Stat. 298; Apr. 1, 1958, Pub. L. 85–364, §§ 2, 3(a), 4, 72 Stat. 73, 74; Sept. 23, 1959, Pub. L. 86–372, title III, §§ 303(a), 304, 73 Stat. 669; June 30, 1961, Pub. L. 87–70, title I, § 101(c), title VI, § 601(a), (b), 75 Stat. 153, 175, 176; Sept. 2, 1964, Pub. L. 88–560, title I, § 109(b), 78 Stat. 777; Aug. 10, 1965, Pub. L. 89–117, title VIII, § 801, 79 Stat. 493; May 24, 1966, Pub. L. 89–429, § 3(a), 80 Stat. 166; Sept. 10, 1966, Pub. L. 89–566, § 3, 80 Stat. 738; Nov. 3, 1966, Pub. L. 89–754, title III, § 310(d), title X, §§ 1005, 1020(c), 80 Stat. 1270, 1285, 1296; May 25, 1967, Pub. L. 90–19, § 1(a)(2), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title II, § 201(g), title VIII, § 806, 82 Stat. 503, 544; Dec. 24, 1969, Pub. L. 91–152, § 2, title I, § 115, 83 Stat. 379, 385; July 24, 1970, Pub. L. 91–351, title IV, § 401, 84 Stat. 458; Oct. 31, 1978, Pub. L. 95–557, title III, § 318(b), 92 Stat. 2101; Oct. 8, 1980, Pub. L. 96–399, title III, § 338, 94 Stat. 1657; Aug. 13, 1981, Pub. L. 97–35, title III, § 333(a)(1), (2), 95 Stat. 413, related to the special assistance functions of the Government National Mortgage Association.

SAVINGS PROVISION

Section 483(b) of Pub. L. 98–181 provided that: ''Any purchase or commitment to purchase any mortgage pursuant to section 305 or 313 of the Federal National Mortgage Association Charter Act [former sections 1720 and 1723e of this title] made before the date of the enactment of this Act [Nov. 30, 1983], and the servicing and disposition of any such mortgage, shall continue to be governed by the provisions of such sections as they existed immediately before the effective date of this section [Nov. 30, 1983].''

§ 1721. Management and liquidation functions of Government National Mortgage Association

(a) Separate accountability of assets and liabilities

To carry out the purposes set forth in paragraph (c)[1] of section 1716 of this title, the Association is authorized and directed, as of the close of the cutoff date determined by the Association pursuant to section 1718(d)[1] of this title, to establish separate accountability for all of its assets and liabilities (exclusive of capital, surplus, surplus reserves, and undistributed earnings to be evidenced by preferred stock as provided in section 1718(d)[1] of this title, but inclusive of all rights and obligations under any outstanding contracts), and to maintain such separate accountability for the management and or-

[1] See References in Text note below.

derly liquidation of such assets and liabilities as provided in this section.

(b) Issuance of obligations to expedite substitution of private financing

For the purposes of this section and to assure that, to the maximum extent, and as rapidly as possible, private financing will be substituted for Treasury borrowings otherwise required to carry mortgages held under the aforesaid separate accountability, the Association is authorized to issue, upon the approval of the Secretary of the Treasury, and have outstanding at any one time obligations having such maturities and bearing such rate or rates of interest as may be determined by the Association with the approval of the Secretary of the Treasury, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations; but in no event shall any such obligations be issued if, at the time of such proposed issuance, and as a consequence thereof, the resulting aggregate amount of its outstanding obligations under this subsection would exceed the amount of the Association's ownership under the aforesaid separate accountability, free from any liens or encumbrances, of cash, mortgages, and obligations of the United States or guaranteed thereby, or obligations, participations, or other instruments which are lawful investments for fiduciary, trust or public funds. The proceeds of any private financing effected under this subsection shall be paid to the Secretary of the Treasury in reduction of the indebtedness of the Association to the Secretary of the Treasury under the aforesaid separate accountability. The Association shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, 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 of any agency or instrumentality thereof other than the Association. The Association is authorized to purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(c) Cutoff date as controlling purchases; total amount of mortgages and commitments

No mortgage shall be purchased by the Association in its operations under this section except pursuant to and in accordance with the terms of a contract or commitment to purchase the same made prior to the cutoff date provided for in section 1718(d)[1] of this title, which contract or commitment became a part of the aforesaid separate accountability, and the total amount of mortgages and commitments held by the Association under this section shall not, in any event, exceed $3,350,000,000: *Provided*, That such maximum amount shall be progressively reduced by the amount of cash realizations on account of principal of mortgages held under the aforesaid separate accountability and by cancellation of any commitments to purchase mortgages thereunder, as reflected by the books of the Association, with the objective that the entire aforesaid maximum amount shall be eliminated with the orderly liquidation of all mortgages held under the aforesaid separate accountability: *And provided further*, That nothing in this subsection shall preclude the Association from granting such usual and customary increases in the amounts of outstanding commitments (resulting from increased costs or otherwise) as have theretofore been covered by like increases in commitments granted by the agencies of the Federal Government insuring or guaranteeing the mortgages. There shall be excluded from the total amounts set forth in this subsection the amounts of any mortgages which, subsequent to May 31, 1954, are transferred by law to the Association and held under the aforesaid separate accountability.

(d) Issuance of obligations sufficient to carry out functions; character; purchase

The Association may issue to the Secretary of the Treasury its obligations in an amount outstanding at any one time sufficient to enable the Association to carry out its functions under this section, such obligations to mature not more than five years from their respective dates of issue, to be redeemable at the option of the Association before maturity in such manner as may be stipulated in such obligations. Each such obligation shall bear interest at a rate determined by the Secretary of the Treasury, 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 issuance of the obligation of the Association. The Secretary of the Treasury is authorized to purchase any obligations of the Association to be issued under this section, and for such 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 chapter 31 of title 31 are extended to include any purchases of the Association's obligations hereunder.

(e) Acquisition of mortgages offered by Secretary of Housing and Urban Development

Notwithstanding any other provision of law, the Association is authorized, under the aforesaid separate accountability, to make commitments to purchase, and to purchase, service, or sell any obligations offered to it by the Secretary of Housing and Urban Development, or any mortgages covering residential property offered to it by any Federal instrumentality, or the head thereof. These shall be excluded from the total amounts set forth in subsection (c) of this section the amounts of any obligations or mortgages purchased by the Association pursuant to this subsection.

(f) Transfer of funds

Notwithstanding any of the provisions of this chapter or of any other law, an amount equal to the net decrease for the preceding fiscal year in the aggregate principal amount of all mortgages owned by the Association under this section shall, as of July 1 of each of the years 1961 through 1964, be transferred to and merged with the authority provided under section 1720(a)[2] of this title, and the amount of such authority as

[2] See References in Text note below.

specified in section 1720(c)[2] of this title shall be increased by any amounts so transferred.

(g) Guarantee of principal and interest on trust certificates and other securities; fees and charges; subrogation; contract for extinguishment of right, title, or interest in mortgages; protection of interests; full faith and credit; commitments limited; limitation on fees or charges

(1) The Association is authorized, upon such terms and conditions as it may deem appropriate, to guarantee the timely payment of principal of and interest on such trust certificates or other securities as shall (i) be issued by the corporation under section 1719(d) of this title, or by any other issuer approved for the purposes of this subsection by the Association, and (ii) be based on and backed by a trust or pool composed of mortgages which are insured under this chapter or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.], or which are insured or guaranteed under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38, or which are guaranteed under title XIII of the Public Health Service Act [42 U.S.C. 300e et seq.]. The Association shall collect from the issuer a reasonable fee for any guaranty under this subsection and shall make such charges as it may determine to be reasonable for the analysis of any trust or other security arrangement proposed by the issuer. In the event the issuer is unable to make any payment of principal of or interest on any security guaranteed under this subsection, the Association shall make such payment as and when due in cash, and thereupon shall be subrogated fully to the rights satisfied by such payment. In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor. The Association is hereby empowered, in connection with any guaranty under this subsection, whether before or after any default, to provide by contract with the issuer for the extinguishment, upon default by the issuer, of any redemption, equitable, legal, or other right, title, or interest of the issuer in any mortgage or mortgages constituting the trust or pool against which the guaranteed securities are issued; and with respect to any issue of guaranteed securities, in the event of default and pursuant otherwise to the terms of the contract, the mortgages that constitute such trust or pool shall become the absolute property of the Association subject only to the unsatisfied rights of the holders of the securities based on and backed by such trust or pool. No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this subsection after October 8, 1980), shall preclude or limit the exercise by the Association of (A) its power to contract with the issuer on the terms stated in the preceding sentence, (B) its rights to enforce any such contract with the issuer, or (C) its ownership rights, as provided in the preceding sentence, in the mortgages constituting the trust or pool against which the guaranteed securities are issued. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guaranty under this subsection. There shall be excluded from the total amounts set forth in subsection (c) of this section the amounts of any mortgages acquired by the Association as a result of its operations under this subsection.

(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $107,700,000,000 during fiscal year 1993 and $91,696,000,000 during fiscal year 1994. There is authorized to be appropriated such sums as may be necessary to cover the costs (as such term is defined in section 661a of title 2) of guarantees issued under this chapter by the Association.

(3)(A) No fee or charge in excess of 6 basis points 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 any guaranty of the timely payment of principal or interest on securities or notes based on or backed by mortgages that are secured by 1- to 4-family dwellings and (i) insured by the Federal Housing Administration under subchapter II of this chapter; or (ii) insured or guaranteed under the Serviceman's Readjustment Act of 1944, chapter 37 of title 38, or title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

(B) The fees charged for the guaranty of securities or on notes based on or backed by mortgages not referred to in subparagraph (A), as authorized by other provisions of law, shall be set by the Association at a level not more than necessary to create reserves sufficient to meet anticipated claims based upon actuarial analysis, and for no other purpose.

(C) Fees or charges for the issuance of commitments or miscellaneous administrative fees of the Association shall not be on a competitive auction basis and shall remain at the level set for such fees or charges as of September 1, 1985, except that such fees or charges may be increased if reasonably related to the cost of administering the program, and for no other purpose.

(D) Not less than 90 days before increasing any fee or charge under subparagraph (B) or (C), the Secretary shall submit to the Congress a certification that such increase is solely for the purpose specified in such subparagraph.

(E)(i) Notwithstanding subparagraphs (A) through (D), fees charged for the guarantee of, or commitment to guarantee, multiclass securities backed by a trust or pool of securities or notes guaranteed by the Association under this subsection, and other related fees shall be charged by the Association in an amount the As-

sociation deems appropriate. The Association shall take such action as may be necessary to reasonably assure that such portion of the benefit, resulting from the Association's multiclass securities program, as the Association determines is appropriate accrues to mortgagors who execute eligible mortgages after August 10, 1993.

(ii) The Association shall provide for the initial implementation of the program for which fees are charged under the first sentence of clause (i) by notice published in the Federal Register. The notice shall be effective upon publication and shall provide an opportunity for public comment. Not later than 12 months after publication of the notice, the Association shall issue regulations for such program based on the notice, comments received, and the experience of the Association in carrying out the program during such period.

(iii) The Association shall consult with persons or entities in such manner as the Association deems appropriate to ensure the efficient commencement and operation of the multiclass securities program.

(iv) No State or local law, and no Federal law (except Federal law enacted expressly in limitation of this clause after August 10, 1993) shall preclude or limit the exercise by the Association of its power to contract with persons or entities, and its rights to enforce such contracts, for the purpose of ensuring the efficient commencement and continued operation of the multiclass securities program.

(June 27, 1934, ch. 847, title III, §306, 48 Stat. 1255; July 1, 1948, ch. 784, §1, 62 Stat. 1209; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Aug. 2, 1954, ch. 649, title II, §201, 68 Stat. 618; Aug. 7, 1956, ch. 1029, title II, §209, 70 Stat. 1097; Sept. 23, 1959, Pub. L. 86–372, title III, §§305(a), 306(a), 73 Stat. 670; June 30, 1961, Pub. L. 87–70, title VI, §601(c), 75 Stat. 176; Sept. 2, 1964, Pub. L. 88–560, title VII, §701(b)(2), 78 Stat. 800; Aug. 10, 1965, Pub. L. 89–117, title VIII, §802(b), 79 Stat. 494; May 25, 1967, Pub. L. 90–19, §1(k), 81 Stat. 18; Aug. 1, 1968, Pub. L. 90–448, title VIII, §804(b), 82 Stat. 542; Dec. 29, 1973, Pub. L. 93–222, §7(c), 87 Stat. 936; Oct. 8, 1980, Pub. L. 96–399, title III, §335, 94 Stat. 1654; Aug. 13, 1981, Pub. L. 97–35, title III, §333(a)(3), 95 Stat. 413; Nov. 30, 1983, Pub. L. 98–181, title IV, §481, 97 Stat. 1239; Oct. 17, 1984, Pub. L. 98–479, title II, §203(a)(2), 98 Stat. 2229; Mar. 24, 1987, Pub. L. 100–14, 101 Stat. 128; Feb. 5, 1988, Pub. L. 100–242, title IV, §446, 101 Stat. 1922; Nov. 28, 1990, Pub. L. 101–625, title III, §339, 104 Stat. 4147; Oct. 28, 1992, Pub. L. 102–550, title V, §§531, 532, 106 Stat. 3793; Aug. 10, 1993, Pub. L. 103–66, title III, §3004, 107 Stat. 339; Oct. 27, 1993, Pub. L. 103–120, §10, 107 Stat. 1151.)

REFERENCES IN TEXT

Paragraph (c) of section 1716 of this title, referred to in subsec. (a), was redesignated par. (4) of section 1716 by Pub. L. 101–73, title VII, §731(m)(1)(B), Aug. 9, 1989, 103 Stat. 435. Par. (4) of section 1716 was redesignated par. (5) by Pub. L. 102–550, title XIII, §1381(a)(3), Oct. 28, 1992, 106 Stat. 3994.

Section 1718(d) of this title, referred to in subsecs. (a) and (c), authorizing the issuance of preferred stock to the Secretary of the Treasury, was repealed by Pub. L. 93–383, title VIII, §806(i), Aug. 22, 1974, 88 Stat. 728.

Section 1720 of this title, referred to in subsec. (f), was repealed by Pub. L. 98–181, title IV, §483(a), Nov. 30, 1983, 97 Stat. 1240.

The Housing Act of 1949, referred to in subsec. (g)(1), (3)(A), is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. 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.

The Servicemen's Readjustment Act of 1944, referred to in subsec. (g)(1), (3)(A), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, 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.

The Public Health Service Act, referred to in subsec. (g)(1), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Title XIII of the Public Health Service Act, is title XIII of act July 1, 1944, ch. 373, as added by act Dec. 29, 1973, Pub. L. 93–222, §2, 87 Stat. 914, which is classified generally to subchapter XI (§300e et seq.) of chapter 6A 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 201 of Title 42 and Tables.

AMENDMENTS

1993—Subsec. (g)(2). Pub. L. 103–120 substituted "$107,700,000,000" for "$88,000,000,000".

Subsec. (g)(3)(E). Pub. L. 103–66 added subpar. (E).

1992—Subsec. (g)(1). Pub. L. 102–550, §532, inserted after third sentence "In any case in which (I) Federal law requires the reduction of the interest rate on any mortgage backing a security guaranteed under this subsection, (II) the mortgagor under the mortgage is a person in the military service, and (III) the issuer of such security fails to receive from the mortgagor the full amount of interest payment due, the Association may make payments of interest on the security in amounts not exceeding the difference between the amount payable under the interest rate on the mortgage and the amount of interest actually paid by the mortgagor."

Subsec. (g)(2). Pub. L. 102–550, §531, amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to the extent of or in such amounts as any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $84,982,000,000 during fiscal year 1991 and $88,296,000,000 during fiscal year 1992."

1990—Subsec. (g)(2). Pub. L. 101–625 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of $150,000,000,000 for fiscal year 1988, and $156,000,000,000 for fiscal year 1989."

1988—Subsec. (g)(2). Pub. L. 100–242 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments for each of the fiscal years 1984 and 1985 to issue guarantees under this subsection for each such fiscal year in an aggregate amount of $68,250,000,000."

1987—Subsec. (g)(3). Pub. L. 100–14 added par. (3).

1984—Subsec. (d). Pub. L. 98–479 substituted "chapter 31 of title 31" for "the Second Liberty Bond Act, as now or hereafter in force" in two places.

1983—Subsec. (g)(2). Pub. L. 98–181 substituted ''Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments for each of the fiscal years 1984 and 1985 to issue guarantees under this subsection for each such fiscal year in an aggregate amount of $68,250,000,000'' for ''During fiscal year 1982, the Association may not enter into commitments to issue guarantees under this subsection in an aggregate amount in excess of $69,542,000,000''.

1981—Subsec. (g). Pub. L. 97–35 redesignated existing provisions as par. (1), substituted ''(i)'' for ''(1)'' and ''(ii)'' for ''(2)'', and added par. (2).

1980—Subsec. (g). Pub. L. 96–399 inserted provisions relating to Federal, State, or local law, and substituted ''The Association is hereby'' for ''Any Federal, State, or other law to the contrary notwithstanding, the Association is hereby''.

1973—Subsec. (g). Pub. L. 93–222 included mortgages which are guaranteed under title XIII of the Public Health Service Act.

1968—Subsec. (g). Pub. L. 90–448 added subsec. (g).

1967—Subsec. (e). Pub. L. 90–19 substituted ''Secretary of Housing and Urban Development'' for ''Housing and Home Finance Agency or its Administrator, or by such Agency's constituent units or agencies or the heads thereof''.

1965—Subsec. (e). Pub. L. 89–117 authorized Association to deal in any obligations offered to it by Housing and Home Finance Agency or its Administrator or by such Agency's units or agencies or by heads thereof as well as residential mortgages offered to it by any Federal instrumentality, or head thereof.

1964—Subsec. (b). Pub. L. 88–560 substituted ''or obligations, participations, or other instruments which are lawful investments'' for ''or obligations which are lawful investments''.

1961—Subsec. (f). Pub. L. 87–70 added subsec. (f).

1959—Subsec. (b). Pub. L. 86–372, § 305(a), substituted ''and obligations of the United States or guaranteed thereby, or obligations which are lawful investments for fiduciary, trust, or public funds'' for ''and bonds or other obligations of, or bonds or other obligations guaranteed as to principal and interest by, the United States''.

Subsec. (e). Pub. L. 86–372, § 306(a), added subsec. (e).

1956—Subsec. (c). Act Aug. 7, 1956, § 209(a), struck out ''and subsection (e) of this section'' after ''set forth in this subsection'' in last sentence.

Subsec. (e). Act Aug. 7, 1956, § 209(b), repealed provisions which related to applicability of prior authorized total amount of investments, etc., to functions under this section and section 1720 of this title.

1954—Act Aug. 2, 1954, amended section generally by substituting new provisions and subdividing section into subsecs. (a) to (e).

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

1948—Act July 1, 1948, amended section generally to provide for liquidation of Association.

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 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.

AUTHORIZATION TO ENTER INTO ADDITIONAL COMMITMENTS TO INSURE LOANS AND GUARANTEE MORTGAGE-BACKED SECURITIES DURING SPECIFIC FISCAL YEARS; TEMPORARY EXTENSION OF CERTAIN PROGRAMS RELATING TO HOUSING AND COMMUNITY DEVELOPMENT

Fiscal year 1988—Pub. L. 100–200, Dec. 21, 1987, 101 Stat. 1327, provided: ''That each provision of law amended by Public Law 100–179 [set out below] is amended by striking 'December 16, 1987' each place it appears and inserting 'March 15, 1988'.''

Pub. L. 100–179, Dec. 3, 1987, 101 Stat. 1018, provided: ''That each provision of law amended by Public Law 100–170 [set out below] is amended by striking 'December 2, 1987' each place it appears and inserting 'December 16, 1987'.''

Pub. L. 100–170, Nov. 17, 1987, 100 Stat. 914, provided: ''That each provision of law amended by Public Law 100–154 [set out below] is amended by striking 'November 15, 1987' and inserting 'December 2, 1987'.''

Pub. L. 100–154, Nov. 5, 1987, 101 Stat. 890, provided: ''That each provision of law amended by Public Law 100–122 [set out below], including those provisions amended by section 2 of such Public Law, is amended by striking out 'October 31, 1987' wherever it appears and inserting in lieu thereof 'November 15, 1987'.''

Pub. L. 100–122, § 1, Sept. 30, 1987, 101 Stat. 793, provided that: ''Each provision of law amended by Public Law 99–430 [set out below] is amended by striking out 'September 30, 1987' wherever it appears and inserting in lieu thereof 'October 31, 1987'.''

Fiscal year 1987—Pub. L. 99–430, Sept. 30, 1986, 100 Stat. 986, provided: ''That each provision of law amended by Public Law 99–345 [set out below] is amended by striking out 'September 30, 1986' wherever it appears and inserting in lieu thereof 'September 30, 1987'.''

Fiscal year 1986—Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 728, provided that: ''The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act [12 U.S.C. 1701 et seq.] during fiscal year 1986 is increased by an additional $57,580,000,000 of mortgage and loan principal.'' and

''The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act [12 U.S.C. 1721] during fiscal year 1986 is increased by an additional $49,000,000,000 of principal.''

Pub. L. 99–345, June 24, 1986, 100 Stat. 673, provided that:

''SECTION 1. Each provision of law amended by Public Law 99–289 [set out below], is amended by striking out 'June 6, 1986' wherever it appears and inserting in lieu thereof 'September 30, 1986'.

''SEC. 2. The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act [12 U.S.C. 1701 et seq.] during fiscal year 1986 is increased by an additional $9,500,000,000 of mortgage and loan principal.''

Pub. L. 99–289, May 2, 1986, 100 Stat. 412, provided that:

''SECTION 1. FEDERAL HOUSING ADMINISTRATION FUND.

''(a) The applicable limitation on additional commitments to insure mortgages and loans to carry out the purposes of the National Housing Act [12 U.S.C. 1701 et seq.] during fiscal year 1986 is increased by an additional $17,000,000,000 of mortgage and loan principal.

''(b) Each provision of law amended by Public Law 99–267 [amending sections 1703, 1715h, 1715*l*, 1715z, 1715z–9, 1715z–10, 1715z–14, 1748h–1, 1748h–2, 1749bb, 1749aaa, 1749bbb, and 2811 of this title and sections 1452b, 1485, 1490, 1490c, 4026, 4056, 4101, and 5302 of Title 42, The Public Health and Welfare, and provisions set out as a note under section 1701q of this title] is amended by striking out 'April 30, 1986' wherever it appears and inserting in lieu thereof 'June 6, 1986'.

''SEC. 2. GOVERNMENT NATIONAL MORTGAGE ASSOCIATION GUARANTEES OF MORTGAGE-BACKED SECURITIES.

''The applicable limitation on new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act [12 U.S.C. 1721] during fiscal year 1986 is increased by an additional $60,684,750,000 of principal.

''SEC. 3. ADMINISTRATIVE PROVISION.

''(a) The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') shall

estimate the rates at which the authority to make commitments to insure mortgages and loans under the National Housing Act [12 U.S.C. 1701 et seq.], and the authority to make commitments to issue guarantees under section 306(g) of that Act [12 U.S.C. 1721(g)], are likely to be used for the remainder of any fiscal year. The Secretary shall make these estimates at such times as the Secretary deems appropriate, but not less frequently than monthly.

''(b) If an estimate under subsection (a) indicates that either limitation on authority to make commitments for a fiscal year referred to in subsection (a) will be reached before the end of that fiscal year, or in any event whenever 75 per centum of either authority to make commitments has been utilized, the Secretary shall promptly so notify the Committee on Appropriations and the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Appropriations and the Committee on Banking, Finance and Urban Affairs [now Committee on Banking and Financial Services] of the House of Representatives.''

SPECIAL ASSISTANCE FUNCTIONS FUND; TRANSFER OF FUNDS

Pub. L. 98–371, title I, July 18, 1984, 98 Stat. 1218, directed Secretary to transfer all assets acquired and liabilities incurred pursuant to section 1720 of this title to management and liquidating functions fund established pursuant to this section, and that on Oct. 1, 1984, each outstanding obligation issued by Secretary of Housing and Urban Development to Secretary of the Treasury pursuant to section 1720(d) of this title, together with any promise to repay principal and unpaid interest which had accrued on each obligation, and any other term or condition specified by each such obligation, was canceled.

EMERGENCY MORTGAGE PURCHASE ASSISTANCE; TRANSFER OF FUNDS

For transfer of all assets acquired and liabilities incurred pursuant to section 1723e of this title to management and liquidating functions fund established by this section, with provision for cancellation of obligations, see title I [part] of Pub. L. 98–371, set out as a note under section 1723e of this title.

ADMINISTRATIVE EXPENSES IN CONNECTION WITH THE SALE OF CERTAIN MORTGAGES TO THE FEDERAL NATIONAL MORTGAGE ASSOCIATION

Section 306(b) of Pub. L. 86–372, as amended by Pub. L. 90–19, § 16(b), May 25, 1967, 81 Stat. 25; Pub. L. 90–448, title VIII, § 807(a), Aug. 1, 1968, 82 Stat. 544, provided that: ''In connection with the sale of any mortgages to the Government National Mortgage Association pursuant to section 306(e) of the Federal National Mortgage Association Charter Act [subsection (e) of this section], the Secretary of Housing and Urban Development is authorized, and any other official, unit, or agency selling such mortgages thereunder is directed, to transfer to the Association from time to time, from authorizations, limitations, and funds available for administrative expenses of such official, unit, or agency in connection with the same mortgages, such amounts thereof as said Secretary determines to be required for administrative expenses of the Association in connection with the purchase, servicing, and sale of such mortgages: *Provided*, That no such transfer shall be made after a budget estimate of the Association with respect to the same mortgages has been submitted to and finally acted upon by the Congress.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 24, 1455, 1464, 1715z–7, 1716b, 1717, 1722, 1723i, 1757 of this title.

§ 1722. Benefits and burdens incident to administration of functions and operations under sections 1720 and 1721

All of the benefits and burdens incident to the administration of the functions and operations of the Association under sections 1720 and 1721, respectively, of this title, after allowance for related obligations of the Association, its prorated expenses, and the like, including amounts required for the establishment of such reserves as the Secretary of Housing and Urban Development shall deem appropriate, shall inure solely to the Secretary of the Treasury, and such related earnings or other amounts as become available shall be paid annually by the Association to the Secretary of the Treasury for covering into miscellaneous receipts.

(June 27, 1934, ch. 847, title III, § 307, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 619; amended Aug. 1, 1968, Pub. L. 90–448, title VIII, § 802(v), (w), 82 Stat. 539.)

REFERENCES IN TEXT

Section 1720 of this title, referred to in text, was repealed by Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240.

PRIOR PROVISIONS

A prior section 307 of act June 27, 1934, ch. 847, title III, 48 Stat. 1255; amended Feb. 3, 1938, ch. 13, § 8, 52 Stat. 24, related to exemption from taxation, prior to the general amendment of this subchapter by act July 1, 1948, ch. 784, § 1, 62 Stat. 1206, and was subsequently covered by section 1719 of this title until the general amendment of this subchapter by act Aug. 2, 1954. See section 1723a(c) of this title.

AMENDMENTS

1968—Pub. L. 90–448 repealed subsecs. (a) and (b) which related to separate accountability and to functions of the Association under sections 1720 and 1721 of this title, redesignated subsec. (c) as the entire section, and substituted ''Secretary of Housing and Urban Development'' for ''board of directors of the Association''.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1723i of this title.

§ 1723. Management

(a) Government National Mortgage Association

All the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and the Association shall be administered under the direction of the Secretary. Within the limitations of law, the Secretary shall determine the general policies which shall govern the operations of the Association, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. There is hereby established in the Department of Housing and Urban Development the position of President, Government National Mortgage Association, who shall be appointed by the President, by and with the advice and consent of the Senate. The Secretary shall select and effect the appointment of qualified persons to fill the offices of vice president, and such other offices as may be provided for in the bylaws. Persons appointed under the preceding sentence shall per-

form such executive functions, powers, and duties as may be prescribed by the bylaws or by the Secretary, and such persons shall be executive officers of the Association and shall discharge all such executive functions, powers, and duties.

(b) Federal National Mortgage Association

The Federal National Mortgage Association shall have a board of directors, which shall consist of eighteen persons, five of whom shall be appointed annually by the President of the United States, and the remainder of whom shall be elected annually by the common stockholders. The board shall at all times have as members appointed by the President at least one person from the homebuilding industry, at least one person from the mortgage lending industry, at least one person from the real estate industry, and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households. Each member of the board of directors shall be appointed or elected for a term ending on the date of the next annual meeting of the stockholders, except that any such appointed member may be removed from office by the President for good cause. Any elective seat on the board which becomes vacant after the annual election of the directors shall be filled by the board, but only for the unexpired portion of the term. Any appointive seat which becomes vacant shall be filled by appointment of the President, but only for the unexpired portion of the term. Within the limitations of law and regulation, the board shall determine the general policies which shall govern the operations of the corporation, and shall have power to adopt, amend, and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law. The board of directors shall select and effect the appointment of qualified persons to fill the offices of president and vice president, and such other offices as may be provided for in the bylaws. Any member of the board who is a full-time officer or employee of the Federal Government shall not, as such member, receive compensation for his services.

(June 27, 1934, ch. 847, title III, § 308, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 620; amended Sept. 9, 1965, Pub. L. 89–174, § 5(b), 79 Stat. 669; Nov. 3, 1966, Pub. L. 89–754, title X, § 1020(d), 80 Stat. 1296; May 25, 1967, Pub. L. 90–19, § 1(*l*), (m), 81 Stat. 18, 19; Aug. 1, 1968, Pub. L. 90–448, title VIII, § 802(y), 82 Stat. 539; Aug. 3, 1976, Pub. L. 94–375, § 17(a), 90 Stat. 1076; Oct. 3, 1984, Pub. L. 98–440, title II, § 207, 98 Stat. 1696; Oct. 28, 1992, Pub. L. 102–550, title XIII, § 1381(h)(1), (i), 106 Stat. 3996.)

PRIOR PROVISIONS

A prior section 308 of act June 27, 1934, ch. 847, title III, 48 Stat. 1255, related to depositories of public moneys, prior to the general amendment of this subchapter by act July 1, 1948, ch. 784, § 1, 62 Stat. 1206.

Prior provisions on the subject of this section were contained in section 1716 of this title.

AMENDMENTS

1992—Subsec. (b). Pub. L. 102–550, in second sentence, struck out ''and'' after ''mortgage lending industry,'' and inserted '', and at least one person from an organization that has represented consumer or community interests for not less than 2 years or one person who has demonstrated a career commitment to the provision of housing for low-income households'' and in third sentence, substituted ''any such appointed member'' for ''any such member''.

1984—Subsec. (b). Pub. L. 98–440 substituted '', which shall consist of eighteen persons, five of whom'' for ''which shall consist of fifteen persons, one-third of whom''.

1976—Subsec. (a). Pub. L. 94–375 substituted provision establishing, in the Department of Housing and Urban Development, the position of president of the Government National Mortgage Association, to be filled by the President, by and with the consent of the Senate, for provision that the Secretary appoint the president of the Association.

1968—Subsec. (a). Pub. L. 90–448, § 802(y)(1)–(6), designated existing provisions as subsec. (a), inserted provisions directing that the powers and duties of the Government National Mortgage Association shall be vested in the Secretary of Housing and Urban Development and that the Association shall be administered under the direction of the Secretary, and empowering the Secretary to adopt, amend, and repeal bylaws, and struck out provisions which related to the Board of Directors of the Federal National Mortgage Association.

Subsec. (b). Pub. L. 90–448, § 802(y)(7), added subsec. (b).

1967—Pub. L. 90–19 substituted ''Secretary of Housing and Urban Development'' for ''Housing and Home Finance Administrator'', and ''the Secretary'' for ''said Administrator'', wherever appearing.

1966—Pub. L. 89–754 struck out subsec. (a) designation.

1965—Pub. L. 89–174 struck out next to last sentence which provided that the basic rate of compensation of the position of president of the Association shall be the same as the basic rate of compensation established for the heads of the constituent agencies of the Housing and Home Finance Agency.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 1381(h)(2) of Pub. L. 102–550 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 National Mortgage Association that occurs after the date of the enactment of this Act [Oct. 28, 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.

EFFECTIVE DATE OF 1965 AMENDMENT

For effective date of amendment by Pub. L. 89–174, see section 11(a) of Pub. L. 89–174, set out as an Effective Date note under section 3531 of Title 42, The Public Health and Welfare.

POWERS AND DUTIES OF POSITION OF GNMA PRESIDENT TO REMAIN IN EFFECT UNTIL POSITION FILLED

Section 17(e) of Pub. L. 94–375 provided that notwithstanding the amendment of subsec. (a) of this section, rights, powers, and duties of position of President, Government National Mortgage Association, as in effect on Aug. 2, 1976, remain in effect until the newly established position has been filled in accordance with the terms of this Act.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1723a of this title; title 42 section 3534.

§1723a. General powers of Government National Mortgage Association and Federal National Mortgage Association

(a) Seal, and other matters incident to operation

Each of the bodies corporate named in section 1717(a)(2) of this title shall have power to adopt, alter, and use a corporate seal, which shall be judicially noticed; to enter into and perform contracts, leases, cooperative agreements, or other transactions, on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any State, Territory, or possession, or the Commonwealth of Puerto Rico, or with any political subdivision thereof, or with any person, firm, association, or corporation; to execute, in accordance with its bylaws, all instruments necessary or appropriate in the exercise of any of its powers; in its corporate name, to sue and to be sued, and to complain and to defend, in any court of competent jurisdiction, State or Federal, but no attachment, injunction, or other similar process, mesne or final, shall be issued against the property of the Association or against the Association with respect to its property; to conduct its business without regard to any qualification or similar statute in any State of the United States, including the District of Columbia, the Commonwealth of Puerto Rico, and the Territories and possessions of the United States; to lease, purchase, or acquire any property, real, personal, or mixed, or any interest therein, to hold, rent, maintain, modernize, renovate, improve, use, and operate such property, and to sell, for cash or credit, lease, or otherwise dispose of the same, at such time and in such manner as and to the extent that it may deem necessary or appropriate; to prescribe, repeal, and amend or modify, rules, regulations, or requirements governing the manner in which its general business may be conducted; to accept gifts or donations of services, or of property, real, personal, or mixed, tangible, or intangible, in aid of any of its purposes; and to do all things as are necessary or incidental to the proper management of its affairs and the proper conduct of its business.

(b) Determination with respect to obligations and expenditures

Except as may be otherwise provided in this subchapter, in chapter 91 of title 31, or in other laws specifically applicable to Government corporations, the Association shall determine the necessity for and the character and amount of its obligations and expenditures and the manner in which they shall be incurred, allowed, paid, and accounted for.

(c) Exemption from taxation

(1) The Association, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and 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 any real property of the Association 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.

(2) The corporation, including its franchise, capital, reserves, surplus, mortgages or other security holdings, and income, shall be exempt from all taxation now or hereafter imposed by any State, territory, possession, Commonwealth, or dependency of the United States, or by the District of Columbia, or by any 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 as other real property is taxed.

(d) Appointment and compensation of personnel; use of services of other agencies

(1) Subject to the provisions of section 1723(a) of this title, the Secretary of Housing and Urban Development shall have power to select and appoint or employ such officers, attorneys, employees, and agents of the Association, to vest them with such powers and duties, and to fix and to cause the Association to pay such compensation to them for their services, as he may determine, subject to the civil service and classification laws. With the consent of any Government corporation or Federal Reserve bank, or of any board, commission, independent establishment, or executive department of the Government, the Association may avail itself on a reimbursable basis of the use of information, services, facilities, officers, and employees thereof, including any field service thereof, in carrying out the provisions of the subchapter.

(2) The board of directors of the corporation shall have the power to select and appoint or employ such officers, attorneys, employees, and agents, to vest them with such powers and duties, and to fix and to cause the corporation to pay such compensation to them for their services, as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or 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 paragraph (3)(C)) of the corporation shall be based on the performance of the corporation; and any such action shall be without regard to the Federal civil service and classification laws. Appointments, promotions, and separations so made shall be based on merit and efficiency, and no political tests or qualifications shall be permitted or given consideration. Each officer and employee of the corporation who is employed by the corporation prior to January 31, 1972, and who on the day previous to the beginning of such employment will have been subject to the civil service retirement law (subch. III of ch. 83 of title 5) shall, so long as the employment of such officer or employee by the corporation continues without a break in continuity of service, continue to be subject to such law; and for the purpose of such law the employment of such officer or employee by the corporation without a break in continuity of service shall be deemed to be employment by the Government of the United States. The corporation shall contribute to the Civil Service Retirement and Disability Fund a sum as provided by section 8334(a) of

title 5, except that such sum shall be determined by applying to the total basic pay (as defined in section 8331(3) of title 5 and except as hereinafter provided) paid to the employees of the corporation who are covered by the civil service retirement law, the per centum rate determined annually by the Director of the Office of Personnel Management to be the excess of the total normal cost per centum rate of the civil service retirement system over the employee deduction rate specified in section 8334(a) of title 5. The corporation shall also pay into the Civil Service Retirement and Disability Fund such portion of the cost of administration of the fund as is determined by the Director of the Office of Personnel Management to be attributable to its employees. Notwithstanding the foregoing provisions, there shall not be considered for the purposes of the civil service retirement law that portion of the basic pay in any one year of any officer or employee of the corporation which exceeds the basic pay provided for positions listed in section 5312 of title 5 on the last day of such year: *Provided*, That with respect to any person whose employment is made subject to the civil service retirement law by section 806 of the Housing and Community Development Act of 1974, there shall not be considered for the purposes of such law that portion of the basic pay of such person in any one year which exceeds the basic pay provided for positions listed in section 5316 of such title 5 on the last day of such year. Except as provided in this subsection, the corporation shall not be subject to the provisions of title 5.

(3)(A) 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 (i) the comparability of the compensation policies of the corporation with the compensation policies of other similar businesses, (ii) 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 (iii) 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.

(B) Notwithstanding the first sentence of paragraph (2), 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 Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development. 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 subparagraph, 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.

(C) For purposes of this paragraph, the term ''executive officer'' has the meaning given the term in section 1303 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 [12 U.S.C. 4502].

(e) Prohibition against use of names; injunction; damages

No individual, association, partnership, or corporation, except the bodies corporate named in section 1717(a)(2) of this title, shall hereafter use the words ''Federal National Mortgage Association,'' ''Government National Mortgage Association,'' or any combination of such words, as the name or a part thereof under which the individual, association, partnership, or corporation shall do business. Violations of the foregoing sentence may be enjoined by any court of general jurisdiction at the suit of the proper body corporate. In any such suit, the plaintiff may recover any actual damages flowing from such violation, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damages) of not exceeding $100 for each day during which such violation is committed or repeated.

(f) Preparation of forms of obligations and certificates

In order that the Association may be supplied with such forms of obligations or certificates as it may need for issuance under this subchapter, the Secretary of the Treasury is authorized, upon request of the Association, to prepare such forms as shall be suitable and approved by the Association, to be held in the Treasury subject to delivery, upon order of the Association. The engraved plates, dies, bed pieces, and other material executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The Association shall reimburse the Secretary of the Treasury for any expenses incurred in the preparation, custody, and delivery of such forms.

(g) Depositaries, custodians, and fiscal agents

The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for each of the bodies corporate named in section 1717(a)(2) of this title, for its own account or as fiduciary, and such banks shall be reimbursed for such services in such manner as may be agreed upon; and each of such bodies corporate may itself act in such capacities, for its own account or as fiduciary, and for the account of others.

(h), (i) Repealed. Pub. L. 102–550, title XIII, § 1381(k), Oct. 28, 1992, 106 Stat. 3997

(j) Audit; access to books, etc.; report of audit

(1) The programs, activities, receipts, expenditures, and financial transactions of the corpora-

tion 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 General Accounting Office shall have access to such books, accounts, financial records, reports, files, and such 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 depositories, 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 General Accounting 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 General Accounting Office shall have access, upon request to the corporation or any auditor for an audit of the corporation under subsection (*l*) of this section, 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.

(k) Financial reports; submission to Director; contents

(1) The corporation shall submit to the Director of the Office of Federal Housing Enterprise Oversight of the Department of Housing and Urban Development 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.

(*l*) 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 (k)(2)(B) of this section.

(m) Mortgage data collection and reporting requirements

(1) The corporation shall collect, maintain, and provide to the Secretary, in a form determined by the Secretary, 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 Secretary, in a form determined by the Secretary, 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.

(n) 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 Secretary a report on its activi-

ties 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 Secretary under subsection (m)(1)(B) of this section;

(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 Secretary 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 Secretary 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].

(*o*) 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.

(June 27, 1934, ch. 847, title III, § 309, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 620; amended June 30, 1961, Pub. L. 87–70, title VI, § 603(e), 75 Stat. 177; Aug. 1, 1968, Pub. L. 90–448, title VIII, § 802(z)–(ee), 82 Stat. 540, 541; June 6, 1972, Pub. L. 92–310, title II, § 223(c), 86 Stat. 206; Aug. 22, 1974, Pub. L. 93–383, title VIII, § 806(k), 88 Stat. 728; Aug. 3, 1976, Pub. L. 94–375, § 17(b), 90 Stat. 1076; Oct. 12, 1977, Pub. L. 95–128, title IV, § 408(c), 91 Stat. 1138; 1978 Reorg. Plan No. 2, § 102, eff. Jan. 1, 1979, 43 F.R. 36037, 92 Stat. 3783; Oct. 3, 1984, Pub. L. 98–440, title II, §§ 208, 209, 213(a), 98 Stat. 1696, 1698; Oct. 17, 1984, Pub. L. 98–479, title II, § 203(a)(3), 98 Stat. 2229; Feb. 5, 1988, Pub. L. 100–242, title IV, § 444, 101 Stat. 1922; Aug. 9, 1989, Pub. L. 101–73, title VII, § 731(m)(3), 103 Stat. 436; Oct. 28, 1992, Pub. L. 102–550, title XIII, § 1381(j)–(q), (s)(3), 106 Stat. 3996–4001.)

REFERENCES IN TEXT

The civil service laws, referred to in subsec. (d), are set forth in Title 5, Government Organization and Employees. See, particularly, section 3301 et seq. of Title 5.

The classification laws, referred to in subsec. (d), are classified to chapter 51 (§ 5101 et seq.) and subchapter III (§ 5331 et seq.) of chapter 53 of Title 5.

The civil service retirement law, referred to in subsec. (d), is classified to subchapter III (§ 8331 et seq.) of chapter 83 of Title 5.

Section 806 of the Housing and Community Development Act of 1974, referred to in subsec. (d)(2), is section 806 of Pub. L. 93–383, title VIII, Aug. 22, 1974, 88 Stat. 727. Subsection (k) of section 806 amended this subsec. (d)(2) relative to employment subject to the civil service retirement law. For complete classification of section 806 to the Code, see Tables.

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992, referred to in subsec. (n)(1),

(2)(A), 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.

PRIOR PROVISIONS

Prior provisions on the subject of subsecs. (a) and (c) to (e) of this section were contained in sections 1716, 1719, and 1721 of this title.

AMENDMENTS

1992—Subsec. (d)(2). Pub. L. 102–550, §1381(s)(3)(A)(ii), which directed the substitution, in last sentence, of ''the basic pay of such persons'' for ''his basic pay'', was executed by making the substitution in penultimate sentence to reflect the probable intent of Congress, because the words ''his basic pay'' do not appear in last sentence.

Pub. L. 102–550, §1381(j)(1), (s)(3)(A)(i), in first sentence, substituted ''as the board of directors determines reasonable and comparable with compensation for employment in other similar businesses (including other publicly held financial institutions or 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 paragraph (3)(C)) of the corporation shall be based on the performance of the corporation'' for ''as it may determine'' and in third sentence ''the employment of such officer or employee'' for ''his employment'' in two places.

Subsec. (d)(3). Pub. L. 102–550, §1381(j)(2), added par. (3).

Subsec. (e). Pub. L. 102–550, §1381(s)(3)(B), substituted ''the individual, association, partnership, or corporation'' for ''he or it''.

Subsecs. (h), (i). Pub. L. 102–550, §1381(k), struck out subsec. (h) which related to regulatory power over Federal National Mortgage Association, approval for issuance of stock and other instruments, relation of mortgage purchases to national goal, audits, and a report to Congress and subsec. (i) which related to requests for approval submitted by Federal National Mortgage Association to Secretary, report to Congress, extension of approval period, and effect of inaction by Secretary.

Subsec. (j). Pub. L. 102–550, §1381(*l*), designated existing provisions as par. (1), inserted first sentence and struck out former first sentence which read as follows: ''The mortgage transactions of the corporation may be subject to audit by the Comptroller General of the United States in accordance with the principles and procedures applicable to commercial corporation transactions under such rules and regulations as may be prescribed by the Comptroller General.'', and added par. (2).

Subsecs. (k) to (*o*). Pub. L. 102–550, §1381(m)–(q), added subsecs. (k) to (*o*), respectively.

1989—Subsec. (j). Pub. L. 101–73 added subsec. (j).

1988—Subsec. (i). Pub. L. 100–242 inserted at end of second sentence '', but such 45-day period may not be extended for any other reason or for any period in addition to or other than such 15-day period''.

1984—Subsec. (b). Pub. L. 98–479 substituted ''chapter 91 of title 31'' for ''the Government Corporation Control Act''.

Subsec. (h). Pub. L. 98–440, §§208, 213(a), substituted ''issued by the corporation before October 1, 1985,'' for ''issued by the Corporation'' and substituted ''shall, not later than June 30 of each year, report to the Congress on the activities of the corporation under this subchapter'' for ''shall conduct a review of the financial operations of the corporation and undertake a study of the extent to which the activities of the corporation meet the purposes of this subchapter. Such review and study shall be completed and transmitted to the Congress on or before July 1, 1978.''

Subsec. (i). Pub. L. 98–440, §209, added subsec. (i).

1977—Subsec. (h). Pub. L. 95–128 inserted provision for review of the financial operations of the corporation and a study respecting how the activities of the corporation meet the purposes of this subchapter and transmittal of the review and study to the Congress.

1976—Subsec. (d)(1). Pub. L. 94–375 substituted ''Subject to the provisions of section 1723(a) of this title, the Secretary'' for ''The Secretary''.

1974—Subsec. (d)(2). Pub. L. 93–383 inserted ''positions listed'' before ''in section 5312'' and proviso relating to persons whose employment is subject to the civil service law by section 806 of the Housing and Community Development Act of 1974, and substituted reference to Jan. 31, 1972, for reference to termination of transitional period referred to in section 810(b) of the Housing and Urban Development Act of 1968.

1972—Subsec. (d)(1). Pub. L. 92–310 struck out provisions which related to bonds of officers, attorneys, employees, and agents of the Association and which permitted the Association to pay the premiums therefor.

1968—Subsec. (a). Pub. L. 90–448, §802(z), among other changes, expanded scope to include both the Government National Mortgage Association and the Federal National Mortgage Association, substituted ''conduct its business without regard to any qualification or similar statute'' for ''conduct its business'', and struck out provisions which empowered the Federal National Mortgage Association, by its board of directors, to adopt, amend, and repeal bylaws.

Subsec. (c). Pub. L. 90–448, §802(aa), designated existing provisions as par. (1), and struck out provisions which required the Association, with respect to its secondary market operations under section 1719 of this title, to pay annually to the Secretary of the Treasury an amount equivalent to the amount of Federal income taxes for which it would be subject if it were not exempt from such taxes with respect to such secondary market operations, and added par. (2).

Subsec. (d). Pub. L. 90–448, §802(bb), designated existing provisions as par. (1), substituted ''Secretary of Housing and Urban Development'' for ''Chairman of the Board'', and ''agents of the Association'' for ''agents'', and added par. (2).

Subsec. (e). Pub. L. 90–448, §802(cc), prohibited the use of the name Government National Mortgage Association, authorized injunctions, and permitted recovery of actual damages and punitive damages, and eliminated provisions which made violations of this subsection a misdemeanor punishable by a fine of not more than $100 or imprisonment for not more than 30 days, or both, for each day during which the violation is committed or repeated.

Subsec. (g). Pub. L. 90–448, §802(dd), authorized and directed the Federal Reserve Banks to act for the Government National Mortgage Association, and empowered each of the bodies corporate to act as depositary, custodian, and fiscal agent, for its own account or as fiduciary, and for the account of others.

Subsec. (h). Pub. L. 90–448, §802(ee), added subsec. (h).

1961—Subsec. (c). Pub. L. 87–70 inserted ''or other security holdings'' after ''mortgages''.

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.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 806(k) of Pub. L. 93–383 provided that the amendment made by that section does not apply with respect to any person receiving an annuity on the date of the enactment of Pub. L. 93–383, which was approved Aug. 22, 1974.

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.

TRANSFER OF FUNCTIONS

''Director of the Office of Personnel Management'' substituted for ''United States Civil Service Commission'' pursuant to Reorg. Plan No. 2 of 1978, § 102, 43 F.R. 36037, 92 Stat. 3783, set out under section 1101 of Title 5, Government Organization and Employees, which transferred functions vested by statute in United States Civil Service Commission to Director of Office of Personnel Management (except as otherwise specified), effective Jan. 1, 1979, as provided by section 1–102 of Ex. Ord. No. 12107, Dec. 28, 1978, 44 F.R. 1055, set out under section 1101 of Title 5.

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 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

PROPOSAL BY FEDERAL NATIONAL MORTGAGE ASSOCIATION RESPECTING MORTGAGE-BACKED SECURITIES PROGRAM; APPROVAL, ETC.

Pub. L. 96–399, title III, § 330, Oct. 8, 1980, 94 Stat. 1652, provided that: ''If the Federal National Mortgage Association submits to the Secretary of Housing and Urban Development or the Secretary of the Treasury, after the date of enactment of this section [Oct. 8, 1980], a proposal with respect to undertaking a mortgage-backed securities program, the Secretary of Housing and Urban Development or the Secretary of the Treasury, as the case may be, shall, within 90 days after submission of such proposal, approve the proposal or transmit to the Congress a report explaining why the proposal has not been approved.''

CROSS REFERENCES

Penalty for false advertising or misuse of name of Federal National Mortgage Association, see section 709 of Title 18, Crimes and Criminal Procedure.

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1719, 1833c, 4513, 4514, 4543, 4544, 4546, 4581, 4585, 4631, 4636 of this title; title 42 section 12851.

§ 1723b. Investment of funds

Moneys of the Association not invested in mortgages or other security holdings or in operating facilities shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(June 27, 1934, ch. 847, title III, § 310, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 621; amended Sept. 23, 1959, Pub. L. 86–372, title III, § 305(b), 73 Stat. 670; June 30, 1961, Pub. L. 87–70, title VI, § 603(e), 75 Stat. 177; Sept. 2, 1964, Pub. L. 88–560, title VII, § 701(b)(3), 78 Stat. 800.)

PRIOR PROVISIONS

Prior provisions on the subject of this section were formerly contained in section 1718 of this title.

AMENDMENTS

1964—Pub. L. 88–560 authorized investment of funds in participations and other instruments which are lawful investments.

1961—Pub. L. 87–70 inserted ''or other security holdings'' after ''mortgages''.

1959—Pub. L. 86–372 substituted ''in obligations of the United States or guaranteed thereby, or in obligations which are lawful investments for fiduciary, trust, or public funds'' for ''in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States''.

§ 1723c. Obligations, participations, or other instruments as lawful investments; acceptance as security; exempt securities

All obligations, participations, or other instruments issued by either of the bodies corporate named in section 1717(a)(2) of this title 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 and control of the United States or any officer or officers thereof. All stock, obligations, securities, participations, or other instruments issued pursuant to this subchapter shall, to the same extent as securities which 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 laws administered by the Securities and Exchange Commission.

(June 27, 1934, ch. 847, title III, § 311, as added Aug. 2, 1954, ch. 649, title II, § 201, 68 Stat. 622; amended Sept. 2, 1964, Pub. L. 88–560, title VII, § 701(b)(1), 78 Stat. 800; Aug. 1, 1968, Pub. L. 90–448, title VIII, § 802(ff), 82 Stat. 542; Oct. 3, 1984, Pub. L. 98–440, title II, § 213(b), 98 Stat. 1698; Oct. 28, 1992, Pub. L. 102–550, title XIII, § 1381(r), 106 Stat. 4001.)

AMENDMENTS

1992—Pub. L. 102–550 struck out before period at end ''; but all such issuances by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation shall be made only with the approval of the Secretary of Housing and Urban Development''.

1984—Pub. L. 98–440 inserted ''by the Association and all issuances of stock, and debt obligations convertible into stock, by the corporation''.

1968—Pub. L. 90–448 substituted ''either of the bodies corporate named in section 1717(a)(2) of this title'' for ''the Association,'' and inserted provisions directing that all stock, obligations, securities, participations, or other instruments issued pursuant to this subchapter be deemed to be exempt securities, and requiring approval of the Secretary for all issuances.

1964—Pub. L. 88–560 inserted '', participations, or other instruments'' after ''obligations''.

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.

§ 1723d. Transfer of certain functions to Association

The functions of the Housing and Home Finance Administrator (including the function of making payments to the Secretary of the Treasury) under section 2 of Reorganization Plan Numbered 22 of 1950, together with the notes and

capital stock of the Federal National Mortgage Association held by said Administrator thereunder, are transferred to the Federal National Mortgage Association.

(Aug. 2, 1954, ch. 649, title II, § 207, 68 Stat. 622.)

REFERENCES IN TEXT

Reorganization Plan Numbered 22 of 1950, referred to in text, is set out as a note under section 1717 of this title.

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 or of the Federal National Mortgage Charter Association Act which comprises this subchapter.

§ 1723e. Repealed. Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240

Section, act June 27, 1934, ch. 847, title III, § 313, as added Oct. 18, 1974, Pub. L. 93–449, § 3(a), 88 Stat. 1364; amended July 2, 1975, Pub. L. 94–50, title II §§ 201–206, 89 Stat. 254, 255; Aug. 3, 1976, Pub. L. 94–375, § 13(e)(1), 90 Stat. 1075; Oct. 12, 1977, Pub. L. 95–128, title IV, § 407(a)–(d), 91 Stat. 1137, 1138; Oct. 8, 1980, Pub. L. 96–399, title III, § 337(b), 94 Stat. 1655, related to the interim mortgage and security purchasing authority of the Association.

SAVINGS PROVISION

For continued application of former sections 1720 and 1723e of this title to any purchase or commitment to purchase any mortgage made pursuant to those sections before Nov. 30, 1983, and the servicing and disposition of any such mortgage, see section 483(b) of Pub. L. 98–181, set out as a note under section 1720 of this title.

EFFECTIVE DATE

Section 3(b) of Pub. L. 93–449, as amended by Pub. L. 94–50, title II, § 207, July 2, 1975, 89 Stat. 256; Pub. L. 94–375, § 13(d), Aug. 3, 1976, 90 Stat. 1075; Pub. L. 95–128, title IV, § 407(e), Oct. 12, 1977, 91 Stat. 1138; Pub. L. 95–406, § 3, Sept. 30, 1978, 92 Stat. 880; Pub. L. 95–557, title III, § 303, Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96–71, § 3, Sept. 28, 1979, 93 Stat. 502; Pub. L. 96–105, § 3, Nov. 8, 1979, 93 Stat. 795; Pub. L. 96–153, title III, § 303, Dec. 21, 1979, 93 Stat. 1112; Pub. L. 96–372, § 4, Oct. 3, 1980, 94 Stat. 1364; Pub. L. 96–399, title III, § 337(a), Oct. 8, 1980, 94 Stat. 1655, which related to the effective date of former section 1723e of this title, was repealed by Pub. L. 98–181, title IV, § 483(a), Nov. 30, 1983, 97 Stat. 1240.

EMERGENCY MORTGAGE PURCHASE ASSISTANCE; TRANSFER OF FUNDS

Pub. L. 98–371, title I, July 18, 1984, 98 Stat. 1218, in part directed Secretary to transfer all assets acquired and liabilities incurred pursuant to this section to management and liquidating functions fund established pursuant to section 1721 of this title, and that on Oct. 1, 1984, each outstanding obligation issued by Secretary of Housing and Urban Development to Secretary of the Treasury pursuant to subsec. (c) of this section, together with any promise to repay principal and unpaid interest which had accrued on each obligation, and any other term or condition specified by each such obligation, was canceled.

§ 1723f. Repealed. Pub. L. 96–294, title V, § 533, June 30, 1980, 94 Stat. 740

Section, act June 27, 1934, ch. 847, title III, § 314, as added Nov. 9, 1978, Pub. L. 95–619, title II, § 242, 92 Stat. 3228, related to the purchase of energy conserving home improvement loans and advances of credit by the Association under the direction of the Secretary.

§§ 1723g, 1723h. Repealed. Pub. L. 102–550, title IX, § 912(i)(2), Oct. 28, 1992, 106 Stat. 3876

Section 1723g, act June 27, 1934, ch. 847, title III, § 315, as added Nov. 9, 1978, Pub. L. 95–619, title II, § 243, 92 Stat. 3230; amended June 30, 1980, Pub. L. 96–294, title V, § 531, 94 Stat. 737; Oct. 17, 1984, Pub. L. 98–479, title II, § 203(a)(4), 98 Stat. 2229, set out authority of Solar Energy and Energy Conservation Bank to purchase loans and advances of credit for energy conservation improvements or solar energy systems.

Section 1723h, act June 27, 1934, ch. 847, title III, § 316, as added Nov. 9, 1978, Pub. L. 95–619, title II, § 244, 92 Stat. 3231; amended June 30, 1980, Pub. L. 96–294, title V, § 532, 94 Stat. 739; Oct. 17, 1984, Pub. L. 98–479, title II, § 203(a)(5), 98 Stat. 2229, set out authority of Solar Energy and Energy Conservation Bank to purchase mortgages secured by newly constructed homes with solar energy systems.

§ 1723i. Civil money penalties against issuers

(a) In general

(1) Authority

Whenever an issuer or custodian approved under section 1721(g) of this title knowingly and materially violates any provisions of subsection (b) of this section, the Secretary of Housing and Urban Development may impose a civil money penalty on the issuer or the custodian in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) Amount of penalty

The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by a particular issuer or custodian during any one-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) of this section shall constitute a separate violation with respect to each pool of mortgages. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

(b) Violations for which penalty may be imposed

(1) Violations

The violations by an issuer or a custodian for which the Secretary may impose a civil money penalty under subsection (a) of this section are the following:

(A) Failure to make timely payments of principal and interest to holders of securities guaranteed under section 1721(g) of this title.

(B) Failure to segregate cash flow from pooled mortgages or to deposit either principal and interest funds or escrow funds into special accounts with a depository institution whose accounts are insured by the National Credit Union Administration or by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks or through the Savings Association Insurance Fund for savings associations.

(C) Use of escrow funds for any purpose other than that for which they were received.

(D) Transfer of servicing for a pool of mortgages to an issuer not approved under this subchapter, unless expressly permitted by statute, regulation, or contract approved by the Secretary.

(E) Failure to maintain a minimum net worth in accordance with requirements prescribed by the Association;

(F) Failure to promptly notify the Association in writing of any changes that materially affect the business status of an issuer.

(G) Submission to the Association of false information in connection with any securities guaranteed, or mortgages pooled, under section 1721(g) of this title.

(H) Hiring, or retaining in employment, an officer, director, principal, or employee whose duties involve, directly or indirectly, programs administered by the Association while such person was under suspension or debarment by the Secretary.

(I) Submission to the Association of a false certification either on its own behalf or on behalf of another person or entity.

(J) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to, the application for approval as an issuer of securities under section 1721(g) of this title.

(K) Violation of any provisions of this subchapter or any implementing regulation, handbook, or participant letter issued under authority of this subchapter.

(2) Notification to Attorney General

Before taking action to impose a civil money penalty for a violation under paragraph (1)(G) or paragraph (1)(I), the Secretary shall inform the Attorney General of the United States.

(c) Agency procedures

(1) Establishment

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a) of this section. The standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty;

(B) shall provide for the imposition of a penalty only after an issuer or a custodian has been given notice of, and 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 a notice of opportunity for hearing, the imposition of a 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 (a) of this section, 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 public, benefits received, deterrence of future violations, and such other factors as the Secretary may determine by regulations.

(4) Reviewability of imposition of penalty

The Secretary's determination or order imposing a penalty under subsection (a) of this section shall not be subject to review, except as provided in subsection (d) of this section.

(d) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (c)(1) of this section, an issuer or a custodian against which the Secretary has imposed a civil money penalty under subsection (a) of this section may obtain a review of the penalty and such ancillary issues as may be addressed in the notice provided under subsection (c)(1)(A) of this section 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

A court shall not consider any objection that was not raised in the hearing conducted pursuant to subsection (c)(1) of this section 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, which was 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, the court shall have the power in any such review to order payment of the penalty imposed by the Secretary.

(e) Action to collect penalty

If any issuer or custodian fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a) of this section, after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d) of this section, 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 issuer or custodian and such other relief as may be available. The monetary judgment may, in the discretion of the court, include any 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.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) "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.

(h) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(i) Deposit of penalties

The Secretary shall deposit all civil money penalties collected under this section into moneys of the Association pursuant to section 1722 of this title.

(June 27, 1934, ch. 847, title III, § 317, as added Dec. 15, 1989, Pub. L. 101–235, title I, § 110(a), 103 Stat. 2011.)

EFFECTIVE DATE

Section 110(b) of Pub. L. 101–235 provided that: ''The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

''(1) violations referred to in the amendment that occur on or after the effective date of this section [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.''

SUBCHAPTER IV—INSURANCE OF SAVINGS AND LOAN ACCOUNTS

§§ 1724 to 1730d. Repealed. Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363

Section 1724, acts June 27, 1934, ch. 847, title IV, § 401, 48 Stat. 1255; July 16, 1952, ch. 883, 66 Stat. 727; July 28, 1959, Pub. L. 86–112, 73 Stat. 262; Oct. 16, 1966, Pub. L. 89–695, title III, § 302(a), 80 Stat. 1055; Dec. 23, 1969, Pub. L. 91–151, title I, § 8(a)(1), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93–495, title I, §§ 101(b)(1), 103(a)(1), 88 Stat. 1501, 1503; Mar. 31, 1980, Pub. L. 96–221, title III, § 308(b)(1)(A), 94 Stat. 147, defined terms used in this subchapter.

Section 1725, acts June 27, 1934, ch. 847, title IV, § 402, 48 Stat. 1256; May 28, 1935, ch. 150, § 22, 49 Stat. 298; 1947 Reorg. Plan No. 3, eff. July 29, 1947, 12 F.R. 4981, 61 Stat. 954; July 3, 1948, ch. 825, § 2, 62 Stat. 1240; June 27, 1950, ch. 369, §§ 5, 6, 64 Stat. 258; Aug. 2, 1954, ch. 649, title V, § 501(1), title VIII, § 802(b), 68 Stat. 633, 642; June 11, 1960, Pub. L. 86–507, § 1(12), 74 Stat. 200; Aug. 16, 1973, Pub. L. 93–100, § 4, 87 Stat. 343; Oct. 28, 1974, Pub. L. 93–495, title I, § 105(d), 88 Stat. 1504; Oct. 28, 1977, Pub. L. 95–147, § 2(b), 91 Stat. 1227; Oct. 15, 1982, Pub. L. 97–320, title I, § 125(a), (b), title III, § 314, 96 Stat. 1485, 1499; Aug. 10, 1987, Pub. L. 100–86, title III, §§ 304, 306(b), (i), 101 Stat. 597, 601, 603, related to creation of Federal Savings and Loan Insurance Corporation.

Section 1726, acts June 27, 1934, ch. 847, title IV, § 403, 48 Stat. 1257; May 28, 1935, ch. 150, §§ 23, 24, 49 Stat. 298; July 14, 1952, ch. 723, § 10(a)(5), 66 Stat. 604; Aug. 11, 1955, ch. 783, title I, § 111, 69 Stat. 641; Sept. 2, 1964, Pub. L. 88–560, title IX, § 901(b), 78 Stat. 804; July 24, 1970, Pub. L. 91–351, title VII, § 707, 84 Stat. 463; Oct. 28, 1974, Pub. L. 93–495, title I, § 105(a), 88 Stat. 1503; Nov. 10, 1978, Pub. L. 95–630, title XII, § 1203, 92 Stat. 3711; Mar. 31, 1980, Pub. L. 96–221 title IV, §§ 407(b), 409, 94 Stat. 160; Oct. 15, 1982, Pub. L. 97–320, title I, § 115(a), title II, § 202(c), (d), 96 Stat. 1475, 1492; Aug. 10, 1987, Pub. L. 100–86, title V, § 504(a), 101 Stat. 632, related to insurance of accounts and eligibility provisions.

Section 1727, acts June 27, 1934, ch. 847, title IV, § 404, 48 Stat. 1258; May 28, 1935, ch. 150, § 25, 49 Stat. 298; June 27, 1950, ch. 369, §§ 7, 8, 64 Stat. 259; Sept. 8, 1961, Pub. L. 87–210, §§ 3–6, 75 Stat. 483; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1110(d), 79 Stat. 508; Sept. 21, 1968, Pub. L. 90–505, § 6(a), 82 Stat. 858; Dec. 23, 1969, Pub. L. 91–151, title I, § 6(a), 83 Stat. 375; Dec. 24, 1969, Pub. L. 91–152, title IV, § 416(c)(1), 83 Stat. 401; Dec. 22, 1971, Pub. L. 92–213, § 5, 85 Stat. 776; Aug. 16, 1973, Pub. L. 93–100, § 6, 87 Stat. 344; Oct. 28, 1974, Pub. L. 93–495, title I, § 115, 88 Stat. 1507; Oct. 15, 1982, Pub. L. 97–320, title I, § 126, 96 Stat. 1485; Aug. 10, 1987, Pub. L. 100–86, title III, §§ 305, 306(c), (f), (g), 307, title V, § 505(c), 101 Stat. 600–603, 633, related to primary and secondary services.

Section 1728, acts June 27, 1934, ch. 847, title IV, § 405, 48 Stat. 1259; June 27, 1950, ch. 369, § 9, 64 Stat. 259; Sept. 21, 1950, ch. 967, § 5, 64 Stat. 894; Aug. 2, 1954, ch. 649, title V, § 501(2), 68 Stat. 633; Oct. 16, 1966, Pub. L. 89–695, title III, §§ 302(b), 303(b), 80 Stat. 1055, 1056; Dec. 23, 1969, Pub. L. 91–151, title I, § 8(a)(2), 83 Stat. 375; Oct. 28, 1974, Pub. L. 93–495, title I, §§ 101(b)(2), (3), 103(a)(2), 88 Stat. 1501, 1503; Dec. 26, 1974, Pub. L. 93–541, § 1, 88 Stat. 1739; Nov. 10, 1978, Pub. L. 95–630, title XIV, § 1401(b), 92 Stat. 3712; Dec. 21, 1979, Pub. L. 96–153, title III, § 323(b), 93 Stat. 1120; Mar. 31, 1980, Pub. L. 96–221, title III, § 308(b)(1)(B), 94 Stat. 147; Oct. 15, 1982, Pub. L. 97–320, title I, § 128, 96 Stat. 1486; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095, related to payment of insurance, statute of limitations with respect to claims, and insurance of public funds.

Section 1729, acts June 27, 1934, ch. 847, title IV, § 406, 48 Stat. 1259; May 28, 1935, ch. 150, §§ 26, 27, 49 Stat. 299; 1947 Reorg. Plan No. 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Aug. 2, 1954, ch. 649, title VIII, § 802(c)(2), 68 Stat. 643; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), (b), 69 Stat. 640, 641; July 7, 1968, Pub. L. 90–389, § 6, 82 Stat. 295; Nov. 10, 1978, Pub. L. 95–630, title I, § 105(b)(2), 92 Stat. 3647; Oct. 15, 1982, Pub. L. 97–320, title I, §§ 122, 141(a)(6), title II, §§ 202(a), 206, 96 Stat. 1480, 1489, 1496; Jan. 12, 1983, Pub. L. 97–457, §§ 5, 9(a), (b)(1), 96 Stat. 2507, 2508; Aug. 10, 1987, Pub. L. 100–86, title IV, § 405, title V, § 509(a), 101 Stat. 613, 635, related to liquidation of insured institutions.

Section 1730, acts June 27, 1934, ch. 847, title IV, § 407, 48 Stat. 1260; June 27, 1950, ch. 369, § 11, 64 Stat. 259; Aug. 2, 1954, ch. 649, title V, § 501(3), 68 Stat. 633; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640; Oct. 16, 1966, Pub. L. 89–695, title I, § 102(a), 80 Stat. 1036; Oct. 28, 1974, Pub. L. 93–495, title I, § 105(c), 88 Stat. 1504; Nov. 10, 1978, Pub. L. 95–630, title I, §§ 107(a)(2), (c)(2), (d)(2), (e)(2), 111(b), title II, § 208(c), title VII, §§ 702, 703, 92 Stat. 3650, 3654, 3658, 3661, 3667, 3675, 3687; Oct. 15, 1982, Pub. L. 97–320, title I, § 115(c)–(e), title IV, §§ 424(b), (d)(7), (e), 425(a), 427(b), 96 Stat. 1476, 1522, 1523, 1525; Oct. 27, 1986, Pub. L. 99–570, title I, §§ 1359(c), 1361, 100 Stat. 3207–28, 3207–31; Aug. 10, 1987, Pub. L. 100–86, title I, § 111(b), title III, § 306(e), title IV, §§ 406(b), 413(b), 101 Stat. 581, 602, 615, 621, related to termination of insurance and enforcement provisions.

Section 1730a, act June 27, 1934, ch. 847, title IV, § 408, as added Sept. 23, 1959, Pub. L. 86–374, 73 Stat. 691; amended Sept. 13, 1960, Pub. L. 86–746, 74 Stat. 883; Oct. 16, 1966, Pub. L. 89–695, title I, § 103, 80 Stat. 1046; Feb. 14, 1968, Pub. L. 90–255, § 2, 82 Stat. 5; Oct. 21, 1968, Pub. L. 90–608, ch. IV, § 403, 82 Stat. 1194; July 24, 1970, Pub. L. 91–351, title VII, § 705, 84 Stat. 462; Dec. 31, 1970, Pub. L. 91–609, title IX, § 920, 84 Stat. 1816; Nov. 10, 1978, Pub. L. 95–630, title I, §§ 105(b)(1), 106(c), 92 Stat. 3646, 3649; Oct. 15, 1982, Pub. L. 97–320, title I, §§ 115(b), 123, 141(a)(7), title III, § 335, title IV, § 424(b), (d)(5), 96 Stat. 1475, 1483, 1489, 1505, 1522, 1523; Jan. 12, 1983, Pub. L. 97–457, §§ 6, 7, 96 Stat. 2507; Oct. 22, 1986, Pub. L. 99–514, § 2, 100 Stat. 2095; Aug. 10, 1987, Pub. L. 100–86, title I,

§§ 104(a)–(c)(1), (d)–(h), 106(a), 107(a), 110, 111(a), title IV, §§ 410(b), 414, title V, § 509(a), 101 Stat. 567–571, 573–577, 579, 580, 620, 621, 635, related to regulation of holding companies.

Section 1730b, act June 27, 1934, ch. 847, title IV, § 409, as added Sept. 2, 1964, Pub. L. 88–560, title IX, § 909, 78 Stat. 805, related to investment of certain funds in accounts of insured institutions.

Section 1730c, act June 27, 1934, ch. 847, title IV, § 410, as added Dec. 15, 1967, Pub. L. 90–203, § 4, 81 Stat. 611, related to participation by insured institutions in lotteries and related activities.

Section 1730d, act June 27, 1934, ch. 847, title IV, § 411, as added Oct. 26, 1970, Pub. L. 91–508, title I, § 102, 84 Stat. 1116; amended Nov. 18, 1988, Pub. L. 100–690, title VI, § 6185(d)(2), 102 Stat. 4356, related to retention of records by insured institutions.

TRANSFER OF FUNCTIONS

For provisions relating to abolition of Federal Savings and Loan Insurance Corporation and transfer of functions, personnel and property, see sections 401 to 406 of Pub. L. 101–73, set out as a note under section 1437 of this title.

§ 1730e. Repealed. Pub. L. 96–221, title V, § 529, Mar. 31, 1980, 94 Stat. 168

Section, act June 27, 1934, ch. 847, title IV, § 412, as added Dec. 28, 1979, Pub. L. 96–161, title II, § 203, 93 Stat. 1236, provided that if the applicable rate prescribed in this section exceeded the rate an insured institution would be permitted to charge in the absence of this section, then such institution could, for a business or agricultural loan of $25,000 or more, notwithstanding State law, take or charge on any evidence of debt, interest of not more than 5 per centum in excess of the discount rate in effect at the Federal Reserve bank in the district in which the institution was located, that the taking or charging of interest at a greater rate than that prescribed by this section, if knowingly done, would be deemed a forfeit of the entire interest on that particular evidence of debt, and that if such greater rate of interest had already been paid, the payor could recover twice the amount of such payment in a civil action commenced within two years of such payment. See section 1730g of this title.

A prior section 1730e, act June 27, 1934, ch. 847, § 412, as added Nov. 5, 1979, Pub. L. 96–104, title I, § 103, 93 Stat. 790, identical to this section as added by Pub. L. 96–161, was repealed by section 212 of Pub. L. 96–161, effective at the close of Dec. 27, 1979, except that its provisions would continue to apply to any loan made in any State on or after Nov. 5, 1979, but prior to such repeal.

A prior section 1730e, act June 27, 1934, ch. 847, § 412, as added Oct. 29, 1974, Pub. L. 93–501, title II, § 203, 88 Stat. 1559, identical to this section as added by Pub. L. 96–104, was repealed by section 1 of Pub. L. 96–104 except that its provisions shall continue to apply to any loan made in any State during the period specified in section 206 of Pub. L. 93–501.

EFFECTIVE DATE OF REPEAL

Section 529 of Pub. L. 96–221 provided that the repeal of this section is effective at close of Mar. 31, 1980.

SAVINGS PROVISION

Section 529 of Pub. L. 96–221 provided that, notwithstanding the repeal of Pub. L. 96–104 and title II of Pub. L. 96–161, this section [which had been enacted by those laws] shall continue to apply to any loan made, any deposit made, or any obligation issued in any State during any period when this section was in effect in such State.

§§ 1730f to 1730i. Repealed. Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363

Section 1730f, act June 27, 1934, ch. 847, title IV, § 413, as added Dec. 22, 1974, Pub. L. 93–533, § 11(b), 88 Stat. 1729, related to disclosures with respect to certain federally related mortgage loans, identity of beneficiary interest as condition for loan, and report to Board.

Section 1730g, act June 27, 1934, ch. 847, title IV, § 414, as added Mar. 31, 1980, Pub. L. 96–221, title V, § 522, 94 Stat. 165; amended Jan. 12, 1983, Pub. L. 97–457, § 33, 96 Stat. 2511, related to insured savings and loan associations.

Section 1730h, act June 27, 1934, ch. 847, title IV, § 415, as added Aug. 10, 1987, Pub. L. 100–86, title IV, § 402(b), 101 Stat. 606, related to accounting principles and other standards and requirements.

Section 1730i, act June 27, 1934, ch. 847, title IV, § 416, as added Aug. 10, 1987, Pub. L. 100–86, title IV, § 404(b), 101 Stat. 611, related to thrift industry recovery regulations.

SAVINGS PROVISION

Any plan approved by the Federal Savings and Loan Insurance Corporation under former section 1730i of this title for any State savings association to 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 progress in meeting the association's goals under the plan, notwithstanding the repeal of that section, see section 302 of Pub. L. 101–73, set out as a Savings Provision note under section 1467a of this title.

TRANSFER OF FUNCTIONS

For provisions relating to abolition of Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board and transfer of functions, personnel, and property of such agencies, see sections 401 to 406 of Pub. L. 101–73, set out as a note under section 1437 of this title.

SUBCHAPTER V—MISCELLANEOUS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1702 of this title.

§ 1731. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948

Section, acts June 27, 1934, ch. 847, title V, § 512, 48 Stat. 1265; Feb. 3, 1938, ch. 13, §§ 9, 10, 52 Stat. 24, 25; June 28, 1941, ch. 261, § 10, 55 Stat. 365, related to penalties. See sections 493, 657, 709, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure.

§ 1731a. Penalties

Notwithstanding any other provision of law, the Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor, or dealer, or salesman or sales agent for a builder, contractor or dealer) under subchapter I, II, VI, VII, VIII, IX–B, or X of this chapter to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm (1) has knowingly or willfully violated any provision of this chapter or of title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, or of any regulation issued by the Secretary under this chapter or by the Secretary of Veterans Affairs under said title III, or chapter 37, or (2) has, in connection with any construction, alteration, repair or improvement work financed with assistance under this chapter or under said title III, or chapter 37, or in connection with contracts or financing relating to such work, violated any Federal or

State penal statute, or (3) has failed materially to properly carry out contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this chapter or under title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38. Before any such determination is made any person or firm with respect to whom such a determination is proposed shall be notified in writing by the Secretary and shall be entitled, upon making a written request to the Secretary, to a written notice specifying charges in reasonable detail and an opportunity to be heard and to be represented by counsel. Determinations made by the Secretary under this section shall be based on the preponderance of the evidence. For the purposes of compliance with this section the Secretary's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

(June 27, 1934, ch. 847, title V, § 512, as added Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610; amended Sept. 2, 1958, Pub. L. 85–857, § 13(h), 72 Stat. 1265; Sept. 23, 1959, Pub. L. 86–372, title I, § 119, 73 Stat. 665; Nov. 3, 1966, Pub. L. 89–754, title X, § 1020(e), 80 Stat. 1296; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(17), 98 Stat. 2232; Dec. 15, 1989, Pub. L. 101–235, title I, § 133(d)(3), 103 Stat. 2027; June 13, 1991, Pub. L. 102–54, § 13(d)(2)(B), 105 Stat. 274.)

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch. 268, 58 Stat. 284, as amended. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (§ 694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by section 14(87) of Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1273, the first section of which reenacted title III of such Act as chapter 37 (§ 1801 [now 3701] et seq.) of Title 38, Veterans' Benefits.

PRIOR PROVISIONS

A prior section 512 of act of June 27, 1934, related to offenses and penalties, and was classified to section 1731 of this title, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See note under section 1731.

AMENDMENTS

1991—Pub. L. 102–54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

1989—Pub. L. 101–235 struck out reference to subchapter IX–A after reference to subchapter VIII.

1984—Pub. L. 98–479 substituted "Penalties" for "Denial of benefits in cases of abuses; determination by Secretary; notice and hearing" in section catchline.

1967—Pub. L. 90–16 substituted "Secretary" for "Commissioner" wherever appearing, and "Secretary's" for "Commissioner's".

1966—Pub. L. 89–754 inserted references to subchapters IX–A and IX–B of this chapter.

1959—Pub. L. 86–372 provided that for purposes of compliance with this section the Commissioner's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

1958—Pub. L. 85–857 inserted references to chapter 37 of title 38.

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 I of Title 38, Veterans' Benefits.

§ 1731b. Prohibition against transient housing

(a) Intent of Congress

The Congress declares that it has been its intent since the enactment of this chapter that housing built with the aid of mortgages insured under this chapter is to be used principally for residential use; and that this intent excludes the use of such housing for transient or hotel purposes while such insurance on the mortgage remains outstanding.

(b) Exceptions to prohibition

Notwithstanding any other provisions of this chapter, no new, existing, or rehabilitated multifamily housing with respect to which a mortgage is insured under this chapter shall be operated for transient or hotel purposes unless (1) on or before May 28, 1954, the Secretary has agreed in writing to the rental of all or a portion of the accommodations in the project for transient or hotel purposes (in which case no accommodations in excess of the number so agreed to by the Secretary shall be rented on such basis), or (2) the project covered by the insured mortgage is located in an area which the Secretary determines to be a resort area, and the Secretary finds that prior to May 28, 1954, a portion of the accommodations in the project had been made available for rent for transient or hotel purposes (in which case no accommodations in excess of the number which had been made available for such use shall be rented on such basis).

(c) Certification as to use as requisite for insurance; exceptions to prohibition against insuring

Notwithstanding any other provisions of this chapter, no mortgage with respect to multifamily housing shall be insured under this chapter (except pursuant to a commitment to insure issued prior to August 2, 1954), and (except as to housing coming within the provisions of clause (1) or clause (2) of subsection (b) of this section) no mortgage with respect to multifamily housing shall be insured for an additional term, unless (1) the mortgagor certifies under oath that while such insurance remains outstanding he will not rent, or permit the rental of, such housing or any part thereof for transient or hotel purposes, and (2) the Secretary has entered into such contract with, or purchased such stock of, the mortgagor as the Secretary deems necessary to enable him to prevent or terminate any use of such property or project for transient or hotel purposes while the mortgage insurance remains outstanding.

(d) Enforcement by Secretary

The Secretary is authorized and directed to enforce the provisions of this section by all appropriate means at his disposal, as to all existing multifamily housing with respect to which a mortgage was insured under this chapter prior to August 2, 1954, as well as to all multifamily

housing with respect to which a mortgage is hereafter insured under this chapter: *Provided*, That no criminal penalty shall, by reason of enactment of this section, be applicable to the rental or operation of any such existing multifamily housing in violation of any provision of subsection (b) of this section at any time prior to August 2, 1954.

(e) Definitions

As used in this section, (1) the term ''rental for transient or hotel purposes'' shall have such meaning as prescribed by the Secretary but rental for any period less than thirty days shall in any event constitute rental for such purposes, and (2) the term ''multifamily housing'' shall mean (i) a property held by a mortgagor upon which there are located five or more single family dwellings, or upon which there is located a two-, three-, or four-family dwelling, or (ii) a property or project covered by mortgage insured or to be insured under section 1713 of this title, under section 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) thereof, under section 1715k of this title if the mortgage is within the provisions of paragraph (3) (B) of subsection (d) thereof, under section 1715*l* of this title if the mortgage is within the provisions of paragraph (3) of subsection (d) thereof, under section 1743, 1748b, or 1750g of this title, or (iii) a project with respect to which an insurance contract pursuant to subchapter VII of this chapter is outstanding.

(f) Investigation after notice of violation; cease order

Promptly after receipt of written notice that any portion of any building is being rented or operated in violation of any provision of this section or of any rule or regulation lawfully issued thereunder, the Secretary shall investigate the existence of the facts alleged in the written notice and shall order such violation, if found to exist, to cease forthwith.

(g) Prosecution by Attorney General for continued violation

If such violation does not cease in accordance with such order, the Secretary shall forward the complaint to the Attorney General of the United States for prosecution of such civil or criminal action, if any, which the Attorney General may find to be involved in such violation.

(h) Judicial procedure for injunction or other order

Whenever he finds a violation of any provision of this section has occurred or is about to occur, the Attorney General shall petition the district court of the United States or the district court of any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and upon a showing by the Attorney General that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

(i) Injunctive relief for hotel owners

Any person owning or operating a hotel within a radius of fifty miles of a place where a violation of any provision of this section has occurred or is about to occur, or any group or association of hotel owners or operators within said fifty-mile radius, at his or their sole charge or cost, may petition any district court of the United States or the district court or any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and, upon a showing that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted.

(j) Jurisdiction of district courts

The several district courts of the United States and the several district courts of the Territories of the United States or other place subject to United States jurisdiction, within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation shall be found, shall, wheresoever such acts or practices may have been done or committed, have full power and jurisdiction to hear, try, and determine such matter under subsections (h) and (i) of this section.

(June 27, 1934, ch. 847, title V, § 513, as added Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(18), 98 Stat. 2232.)

PRIOR PROVISIONS

A prior section 513 of act June 27, 1934, was renumbered section 513A of act June 27, 1934, and is classified to section 1732 of this title.

AMENDMENTS

1984—Pub. L. 98–479 substituted ''Prohibition against transient housing'' for ''Prohibition against use of insured multifamily housing for transient or hotel purposes'' in section catchline.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (b) to (d), (e)(1), (f), and (g).

§ 1732. 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 27, 1934, ch. 847, title V, § 513A, formerly § 513, 48 Stat. 1265; renumbered Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(19), 98 Stat. 2232.)

REFERENCES IN OTHER LAWS

Pub. L. 98–479, title II, § 204(a)(19), Oct. 17, 1984, 98 Stat. 2232, provided in part that: ''Any reference in any law, regulation, order, document, record, or other paper

of the United States to the section redesignated in this paragraph [this section] hereby is deemed to refer to section 513A of the National Housing Act [this section].''

§ 1733. Application of other laws

The provisions of section 1430(a)(1) and 1430b of this title; the seventh paragraph of section 24 of this title; section 371 of this title; subsection (n) of section 77B of the Bankruptcy Act, as amended (49 Stat. 664); section 606i of title 15, continuing and extending the functions of the Reconstruction Finance Corporation; and all other provisions of law establishing rights under mortgages insured in accordance with the provisions of this chapter, shall be held to apply to such chapter, as amended.

(June 27, 1934, ch. 847, title V, § 514, as added Feb. 3, 1938, ch. 13, § 11, 52 Stat. 26.)

REFERENCES IN TEXT

Section 77B of the Bankruptcy Act, referred to in text, was classified to section 207 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended), which was classified generally to former Title 11, was repealed effective Oct. 1, 1979, by Pub. L. 95–598, §§ 401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted Revised Title 11. See table preceding section 101 of Revised Title 11.

Section 606i of title 15, referred to in text, was omitted from the Code. See note under section 606i of Title 15, Commerce and Trade.

ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

See section 6(a) of Reorg. Plan No. 1 of 1957, effective June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1734. Amendment, extension, or increase of commitment amounts

At any time prior to final endorsement for insurance, the Secretary, in his discretion, may amend, extend, or increase the amount of any commitment, provided the mortgage, as finally endorsed for insurance is eligible for insurance under the provisions of this chapter and the rules and regulations thereunder, in effect at the time the original commitment to insure was issued.

(June 27, 1934, ch. 847, title V, § 515 as added Oct. 25, 1949, ch. 729, § 3, 63 Stat. 906; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(20), 98 Stat. 2232.)

AMENDMENTS

1984—Pub. L. 98–479 struck out ''; mortgage conditions'' after ''amounts'' in section catchline.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

§ 1735. Payment of certain funds to Treasury

The following funds shall be deemed an indebtedness to the United States of the particular insurance fund involved, and the Secretary is authorized and directed to pay the amount of such indebtedness to the Secretary of the Treasury, with simple interest thereon from the date the funds were advanced to the date of final payment at a rate determined by the Secretary of the Treasury, taking into consideration the average rate on outstanding marketable obligations of the United States from the date the funds were advanced until the date of final payment—

(1) funds made available to the Secretary pursuant to the provisions of sections 1705 and 1708 of this title, exclusive of amounts heretofore refunded, (a) for carrying out this subchapter and section 484d of title 48 with respect to mortgages insured under section 1709 of this title where such funds were credited to the general reinsurance account in the Mutual Mortgage Insurance Fund, and (b) for the payment of salaries and expenses with respect to mortgage insurance under sections 1713 and 1715a of this title where such funds were credited to the Housing Insurance Fund;

(2) funds made available to the Secretary pursuant to sections 1737 and 1748a[1] of this title; and

(3) funds made available to the Secretary by the Secretary of the Treasury pursuant to section 1747i[1] of this title.

Payments to the Secretary of the Treasury under this section shall be made in such amounts and at such times as the Secretary determines, after consultations with the Secretary of the Treasury, that funds are available for that purpose, taking into consideration the continued solvency of the funds involved. All payments made pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

(June 27, 1934, ch. 847, title V, § 516, as added June 30, 1953, ch. 170, § 9, 67 Stat. 123; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(21), 98 Stat. 2232.)

REFERENCES IN TEXT

Section 1715a of this title, referred to in par. (1), in the original was a reference to section 210 of the National Housing Act (June 27, 1934, ch. 847, § 210, as added Feb. 3, 1938, ch. 13, § 3, 52 Stat. 22), which was repealed by act June 3, 1939, ch. 175, § 13, 53 Stat. 807. See note set out under section 1715a.

Section 484d of title 48, referred to in text, which authorized the Federal Housing Commissioner to prescribe a higher maximum for the principal obligation of mortgages, was omitted from the Code.

Sections 1737, 1747i, and 1748a of this title, referred to in text, were repealed by Pub. L. 89–117, title II, § 1108(aa), Aug. 10, 1965, 79 Stat. 507.

AMENDMENTS

1984—Pub. L. 98–479 inserted ''Payment of certain funds to Treasury'' as section catchline.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

§ 1735a. Prepayment of mortgages by nonprofit educational institutions; refunds

(a) Notwithstanding any other provision of this chapter, no adjusted premium charge shall be collected in connection with the payment in full, prior to maturity, of any mortgage insured under this chapter, if the mortgagor certifies to the Secretary that the loan was paid in full by or on behalf of a nonprofit educational institution which intends to use the property for educational purposes.

[1] See References in Text note below.

(b) The Secretary shall refund any adjusted premium charge collected subsequent to July 1, 1962, and prior to September 2, 1964, in connection with the payment in full, prior to maturity, of any mortgage insured under this chapter, if the mortgagor under such mortgage makes the certification prescribed by subsection (a) of this section.

(June 27, 1934, ch. 847, title V, § 517, as added Sept. 2, 1964, Pub. L. 88–560, title I, § 120, 78 Stat. 782; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

§ 1735b. Expenditures to correct or reimburse for structural or other major defects in mortgaged homes

(a) Prior to beginning of construction

(1) The Secretary is authorized to make expenditures under this subsection with respect to any property that—

(A) is a condominium unit (including common areas) or is improved by a one-to-four family dwelling;

(B) was approved, before the beginning of construction, for mortgage insurance under this chapter or for guaranty, insurance, or direct loan under chapter 37 of title 38 or was less than a year old at the time of insurance of the mortgage and was covered by a consumer protection or warranty plan acceptable to the Secretary; and

(C) the Secretary finds to have structural defects.

(2) Expenditures under this subsection may be made for (A) correcting such defects, (B) paying the claims of the owner of the property arising from such defects, or (C) acquiring title to the property: *Provided*, That such authority of the Secretary shall exist only (A) if the owner has requested assistance from the Secretary not later than four years (or such shorter time as the Secretary may prescribe) after insurance of the mortgage, and (B) if the property is encumbered by a mortgage which is insured under this chapter after September 2, 1964.

(b) Mortgages insured on or after August 1, 1968, but prior to January 1, 1973; requirements; reimbursement from seller; insurance fund chargeable

The Secretary is authorized to make expenditures to correct, or to reimburse the owner for the correction of, structural or other major defects which so seriously affect use and livability as to create a serious danger to the life or safety of inhabitants of any one, two, three, or four family dwelling which is covered by a mortgage insured under section 1715z of this title or which is located in an older, declining urban area and is covered by a mortgage insured under section 1709 or 1715*l* of this title on or after August 1, 1968, but prior to January 1, 1973, and which is more than one year old on the date of the issuance of the insurance commitment, if (1) the owner requests assistance from the Secretary not later than one year after the insurance of the mortgage, or, in the case of a dwelling covered by a mortgage insured under section 1709 or 1715*l* of this title the insurance commitment for which was issued on or after August 1, 1968, but prior to January 1, 1973, not more than four months after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably be expected to disclose. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(c) Regulations; finality of decision

The Secretary shall by regulations prescribe the terms and conditions under which expenditures and payments may be made under the provisions of this section, and his decisions regarding such expenditures or payments, and the terms and conditions under which the same are approved or disapproved, shall be final and conclusive and shall not be subject to judicial review.

(d) Mortgages insured on or after January 1, 1973, but prior to August 1, 1976; requirements; reimbursement from seller; insurance fund chargeable

The Secretary is authorized to make expenditures to correct or to reimburse the owner for the correction of structural or other major defects which so seriously affect use and liveability as to create a serious danger to the life or safety of inhabitants of any one-, two-, three-, or four-family dwelling which is more than one year old on the date of issuance of the insurance commitment, is located in an older, declining urban area, and is covered by a mortgage insured under section 1709 or 1715*l* of this title on or after January 1, 1973, but prior to August 3, 1976, if (1) the owner requests assistance from the Secretary not more than one year after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably have been expected to have disclosed. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

(e) Report to Congress on effective program for protecting home buyers

The Secretary of Housing and Urban Development is authorized and directed to conduct a

full and complete investigation and study and report to Congress, with recommendations, not later than March 1, 1977, with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes financed with mortgages insured under this chapter. In the study and report the Secretary shall particularly investigate the need for, cost and feasible structure of, a national home inspection and warranty program, with respect to such homes, to be operated by the Federal Government out of fees assessed on the home buyer and amortized over a period of two years. The Secretary's report shall also present an analysis of alternative Federal programs to meet these needs, and the cost and means of financing such programs. In the report the Secretary shall also outline administrative steps which can be taken to provide disclosure to purchasers of existing homes financed with mortgages insured under this chapter of the actual condition of the home and the types of repairs or replacements likely to be needed within a period of two years, such as repairs or replacement of furnace, roof or major appliances, based on age and useful life expectancy of such appurtenances.

(June 27, 1934, ch. 847, title V, § 518, as added Sept. 2, 1964, Pub. L. 88–560, title I, § 121, 78 Stat. 783; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Dec. 31 1970, Pub. L. 91–609, title I, § 104, 84 Stat. 1771; Aug. 22, 1974, Pub. L. 93–383, title III, § 306, 88 Stat. 678; July 2, 1975, Pub. L. 94–50, title III, § 302, 89 Stat. 256; Aug. 3, 1976, Pub. L. 94–375, § 9, 90 Stat. 1072; Nov. 30, 1983, Pub. L. 98–181, title IV, § 427, 97 Stat. 1218; Oct. 28, 1992, Pub. L. 102–550, title V, § 515, 106 Stat. 3789.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–550 substituted par. (1) and "(2) Expenditures under this subsection may be made for" for "The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling that, before the beginning of construction, was approved for mortgage insurance under this chapter or for guaranty, insurance, or a direct loan under chapter 37 of title 38 and that the Secretary finds to have structural defects, to make expenditures for" and redesignated former cls. (1) to (3) appearing before proviso as cls. (A) to (C), respectively, of par. (2).

1983—Subsec. (a). Pub. L. 98–181 substituted "that, before the beginning of construction, was approved for mortgage insurance under this chapter or for guaranty, insurance, or a direct loan under chapter 37 of title 38 and that the Secretary finds" for "approved for mortgage insurance prior to the beginning of construction which he finds".

1976—Subsec. (b). Pub. L. 94–375, § 9(a), substituted "not more than four months after August 3, 1976" for "not more than 19 months after August 22, 1974", and provision requiring expenditures be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure and appropriating sums for expenditures not otherwise covered for provision requiring expenditures be made from the Special Risk Insurance Fund.

Subsecs. (d), (e). Pub. L. 94–375, § 9(b), added subsecs. (d) and (e).

1975—Subsec. (b). Pub. L. 94–50 substituted "one, two, three, or four" for "one or two", and "not more than 19 months" for "not more than one year".

1974—Subsec. (b). Pub. L. 93–383 substituted provisions relating to authorization of the Secretary to make expenditures to correct, or to reimburse the owner for the correction of structural or other major defects of covered one or two family dwellings, for provisions relating to the authorization of the Secretary to make expenditures to correct, or to compensate the owner for, structural or other defects of covered single-family dwellings.

1970—Subsecs. (b), (c). Pub. L. 91–609 added subsec. (b) and redesignated former subsec. (b) as (c).

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted "Secretary" for "Commissioner" wherever appearing.

§ 1735c. General Insurance Fund

(a) Establishment; purpose; mortgages or loans insurable; transfers to

There is hereby created a General Insurance Fund which shall be used by the Secretary, on and after August 10, 1965, as a revolving fund for carrying out all the insurance provisions of this chapter with the exception of those specified in subsection (e) of this section. All mortgages or loans insured under this chapter pursuant to commitments issued on or after August 10, 1965, except those specified in subsection (e) of this section, and all loans reported for insurance under section 1703 of this title on or after August 10, 1965, shall be insured under the General Insurance Fund. The Secretary shall transfer to the General Insurance Fund—

(1) the assets and liabilities of all insurance accounts and funds, except the Mutual Mortgage Insurance Fund, existing under this chapter immediately prior to August 10, 1965;

(2) all outstanding commitments for insurance issued prior to August 10, 1965, except those specified in subsection (e) of this section;

(3) the insurance on all mortgages and loans insured prior to August 10, 1965, except insurance specified in subsection (e) of this section; and

(4) the insurance of all loans made by approved financial institutions pursuant to section 1703 of this title prior to August 10, 1965.

(b) Expenses chargeable to Fund

The general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are the obligation of the General Insurance Fund may be charged to the General Insurance Fund.

(c) Deposit or investment of moneys; purchase of debentures

Moneys in the General Insurance Fund not needed for the current operations of the Department of Housing and Urban Development with respect to mortgages and loans which are the obligation of the General Insurance Fund shall be deposited with the Treasurer of the United States to the credit of such 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 as obligations of the General

Insurance Fund or issued prior to August 10, 1965, under other provisions of this chapter, except debentures issued under the Mutual Mortgage 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 section. Debentures so purchased shall be canceled and not reissued.

(d) Credits and charges to Fund

Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage or loan which is the obligation of the General Insurance Fund, the receipts derived from the property covered by such mortgages and loans and from the claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings on the assets of the Fund shall be credited to the General Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages and loans which are the obligation of such Fund, shall be charged to such Fund.

(e) Restrictions on use of Fund

The General Insurance Fund shall not be used for carrying out the provisions of section 1709(b) (except as provided in section 1709(v)), (h), and (i) of this title, or the provisions of section 1715e of this title to the extent that they involve mortgages the insurance for which is the obligation of the Cooperative Management Housing Insurance Fund created by section 1715e(k) of this title, or the provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1 and 1715z–2 of this title; and nothing in this section shall apply to or affect any mortgages, loans, commitments, or insurance under such provisions.

(f) Risk assessment

The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

(June 27, 1934, ch. 847, title V, § 519, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 214, 79 Stat. 471; amended May 25, 1967, Pub. L. 90–19, § 1(a)(1), (3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title I, § 104(c), 82 Stat. 488; Dec. 31, 1970, Pub. L. 91–609, title I, § 117(e), 84 Stat. 1775; Aug. 3, 1976, Pub. L. 94–375, § 10, 90 Stat. 1073; Apr. 30, 1977, Pub. L. 95–24, title I, § 102, 91 Stat. 55; Oct. 31, 1978, Pub. L. 95–557, title III, § 310, 92 Stat. 2098; Dec. 21, 1979, Pub. L. 96–153, title III, § 305, 93 Stat. 1112; Oct. 8, 1980, Pub. L. 96–399, title III, § 305, 94 Stat. 1639; Aug. 13, 1981, Pub. L. 97–35, title III, § 334, 95 Stat. 414; Nov. 30, 1983, Pub. L. 98–181, title IV, § 403, 97 Stat. 1208; Oct. 28, 1992, Pub. L. 102–550, title I, § 185(c)(2), 106 Stat. 3748; Apr. 11, 1994, Pub. L. 103–233, title I, §§ 103(g)(2), 105(b), 108 Stat. 362, 363.)

AMENDMENTS

1994—Subsec. (f). Pub. L. 103–233, § 105(b), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: ''There are authorized to be appropriated such sums as may be necessary to cover losses sustained by the General Insurance Fund.''

Subsec. (g). Pub. L. 103–233, § 105(b)(2), redesignated subsec. (g) as (f).

Pub. L. 103–233, § 103(g)(2), added subsec. (g).

1992—Subsec. (e). Pub. L. 102–550 inserted ''(except as provided in section 1709(v))'' after ''1709(b)''.

1983—Subsec. (f). Pub. L. 98–181 inserted ''such sums as may be necessary'' after ''appropriated'', and struck out ''not to exceed $1,738,000,000, which amount shall be increased by $126,673,000 on October 1, 1981'' after ''Insurance Fund''.

1981—Subsec. (f). Pub. L. 97–35 inserted provision increasing authorization on Oct. 1, 1981.

1980—Subsec. (f). Pub. L. 96–399 substituted ''$1,738,000,000'' for ''$1,341,000,000, which amount shall be increased by $165,000,000 on October 1, 1978, which shall be increased by not to exceed $93,000,000 on October 1, 1979''.

1979—Subsec. (f). Pub. L. 96–153 provided for an increase of $93,000,000 on October 1, 1979.

1978—Subsec. (f). Pub. L. 95–557 inserted ''which amount shall be increased by $165,000,000 on October 1, 1978''.

1977—Subsec. (f). Pub. L. 95–24 substituted ''$1,341,000,000'' for ''$500,000,000''.

1976—Subsec. (f). Pub. L. 94–375 added subsec. (f).

1970—Subsec. (c). Pub. L. 91–609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1968—Subsec. (e). Pub. L. 90–448 prohibited use of Fund for carrying out provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z–1 and 1715z–2 of this title.

1967—Pub. L. 90–19 substituted ''Department of Housing and Urban Development'' for ''Federal Housing Administration'' wherever appearing in subsecs. (b) and (c) of this section and ''Secretary'' for ''Commissioner'' in subsecs. (a), (c), and (d) of this section, respectively.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1715z–3, 1715z–12, 1715z–13, 1735f–20 of this title.

§ 1735d. Payment of insurance benefits in cash or debentures; borrowing money from Treasury to make payments

(a) Notwithstanding any other provisions of this chapter with respect to the payment of insurance benefits, the Secretary is authorized, in his discretion, to pay in cash or in debentures any insurance claim or part thereof which is paid on or after August 10, 1965, on a mortgage or a loan which was insured under any section of this chapter either before or after such date. If payment is made in cash, it shall be in an amount equivalent to the face amount of the debentures that would otherwise be issued plus 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.

(b) The Secretary is authorized to borrow from the Treasury from time to time such amounts as the Secretary shall determine are necessary (1) to make payments in cash (in lieu of issuing debentures guaranteed by the United States, as provided in this chapter) pursuant to the provisions of this section, and (2) to make payments

for reinsured and directly insured losses under subchapter IX–C of this chapter: *Provided, however*, That borrowings to make payments for reinsured and directly insured losses under subchapter IX–C of this chapter shall be limited to $250,000,000 or such further sum as the Congress, by joint resolution, may from time to time determine. Notes or other obligations issued by the Secretary in borrowing under this subsection shall be subject to such terms and conditions as the secretary of the Treasury may prescribe. Each sum borrowed pursuant to this subsection shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations.

(June 27, 1934, ch. 847, title V, § 520, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 215, 79 Stat. 472; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title XI, § 1104, 82 Stat. 566; Dec. 31, 1970, Pub. L. 91–609, title VI, § 604, 84 Stat. 1791.)

AMENDMENTS

1970—Subsec. (b)(2). Pub. L. 91–609 provided for making payments for directly insured losses and made limitation provision applicable to such payments.

1968—Subsec. (b). Pub. L. 90–448 empowered the Secretary to borrow to make payments for reinsured losses under subchapter IX–C of this chapter, and limited such borrowing to $250,000,000 or such further sum as Congress may determine.

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–13 of this title.

§ 1735e. Acceptance of materials or products used in structures

The Secretary shall adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages or loans insured under this chapter. Under such procedure any material or product which the Secretary finds is technically suitable for the use proposed shall be accepted. Acceptance of a material or product as technically suitable shall not be deemed to restrict the discretion of the Secretary to determine that a structure, with respect to which a mortgage is executed, is economically sound or an acceptable risk.

(June 27, 1934, ch. 847, title V, § 521, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 216, 79 Stat. 473; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

§ 1735e–1. Use of American materials and products

In the administration of housing assistance programs, the Secretary of Housing and Urban Development shall encourage the use of materials and products mined and produced in the United States.

(Pub. L. 100–242, title V, § 571, Feb. 5, 1988, 101 Stat. 1950.)

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.

§ 1735f. Water and sewerage facilities

Notwithstanding any other provision of this chapter, no mortgage which covers new construction shall be approved for insurance under this chapter (except pursuant to a commitment made prior to August 10, 1965) if the mortgaged property includes housing which is not served by a public or adequate community water and sewerage system: *Provided*, That this limitation shall be applicable only to property which is not served by a system approved by the Secretary pursuant to subchapter IX–A of this chapter, as such subchapter existed immediately before December 15, 1989, and which is situated in an area certified by appropriate local officials to be an area where the establishment of public or adequate community water and sewerage systems is economically feasible: *Provided further*, That for purposes of this section the economic feasibility of establishing such public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies.

(June 27, 1934, ch. 847, title V, § 522, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 217(a), 79 Stat. 473; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Dec. 15, 1989, Pub. L. 101–235, title I, § 133(d)(4), 103 Stat. 2027.)

REFERENCES IN TEXT

Subchapter IX–A of this chapter, referred to in text, was repealed by Pub. L. 101–235, title I, § 133(a), Dec. 15, 1989, 103 Stat. 2027.

AMENDMENTS

1989—Pub. L. 101–235 inserted '', as such subchapter existed immediately before December 15, 1989,'' after ''subchapter IX–A of this chapter''.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

§ 1735f–1. Waiver of deduction on assignment of property to Secretary in lieu of foreclosure

Notwithstanding any other provision of this chapter, from and after November 3, 1966, the Secretary, under such terms and conditions as he may approve, may waive all or a part of the 1 per centum deduction otherwise made from insurance benefits with respect to multifamily housing or land development mortgages assigned to him, where the assignment is made at his request in lieu of foreclosure of the mortgage.

(June 27, 1934, ch. 847, title V, § 523, as added Nov. 3, 1966, Pub. L. 89–754, title III, § 312, 80 Stat. 1271.)

§ 1735f–2. Uniform rehabilitation standards for housing within and without urban renewal areas

In determining whether properties should be approved by the Secretary prior to rehabilita-

tion and covered by mortgages insured under subchapter II of this chapter, the Secretary shall apply uniform property standards as between properties located outside urban renewal areas and those located within urban renewal areas.

(June 27, 1934, ch. 847, title V, § 524, as added Dec. 31, 1970, Pub. L. 91–609, title I, § 116, 84 Stat. 1774.)

§ 1735f–3. Insurance of mortgage proceeds advanced during construction or rehabilitation or prior to final endorsement of project mortgage

The Secretary is authorized to insure mortgage proceeds advanced during construction or rehabilitation or otherwise prior to final endorsement of a project mortgage for the purpose of (1) financing improvements to the property and the purchase of materials and building components delivered to the property, and (2) providing funds to cover the cost of building components where such components have been assembled and specifically identified for incorporation into the property but are located at a site other than the mortgaged property, with such security as the Secretary may require.

(June 27, 1934, ch. 847, title V, § 525, as added Aug. 22, 1974, Pub. L. 93–383, title III, § 301, 88 Stat. 676.)

§ 1735f–4. Minimum property standards

(a) To the maximum extent feasible, the Secretary of Housing and Urban Development shall promote the use of energy saving techniques through minimum property standards established by him for newly constructed residential housing, other than manufactured homes, subject to mortgages insured under this chapter. Such standards shall establish energy performance requirements that will achieve a significant increase in the energy efficiency of new construction. Such requirements shall be implemented as soon as practicable after November 9, 1978. Following November 30, 1983, the energy performance requirements developed and established by the Secretary under this subsection for newly constructed residential housing, other than manufactured homes, shall be at least as effective in performance as the energy performance requirements incorporated in the minimum property standards that were in effect under this subsection on September 30, 1982.

(b) The Secretary may require that each property, other than a manufactured home, subject to a mortgage insured under this chapter shall, with respect to health and safety, comply with one of the nationally recognized model building codes, or with a State or local building code based on one of the nationally recognized model building codes or their equivalent. The Secretary shall be responsible for determining the comparability of the State and local codes to such model codes and for selecting for compliance purposes an appropriate nationally recognized model building code where no such model code has been duly adopted or where the Secretary determines the adopted code is not comparable.

(June 27, 1934, ch. 847, title V, § 526, as added Aug. 22, 1974, Pub. L. 93–383, title III, § 305, 88 Stat. 678; amended Nov. 9, 1978, Pub. L. 95–619, title II, § 252(a), 92 Stat. 3236; Oct. 8, 1980, Pub. L. 96–399, title III, § 326(e), 94 Stat. 1650; Nov. 30, 1983, Pub. L. 98–181, title IV, § 405, 97 Stat. 1210; Oct. 17, 1984, Pub. L. 98–479, title I, § 104(a)(6), 98 Stat. 2225.)

AMENDMENTS

1984—Pub. L. 98–479 substituted ''Minimum property standards'' for ''Promotion of energy saving techniques by Secretary of Housing and Urban Development of insured housing'' in section catchline.

1983—Subsec. (a). Pub. L. 98–181 designated existing provision as subsec. (a), inserted '', other than manufactured homes,'' after ''housing'', inserted provision that the energy performance requirements developed for newly constructed residential housing, other than manufactured homes, be at least as effective in performance as the energy performance requirements incorporated in the minimum property standards in effect Sept. 30, 1982, and added subsec. (b).

1980—Pub. L. 96–399 struck out '', until such time as the energy conservation performance standards required under the Energy Conservation Standards for New Buildings Act of 1976 become effective'' in second sentence.

1978—Pub. L. 95–619 inserted provision requiring that the minimum property standards established by the Secretary under this section were to contain energy performance requirements to achieve a significant increase in the energy efficiency of new construction.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715z–13a of this title; title 42 section 1479.

§ 1735f–5. Prohibition against discrimination on account of sex in extension of mortgage assistance; consideration of combined income of husband and wife for purpose of extending mortgage credit; definitions

(a) No federally related mortgage loan, or Federal insurance, guaranty, or other assistance in connection therewith (under this chapter or any other Act), shall be denied to any person on account of sex; and every person engaged in making mortgage loans secured by residential real property shall consider without prejudice the combined income of both husband and wife for the purpose of extending mortgage credit in the form of a federally related mortgage loan to a married couple or either member thereof.

(b) For purposes of subsection (a) of this section, the term ''federally related mortgage loan'' means any loan which—

(1) is secured by residential real property designed principally for the occupancy of from one to four families; and

(2)(A) is made in whole or in part by any lender the deposits or accounts of which are insured by any agency of the Federal Government, or is made in whole or in part by any lender which is itself regulated by any agency of the Federal Government; or

(B) is made in whole or in part, or insured, guaranteed, supplemented, or assisted in any way, by the Secretary of Housing and Urban Development or any other officer or agency of the Federal Government or under or in connection with a housing or urban development program administered by the Secretary of Housing and Urban Development or a housing or related program administered by any other such officer or agency; or

(C) is eligible for purchase by the Federal National Mortgage Association, the Government National Mortgage Association, or the Federal Home Loan Mortgage Corporation, or from any financial institution from which it could be purchased by the Federal Home Loan Mortgage Corporation; or

(D) is made in whole or in part by any ''creditor'', as defined in section 1602(f) of title 15, who makes or invests in residential real estate loans aggregating more than $1,000,000 per year.

(June 27, 1934, ch. 847, title V, § 527, as added Aug. 22, 1974, Pub. L. 93–383, title VIII, § 808(a), 88 Stat. 728; amended Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(22), 98 Stat. 2233.)

AMENDMENTS

1984—Subsec. (a). Pub. L. 98–479 designated first par. as subsec. (a).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1735f–7a of this title; title 42 section 3608.

§ 1735f–6. Secondary mortgages held by State or local governmental agency on insured properties

In carrying out the provisions of subchapter II of this chapter with respect to insuring mortgages secured by a one- to four-family dwelling unit, the Secretary may not deny such insurance for any such mortgage solely because the dwelling unit which secures such mortgage will be subject to a secondary mortgage or loan made or insured, or other secondary lien held, by any State or local governmental agency or instrumentality under terms and conditions approved by the Secretary.

(June 27, 1934, ch. 847, title V, § 528, as added Oct. 31, 1978, Pub. L. 95–557, title III, § 323, 92 Stat. 2102.)

§ 1735f–7. Exemption from State usury laws; applicability

(a) The provisions of the constitution of any State expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved by lenders and the provisions of any State law expressly limiting the rate or amount of interest, discount points, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, or advance which is insured under subchapter I or II of this chapter.

(b) The provisions of subsection (a) of this section shall apply to loans, mortgages, or advances made or executed in any State until the effective date (after December 21, 1979) of a provision of law of that State limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance.

(June 27, 1934, ch. 847, title V, § 529, as added Dec. 21, 1979, Pub. L. 96–153, title III, § 308, 93 Stat. 1113.)

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

In any case in which one or more provisions of, or amendments made by, title V of Pub. L. 96–221 [enacting sections 86a, 1730g, 1735f–7a, 1785(g), and 1831d of this title and section 687(i) of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f–7 of this title], this section, or any other provisions of law, including section 85 of this title, apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate, see section 528 of Pub. L. 96–221, set out as a note under section 1735f–7a of this title.

STATE CONSTITUTIONS OR LAWS LIMITING INTEREST, DISCOUNT POINTS, OR OTHER CHARGES; EXEMPTION UNTIL CLOSE OF MARCH 31, 1980

Pub. L. 96–161, title I, § 105, Dec. 28, 1979, 93 Stat. 1234, as amended by Pub. L. 96–221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, provided that (a)(1) the provisions of the constitution or law of any State expressly limiting the rate or amount of interest, discount points, or other charges which could be charged, taken, received, or reserved were not to apply to any loan, mortgage, or advance which was secured by a first lien on residential real property or by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance was used to finance the acquisition of such stock; made after Dec. 28, 1979; and described in section 1735f–5(b) of this title, except that the limitation described in section 1735f–5(b)(1) of this title that the property must be designed principally for the occupancy of from one to four families was not to apply, the requirement contained in section 1735f(5)(b)(1) of this title that the loan be secured by residential real property was not to apply to a loan secured by stock in a residential cooperative housing corporation, and for the purpose of this section, the term ''lender'' in section 1735f–5(b)(2)(A) of this title was also to be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under this chapter; (2) [Repealed by Pub. L. 96–221, title V, § 529, Mar. 31, 1980, 94 Stat. 168, eff. at the close of Mar. 31, 1980.]; that (b) the provisions of subsection (a)(1) were to apply to loans, mortgages, and advances made in any State unless and until the State adopted a provision of law (prior to the close of March 31, 1980) limiting the rate or amount of interest, discount points, or other charges on any such loan, mortgage, or advance, except that at any time after Dec. 28, 1979, any State could adopt a provision of law placing limitations on discount points or such other charges on any such loan, mortgage, or advance; that (c) the Federal Home Loan Bank Board was authorized to issue rules and regulations and to publish interpretations governing the implementation of this section; that (d) the provisions of subsection (a)(1) expired at the close of March 31, 1980, except that such provisions were to continue to apply to any loan, mortgage, or advance described in subsection (a)(1) for the duration of such loan, mortgage, or advance if made prior to such expiration or if made during the two-year period beginning on Dec. 28, 1979, pursuant to a commitment issued prior to such expiration, and that (e) for the purpose of this Act [Pub. L. 96–161] and any amendment made by this Act [see Tables for classification of Pub. L. 96–161], the term ''State'' included the several States, Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, and the Virgin Islands.

§ 1735f–7a. State constitution or laws limiting mortgage interest, discount points, and finance or other charges; exemption for obligations made after March 31, 1980

(a) Applicability to loan, mortgage, credit sale, or advance; applicability to deposit, account, or obligation

(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance

charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is—

(A) secured by a first lien on residential real property, by a first lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f–5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term ''federally related mortgage loan'' in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section;

(iv) the term ''residential loans'' in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home;

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than $1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act [15 U.S.C. 1602(f)], as such section was in effect on the day preceding March 31, 1980, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than $1,000,000 per year; and

(vi) the term ''lender'' in section 527(b)(2)(A) of such Act shall also be deemed to include any lender 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.], and any individual who finances the sale or exchange of residential real property or a residential manufactured home which such individual owns and which such individual occupies or has occupied as his principal residence.

(2) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term ''depository institution'' means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408[1] of the National Housing Act (12 U.S.C. 1730a).

(b) Applicability to loan, mortgage, credit sale, or advance made in any State after April 1, 1980

(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) of this section shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) of this section shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) of this section to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) of this section shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

(4) At any time after March 31, 1980, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1) of this section.

[1] See References in Text note below.

(c) Applicability to loan, mortgage, credit sale, or advance secured by first lien on residential manufactured home

The provisions of subsection (a)(1) of this section shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) Implementation of provisions applicable to residential manufactured home

The provisions of subsection (c) of this section shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) of this section take effect, except that the provisions of subsection (c) of this section shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) of this section that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from March 31, 1980.

(e) Definitions

For the purpose of this section—

(1) a ''prepayment'' occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term ''actuarial method'' means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term ''precomputed finance charge'' means interest or a time price differential within the meaning of sections 106(a)(1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a)(1) and (2)) as computed by an add-on or discount method; and

(4) the term ''residential manufactured home'' means a manufactured home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 [42 U.S.C. 5402(6)] which is used as a residence.

(f) Rules, regulations, and interpretations

The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section.

(g) Effective date

This section takes effect on April 1, 1980.

(Pub. L. 96–221, title V, § 501, Mar. 31, 1980, 94 Stat. 161; Pub. L. 96–221, title II, § 207(b)(11), Mar. 31, 1980, 94 Stat. 144; Pub. L. 96–399, title III, §§ 308(c)(6), 324(a), (e), Oct. 8, 1980, 94 Stat. 1641, 1647, 1648; Pub. L. 97–35, title III, § 384, Aug. 13, 1981, 95 Stat. 432.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to this chapter (§ 1701 et seq.). Section 408 of the National Housing Act, which was classified to section 1730a of this title, was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363. 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 Depository Institutions Deregulation and Monetary Control Act of 1980, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1981—Subsec. (a)(1)(C)(vi). Pub. L. 97–35 inserted reference to a residential manufactured home.

1980—Subsec. (a)(1)(A). Pub. L. 96–399, § 324(a), substituted ''all stock allocated to a dwelling unit'' for first reference to ''stock'' and struck out ''where the loan, mortgage, or advance is used to finance the acquisition of such stock'' after ''housing corporation''.

Subsec. (a)(1)(C)(vi). Pub. L. 96–399, § 324(e), inserted reference to any person who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence.

Subsec. (a)(2). Pub. L. 96–221, § 207(b)(11), struck out ''(A)'' after ''(2)'' and struck out subpar. (B) which provided that this paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

Subsec. (e)(4). Pub. L. 96–399, § 308(c)(6), substituted ''manufactured'' for ''mobile''.

EFFECTIVE DATE OF 1980 AMENDMENT

Section 207(b) of Pub. L. 96–221 provided in part that the amendment made by that section is effective 6 years after Mar. 31, 1980.

SEVERABILITY

Section 526 of Pub. L. 96–221 provided that: ''If any provision of this Act [for classification of Act to the Code, see Short Title of 1980 Amendment note set out under section 226 of this title and Tables] or the application of such provision to any person or circumstance shall be held invalid, the remainder of this Act and the application of such provision to any person or circumstance other than that as to which it is held invalid shall not be affected thereby.''

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.

CHOICE OF HIGHEST APPLICABLE INTEREST RATE

Pub. L. 96–221, title V, § 528, Mar. 31, 1980, 94 Stat. 168, provided that: ''In any case in which one or more provisions of, or amendments made by, this title [enacting sections 86a, 1730g, 1735f–7a, and 1831d of this title, amending section 1785 of this title and section 687 of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, and 1735f–7 of this title], section 529 of the National Housing Act [section 1735f–7 of this title], or any other provision of law, including section 5197 of the Revised Statutes (12 U.S.C. 85), apply with respect to the same loan, mortgage, credit sale, or advance, such loan, mortgage, credit sale, or advance may be made at the highest applicable rate.''

DEFINITION OF ''STATE''

Section 527 of title V of Pub. L. 96–221, as amended by Pub. L. 96–221, title II, § 207(b)(12), Mar. 31, 1980, 94 Stat. 144, provided that: ''For purposes of this title [enacting sections 86a, 1730g, 1735f–7a, and 1831d of this title, amending section 1785 of this title and section 687 of Title 15, Commerce and Trade, and enacting provisions set out as notes under sections 86a, 1730g, 1735f–7, and 1735f–7a of this title] the term 'State' includes the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, the Trust Territories of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.''

[Section 207(b) of Pub. L. 96–221 provided that the amendment of above note made by that section is effective 6 years after Mar. 31, 1980.]

[For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.]

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3506 of this title.

§ 1735f–8. Time of payment of premium charges

In carrying out the provisions of subchapters I, II, IV,[1] VII, VIII, IX–B, and X of this chapter pertaining to the payment of loan or mortgage insurance premium charges by a financial institution, other mortgagees, or agent thereof to the Federal Government in connection with a loan or mortgage insurance program established pursuant to any of these titles, the Secretary shall require that payment of such premiums be made (1) in the case of loans or mortgages respecting one- to four-family residences, promptly upon their receipt from the borrower, and (2) in any other case, promptly when due to the Secretary; except that the Secretary may approve payment of such premiums within twenty-four months of such receipt or due date, as appropriate, if the financial institution, mortgagee, or agent thereof pays interest, at a rate specified by the Secretary, to the insurance fund for the period beginning twenty days after receipt from the borrower or after the due date, as appropriate, and ending upon payment of the premiums to the Federal Government.

(June 27, 1934, ch. 847, title V, § 530, as added Oct. 8, 1980, Pub. L. 96–399, title III, § 320, 94 Stat. 1646; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 406, 97 Stat. 1210; Dec. 15, 1989, Pub. L. 101–235, title I, § 133(d)(5), 103 Stat. 2027.)

REFERENCES IN TEXT

Subchapter IV of this chapter, referred to in text, was repealed by Pub. L. 101–73, title IV, § 407, Aug. 9, 1989, 103 Stat. 363.

AMENDMENTS

1989—Pub. L. 101–235 struck out reference to subchapter IX–A after reference to subchapter VIII.

1983—Pub. L. 98–181 substituted ''(1) in the case of loans or mortgages respecting one- to four-family residences, promptly upon their receipt from the borrower, and (2) in any other case, promptly when due to the Secretary'' for ''promptly upon their receipt from the borrower'', inserted ''or due date, as appropriate,'' after ''such receipt'', and inserted ''or after the due date, as appropriate,'' before ''and ending''.

§ 1735f–9. Limitation on commitments to insure loans and mortgages

(a) The authority of the Secretary to enter into commitments to insure loans and mortgages under this chapter shall be effective for any fiscal year only to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year.

(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this chapter, and to the limitation in subsection (a) of this section, the Secretary shall enter into commitments to insure mortgages under this chapter with an aggregate principal amount of $110,165,000,000 during fiscal year 1993 and $68,673,868,600 during fiscal year 1994.

(June 27, 1934, ch. 847, title V, § 531, as added Aug. 13, 1981, Pub. L. 97–35, title III, § 335, 95 Stat. 414; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 402, 97 Stat. 1208; Oct. 17, 1984, Pub. L. 98–479, title I, § 104(a)(7), 98 Stat. 2225; Mar. 27, 1986, Pub. L. 99–267, § 1(h), 100 Stat. 73; Sept. 30, 1987, Pub. L. 100–122, § 2(c), 101 Stat. 793; Feb. 5, 1988, Pub. L. 100–242, title IV, § 402, 101 Stat. 1899; Nov. 28, 1990, Pub. L. 101–625, title III, § 321, 104 Stat. 4134; Oct. 28, 1992, Pub. L. 102–550, title V, § 501, 106 Stat. 3778; Oct. 27, 1993, Pub. L. 103–120, § 9, 107 Stat. 1151.)

AMENDMENTS

1993—Subsec. (b). Pub. L. 103–120 substituted ''$110,165,000,000'' for ''$65,905,824,960''.

1992—Subsec. (b). Pub. L. 102–550 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this chapter, and to the limitation in subsection (a) of this section, the Secretary shall enter into commitments to insure mortgages under this chapter with an aggregate principal amount of $76,791,000,000 during fiscal year 1991 and $79,818,000,000 during fiscal year 1992.''

1990—Subsec. (b). Pub. L. 101–625 amended subsec. (b) generally. Prior to amendment, subsec. (b) read as fol-

[1] See References in Text note below.

lows: ''Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this chapter, and to the limitation in subsection (a) of this section, the Secretary shall enter into commitments to insure mortgages under this chapter with an aggregate principal amount of $100,000,000,000 during fiscal year 1988, and $104,000,000,000 during fiscal year 1989.''

1988—Pub. L. 100–242 designated existing provisions as subsec. (a) and added subsec. (b).

1987—Pub. L. 100–122 substituted ''for any fiscal year'' for ''for fiscal year 1986''.

1986—Pub. L. 99–267 amended section generally. Prior to amendment, section read as follows: ''Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this chapter, and to any funding limitation approved in appropriation Acts, the Secretary shall enter into commitments during each of the fiscal years 1984 and 1985 to insure mortgages under this chapter with an aggregate principal amount of $50,900,000,000.''

1984—Pub. L. 98–479 substituted ''this chapter'' for ''subchapter II of this chapter'' in two places.

1983—Pub. L. 98–181 substituted provision authorizing the Secretary, subject to certain qualifications, to enter into commitments during fiscal years 1984 and 1985 to insure mortgages under subchapter II of this chapter with an aggregate principal amount of $50,900,000,000 for provision which directed the Secretary, during fiscal year 1982, not to enter into commitments under this chapter to insure loans and mortgages with an aggregate principal amount in excess of $41,000,000,000.

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.

AUTHORIZATION TO ENTER INTO ADDITIONAL COMMITMENTS TO INSURE LOANS AND MORTGAGES DURING FISCAL YEAR 1986

For increase in the applicable limitation on additional commitments to insure mortgages and loans to carry out this chapter during fiscal year 1986, see Pub. L. 99–349, title I, July 2, 1986, 100 Stat. 728; Pub. L. 99–345, § 2, June 24, 1986, 100 Stat. 673; and Pub. L. 99–289, May 2, 1986, 100 Stat. 412, set out as notes under section 1721 of this title.

§ 1735f–10. Purchaser-broker arrangement payments for insurance purposes

In carrying out the provisions of subchapter II of this chapter with respect to insuring mortgages secured by a one- to four-family residence, the Secretary may not exclude from the principal amount which may be insured under such subchapter any sum solely on the basis that such sum is to be paid by the purchaser to a broker who has been the purchaser's agent in the purchase of the residence, but the principal amount of the mortgage, when such sum is added, shall not exceed the limitation as to maximum mortgage amount provided in subchapter II of this chapter.

(June 27, 1934 ch. 847, title V, § 532, as added Aug. 13, 1981, Pub. L. 97–35, title III, § 339G, 95 Stat. 418.)

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.

§ 1735f–11. Direction to Secretary to require mortgagees with above normal rates of early, serious defaults and claims to submit reports and take corrective action

(a) To reduce losses in connection with mortgage insurance programs under this chapter, the Secretary shall review, at least once a year, the rate of early serious defaults and claims involving mortgagees approved under this chapter. On the basis of this review, the Secretary shall notify each mortgagee which, as determined by the Secretary, had a rate of early serious defaults and claims during the preceding year which was higher than the normal rate for the geographic area or areas in which that mortgagee does business. In the notification, the Secretary shall require each mortgagee to submit a report, within a time determined by the Secretary, containing the mortgagee's (1) explanation for the above normal rate of early serious defaults and claims; (2) plan for corrective action, if applicable, both with regard to (A) mortgages in default; and (B) its mortgage-processing system in general; and (3) a timeframe within which this corrective action will be begun and completed. If the Secretary does not agree with this timeframe or plan, a mutually agreeable timeframe and plan will be determined.

(b) Failure of the mortgagee to submit a report required under subsection (a) of this section within the time determined by the Secretary or to commence or complete the plan for corrective action within the timeframe agreed upon by the Secretary may be cause for suspension of the mortgagee from participation in programs under this chapter.

(June 27, 1934, ch. 847, title V, § 533, as added Feb. 5, 1988, Pub. L. 100–242, title IV, § 407(b), 101 Stat. 1902.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title.

§ 1735f–12. Assurance of adequate processing of applications for loan and mortgage insurance

(a) State offices

In order to ensure the adequate processing of applications for insurance of loans and mortgages under this chapter, the Secretary shall maintain not less than one office in each State to carry out the provisions of this chapter.

(b) Expedited procedure for RTC properties

To assist the Resolution Trust Corporation in disposing of the property to which it acquires title and to ensure the timely processing of applications for insurance of loans and mortgages under this chapter that will be used to purchase multifamily residential property from the Resolution Trust Corporation, the Secretary shall establish an expedited procedure for considering such applications.

(June 27, 1934, ch. 847, title V, § 534, as added Feb. 5, 1988, Pub. L. 100–242, title IV, § 418, 101 Stat. 1912; amended Oct. 28, 1992, Pub. L. 102–550, title V, § 512(a), 106 Stat. 3786.)

AMENDMENTS

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

REGULATIONS

Section 512(b) of Pub. L. 102–550 provided that: ''The procedure referred to in the amendment made by subsection (a) [amending this section] shall be established through interim and final regulations issued by the Secretary. The Secretary shall issue interim regulations implementing the procedure not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 28, 1992], which shall be effective upon issuance. The Secretary shall issue final regulations after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).''

§ 1735f–13. Prohibition of requirement of minimum principal loan amount

A mortgagee or lender may not require, as a condition of providing a loan insured under this chapter or secured by a mortgage insured under this chapter, that the principal amount of the loan exceed a minimum amount established by the mortgagee or lender.

(June 27, 1934, ch. 847, title V, § 535, as added Feb. 5, 1988, Pub. L. 100–242, title IV, § 419(a), 101 Stat. 1913.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1735f–17 of this title.

§ 1735f–14. Civil money penalties against mortgagees and lenders

(a) In general

(1) Authority

Whenever a mortgagee approved under this chapter, or a lender holding a contract of insurance under subchapter I of this chapter, knowingly and materially violates any of the provisions of subsection (b) of this section, the Secretary may impose a civil money penalty on the mortgagee or lender in accordance with the provisions of this section. The penalty shall be in addition to any other available civil remedy or any available criminal penalty, and may be imposed whether or not the Secretary imposes other administrative sanctions.

(2) Amount of penalty

The amount of the penalty, as determined by the Secretary, may not exceed $5,000 for each violation, except that the maximum penalty for all violations by any particular mortgagee or lender during any 1-year period shall not exceed $1,000,000. Each violation of a provision of subsection (b)(1) of this section shall constitute a separate violation with respect to each mortgage or loan application. In the case of a continuing violation, as determined by the Secretary, each day shall constitute a separate violation.

(b) Violations for which a penalty may be imposed

(1) Violations

The Secretary may impose a civil money penalty under subsection (a) of this section for any knowing and material violation by a mortgagee or lender, as follows:

(A) Except where expressly permitted by statute, regulation, or contract approved by the Secretary, transfer of a mortgage insured under this chapter to a mortgagee not approved by the Secretary, or transfer of a loan to a transferee that is not holding a contract of insurance under subchapter I of this chapter.

(B) Failure of a nonsupervised mortgagee, as defined by the Secretary—

(i) to segregate all escrow funds received from a mortgagor for ground rents, taxes, assessments, and insurance premiums; or

(ii) to deposit these funds in a special account with a depository institution whose accounts are insured by the Federal Deposit Insurance Corporation through the Bank Insurance Fund for banks and through the Savings Association Insurance Fund for savings associations, or by the National Credit Union Administration.

(C) Use of escrow funds for any purpose other than that for which they were received.

(D) Submission to the Secretary of information that was false, in connection with any mortgage insured under this chapter, or any loan that is covered by a contract of insurance under subchapter I of this chapter.

(E) With respect to an officer, director, principal, or employee—

(i) hiring such an individual whose duties will involve, directly or indirectly, programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary; or

(ii) retaining in employment such an individual who continues to be involved, directly or indirectly, in programs administered by the Secretary, while that person was under suspension or withdrawal by the Secretary.

(F) Falsely certifying to the Secretary or submitting to the Secretary a false certification by another person or entity.

(G) Failure to comply with an agreement, certification, or condition of approval set forth on, or applicable to—

(i) the application of a mortgagee or lender for approval by the Secretary; or

(ii) the notification by a mortgagee or lender to the Secretary concerning establishment of a branch office.

(H) Violation of any provisions of subchapter I, II, or IX–A (as such subchapter existed immediately before December 15, 1989) of this chapter or any implementing regulation or handbook that is issued under this chapter.

(2) Notification to Attorney General

Before taking action to impose a civil money penalty for a violation under paragraph (1)(D) or paragraph (1)(F), the Secretary shall inform the Attorney General of the United States.

(c) Agency procedures

(1) Establishment

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsection (a) of this section. These standards and procedures—

(A) shall provide for the Secretary to make the determination to impose the penalty or to use an administrative entity (such as the Mortgagee Review Board, established pursuant to section 1708(c) of this title) to make the determination;

(B) shall provide for the imposition of a penalty only after the mortgagee or lender 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 (a) of this section, consideration shall be given to such factors as the gravity of the offense, any history of prior offenses (including those before December 15, 1989), ability to pay the penalty, 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 (a) of this section shall not be subject to review, except as provided in subsection (d) of this section.

(d) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (c)(1) of this section, a mortgagee or lender against whom the Secretary has imposed a civil money penalty under subsection (a) of this section may obtain a review of the penalty and such ancillary issues (such as any administrative sanctions under 24 C.F.R. part 25) as may be addressed in the notice of determination to impose a penalty under subsection (c)(1)(A) of this section 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 determination or order 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 (c)(1) of this section 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 the 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 the 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.

(e) Action to collect penalty

If any mortgagee or lender fails to comply with the Secretary's determination or order imposing a civil money penalty under subsection (a) of this section, after the determination or order is no longer subject to review as provided by subsections (c)(1) and (d) of this section, 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 mortgagee or lender 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.

(f) Settlement by Secretary

The Secretary may compromise, modify, or remit any civil money penalty which may be, or has been, imposed under this section.

(g) "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.

(h) Regulations

The Secretary shall issue such regulations as the Secretary deems appropriate to implement this section.

(i) 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 appropriate insurance fund or funds established under this chapter, as determined by the Secretary.

(June 27, 1934, ch. 847, title V, § 536, as added Dec. 15, 1989, Pub. L. 101–235, title I, § 107(a), 103 Stat. 2000.)

REFERENCES IN TEXT

Subchapter IX–A of this chapter, referred to in subsec. (b)(1)(H), was repealed by Pub. L. 101–235, title I, § 133(a), Dec. 15, 1989, 103 Stat. 2027.

EFFECTIVE DATE

Section 107(b) of Pub. L. 101–235 provided that: ''The amendment made by subsection (a) [enacting this section] shall apply only with respect to—

''(1) violations referred to in the amendment that occur on or after the effective date of this section [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.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1703, 1715z–13a of this title.

§ 1735f–15. Civil money penalties against multifamily mortgagors

(a) In general

The penalties set forth in this section shall be in addition to any other available civil remedy or any available 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) Authority

Whenever a mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this chapter, 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 that mortgagor in accordance with the provisions of this section.

(2) Amount of penalty

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 experience at a foreclosure sale, or a sale after foreclosure, of the property involved.

(c) Violations of regulatory agreement for which penalty may be imposed

(1) Violations

The Secretary may also impose a civil money penalty under this section on any mortgagor of property that includes 5 or more living units and that has a mortgage insured, co-insured, or held pursuant to this chapter 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 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 mortgage insurance premiums, tax and insurance escrow payments, and payments to the reserve for replacements when there is adequate project income available to make such payments.

The pay out of surplus cash, as defined by and provided for in the regulatory agreement, shall not constitute a violation of such agreement.

(2) Amount of penalty

A penalty imposed for a violation under this subsection, as determined by the Secretary, may not exceed $25,000.

(d) Agency procedures

(1) Establishment

The Secretary shall establish standards and procedures governing the imposition of civil money penalties under subsections (b) and (c) of this section. 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) of this section, 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) of this section shall not be subject to review, except as provided in subsection (e) of this section.

(e) Judicial review of agency determination

(1) In general

After exhausting all administrative remedies established by the Secretary under subsection (d)(1) of this section, a mortgagor against whom the Secretary has imposed a civil money penalty under subsection (b) or (c) of this section 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) of this section 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) of this section 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) of this section, after the determination or order is no longer subject to review as provided by subsections (d)(1) and (e) of this section, 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.

(June 27, 1934, ch. 847, title V, § 537, as added Dec. 15, 1989, Pub. L. 101–235, title I, § 108(a), 103 Stat. 2003.)

EFFECTIVE DATE

Section 108(b) of Pub. L. 101–235 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].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1715z–1a of this title.

§ 1735f–16. Annual audited financial statements

With respect to fiscal year 1989 and for every fiscal year thereafter, the Secretary shall make available to the public a financial statement of the insurance funds established under this chapter that will present their financial condition on a cash and accrual basis, consistent with generally accepted accounting principles. Each financial statement shall be audited by an independent accounting firm selected by the Secretary and the results of such audit shall be made available to the public.

(June 27, 1934, ch. 847, title V, § 538, as added Dec. 15, 1989, Pub. L. 101–235, title I, § 131, 103 Stat. 2026.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1711 of this title.

§ 1735f–17. Examinations and sanctions for certain violations

(a) Examinations and sanctions

(1) In connection with any examination of a mortgagee approved by the Secretary pursuant to this chapter, the Secretary shall assess the performance of the mortgagee in meeting the requirements of sections 1709(t), 1715n(a)(7)(B), and 1735f–13 of this title. Where the Secretary determines that a mortgagee is not in compliance with these requirements, the Secretary shall refer the matter to the Mortgagee Review Board for investigation and appropriate action.

(2) Not later than 180 days after November 28, 1990, the Secretary shall by notice establish a procedure under which (A) any person may file a request that the Secretary determine whether a mortgagee is in compliance with sections 1709(t), 1715n(a)(7)(B), and 1735f–13 of this title, (B) the Secretary shall inform the person of the disposition of the request, and (C) the Secretary shall publish in the Federal Register the disposition of any case referred by the Secretary to the Mortgagee Review Board. Such procedures shall be established by regulation under section 553 of title 5. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

(3) The Secretary shall submit to Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to paragraph (2) and any action taken pursuant to such requests.

(b) Monitoring and review

The Secretary shall continually monitor and undertake a thorough review of the implementation of this section to assess the impact of the section on the lending practices of mortgagees and the availability of mortgages insured under this chapter. The Secretary shall monitor the availability of credit, the number and type of lenders participating in the program, whether there is any change in the composition or practices of such lenders and any other factors the Secretary considers appropriate. The Secretary shall submit to the Congress findings detailing the results of such monitoring and review not later than 18 months after November 28, 1990.

(June 27, 1934, ch. 847, title V, § 539, as added Nov. 28, 1990, Pub. L. 101–625, title III, § 330(b), 104 Stat. 4139.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1709 of this title; title 42 section 3535.

§ 1735f–18. Information regarding early defaults and foreclosures on insured mortgages

(a) In general

The Secretary of Housing and Urban Development shall collect and maintain information regarding early defaults on mortgages as provided under this section. The Secretary shall make such information available for public inspection upon request. Information shall be collected quarterly with respect to each applicable collection period (as such term is defined in subsection (c) of this section) and shall be available for inspection not more than 30 days after the conclusion of the calendar quarter relating to each such period. Information shall first be made available under this section for the applicable collection period relating to the first calendar quarter ending more than 180 days after November 28, 1990.

(b) Contents

(1) Mortgage lender analysis

Information collected under this section shall include, for each lender originating mortgages during the applicable collection period that are insured pursuant to section 1709 of this title and secured by property in a des-

ignated census tract, the following information with respect to such mortgages:

(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable collection period.

(B) The total number of such mortgages originated by such lender during the applicable collection period in each designated census tract and the number of mortgages originated each year in each designated census tract.

(C) The total number of defaults and foreclosures on such mortgages during the applicable collection period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable collection period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable collection period.

(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable collection period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable collection period.

(2) Other information

Information collected under this section shall also include the following:

(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable collection period.

(B) For each designated census tract, the total number of mortgages originated during the applicable collection period that are insured pursuant to section 1709 of this title, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

(c) Annual reports

The Secretary shall submit to the Congress annually a report containing the information collected and maintained under subsection (b) of this section for the relevant year.

(d) Definitions

For purposes of this section:

(1) Applicable collection period

The term ''applicable collection period'' means the 5-year period ending on the last day of the calendar quarter for which information under this section is collected.

(2) Designated census tract

The term ''designated census tract'' means a census tract located within a metropolitan statistical area, as defined pursuant to regulations issued by the Secretary of Commerce.

(June 27, 1934, ch. 847, title V, § 540, as added Nov. 28, 1990, Pub. L. 101–625, title III, § 335(a), 104 Stat. 4142.)

AVAILABILITY OF INFORMATION REGARDING DEFAULT/CLAIM RATES DURING TRANSITION

Section 335(b) of Pub. L. 101–625 provided that: ''During the period beginning on the date of the enactment of this Act [Nov. 28, 1990] and ending on the date of the initial availability of information under section 540 of the National Housing Act [12 U.S.C. 1735f–18] (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 42 section 3535.

§ 1735f–19. Partial payment of claims on multifamily housing projects

(a) Authority

Notwithstanding any other provision of law, if the Secretary is requested to accept assignment of a mortgage insured by the Secretary that covers a multifamily housing project (as such term is defined in section 1701z–11(b) of this title) and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low-income character of the project, the Secretary may request the mortgagee, in lieu of assignment, to—

(1) accept partial payment of the claim under the mortgage insurance contract; and

(2) recast the mortgage, under such terms and conditions as the Secretary may determine.

(b) Repayment

As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(June 27, 1934, ch. 847, title V, § 541, as added Apr. 11, 1994, Pub. L. 103–233, title I, § 101(e), 108 Stat. 357.)

§ 1735f–20. Authorization of appropriations for General and Special Risk Insurance Funds

There are authorized to be appropriated such sums as may be necessary for each of fiscal years 1994 and 1995, to be allocated in any manner that the Secretary determines appropriate, for the following costs incurred in conjunction with programs authorized under the General Insurance Fund, as provided by section 1735c of this title, and the Special Risk Insurance Fund, as provided by section 1715z–3 of this title:

(1) The cost to the Government, as defined in section 661a[1] of title 2, of new insurance commitments.

[1] See References in Text note below.

(2) The cost to the Government, as defined in section 661a[1] of title 2, of modifications to existing loans, loan guarantees, or insurance commitments.

(3) The cost to the Government, as defined in section 661a[1] of title 2, of loans provided under section 1701z–11(f) of this title.

(4) The costs of the rehabilitation of multifamily housing projects (as defined in section 1701z–11(b) of this title) upon disposition by the Secretary.

(June 27, 1934, ch. 847, title V, § 542, as added Apr. 11, 1994, Pub. L. 103–233, title I, § 105(c), 108 Stat. 363.)

REFERENCES IN TEXT

Section 661a of title 2, referred to in pars. (1) to (3), was in the original ''section 502 of the Congressional Budget Act'', which was translated as meaning ''section 502 of the Congressional Budget Act of 1974'' to reflect the probable intent of Congress.

§ 1735g. Mortgage relief for homeowners who are unemployed as result of closing of Federal installation

(a) Definitions

For the purposes of this section—

(1) The term ''mortgage'' means a mortgage which (A) is insured under the National Housing Act [12 U.S.C. 1701 et seq.], or (B) secures a home loan guaranteed or insured under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38.

(2) The term ''Federal mortgage agency'' means—

(A) The Secretary of Housing and Urban Development when used in connection with mortgages insured under the National Housing Act, and

(B) the Secretary of Veterans Affairs when used in connection with mortgages securing home loans guaranteed or insured under the Servicemen's Readjustment Act of 1944 or chapter 37 of title 38.

(3) The term ''distressed mortgagor'' means an individual who—

(A) was employed by the Federal Government at, or was assigned as a serviceman to, a military base or other Federal installation and whose employment or service at such base or installation was terminated subsequent to November 1, 1964, as the result of the closing (in whole or in part) of such base or installation; and

(B) is the owner-occupant of a dwelling situated at or near such base or installation and upon which there is a mortgage securing a loan which is in default because of the inability of such individual to make payments due under such mortgage.

(b) Application for, issuance and expiration of certificate of moratorium

(1) Any distressed mortgagor, for the purpose of avoiding foreclosure of his mortgage, may apply to the appropriate Federal mortgage agency for a determination that suspension of his obligation to make payments due under such mortgage during a temporary period is necessary in order to avoid such foreclosure.

(2) Upon receipt of an application made under this subsection by a distressed mortgagor, the Federal mortgage agency shall issue to such mortgagor a certificate of moratorium if it determines, after consultation with the interested mortgagee, that such action is necessary to avoid foreclosure.

(3) Prior to the issuance to any distressed mortgagor of a certificate of moratorium under paragraph (2), the Federal mortgage agency, the mortgagor, and the mortgagee shall enter into a binding agreement under which—

(A) the mortgagor will be required to make payments to such agency, after the expiration of such certificate, in an aggregate amount equal to the amount paid by such agency on behalf of such mortgagor as provided in subsection (c) of this section, together with interest thereon at a rate not to exceed the rate provided in the mortgage; the manner and time in which such payments shall be made to be determined by the Federal mortgage agency having due regard for the purposes sought to be achieved by this section; and

(B) the Federal mortgage agency will be subrogated to the rights of the mortgagee to the extent of payments made pursuant to such certificate, which rights, however, shall be subject to the prior right of the mortgagee to receive the full amount payable under the mortgage.

(4) Any certificate of moratorium issued under this subsection shall expire on whichever of the following dates is the earliest—

(A) two years from the date on which such certificate was issued;

(B) thirty days after the date on which the mortgagor gives notice in writing to the Federal mortgage agency that he is able to resume his obligation to make payments due under his mortgage; or

(C) thirty days after the date on which the Federal mortgage agency determines that the mortgagor to whom such certificate was issued has ceased to be a distressed mortgagor as defined in subsection (a)(3) of this section.

(c) Notice to mortgagee of assumption of mortgagor's obligation by agency; amount of payments; suspension of payments by mortgagor; prohibition against further action to enforce or collect payments; liability of mortgagor upon expiration of certificate; notice of expiration of certificate

(1) Whenever a Federal mortgage agency issues a certificate of moratorium to any distressed mortgagor with respect to any mortgage, it shall transmit to the mortgagee a copy of such certificate, together with a notice stating that, while such certificate is in effect, such agency will assume the obligation of such mortgagor to make payments due under the mortgage.

(2) Payments made by any Federal mortgage agency pursuant to a certificate of moratorium issued under this section with respect to the mortgage of any distressed mortgagor may include, in addition to the payments referred to in paragraph (1), an amount equal to the unpaid payments under such mortgage prior to the issuance of such certificate, plus a reasonable allow-

ance for foreclosure costs actually paid by the mortgagee if a foreclosure action was dismissed as a result of the issuance of a moratorium certificate. Payments by the Federal mortgage agency may also include payments of taxes and insurance premiums on the mortgaged property as deemed necessary when these items are not provided for through payments to a tax and insurance account held by the interested mortgagee.

(3) While any certificate of moratorium issued under this section is in effect with respect to the mortgage of any distressed mortgagor, no further payments due under the mortgage shall be required of such mortgagor, and no action (legal or otherwise) shall be taken or maintained by the mortgagee to enforce or collect such payments. Upon the expiration of such certificate, the mortgagor shall again be liable for the payment of all amounts due under the mortgage in accordance with its terms.

(4) Each Federal mortgage agency shall give prompt notice in writing to the interested mortgagor and mortgagee of the expiration of any certificate of moratorium issued by it under this section.

(d) Regulations

The Federal mortgage agencies are authorized to issue such individual and joint regulations as may be necessary to carry out this section and to insure the uniform administration thereof.

(e) Fund for extending financial assistance to distressed mortgagors

There shall be in the Treasury (1) a fund which shall be available to the Secretary of Housing and Urban Development for the purpose of extending financial assistance in behalf of distressed mortgagors as provided in subsection (c) of this section, and for paying administrative expenses incurred in connection with such assistance, and (2) a fund which shall be available to the Secretary of Veterans Affairs for the same purpose, except administrative expenses. The capital of each such fund shall consist of such sums as may, from time to time, be appropriated thereto, and any sums so appropriated shall remain available until expended. Receipts arising from the programs of assistance under subsection (c) of this section shall be credited to the funds from which such assistance was extended. Moneys in either of such funds not needed for current operations, as determined by the Secretary of Housing and Urban Development, or the Secretary of Veterans Affairs, as the case may be, shall be invested in bonds or other obligations of the United States, or paid into the Treasury as miscellaneous receipts.

(Pub. L. 89–117, title I, §107(a)–(e), Aug. 10, 1965, 79 Stat. 458, 459; Pub. L. 89–754, title X, §1012, Nov. 3, 1966, 80 Stat. 1288; Pub. L. 102–54, §13(d)(3), June 13, 1991, 105 Stat. 275.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, 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 Servicemen's Readjustment Act of 1944, referred to in subsec. (a), is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and 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 and Urban Development Act of 1965, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1991—Subsecs. (a)(2)(B), (e). Pub. L. 102–54 substituted ''Secretary of Veterans Affairs'' for ''Administrator of Veterans' Affairs'' wherever appearing.

1966—Subsec. (a)(2)(A). Pub. L. 89–754 substituted ''Secretary of Housing and Urban Development'' for ''Federal Housing Commissioner''.

Subsec. (a)(3). Pub. L. 89–754 redefined as distressed mortgagor, describing in subpar. (A) such a person as an individual whose employment or military service at a military base or other Federal installation was terminated subsequent to Nov. 1, 1964, as the result of closing of such base or installation, formerly defined as an individual who was unemployed, although willing to work, as the result of the closing of a Federal installation, and providing in subpar. (B) for dwelling situated at or near the base or installation and substituting ''payments due under such mortgage'' for ''payments of principal and/or interest under such mortgage''.

Subsec. (b)(1). Pub. L. 89–754 substituted ''payments due under such mortgage'' for ''payments of principal and/or interest under such mortgage''.

Subsec. (b)(2). Pub. L. 89–754 struck out subpar. (A) providing for determination that mortgagor is not in default with respect to any condition or covenant of the mortgage other than requiring the payment of installments of principal and/or interest under the mortgage and incorporated without subpar. designation provision for determination that such action is necessary to avoid foreclosure, formerly providing in subpar. (B) that such action was the only available means of avoiding foreclosure of such mortgage.

Subsec. (b)(3). Pub. L. 89–754 substituted in introductory text ''the Federal mortgage agency, the mortgagor, and the mortgagee shall enter into a binding agreement'' for ''the Federal mortgage agency shall require such mortgagor to enter into a binding agreement'', designated existing provisions as subpar. (A), provided for payment of interest at rate not to exceed the rate provided in the mortgage, and added subpar. (B).

Subsec. (b)(4). Pub. L. 89–754 increased the period from one to two years in subpar. (A), substituted subpar. (B) provision for expiration date as thirty days after date on which mortgagor gives notice in writing to Federal mortgage agency of ability to resume obligation to make payments due under his mortgage for former provision as the date thirty days after date on which mortgagor to whom certificate was issued ceased to be a distressed mortgagor, now incorporated in subpar. (C), redesignated former subpar. (B) as (C), providing for a determination by the Federal mortgage agency, and struck out former subpar. (C) provision for date on which mortgagor becomes in default with respect to any condition or covenant in his mortgage other than that requiring the payment by him of installments of principal and/or interest under the mortgage.

Subsec. (c)(1). Pub. L. 89–754 substituted ''payments due under the mortgage'' for ''payments of principal, and, if so specified in the certificate, of interest, under the mortgage''.

Subsec. (c)(2). Pub. L. 89–754 substituted ''may include'' for ''shall include'' and ''unpaid payments under such mortgage'' for ''unpaid principal and interest

charges which had accrued and subsequent to the date on which such mortgagor became a distressed mortgagor as defined in subsection (a) of this section'', and authorized payments of reasonable allowance for foreclosure costs actually paid by the mortgagee if a foreclosure action was dismissed as result of issuance of moratorium certificate and taxes and insurance premiums on mortgaged property as deemed necessary when not provided for through payments to a tax and insurance account held by the interested mortgagee.

Subsec. (c)(3). Pub. L. 89–754 substituted ''payments due under the mortgage'' for ''payments of principal, and, if so specified in the certificate, of interest, under the mortgage''.

Subsec. (d). Pub. L. 89–754 reenacted subsec. (d) without change.

Subsec. (e). Pub. L. 89–754 substituted ''Secretary of Housing and Urban Development'' for ''Federal Housing Commissioner'' in two places and made fund available for payment of administrative expenses incurred in connection with assistance to distressed mortgagors and unavailable for payment of administrative expenses of the Administrator of Veterans' Affairs.

§ 1735h. Repealed. Pub. L. 89–754, title X, § 1013(j), Nov. 3, 1966, 80 Stat. 1292

Section, Pub. L. 89–117, title I, § 108(a)–(d), (f), Aug. 10, 1965, 79 Stat. 460, 461, provided for acquisition of property at or near military bases which have been ordered to be closed. See section 3374 of Title 42, The Public Health and Welfare.

SUBCHAPTER VI—WAR HOUSING INSURANCE

AMENDMENTS

1942—Act May 26, 1942, ch. 319, § 14(a), 56 Stat. 305, amended subchapter heading, substituting ''WAR'' for ''DEFENSE''.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1715f, 1731a, 1743 of this title.

§ 1736. Definitions

As used in this subchapter—

(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 fifty years to run from the date the mortgage was executed; 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, and the Virgin Islands.

(June 27, 1934, ch. 847, title VI, § 601, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 55; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; June 25, 1959, Pub. L. 86–70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86–624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

1960—Subsec. (d). Pub. L. 88–624 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'' wherever appearing.

SEPARABILITY

Section 9 of act Mar. 28, 1941 provided that: ''If any provision of this Act [enacting sections 1736 to 1742 of this title, and section 609k of Title 15, Commerce and Trade, and amending sections 371, 1430, 1702, 1706, 1707, 1713, and 1715, 1716, 1717 of this title] or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.''

§ 1737. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VI, § 602, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 55; amended May 26, 1942, ch. 319, § 14(b) 56 Stat. 305; June 30, 1947, ch. 166, title II, § 206(*l*), 61 Stat. 208; 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, created the War Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1738. Insurance of mortgages

(a) Relief of housing shortage; eligibility; limitations on time and amount

In order to assist in relieving the acute shortage of housing which now exists and to increase the supply of housing accommodations available to veterans of World War II at prices within their reasonable ability to pay, the Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage 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 subchapter shall not exceed $6,150,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed $6,650,000,000: *Provided further*, That no mortgage shall be insured under this section after April 30, 1948, except (A) pursuant to a commitment to insure issued on or before April 30, 1948, or (B) a mortgage given to refinance an existing mortgage insured under this section and which does not exceed the original principal amount and unexpired term of such existing mortgage, and no mortgage shall be insured under section 1743 of this title after March 1, 1950, except (i) pursuant to a commitment to insure issued on or before March 1, 1950, or (ii) a mortgage given to refinance an existing mort-

gage insured under section 1743 of this title and which does not exceed the original principal amount and unexpired term of such existing mortgage: *Provided further*, That no mortgage shall be insured under section 1743 of this title 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 certifications to be filed with the Secretary; and violation of any such certification shall be a misdemeanor punishable by a fine of not to exceed $500: *And provided further*, That the Secretary shall, in his discretion, have power to require the availability for rental purposes of properties covered by mortgages insured under this subchapter, in such instances and for such periods of time as he may prescribe.

Notwithstanding the first proviso of this subsection, mortgages may be insured under sections 1744 and 1746 of this title if the aggregate amounts of principal obligations of mortgages insured under said sections plus the aggregate amount of principal obligations of mortgages insured under section 1745 of this title do not exceed the limitation contained in said section 1745 upon the aggregate amount of principal obligations of mortgages insured pursuant to said section.

Notwithstanding the second proviso of this subsection, mortgages otherwise eligible for insurance under section 1743 of this title may be hereafter insured thereunder if the application for such insurance was received by the Department of Housing and Urban Development on or before March 1, 1950, and for such purpose the aggregate amount of principal obligations authorized to be insured under section 1743 of this title is increased by not to exceed $500,000,000.

(b) Eligibility requirements

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 90 per centum of the Secretary's estimate of the value (as of the date the mortgage is accepted for insurance), except that as to applications received by the Secretary on or before March 31, 1948, the mortgage may involve a principal obligation in an amount not to exceed 90 per centum of the Secretary's estimate of the necessary current cost (including the land and such initial service charges and such appraisal, inspection, and other fees as the Secretary shall approve); of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, which is approved for mortgage insurance prior to the beginning of construction. The principal obligation of such mortgage shall in no event, however, exceed—

(A) $5,400 if such dwelling is designed for a single-family residence, or

(B) $7,500 if such dwelling is designed for a two-family residence, or

(C) $9,500 if such dwelling is designed for a three-family residence, or

(D) $12,000 if such dwelling is designed for a four-family residence:

Provided, That the Secretary may, if he finds that at any time or in any particular geographical area it is not feasible, within such limitations of maximum mortgage amounts, to construct dwellings without sacrifice of sound standards of construction, design, or livability, prescribe by regulation or otherwise higher maximum mortgage amounts not to exceed—

(A) $8,100 if such dwelling is designed for a single-family residence, or

(B) $12,500 if such dwelling is designed for a two-family residence, or

(C) $15,750 if such dwelling is designed for a three-family residence, or

(D) $18,000 if such dwelling is designed for a four-family residence.

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the date of the insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary;

(5) bear interest (exclusive of premium charges for insurance) at not to exceed 4 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 herein provided) to amortization of the principal of the mortgage; and

(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.

(c) Premium charges; payments; acceptance for insurance; preferences; adjustments and refunds

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter 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 1½ 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 subchapter 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 in-

sured, 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 and such other charges as the Secretary may require, that the mortgage complies with the provisions of this subchapter, 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 subchapter unless the Secretary finds that the project with respect to which the mortgage is executed is an acceptable risk in view of the shortage of housing referred to in this section. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter 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 subchapter 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. The Secretary shall prescribe such procedures as in his judgment are necessary to secure to veterans of World War II, and their immediate families, and to hardship cases as defined by the Secretary, preference or priority of opportunity to purchase or rent properties covered by mortgages insured under this subchapter.

(d) Conclusiveness of insurance contract as to eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter 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.

(June 27, 1934, ch. 847, title VI, § 603, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 56; amended Sept. 2, 1941, ch. 410, 55, Stat. 686; May 26, 1942, ch. 319, §§ 1–4, 14(b), 56 Stat. 301, 305; Mar. 23, 1943, ch. 21, § 1, 57 Stat. 42; Oct. 15, 1943, ch. 259, § 1, 57 Stat. 571; June 30, 1944, ch. 334, 58 Stat. 648; Mar. 31, 1945, ch. 48, § 1, 59 Stat. 47; May 22, 1946, ch. 268, § 10(a)–(d), 60 Stat. 212, 213; June 30, 1947, ch. 163, title I, § 2, 61 Stat. 193; Aug. 5, 1947, ch. 495, § 1, 61 Stat. 777; Dec. 27, 1947, ch. 525, § 1, 61 Stat. 945; Mar. 31, 1948, ch. 165, § 1(a)–(c), 62 Stat. 101; Aug. 10, 1948, ch. 832, title I, § 101(a), (k)(2), 62 Stat. 1268, 1273; Mar. 30, 1949, ch. 42, title III, § 304, 63 Stat. 29; July 15, 1949, ch. 338, title II, § 201(3), 63 Stat. 421; Aug. 30, 1949, ch. 524, 63 Stat. 681; Oct. 25, 1949, ch. 729, § 1(4), 63 Stat. 905; Apr. 20, 1950, ch. 94, title I, §§ 119, 122, 64 Stat. 57, 59; May 25, 1967, Pub. L. 90–19, § 1(a)(1), (3), (4), (n), 81 Stat. 17, 19.)

AMENDMENTS

1967—Pub. L. 90–19, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (b)(1), (2), (b)(2)(D), (b)(3), (4), (6), (7), (c), and (d).

Subsec. (a). Pub. L. 90–19, § 1(a)(1), (n), substituted ''Department of Housing and Urban Development'' for ''Federal Housing Administration'' and ''by'' for ''in any field office of'' after ''received'', in third par., respectively.

Subsec. (b)(2). Pub. L. 90–19, § 1(a)(4), substituted ''Secretary's'' for ''Commissioner's'' wherever appearing.

1950—Act Apr. 20, 1950, § 122, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

Subsec. (a). Act Apr. 20, 1950, § 119, added last two pars.

1949—Subsec. (a). Joint Res. Oct. 25, 1949, substituted ''$6,150,000,000'' for ''$5,750,000,000'' and ''$6,650,000,000'' for ''$6,150,000,000'' in first proviso, and extended section to ''March 1, 1950'' by substituting the same for ''October 31, 1949'' in second proviso.

Act Aug. 30, 1949, extended section from ''August 31, 1949'' to ''October 31, 1949''.

Act July 15, 1949, extended section from ''June 30, 1949'' to ''August 31, 1949''.

Act Mar. 30, 1949, extended section from ''March 30, 1949'' to ''June 30, 1949''.

1948—Subsec. (a). Act Aug. 10, 1948, struck out ''$5,350,000,000'' and inserted in lieu thereof ''$5,750,000,000 except that with the approval of the President such aggregate amount may be increased to not to exceed $6,150,000,000'', and struck out the second proviso and inserted in lieu thereof the present second proviso.

Act Mar. 31, 1948, increased the insurance authorization from $4,950,000,000 to $5,350,000,000, and provided for an extension from Mar. 31, 1948, to Apr. 30, 1948.

Subsec. (b)(2). Act Mar. 31, 1948, changed the emergency necessary current-cost formula to the appraised-value formula.

Subsec. (c). Act Aug. 10, 1948, struck out of next to last sentence ''and a mortgage on the same property is accepted for insurance at the time of such payment''.

1947—Subsec. (a). Act Dec. 27, 1947, increased the mortgage obligation from $4,000,000,000 to $4,450,000,000, and increased the amount of obligation from $4,200,000,000 to $4,950,000,000 with the President's approval.

Act Aug. 5, 1947, increased mortgage obligation from $2,800,000,000 to $4,000,000,000 and the amount of obligation from $3,800,000,000 to $4,200,000,000 with the President's approval.

Act June 30, 1947, extended limitation dates in second proviso from June 30, 1947, to Mar. 31, 1948.

1946—Subsec. (a). Act May 22, 1946, amended provisions generally, and among other changes, increased the mortgage obligation from $1,800,000,000 to $2,800,000,000, and extended the limitation date from July 1, 1946, to June 30, 1947.

Subsec. (b)(2). Act May 22, 1946, amended provisions generally, and among other changes, inserted proviso.

Subsec. (b)(5). Act May 22, 1946, lowered interest rate from 5 to 4 per centum and struck out provision allowing Administrator to increase the rate in certain cases.

Subsec. (c). Act May 22, 1946, substituted ''shortage of housing'' for ''emergency'' in third sentence and amended last sentence.

1945—Subsec. (a). Act Mar. 31, 1945, increased the limit of obligations from $1,700,000,000 to $1,800,000,000 and extended the limitation date from 1945 to 1946.

1944—Subsec. (a). Act June 30, 1944, substituted ''$1,700,000,000'' for ''$1,600,000,000'' and inserted the provision contained in cl. (B).

1943—Subsec. (a). Act Oct. 15, 1943, substituted ''$1,600,000,000'' for ''$1,200,000,000'' and ''July 1, 1945'' for ''July 1, 1944''.

Act Mar. 23, 1943, substituted ''$1,200,000,000'' for ''$800,000,000'' and ''July 1, 1944'' for ''July 1, 1943''.

1942—Act May 21, 1942, § 14(b), substituted ''War'' and ''war'' for ''Defense'' and ''defense'' wherever occurring.

Subsec. (a). Act May 26, 1942, §1, substituted ''$800,000,000'' for ''$300,000,000'', among other changes.

Subsec. (b)(2). Act May 26, 1942, §2, increased limitations on amount of obligations.

Subsec. (b)(3). Act May 26, 1942, §3, substituted ''twenty-five'' for ''twenty''.

Subsec. (c). Act May 26, 1942, §4, amended subsec. (c).

1941—Subsec. (a). Act Sept. 2, 1941, substituted ''$300,000,000'' for ''$100,000,000''.

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.

INFLATION SAFEGUARDS

Section 2 of act Dec. 27, 1947, provided: ''Title VI of the National Housing Act, as amended [this subchapter], shall be employed to assist in maintaining a high volume of new residential construction without supporting unnecessary or artificial costs. In estimating necessary current cost for the purposes of said title, the Federal Housing Commissioner shall therefore use every feasible means to assure that such estimates will approximate as closely as possible the actual costs of efficient building operations.''

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1739, 1743, 1744, 1745 of this title; title 5 sections 551, 701.

§ 1739. Mortgage insurance benefits

(a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure

In any case in which the mortgagee under a mortgage insured under section 1738 of this title shall have foreclosed and taken possession of the mortgaged property, in accordance with 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 benefit of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of 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 as 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 Secretary shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value equal to the value of the mortgage and a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure, the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance of the mortgaged property, and any mortgage insurance premiums and by deducting from such total amount any amount received on account of the mortgage after either of such dates, 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: *Provided*, That with respect to mortgages which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Secretary, on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Secretary an amount—

(1) not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings and not in excess of $75; or

(2) not in excess of two-thirds of such cost, whichever is the greater: *Provided further*, That with respect to any debentures issued on or after September 2, 1964, the Secretary may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e) of this section), include in debentures, 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 Secretary, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee: *And provided further*, That with respect to mortgages to which the provisions of sections 532 and 536 of the Appendix to title 50 apply and which are insured under section 1738 of this title and subject to such regulations and conditions as the Secretary may prescribe, there shall be included in the debentures an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures and the payment of insurance premiums by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter.

(b) Consent to release of mortgagee 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 li-

ability 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: *Provided*, That the mortgagor shall not be released from such liability in any case until the Secretary is satisfied that the mortgaged property has been sold to a purchaser satisfactory to the Secretary, and that such purchaser has paid on account of the purchase price, in cash or its equivalent, at least 10 per centum of the Secretary's estimate of the value as of the date the mortgage is accepted for insurance.

(c) Debentures; form and denomination

Debentures issued under this subchapter 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 General Insurance Fund.

(d) Debentures; execution; negotiability; terms; tax exemptions

The debenture issued under this section to any mortgagee shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable. 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, except 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 determined by the Secretary, with the approval of the Secretary of the Treasury, at the time the mortgage was accepted for insurance, but not to exceed 3 per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year. Such debentures as are issued in exchange for property covered by mortgages accepted for insurance under this section on or after May 26, 1942, shall mature ten years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages accepted for insurance under this section prior to May 26, 1942, shall 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: *Provided*, That any mortgagee entitled to receive such debentures may elect to receive in lieu thereof debentures which shall mature ten years after the date thereof. Such 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 any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, and 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 such guaranty shall be expressed on the face of the debentures. In the event that the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this subchapter, 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

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) of this section.

(f) Division of excess proceeds

(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: *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 shall be retained by the Secretary and credited to the General 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 the consent of the mortgagee or mortgagor, as the case may be, to effect the settlement of certificates of claim and refunds 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 certificate of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized to settle, without awaiting the final liquidation of the Secretary's interest in the property, any certificate of claim issued pursuant to subsection (e) of this section, with respect to which a 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 increment 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, make contracts or establish suitable agencies for the management of, 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 subchapter; 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 subchapter, except that no suit or action shall be commenced by the Secretary against any such mortgagor on account of any claim so assigned with respect to mortgages insured under section 1738 of this title unless such suit or action is commenced within six months after the assignment of such claim to the Secretary, or within six months after the last payment was made to the Secretary with respect to the claim so assigned, whichever is later: *Provided*, That section 5 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 power to convey and to execute in the name of the Secretary deeds of conveyances, deeds of release, assignments, and satisfactions of mortgages, and any other written instrument relating to real 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.

(h) Mortgagor's or mortgagee'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.

(June 27, 1934, ch. 847, title VI, §604, as added Mar. 28, 1941, ch. 31, §1, 55 Stat. 58; amended May 26, 1942, ch. 319, §§5–8, 14(b), 56 Stat. 302, 305; Oct. 14, 1943, ch. 258, §2, 57 Stat. 570; May 22, 1946, ch. 268, §10(e), 60 Stat. 213; Mar. 31, 1948, ch. 165, §1(d), 62 Stat. 101; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Aug. 11, 1955, ch. 783, title I, §104, 69 Stat. 637; Sept. 2, 1964, Pub. L. 88–560, title I, §105(d), (f), 78 Stat. 772, 774; Aug. 10, 1965, Pub. L. 89–117, title XI, §1108(p), 79 Stat. 506; May 25, 1967, Pub. L. 90–19, §1(a)(3), (4), (d), 81 Stat. 17, 18.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

The Housing Amendments of 1955, referred to in subsec. (f)(2), is act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended. 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.

AMENDMENTS

1967—Pub. L. 90–19, §1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (a)(2), (b) to (e), (f)(1), (f)(1)(i), (ii), (f)(2), (3), (g), and (h).

Pub. L. 90–19, §1(a)(4), substituted ''Secretary's'' for ''Commissioner's'' wherever appearing in subsecs. (b) and (f)(3) of this section.

Subsec. (g). Pub. L. 90–19, §1(d), substituted ''an officer'' for ''the Commissioner or by any Assistant Commissioner''.

1965—Subsecs. (c), (d), (f)(1)(i). Pub. L. 89–117 substituted ''General Insurance Fund'' for ''War Housing Insurance Fund''.

1964—Subsec. (a). Pub. L. 88–560, §105(d)(1), (f), inserted ''*Provided further*, That with respect to any debentures issued on or after 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)), include in debentures, 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:'' and struck out of third sentence ''paid after either of such dates'' after ''mortgage insurance premiums'', respectively.

Subsec. (c). Pub. L. 88–560, §105(d)(2), increased limitation on difference between value of mortgage and aggregate face value of debentures issued from $50 to $350.

Subsec. (d). Pub. L. 88–560, §105(d)(3), substituted in second sentence ''default, except 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 ''default, and''.

Subsec. (f). Pub. L. 88–560, § 105(d)(4)–(8), 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 substituted ''property: *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 shall be retained by the Commissioner and credited to the War Housing Insurance Fund; and'' for ''property; and''; redesignated former par. (2) as (ii); designated concluding par. as par. (2) and inserted proviso; and added par. (3), respectively.

1955—Subsec. (f). Act Aug. 11, 1955, authorized the Commissioner to effect the settlement of certificates of claim and refunds at any time after the sale or transfer of title to the property.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

1948—Subsec. (b). Act Mar. 31, 1948, substituted ''value'' for ''necessary current cost''.

1946—Subsec. (b). Act May 22, 1946, substituted ''Administrator's estimate of the necessary current cost'' after ''10 per centum of the'' for ''appraised value of such property as determined by the Administrator''.

1943—Subsec. (a). Act Oct. 14, 1943, inserted proviso dealing with losses due to nonforeclosure of mortgages to last sentence.

1942—Act May 26, 1942, § 14(b), substituted ''War'' and ''war'' for ''Defense'' and ''defense'' wherever occurring.

Subsec. (a). Act May 26, 1942, § 5, substituted ''section 1738 of this title'' for ''this subchapter''.

Subsec. (c). Act May 26, 1942, § 6, substituted ''subchapter'' for ''section''.

Subsec. (d). Act May 26, 1942, § 7, amended subsec. (d).

Subsec. (g). Act May 26, 1942, § 8, substituted ''subchapter'' for ''section'' and inserted ''with respect to mortgages insured under section 1738 of this title''.

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

Construction of act May 26, 1942, with Ex. Ord. No. 9070, consolidating various housing agencies into the National Housing Agency, see note under section 1743 of this title.

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1743, 1744, 1746, 1748b of this title; title 5 sections 551, 701.

§ 1740. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VI, § 605, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 61; amended May 26, 1942, ch. 319, §§ 9, 14(b), 56 Stat. 303, 305; 1947 Reorg. Plan No. 3, § 3, eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, provided for disposition and investment of surplus money in the War Housing Insurance Fund and for credit and payment of charges and fees.

§ 1741. State taxation of realty held by Secretary

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 VI, § 606, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 61; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator''.

CROSS REFERENCES

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

§ 1742. 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 VI, § 607, as added Mar. 28, 1941, ch. 31, § 1, 55 Stat. 61; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator''.

§ 1743. Insurance of mortgages

(a) Additional authorization; advances during construction

In addition to mortgages insured under section 1738 of this title, the Secretary is authorized to insure mortgages as defined in section 1736 of this title (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) Eligibility requirements

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. 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. 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 regulation. 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.

(2) Preference or priority of opportunity in the occupancy of the mortgaged property for

veterans of World War II and their immediate families, and for hardship cases as defined by the Secretary, shall be provided under such regulations and procedures as may be prescribed by the Secretary.

(3) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed $5,000,000; and

(B) not to exceed 90 per centum of the amount which the Secretary estimates will be the necessary current cost of the completed property or project, including the land; the proposed physical improvements; utilities within the boundaries of the property or project; architects' fees; taxes and interest accruing during construction; and other miscellaneous charges incidental to construction and approved by the Secretary: *Provided*, That such mortgage shall not in any event exceed the amount which the Secretary estimates will be the cost of the completed physical improvements on the property or project, exclusive of off-site public utilities and streets, and organization and legal expenses: *And provided further*, That the principal obligation of the mortgage shall not, in any event, exceed 90 per centum of the Secretary's estimate of the replacement cost of the property or project on the basis of the costs prevailing on December 31, 1947, for properties or projects of comparable quality in the locality where such property or project is to be located; and

(C) not to exceed $8,100 per family unit for such part of such property or project as may be attributable to dwelling use.

The mortgage shall provide for complete amortization by periodic payment within such term as the Secretary shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time. 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.

(c) Payments; default; insurance benefits for mortgagee; value of mortgage; foreclosure of mortgage

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 mortgagors or others, arising out of the mortgage transaction; (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 loan 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 transaction. 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, subject to the cash adjustment provided for in section 1739(c) of this title, issue to the mortgagee debentures having a total face value equal to the value of the mortgage, and a certificate of claim as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of default, the amount 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) an amount equivalent to 1 per centum of the unpaid amount of such principal obligation on the date of default; (ii) any amount received on account of the mortgage after such date; and (iii) any net income received by the mortgagee from the property after such date: *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 (i) hereof, shall not apply.

(d) Certificates of claim; amount

The certificate of claim issued by the Secretary to any mortgagee in connection with the insurance of mortgages under this section shall be for an amount determined in accordance with subsections (e) and (f) of section 1739 of this title, except that any amount remaining after the payment of the full amount under the certificate of claim shall be retained by the Secretary and credited to the General Insurance Fund.

(e) Debentures; date of issuance; interest

Debentures issued under this section shall be issued in accordance with the provisions of section 1739 (d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (c) of this section, and shall bear interest from such date.

(f) Applicability of other provisions

The provisions of section 1713(k) of this title shall be applicable to mortgages insured under this section, except that, as applied to such mortgages, the reference therein to subsection (g) shall be construed to refer to subsection (c) of this section.

(g) Mortgages in connection with sale of property under subchapter I, II, VIII, or X of this chapter

The Secretary shall also have power to insure under this subchapter or subchapter I, II, VIII, or X of this chapter any mortgage executed in connection with the sale by him of any property acquired under any of such subchapters without regard to limitations upon eligibility, time, or aggregate amount contained therein.

(June 27, 1934, ch. 847, title VI, § 608, as added May 26, 1942, ch. 319, § 11, 56 Stat. 303; amended Mar. 31, 1945, ch. 48, § 2, 59 Stat. 47; May 22, 1946, ch. 268, § 10(f), (g), 60 Stat. 214; Aug. 10, 1948, ch. 832, title I, § 101(b), (c), 62 Stat. 1269; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title II, § 206, 65 Stat. 303; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(q), 79 Stat. 506; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in subsecs. (b) and (d), was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90–19, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (b)(1), (2), (3)(B), following (C), (c), (d), and (g).

Subsec. (b)(3)(B). Pub. L. 90–19, § 1(a)(4), substituted ''Secretary's'' for ''Commissioner's''.

1965—Subsecs. (b)(1), (d). Pub. L. 89–117, § 1108(q)(1), substituted ''General Insurance Fund'' for ''War Housing Insurance Fund''.

Subsec. (f). Pub. L. 89–117, § 1108(q)(2), struck out provisions that, as applied to mortgages insured under this section, all references in section 1713(k) of this title to the ''Housing Fund'' shall be construed to refer to the ''War Housing Insurance Fund''.

1951—Subsec. (g). Act Sept. 1, 1951, inserted references to subchapters I, VIII and X of this chapter.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

1948—Subsec. (b). Act Aug. 10, 1948, inserted second proviso in par. (3)(B), substituted ''$8,100 per family unit'' for ''$1,500 per room'' and struck out proviso relating to authority to increase ''$1,500'' to ''$1,800'' per room.

1946—Subsec. (b)(2). Act May 22, 1946, substituted ''Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families, and for hardship cases as defined by the Administrator, shall be provided under such regulations and procedures as may be prescribed by the Administrator'' for ''The mortgaged property shall be designed for rent for residential use by warworkers''.

Subsec. (b)(3). Act May 22, 1946, substituted ''necessary current cost'' after ''estimates will be the'' for ''reasonable replacement cost'' in par. (B), and increased mortgage per room from $1,350 to $1,500 and inserted proviso in par. (C).

Subsec. (c). Act May 22, 1946, inserted ''and any mortgage insurance premiums paid after default'' before semicolon in cl. (C) of third sentence.

1945—Subsec. (g). Act Mar. 31, 1945, inserted provisions empowering Commissioner to insure mortgages without regard to any limitations upon time or aggregate amount contained in this subchapter.

CONSTRUCTION OF ACT MAY 26, 1942, WITH EX. ORD. NO. 9070, CONSOLIDATING NATIONAL HOUSING AGENCY

Section 12 of act May 26, 1942, provided that nothing contained in act May 26, 1942 [amending this subchapter] shall be construed to supersede or be inconsistent with the provisions of Ex. Ord. No. 9070, Feb. 24, 1942.

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

United States obligations and evidences of ownership as subject to Federal taxation, see section 3124(b) of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1715z–19, 1731b, 1738, 1745, 1746, 1750g, 3702 of this title; title 5 sections 551, 701; title 42 section 1594a.

§ 1744. Insurance of loans for manufacture of houses

(a) Relief of housing shortage; advances

In order to assist in relieving the acute shortage of housing which now exists and to promote the production of housing for veterans of World War II at moderate prices or rentals within their reasonable ability to pay, through the application of modern industrial processes, the Secretary is authorized to insure loans to finance the manufacture of housing (including advances on such loans) when such loans are eligible for insurance as hereinafter provided.

(b) Eligibility requirements

Loans for the manufacture of houses shall be eligible for insurance under this section if at the time of such insurance, the Secretary determines they meet the following conditions:

(1) The manufacturer shall establish that binding purchase contracts have been executed satisfactory to the Secretary providing for the purchase and delivery of the houses to be manufactured, which contracts shall provide for the payment of the purchase price at such time as may be agreed to by the parties thereto, but, in no event, shall the purchase price be payable on a date in excess of thirty days after the date of delivery of such houses, unless not less than 20 per centum of such purchase price is paid on or before the date of delivery and the lender has accepted and discounted or has agreed to accept and discount, pursuant to subsection (i) of this section a promissory note or notes, executed by the purchaser, representing the unpaid portion of such purchase price, in which event such unpaid portion of the purchase price may be payable on a date not in excess of one hundred and eighty days from the date of delivery of such houses;

(2) Such houses to be manufactured shall meet such requirements of sound quality, durability, livability, and safety as may be prescribed by the Secretary;

(3) The borrower shall establish to the satisfaction of the Secretary that he has or will have adequate plant facilities, sufficient capital funds, taking into account the loan applied for, and the experience necessary, to achieve the required production schedule;

(4) The loan shall involve a principal obligation in an amount not to exceed 90 per centum of the amount which the Secretary estimates will be the necessary current cost, exclusive of profit, of manufacturing the houses, which are the subject of such purchase contracts assigned to secure the loan, less any sums paid by the purchaser under said purchase contracts prior to the assignment thereof. The loan shall be secured by an assignment of the aforesaid purchase contracts and of all sums payable thereunder on or after the date of such assignment, with the right in the assignee to proceed against such security in case of default as provided in the assignment, which assignment shall be in such form and contain such terms and conditions, as may be prescribed by the Secretary; and the Secretary may require such other agreements and undertakings to further secure the loan as he may determine, including the right, in case of default or at any time necessary to protect the lender, to compel delivery to the lender of any houses then owned and in the possession of the borrower. The loan shall have a maturity not in excess of one year from the date of the note, except that any such loan may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe for an additional term not to exceed one year, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time.

(c) Release of security

The Secretary may consent to the release of a part or parts of the property assigned or delivered as security for the loan, upon such terms and conditions as he may prescribe and the security documents may provide for such release.

(d) Payments; default; insurance benefits for mortgagee; prerequisites; value of mortgage

The failure of the borrower to make any payment due under or provided to be paid by the terms of a loan under this section, or the failure to perform any other covenant or obligation contained in any assignment, agreement, or undertaking executed by the borrower in connection with such loan, shall be considered as a default under this section, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance hereinafter provided upon assignment, transfer, and delivery to the Secretary within a period and in accordance with the rules and regulations prescribed by the Secretary of (1) all rights and interest arising with respect to the loan so in default; (2) all claims of the lender against the borrower or others arising out of the loan transaction; (3) any cash or property held by the lender, or to which it is entitled, as deposits made for the account of the borrower and which have not been applied in reduction of the principal of the loan; and (4) all records, documents, books, papers, and accounts relating to the loan transaction. Upon such assignment, transfer, and delivery, the Secretary shall, subject to the cash adjustment provided for in section 1739(c) of this title, issue to the lender debentures having a face value equal to the unpaid principal balance of the loan.

(e) Debentures; date of issuance; interest

Debentures issued under this section shall be issued in accordance with the provisions of section 1739(d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (d) of this section and shall bear interest from such date.

(f) Applicability of other provisions

The provisions of sections 1713(k) and 1738(a) of this title shall be applicable to loans insured under this section, except that as applied to such loans (1) the reference in section 1713(k) of this title to ''subsection (g)'' shall be construed to refer to ''subsection (d)'' of this section; (2) the references in section 1713(k) of this title to insured mortgages shall be construed to refer to the assignment or other security for loans insured under this section; and (3) the references in section 1738(a) of this title to a mortgage or mortgages shall be construed to include a loan or loans under this section. The provisions of section 1738(d) of this title shall also be applicable to loans insured under this section and the reference in section 1738(d) of this title to a mortgage shall be construed to include a loan or loans with respect to which a contract of insurance is issued pursuant to this section.

(g) Disposal of evidence of debt, contract, claim, personal property, or security; collection or compromise of obligations and rights

Notwithstanding any other provision of law, the Secretary shall have the power to assign or sell at public or private sale, or otherwise dispose of, 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 to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such insurance until such time as such obligations may be referred to the Attorney General for suit or collection.

(h) Premium charges; amount; manner of payment; application fees

The Secretary shall fix a premium charge for the insurance granted under this section, but such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such loan, 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. 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 examining and processing applications for the insurance of loans under this section, including such additional inspections as the Secretary may deem necessary.

(i) Insurance for accepting and discounting promissory notes; contract provisions; default in payments; remedies; debentures; interest; premium charges

(1) In addition to the insurance of the principal loan to finance the manufacture of housing, as provided in this section, and in order to provide short-term financing in the sale of houses to be delivered pursuant to the purchase contract or contracts assigned as security for such principal loan, the Secretary is authorized, under such terms and conditions and subject to such limitations as he may prescribe, to insure the lender against any losses it may sustain resulting from the acceptance and discount of a promissory note or notes executed by a purchaser of any such houses representing an unpaid portion of the purchase price of any such houses. No such promissory note or notes accepted and discounted by the lender pursuant to this subsection shall involve a principal obligation in excess of 80 per centum of the purchase price of the manufactured house or houses; have a maturity in excess of one hundred and eighty days from the date of the note or bear interest in excess of 4 per centum per annum; nor may the principal amount of such promissory notes, with respect to any individual principal loan, outstanding and unpaid at any one time, exceed in the aggregate an amount prescribed by the Secretary.

(2) The Secretary is authorized to include in any contract of insurance executed by him with respect to the insurance of a loan to finance the manufacture of houses, provisions to effectuate the insurance against any such losses under this subsection.

(3) The failure of the purchaser to make any payment due under or provided to be paid by the terms of any note or notes executed by the purchaser and accepted and discounted by the lender under the provisions of this subsection, shall be considered as a default under this subsection, and if such default continues for a period of thirty days, the lender shall be entitled to receive the benefits of the insurance, as provided in subsection (d) of this section except that debentures issued pursuant to this subsection shall have a face value equal to the unpaid principal balance of the loan plus interest at the rate of 4 per centum per annum from the date of default to the date the application is filed for the insurance benefits.

(4) Debentures issued with respect to the insurance granted under this subsection shall be issued in accordance with the provisions of section 1739(d) of this title except that such debentures shall be dated as of the date application is filed for the insurance benefits and shall bear interest from such date.

(5) The Secretary is authorized to fix a premium charge for the insurance granted under this subsection, in addition to the premium charge authorized under subsection (h) of this section. Such premium charge shall not exceed an amount equivalent to 1 per centum of the original principal of such promissory note or notes and shall be paid at such time and in such manner as may be prescribed by the Secretary.

(June 27, 1934, ch. 847, title VI, § 609, as added June 30, 1947, ch. 163, title I, § 3, 61 Stat. 193; amended Aug. 10, 1948, ch. 832, title I, § 101(d), 62 Stat. 1269; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(r), 79 Stat. 506; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (b), (b)(1) to (4), (c), (d), (g), (h), and (i)(1), (2), (5).

1965—Subsec. (f). Pub. L. 89–117, struck out cl. (1) of the first sentence which provided that all references in section 1713(k) of this title to the ''Housing Fund'' shall be construed to refer to the ''War Housing Insurance Fund'' and redesignated cls. (2), (3), and (4) thereof as cls. (1), (2), and (3), respectively.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

1948—Subsec. (b). Act Aug. 10, 1948, § 101(d)(1), (2), struck out par. (1) and inserted new par. (1), and struck out first two sentences of par. (4) and inserted two new sentences.

Subsec. (f). Act Aug. 10, 1948, § 101(d)(3), inserted last sentence.

Subsec. (i). Act Aug. 10, 1948, § 101(d)(4), added subsec. (i).

CROSS REFERENCES

Administrative procedure, functions conferred hereunder not included as agency action, see section 551 of Title 5, Government Organization and Employees.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1738 of this title; title 5 sections 551, 701.

§ 1745. Insurance of mortgages on sales of Government housing; limits and conditions; Greenbelt towns; State housing

Notwithstanding any of the provisions of this subchapter, the Secretary is authorized, upon application by the mortgagee, to insure or to make commitments to insure under section 1738 or section 1743 of this title any mortgage executed in connection with the sale by the Government, or any agency or official thereof, of any housing acquired or constructed under Public Law 849, Seventy-sixth Congress, as amended; Public Law 781, Seventy-sixth Congress, as amended; or Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended (including any property acquired, held or constructed in connection with such housing or to serve the inhabitants thereof), without regard to—

(1) any limit as to the time when any mortgage may be insured under this subchapter;

(2) any limit as to the aggregate amount of principal obligations of all mortgages insured under this subchapter, but the aggregate amount of principal obligations of all mortgages insured pursuant to this section shall not exceed $750,000,000;

(3) any requirement that the obligation be approved for mortgage insurance prior to the beginning of construction or that the construction be new construction;

(4) any of the provisions of subsections (b)(2) or (b)(5) of section 1738 of this title or para-

graphs (B) and (C) of the first sentence of section 1743(b)(3) of this title:

Provided, That such mortgage shall (1) otherwise be eligible for insurance under section 1738 or section 1743 of this title as the case may be, (2) have a maturity not exceeding twenty-five years from the date of insurance, (3) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not exceeding 90 per centum of the appraised value of the mortgage property as determined by the Secretary, and (4) bear interest (exclusive of premium charges) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time if such mortgage covers property on which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, irrespective of whether such dwelling or dwellings have a party wall or are otherwise physically connected with another dwelling or dwellings, or bear interest at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time if such mortgage covers property upon which there is located a dwelling or dwellings designed principally for residential use for more than four families.

The Secretary is further authorized to insure or to make commitments to insure in accordance with the provisions of this section any mortgage executed in connection with the sale by the Secretary, or by any public housing agency with the approval of the Secretary, of any housing (including any property acquired, held, or constructed in connection with such housing or to serve the inhabitants thereof) owned or financially assisted pursuant to the provisions of Public Law 671, Seventy-sixth Congress.

The Secretary is further authorized to insure or to make commitments to insure in accordance with the provisions of this section any mortgage executed in connection with the sale by the Government, or any agency or official thereof, of any of the so-called Greenbelt towns, or parts thereof, including projects, or parts thereof, known as Greenhills, Ohio; Greenbelt, Maryland; and Greendale, Wisconsin, developed under the Emergency Relief Appropriation Act of 1935, or of any of the village properties under the jurisdiction of the Tennessee Valley Authority, and any mortgage executed in connection with the first resale, within two years from the date of its acquisition from the Government, of any portion of a project or property of the character described in this section.

The Secretary is further authorized to insure or to make commitments to insure under section 1743 of this title in accordance with the provisions of this section any mortgage executed in connection with the sale by a State or municipality, or an agency, instrumentality, or body politic of either, of any permanent housing (including any property acquired, held, or constructed in connection therewith or to serve the inhabitants thereof), constructed by or on behalf of such State, municipality, agency, instrumentality or body politic, for the occupancy of veterans of World War II, their families, and others: *Provided*, That the principal obligation of any such mortgage does not exceed either 85 per centum of the appraised value of the mortgage property as determined by the Secretary or $8,100 per family unit for such part of such property as may be attributable to dwelling use.

(June 27, 1934, ch. 847, title VI, §610, as added Aug. 5, 1947, ch. 495, §2, 61 Stat. 777; amended Aug. 10, 1948, ch. 832, title I, §101(e), 62 Stat. 1270; Apr. 20, 1950, ch. 94, title I, §§120, 122, 64 Stat. 58, 59; July 14, 1952, ch. 723, §14, 66 Stat. 605; May 25, 1967, Pub. L. 90–19, §1(a)(3), (*o*), 81 Stat. 17, 19.)

REFERENCES IN TEXT

Public Law 849, Seventy-sixth Congress, as amended, referred to in text, is act Oct. 14, 1940, ch. 862, 54 Stat. 1125, as amended, known as the ''Lanham Public War Housing Act'', which is classified generally to subchapters II to VII (§§1521 et seq., 1531 et seq., 1541 et seq., 1561 et seq., 1571 et seq., and 1581 et seq.) of chapter 9 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 1501 of Title 42 and Tables.

Public Law 781, Seventy-sixth Congress, as amended, referred to in text, is the Second Supplemental National Defense Appropriation Act, 1941, act Sept. 9, 1940, ch. 717, 54 Stat. 872. Section 201 thereof appropriated $100,000,000 to the President for allocation to the former ''War'' Department, and to the Navy Department, for the construction of housing necessary to the national defense program. This provision was not classified to the code.

Public Laws 9, 73, or 353, Seventy-seventh Congress, as amended, referred to in text, refer to the following acts, respectively: Public Law 9, Urgent Deficiency Appropriation Act, 1941, act Mar. 1, 1941, ch. 9, 55 Stat. 14; Public Law 73, Additional Urgent Deficiency Appropriation Act, 1941, act May 24, 1941, ch. 132, 55 Stat. 197; and Public Law 353, Third Supplemental National Defense Appropriation Act, 1942, act Dec. 17, 1941, ch. 591, 55 Stat. 810. These three acts appropriated a total of $320,000,000 to the President for the purpose of providing housing necessary because of national defense activities and conditions arising out of World War II. These provisions were not classified to the code, although all three acts are cited in a ''Prior Additional Appropriations'' note under section 1523 of Title 42, The Public Health and Welfare.

Public Law 671, Seventy-sixth Congress, referred to in text, is act June 28, 1940, ch. 440, 54 Stat. 676, as amended. Provisions of the Act relating to housing are contained in title II, which is classified generally to subchapter I (§1501 et seq.) of chapter 9 of Title 42. For complete classification of this Act to the Code, see Tables.

The Emergency Relief Appropriation Act of 1935, referred to in text, is Joint Res. Apr. 8, 1935, ch. 48, 49 Stat. 115. It was a temporary legislation, and was formerly set out in a note in former chapter 16 of Title 15, Commerce and Trade. See notes under sections 721 to 728 of that title.

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing, and ''Secretary'' for ''Public Housing Administration'' and ''said Administration'' in second par., respectively.

1952—Act July 14, 1952, inserted last par.

1950—Act Apr. 20, 1950, §120, made the insurance authority of this section applicable to sale by the Public Housing Administration, or any public housing agency, of any housing owned or financially assisted pursuant to the provisions of sections 1501 to 1505 of Title 42. The Public Health and Welfare, which provided for the construction of war housing out of prior authorizations for low-rent public housing on the condition that such housing would be converted to low-rent use after termination of its use for war housing.

Act Apr. 20, 1950, § 122, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

1948—Act Aug. 10, 1948, inserted last par. relating to the Greenbelt towns.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1738 of this title.

§ 1746. Insurance on mortgages on large-scale housing projects

(a) Additional authorization; encouragement of cost-reduction techniques; advances

In addition to mortgages insured under other sections of this subchapter, and in order to assist and encourage the application of cost-reduction techniques through large-scale modernized site construction of housing and the erection of houses produced by modern industrial processes, the Secretary is authorized to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) Eligibility requirements

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) cover property, held by a mortgagor approved by the Secretary, upon which there is to be constructed or erected dwelling units for not less than twenty-five families consisting of a group of single-family dwellings approved by the Secretary for mortgage insurance prior to the beginning of construction: *Provided*, That during the course of construction there may be located upon the mortgaged property a plant for the fabrication or storage of such dwellings or sections or parts thereof, and the Secretary may consent to the removal or release of such plant from the lien of the mortgage upon such terms and conditions as he may approve;

(3) involve a principal obligation in an amount—

(A) not to exceed 85 per centum of the amount which the Secretary estimates will be the value of the completed property or project, exclusive of any plant of the character described in paragraph (2) of this subsection located thereon, and

(B) not to exceed a sum computed on the individual dwellings comprising the total project as follows: $5,950 or 85 per centum of the valuation, whichever is the lower amount, with respect to each single-family dwelling: *Provided*, That if the Secretary finds that it is not feasible, within the dollar amount limitation in this clause on the principal obligation of the mortgage, to construct dwellings containing three or four bedrooms without sacrifice of sound standards of construction, design, and livability, he may increase such dollar amount limitation by not exceeding $850 for each additional bedroom (as defined by the Secretary) in excess of two contained in each such dwelling if he finds that such dwelling meets sound standards of design and livability as a three-bedroom unit or a four-bedroom unit, as the case may be, but the amount computed under this clause for each such dwelling shall not exceed, in any event, $7,650.

With respect to the insurance of advances during construction, the Secretary is authorized to approve advances by the mortgagee to cover the cost of materials delivered upon the mortgaged property and labor performed in the fabrication or erection thereof;

(4) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe and shall bear interest (exclusive of premium charges for insurance) as not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time: *Provided*, That the Secretary with the approval of the Secretary of the Treasury, may prescribe by regulation a higher maximum rate of interest, not exceeding 4½ per centum per annum on the amount of the principal obligation outstanding at any time, if he finds that the mortgage market demands it. 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 the mortgage may provide that, upon the completion of the construction of the project, such mortgage may be replaced by individual mortgages covering each individual dwelling in the project. Each such individual mortgage may be insured under this section with the mortgagor being either the builder who constructed the dwellings or the owner and occupant of the dwelling at the time, and where the mortgagor is the owner and occupant, may involve a principal obligation in such amount and have such maturity and interest rate as a mortgage eligible for insurance under section 1709(b)(2)(D) of this title.

(c) Preferences in occupancy for veterans and hardship cases

Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families and for hardship cases as defined by the Secretary shall be provided under such regulations and procedures as may be prescribed by the Secretary.

(d) Applicability of other provisions

The provisions of subsections (c), (d), (e), and (f) of section 1743 of this title shall be applicable to mortgages insured under this section covering a project described in subsection (b) of this section, and the provisions of subsections (a) to (f), and (h) of section 1739 of this title shall be applicable to the individual mortgages insured pursuant to subsection (b)(4) of this section covering individual dwellings in the project.

(June 27, 1934, ch. 847, title VI, § 611, as added Aug. 10, 1948, ch. 832, title I, § 101(f), 62 Stat. 1271; amended Apr. 20, 1950, ch. 94, title I, §§ 121, 122, 64 Stat. 58, 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

Section 1709(b)(2)(D) of this title, referred to in subsec. (b)(4), is a reference to subsec. (b)(2)(D) of section

1709 prior to amendment by section 104 of act Aug. 2, 1954, ch. 649, 68 Stat. 590.

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (b), and (c).

1950—Act Apr. 20, 1950, §122, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

Subsec. (b)(3). Act Apr. 20, 1950, §121(1), (2), substituted ''85'' for ''80'' in cl. (A), and inserted entirely new material in cl. (B).

Subsec. (b)(4). Act Apr. 20, 1950, §121(2), inserted '', and the mortgage may provide that, upon the completion of the construction of the project, such mortgage may be replaced by individual mortgages covering each individual dwelling in the project. Each such individual mortgage may be insured under this section with the mortgagor being either the builder who constructed the dwellings or the owner and occupant of the dwelling at the time, and where the mortgagor is the owner and occupant, may involve a principal obligation in such amount and have such maturity and interest rate as a mortgage eligible for insurance under section 1709(b)(2)(D) of this title''.

Subsec. (d). Act Apr. 20, 1950, §121(3), inserted ''covering a project described in subsection (b) of this section, and the provisions of subsections (a) to (f), and (h) of section 1739 of this title shall be applicable to the individual mortgages insured pursuant to subsection (b)(4) of this section covering individual dwellings in the project''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1709, 1738, 1747h of this title.

§1746a. Termination of commitment authority under this subchapter

Notwithstanding any other provision of this subchapter, no mortgage or loan shall be insured under any section of this subchapter after August 2, 1954 except pursuant to a commitment to insure issued on or before such date.

(June 27, 1934, ch. 847, title VI, §612, as added Aug. 2, 1954, ch. 649, title I, §127, 68 Stat. 609.)

SUBCHAPTER VII—INSURANCE FOR INVESTMENTS IN RENTAL HOUSING FOR FAMILIES OF MODERATE INCOME

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1715c, 1731a, 1731b, 1735f–8 of this title.

§1747. Purpose of subchapter; authorization; terms and conditions; expiration of insurance contract

The purpose of this subchapter is to supplement the existing systems of mortgage insurance for rental housing under this chapter by a special system of insurance designed to encourage equity investment in rental housing at rents within the capacity of families of moderate income. To effectuate this purpose, the Secretary is authorized, upon application by the investor, to insure as hereinafter provided, and, prior to the execution of insurance contracts and upon such terms as the Secretary shall prescribe, to make commitments to insure, the minimum annual amortization charge and an annual return on the outstanding investment of such investor in any project which is eligible for insurance as hereinafter provided in an amount (herein called the ''insured annual return'') equal to such rate of return, not exceeding 2¾ per centum per annum, on such outstanding investment as shall, after consultation with the Secretary of the Treasury, be fixed in the insurance contract or in the commitment to insure: *Provided*, That any insurance contract made pursuant to this subchapter shall expire as of the first day of the operating year for which the outstanding investment amounts to not more than 10 per centum of the established investment.

(June 27, 1934, ch. 847, title VII, §701, as added Aug. 10, 1948, ch. 832, title IV, §401, 62 Stat. 1276; amended Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Sept. 23, 1959, Pub. L. 86–372, title I, §118, 73 Stat. 664; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1959—Pub. L. 86–372 struck out provisions which limited the aggregate amount of contingent liabilities outstanding at any one time under insurance contracts and commitments to insure made pursuant to this subchapter to not more than $1,000,000,000.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

SEPARABILITY

Section 505 of act Aug. 10, 1948, provided that: ''Except as may be otherwise expressly provided in this Act [sections 1701c, 1701e to 1701g–3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746 and 1747 to 1747*l* 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], 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 person 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, 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.''

INCONSISTENT PROVISIONS

Section 504 of act Aug. 10, 1948, provided that: ''Insofar as the provisions of any other law are inconsistent with the provisions of this Act [sections 1701c, 1701e to 1701g–3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746 and 1747 to 1747*l* 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], the provisions of this Act shall be controlling.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1747*l* of this title.

§1747a. Eligibility for insurance

(a) To be eligible for insurance under this subchapter, a project shall meet the following conditions:

(1) The Secretary shall be satisfied that there is, in the locality or metropolitan area

of such project, a need for new rental dwellings at rents comparable to the rents proposed to be charged for the dwellings in such project.

(2) Such project shall be economically sound, and the dwellings in such project shall be acceptable to the Secretary as to quality, design, size, and type.

(b) Any insurance contract executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the project and the investor for such insurance, and the validity of any insurance contract so executed shall be incontestable in the hands of an investor from the date of the execution of such contract, except for fraud or misrepresentation on the part of such investor.

(c) After completion of the project the investor must establish in a manner satisfactory to the Secretary that the project is free and clear of liens and that there are no other outstanding unpaid obligations contracted in connection with the construction of the project, except taxes and such other liens and obligations as may be approved or prescribed by the Secretary. Debentures issued by the investor which are payable out of net income from the project and from the benefits of the insurance contract shall not be construed as ''unpaid obligations'' as such term is used in this subsection.

(June 27, 1934, ch. 847, title VII, § 702, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, § 609(a), 65 Stat. 316; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a)(1), (2), (b), and (c).

1951—Subsec. (c). Act Sept. 1, 1951, added subsec. (c).

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§ 1747b. Premium charges; fees for examination and inspection

(a) For insurance granted pursuant to this subchapter the Secretary shall fix and collect a premium charge in an amount not exceeding one-half of 1 per centum of the outstanding investment for the operating year for which such premium charge is payable without taking into account the excess earnings, if any, applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment. Such premium charge shall be payable annually in advance by the investor, either in cash or in debentures issued by the Secretary under this subchapter at par plus accrued interest: *Provided*, That, if in any operating year the gross income shall be less than the operating expenses, the premium charge payable during such operating year shall be waived, but only to the extent of the amount of the difference between such expenses and such income and subject to subsequent payment out of any excess earnings as hereinafter provided.

(b) With respect to any project offered for insurance under this subchapter, the Secretary is authorized to charge and collect reasonable fees for examination, and for inspection during the construction of the project: *Provided*, That such fees shall not aggregate more than one-half of 1 per centum of the estimated investment.

(June 27, 1934, ch. 847, title VII, § 703, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1277; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a) and (b).

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1747*l* of this title.

§ 1747c. Rent schedules

The Secretary shall require that the rents for the dwellings in any project insured under this subchapter shall be established in accordance with a rent schedule approved by the Secretary, and that the investor shall not charge or collect rents for any dwellings in the project in excess of the appropriate rents therefor as shown in the latest rent schedule approved pursuant to this section. Prior to approving the initial or any subsequent rent schedule pursuant to this section, the Secretary shall find that such schedule affords reasonable assurance that the rents to be established thereunder are (1) not lower than necessary, together with all other income to be derived from or in connection with the project, to produce reasonably stable revenues sufficient to provide for the payment of the operating expenses, the minimum annual amortization charge, and the minimum annual return; and (2) not higher than necessary to meet the need for dwellings for families of moderate income.

(June 27, 1934, ch. 847, title VII, § 704, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1277; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§ 1747d. Excess earnings used for amortization of original investment

For all of the purposes of any insurance contract made pursuant to this subchapter, 50 per centum of the excess earnings, if any, for any operating year may be applied, in addition to the minimum annual return, to return on the outstanding investment but only to the extent that such application thereof does not result in an annual return of more than 5 per centum of the outstanding investment for such operating year, and the balance of any such excess earnings shall be applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment: *Provided*, That if in any preceding operating years the gross income shall have been less than the oper-

ating expenses, such excess earnings shall be applied to the extent necessary in whole or in part, first, to the reimbursement of the amount of the difference between such expenses (exclusive of any premium charges previously waived hereunder) and such income, and, second, to the payment of any premium charges previously waived hereunder.

(June 27, 1934, ch. 847, title VII, §705, as added Aug. 10, 1948, ch. 832, title IV, §401, 62 Stat. 1277.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1747*l* of this title.

§1747e. Financial statements by Secretary

With respect to each project insured under this subchapter, the Secretary shall provide that, after the close of each operating year, the investor shall submit to him for approval a financial and operating statement covering such operating year. If any such financial and operating statement shall not have been submitted or, for proper cause, shall not have been approved by the Secretary, payment of any claim submitted by the investor may, at the option of the Secretary, be withheld, in whole or in part, until such statement shall have been submitted and approved.

(June 27, 1934, ch. 847, title VII, §706, as added Aug. 10, 1948, ch. 832, title IV, §401, 62 Stat. 1278; amended Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§1747f. Payment of claims; assignment of benefits by investors

If in any operating year the net income of a project insured under this subchapter is less than the aggregate of the minimum annual amortization charge and the insured annual return, the Secretary, upon submission by the investor of a claim for the payment of the amount of the difference between such net income and the aggregate of the minimum annual amortization charge and the insured annual return and after proof of the validity of such claim, shall pay to the investor, in cash from the General Insurance Fund, the amount of such difference, as determined by the Secretary, but not exceeding, in any event, an amount equal to the aggregate of the minimum annual amortization charge and the insured annual return. Nothing contained in this subchapter or any other provision of law shall be construed as preventing or restricting an investor from assigning, pledging, or otherwise transferring or disposing of, subject to rules and regulations of the Secretary, any or all rights, claims, or other benefits under any insurance contract made pursuant to this subchapter to an assignee, pledgee, or other transferee, including the holders (or the trustee for such holders) of any debentures issued by the investor in connection with the project to which such insurance contract relates, and the Secretary is authorized to pay claims or issue debentures in accordance with the provisions of this section and section 1747g of this title to any such assignee, pledgee, or other transferee.

(June 27, 1934, ch. 847, title VII, §707, as added Aug. 10, 1948, ch. 832, title IV, §401, 62 Stat. 1278; amended Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, §609(b), 65 Stat. 316; Aug. 10, 1965, Pub. L. 89–117, title XI, §1108(s), 79 Stat. 506; May 25, 1967, Pub. L. 90–19, §1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1965—Pub. L. 89–117 substituted ''General Insurance Fund'' for ''Housing Investment Insurance Fund''.

1951—Act Sept. 1, 1951, inserted second sentence.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§1747g. Debentures

(a) Acquisition of project by Secretary; issuance of debentures

If the aggregate of the amounts paid to the investor pursuant to section 1747f of this title with respect to a project insured under this subchapter shall at any time equal or exceed 15 per centum of the established investment, the Secretary thereafter shall have the right, after written notice to the investor of his intentions so to do, to acquire, as of the first day of any operating year, such project in consideration of the issuance and delivery to the investor of debentures having a total face value equal to 90 per centum of the outstanding investment for such operating year. In any such case the investor shall be obligated to convey to said Secretary title to the project which meets the requirements of the rules and regulations of the Secretary in force at the time the insurance contract was executed and which is evidenced in the manner prescribed by such rules and regulations, and, in the event that the investor fails so to do, said Secretary may, at his option, terminate the insurance contract.

(b) Relinquishment of project by investor

If in any operating year the aggregate of the differences between the operating expenses (exclusive of any premium charges previously waived hereunder) and the gross income for the preceding operating years, less the aggregate of any deficits in such operating expenses reimbursed from excess earnings as hereinbefore provided, shall at any time equal or exceed 5 per centum of the established investment, the investor shall thereafter have the right, after written notice to the Secretary of his intention so to do, to convey to the Secretary, as of the first day of any operating year, title to the project which meets the requirements of the rules and regulations of the Secretary in force at the time the insurance contract was executed and which is evidenced in the manner prescribed by such rules and regulations, and to receive from the

Secretary debentures having a total face value equal to 90 per centum of the outstanding investment for such operating year.

(c) Adjustment of difference between outstanding investment and total face value of debentures

Any difference, not exceeding $50, between 90 per centum of the outstanding investment for the operating year in which a project is acquired by the Secretary pursuant to this section and the total face value of the debentures to be issued and delivered to the investment pursuant to this section shall be adjusted by the payment of cash by the Secretary to the investor from the General Insurance Fund.

(d) Termination of insurance contract by Secretary

Upon the acquisition of a project by the Secretary pursuant to this section, the insurance contract shall terminate.

(e) Issuance and execution of debentures

Debentures issued under this subchapter to any investor shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, and shall be negotiable. Such debentures shall be dated as of the first day of the operating year in which the project for which such debentures were issued was acquired by the Secretary, shall bear interest at a rate to be determined by the Secretary, with the approval of the Secretary of the Treasury, at the time the insurance contract was executed, but not to exceed 2¾ per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature on the 1st day of July in such calendar year or years, not later than the fortieth following the date of the issuance thereof, as shall be determined by the Secretary and stated on the face of such debentures.

(f) Terms and conditions of debentures

Such debentures shall be in such form and in such denominations in multiples of $50, shall be subject to such terms and conditions, and may include such provisions of redemption as shall be prescribed by the Secretary, with the approval of the Secretary of the Treasury, and may be issued in either coupon or registered form.

(g) Exemption from taxation; exceptions; guaranty

Such 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 any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, shall be payable out of the General Insurance Fund, which shall be primarily liable therefor, and shall be fully and unconditionally guaranteed, as to both the principal thereof and the interest thereon, by the United States, and such guaranty shall be expressed on the face thereof. In the event that the General Insurance Fund fails to pay upon demand, when due, the principal of or the 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.

(h) Payment of expenses and charges; collection 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 have power, for the protection of the General Insurance Fund, to pay out of said 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, in whole or in part, any project acquired pursuant to this subchapter; and, notwithstanding any other provisions of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by, or assigned or transferred to, him in connection with the acquisition or disposal of any project pursuant to this subchapter: *Provided*, That section 5 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 any project acquired pursuant to this subchapter if the amount of such purchase or contract does not exceed $1,000.

(June 27, 1934, ch. 847, title VII, § 708, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1278; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(t), 79 Stat. 506; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Subsecs. (a) to (f), (h). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1965—Subsecs. (c), (e), (g), (h). Pub. L. 89–117 substituted ''General Insurance Fund'' for ''Housing Investment Insurance Fund'' wherever appearing.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1747f, 1747h of this title.

§ 1747h. Termination of insurance contract by investor

The investor, after written notice to the Secretary of his intention so to do, may terminate, as of the close of any operating year, any insurance contract made pursuant to this subchapter. The Secretary shall prescribe the events and conditions under which said Secretary shall have the option to terminate any insurance contract made pursuant to this subchapter, and the events and conditions under which said Secretary may reinstate any insurance contract terminated pursuant to this section or section

1747g(a) of this title. If any insurance contract is terminated pursuant to this section, the Secretary may require the investor to pay 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 which such investor otherwise would have been required to pay if such insurance contract had not been so terminated.

(June 27, 1934, ch. 847, title VII, § 709, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1280; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§ 1747i. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VII, § 710, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1280; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59, created the Housing Investment Insurance Fund, provided for the transfer of funds thereto, and authorized the payment of claims and the issue and cancellation of debentures.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1747j. Taxation of real property

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 VII, § 711, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1281; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§ 1747k. Rules and regulations

The Secretary may make such rules and regulations as may be necessary or desirable to carry out the provisions of this subchapter, including, without limiting the foregoing, rules and regulations relating to the maintenance by the investor of books, records, and accounts with respect to the project and the examination of such books, records, and accounts by representatives of the Secretary; the submission of financial and operating statements and the approval thereof; the submission of claims for payments under insurance contracts, the proof of the validity of such claims, and the payment or disallowance thereof; the increase of the established investment if the investor shall make capital improvements or additions to the project; the decrease of the established investment if the investor shall sell part of the project; and the reduction of the outstanding investment for the appropriate operating year or operating years pending the restoration of dwelling or nondwelling facilities damaged by fire or other casualty. With respect to any investor which is subject to supervision or regulation by a State banking, insurance, or other State department or agency, the Secretary may, in carrying out any of his supervisory and regulatory functions with respect to projects insured under this subchapter, utilize, contract with, and act through, such department or agency and without regard to section 5 of title 41.

(June 27, 1934, ch. 847, title VII, § 712, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1281; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

§ 1747*l*. Definitions

The following terms shall have the meanings, respectively, ascribed to them below, and, unless the context clearly indicates otherwise, shall include the plural as well as the singular number:

(a) ''Investor'' shall mean (1) any natural person; (2) any group of not more than ten natural persons; (3) any corporation, company, association, trust, or other legal entity; or (4) any combination of two or more corporations, companies, associations, trusts, or other legal entities, having all the powers necessary to comply with the requirements of this subchapter, which the Secretary (i) shall find to be qualified by business experience and facilities, to afford assurance of the necessary continuity of long-term investment, and to have available the necessary capital required for long-term investment in the project, and (ii) shall approve as eligible for insurance under this subchapter.

(b) ''Project'' shall mean a project (including all property, real and personal, contracts, rights, and choses in action acquired, owned, or held by the investor in connection therewith) of an investor designed and used primarily for the purpose of providing dwellings the occupancy of which is permitted by the investor in consideration of agreed charges: *Provided*, That nothing in this subchapter shall be construed as prohibiting the inclusion in a project of such stores, offices, or other commercial facilities, recreational or community facilities, or other nondwelling facilities as the Secretary shall determine to be necessary or desirable appurtenances to such project.

(c) ''Estimated investment'' shall mean the estimated cost of the development of the project, as stated in the application submitted to the Secretary for insurance under this subchapter.

(d) ''Established investment'' shall mean the amount of the reasonable costs, as approved by the Secretary, incurred by the investor in, and necessary for, carrying out all works and undertakings for the development of a project and shall include the premium charge for the first operating year and the cost of all necessary sur-

veys, plans and specifications, architectural, engineering, or other special services, land acquisition, site preparation, construction, and equipment; a reasonable return on the funds of the investor paid out in the course of the development of the project, up to and including the initial occupancy date; necessary expenses in connection with the initial occupancy of the project; and the cost of such other items as the Secretary shall determine to be necessary for the development of the project, (1) less the amount by which the rents and revenues derived from the project up to and including the initial occupancy date exceeded the reasonable and proper expenses, as approved by the Secretary, incurred by the investor in, and necessary for, operating and maintaining said project up to and including the initial occupancy date, or (2) plus the amount by which such expenses exceeded such rents and revenues, as the case may be.

(e) ''Physical completion date'' shall mean the last day of the calendar month in which the Secretary determines that the construction of the project is substantially completed and substantially all of the dwellings therein are available for occupancy.

(f) ''Initial occupancy date'' shall mean the last day of the calendar month in which 90 per centum in number of the dwellings in the project on the physical completion date shall have been occupied, but shall in no event be later than the last day of the sixth calendar month next following the physical completion date.

(g) ''Operating year'' shall mean the period of twelve consecutive calendar months next following the initial occupancy date and each succeeding period of twelve consecutive calendar months, and the period of the first twelve consecutive calendar months next following the initial occupancy date shall be the first operating year.

(h) ''Gross income'' for any operating year shall mean the total rents and revenues and other income derived from, or in connection with, the project during such operating year.

(i) ''Operating expenses'' for any operating year shall mean the amounts, as approved by the Secretary, necessary to meet the reasonable and proper costs of, and to provide for, operating and maintaining the project, and to establish and maintain reasonable and proper reserves for repairs, maintenance, and replacements, and other necessary reserves during such operating year, and shall include necessary expenses for real estate taxes, special assessments, premium charges made pursuant to this subchapter, administrative expenses, the annual rental under any lease pursuant to which the real property comprising the site of the project is held by the investor, and insurance charges, together with such other expenses as the Secretary shall determine to be necessary for the proper operation and maintenance of the project, but shall not include income taxes.

(j) ''Net income'' for any operating year shall mean gross income remaining after the payment of the operating expenses.

(k) ''Minimum annual amortization charge'' shall mean an amount equal to 2 per centum of the established investment, except that, in the case of a project where the real property comprising the site thereof is held by the investor under a lease, if (notwithstanding the proviso of section 1747b(a) of this title) the gross income for any operating year shall be less than the amount required to pay the operating expenses (including the annual rental under such lease), the minimum annual amortization charge for such operating year shall mean an amount equal to 2 per centum of the established investment plus the amount of the annual rental under such lease to the extent that the same is not paid from the gross income.

(*l*) ''Annual return'' for any operating year shall mean the net income remaining after the payment of the minimum annual amortization charge.

(m) ''Insured annual return'' shall have the meaning ascribed to it in section 1747 of this title.

(n) ''Minimum annual return'' for any operating year shall mean an amount equal to 3½ per centum of the outstanding investment for such operating year or such lesser amount as shall be agreed upon by the investor and the Secretary.

(*o*) ''Excess earnings'' for any operating year shall mean the net income derived from a project in excess of the minimum annual amortization charge and the minimum annual return and income taxes.

(p) ''Outstanding investment'' for any operating year shall mean the established investment, less an amount equal to (1) the aggregate of the minimum annual amortization charge for each preceding operating year, plus (2) the aggregate of the excess earnings, if any, during each preceding operating year applied, in addition to the minimum annual amortization charge, to amortization in accordance with the provisions of section 1747d of this title.

(q) ''State'' shall include the several States and Puerto Rico, the District of Columbia, Guam, and the Virgin Islands.

(June 27, 1934, ch. 847, title VII, § 713, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1281; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, §§ 610, 612, 65 Stat. 316; July 14, 1952, ch. 723, § 10(a)(4), 66 Stat. 603; June 25, 1959, Pub. L. 86–70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86–624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a) to (e), (i), and (n).

1960—Subsec. (q). Pub. L. 86–624 struck out ''Hawaii,'' before ''Puerto Rico''.

1959—Subsec. (q). Pub. L. 86–70 struck out ''Alaska,'' before ''Hawaii''.

1952—Subsec. (q). Act July 14, 1952, added subsec. (q).

1951—Subsec. (n). Act Sept. 1, 1951, § 610, inserted ''or such lesser amount as shall be agreed upon by the investor and the Commissioner''.

Subsec. (*o*). Act Sept. 1, 1951, § 612, inserted ''and income taxes''.

1950—Act Apr. 20, 1950, substituted ''Commissioner'' for ''Administrator'' wherever appearing.

SUBCHAPTER VIII—ARMED SERVICES HOUSING MORTGAGE INSURANCE

AMENDMENTS

1955—Act Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646, substituted ''ARMED SERVICES'' for ''MILI-

TARY'' and inserted ''MORTGAGE'' in subchapter heading.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1715f, 1717, 1731a, 1735f–8, 1743 of this title; title 42 sections 1594, 1594a, 1594e, 1594f.

§ 1748. Definitions

As used in this subchapter—

(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 for a period of not less than fifty years to run from the date the mortgage was executed; 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, 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 ''housing accommodations'' means housing designed for occupancy by military personnel and their dependents, assigned to duty at or near the military installation where such housing units are constructed.

(e) The term ''personnel'' shall include military and civilian personnel approved by the Secretary of Defense, or his designee, and the dependents of all such personnel.

(f) The term ''military'' includes Army, Navy, Marine Corps, Air Force, and Coast Guard.

(g) The term ''State'' includes the several States, and Puerto Rico, the District of Columbia, Guam, the Virgin Islands, the Canal Zone, and Midway Island.

(June 27, 1934, ch. 847, title VIII, § 801, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 570; amended July 14, 1952, ch. 723, § 10(a)(2), 66 Stat. 603; Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646; Aug. 7, 1956, ch. 1029, title V, § 501, 70 Stat. 1109; June 25, 1959, Pub. L. 86–70, § 10(a), 73 Stat. 142; July 12, 1960, Pub. L. 86–624, § 6, 74 Stat. 411; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

REFERENCES IN TEXT

For definition of Canal Zone, referred to in subsec. (g), see section 3602(b) of Title 22, Foreign Relations and Intercourse.

AMENDMENTS

1967—Subsec. (b). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

1960—Subsec. (g). Pub. L. 86–624 struck out ''Hawaii,'' before ''Puerto Rico''.

1959—Subsec. (g). Pub. L. 86–70 struck out ''Alaska,'' before ''Hawaii''.

1956—Subsec. (g). Act Aug. 7, 1956, inserted reference to Canal Zone and Midway Island.

1955—Act Aug. 11, 1955, inserted definitions of ''housing accommodations'' and ''personnel'' and included the Coast Guard in definition of ''military''.

1952—Subsec. (f). Act July 14, 1952, inserted ''Guam,'' after ''District of Columbia,''.

SAVINGS PROVISION

Section 408 of act Aug. 11, 1955, as amended by act Aug. 7, 1956, § 511, provided that: ''Notwithstanding the provisions of section 401 of this Act [amending this subchapter], the provisions of title VIII of the National Housing Act [this subchapter] in effect prior to the enactment of the Housing Amendments of 1955 [August 11, 1955] shall continue in full force and effect with respect to all mortgages insured pursuant to a certification by the Secretary of Defense or his designee made on or before June 30, 1955, and a commitment to insure issued on or before June 30, 1956 or pursuant to a certification by the Atomic Energy Commission or its designee made on or before June 30, 1956, except that the maximum dollar amount for each such mortgage shall be $12,500,000.] Nothing contained in the provisions of title VIII of the National Housing Act [this subchapter] in effect prior to August 11, 1955 or any related provision of law, shall be construed to exempt from State or local taxes or assessments the interest of a lessee from the Federal Government in or with respect to any property covered by a mortgage insured under such provisions of title VIII: *Provided*, That, no such taxes or assessments (not paid or encumbering such property or interest prior to June 15, 1956) on the interest of such lessee shall exceed the amount of taxes or assessments on other similar property of similar value, less such amount as the Secretary of Defense or his designee determines to be equal to (1) any payments made by the Federal Government to the local taxing or other public agencies involved with respect to such property, plus (2) such amount as may be appropriate for any expenditures made by the Federal Government or the lessee for the provision or maintenance of streets, sidewalks, curbs, gutters, sewers, lighting, snow removal or any other services or facilities which are customarily provided by the State, county, city, or other local taxing authority with respect to such other similar property: *And provided further*, That the provisions of this section shall not apply to properties leased pursuant to the provisions of section 805 of the National Housing Act [12 U.S.C. 1748d] as amended on or after August 11, 1955, which properties shall be exempt from State or local taxes or assessments.''

COAST GUARD

Subchapter as applicable to Coast Guard, see section 1594e of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1748h–1, 1748h–2, 3702 of this title.

§ 1748a. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VIII, § 802, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 571; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646, created the Armed Services Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1748b. Insurance of mortgages

(a) Aggregate amount of insurance; termination date

In order to assist in relieving the acute shortage and urgent need for family housing which now exists at or in areas adjacent to military installations because of uncertainty as to the permanency of such installations and to increase the supply of necessary family housing accommodations for personnel at such installations, the Secretary is authorized, upon application of

the mortgagee, to insure mortgages (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for so insuring 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 subchapter (except mortgages insured pursuant to the provisions of this subchapter in effect prior to August 11, 1955) shall not exceed $2,300,000,000: *And provided further*, That the limitation in section 1715h of this title shall not apply to this subchapter: *And provided further*, That no more mortgages shall be insured under this section after October 1, 1962, except pursuant to a commitment to insure before such date, and not more than twenty-eight thousand family housing units shall be contracted for after June 30, 1959, pursuant to any mortgage insured under this section after such date.

(b) Eligibility for insurance

To be eligible for insurance under this subchapter a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. The Secretary may, in his discretion, require such mortgagor to be regulated or restricted as to capital structure, and methods of operation. 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 regulation. 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.

(2) The mortgaged property shall be designed for use for residential purposes by personnel of the armed services and situated at or near a military installation, and the Secretary of Defense or his designee shall have certified that there is no intention, so far as can reasonably be foreseen, to substantially curtail the personnel assigned or to be assigned to such installation, and (i) shall have determined that for reasons of safety, security, or other essential military requirements, it is necessary that the personnel involved reside in public quarters: *Provided*, *however*, That for the purposes of this subsection housing covered by a mortgage insured, or for which a commitment to insure has been issued, under this section prior to August 11, 1955, may be considered the same as available quarters, and (ii) with the approval of the Secretary, shall have determined that adequate housing is not available for such personnel at reasonable rentals within reasonable commuting distance of the installation and that the mortgaged property will not, so far as can reasonably be foreseen, substantially curtail occupancy in existing housing covered by mortgages insured under this chapter. The housing accommodations shall comply with such standards and conditions as the Secretary may prescribe to establish the acceptability of such property for mortgage insurance, except that the certification of the Secretary of Defense or his designee shall (for purposes of mortgage insurance under this subchapter) be conclusive evidence to the Secretary of the existence of the need for such housing. However, if the Secretary does not concur in the housing needs as certified by the Secretary of Defense, the Secretary may require the Secretary of Defense to guarantee the General Insurance Fund against loss with respect to the mortgage covering such housing. There are authorized to be appropriated such sums as may be necessary to provide for payment to meet losses arising from such guaranty.

(3) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the cost of the property or project as such term is used in this paragraph may include the cost of the land, the physical improvements, and utilities within the boundaries of the property or project);

(B) not to exceed an average of $16,500 per family unit for such part of such property or project (including ranges, refrigerators, shades, screens, and fixtures) as may be attributable to dwelling use: *Provided*, That the replacement cost of the property or project as determined by the Secretary, including the estimated value of any usable utilities within the boundaries of the property or project where owned by the United States and not provided for out of the proceeds of the mortgage, shall not exceed an average of $16,500 per family unit: *Provided further*, That should the financing of housing to be constructed pursuant to a single invitation for bids be accomplished by two or more mortgages, the principal obligation of any single mortgage may exceed an average of $16,500 per family unit if the sum of the principal obligations of all mortgages for such housing does not exceed an average of $16,500 per family unit: *And provided further*, That subject to the limitations of this paragraph no family unit included in any mortgaged property shall be contracted for after June 8, 1960 if the cost of such unit exceeds $19,800; and

(C) not to exceed the bid of the eligible bidder with respect to the property or project under section 1594 of title 42.

The mortgage shall provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe, but not to exceed thirty years from the beginning of amortization of the mortgage, and shall bear interest (exclusive of premium charges for insurance) as not to exceed 4½ per centum per annum of the amount of the principal obligation outstanding at any time. 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. The property or project may include such nondwell-

ing facilities as the Secretary deems adequate to serve the occupants.

(c) Premium charges

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter 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 1½ 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 subchapter 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 and such other charges as the Secretary may require, that the mortgage complies with the provisions of this subchapter, 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 subchapter is paid in full prior to the maturity date, 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. The Secretary may reduce the payment of premiums provided for herein. The Secretary is further authorized to reduce the amount of the premium charge below one-half of 1 per centum per annum with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this subchapter as in effect prior to August 11, 1955.

(d) Default by mortgagor; rights of mortgagee

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 subchapter 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 interest 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 loan 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 transaction. 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, subject to the cash adjustment provided for in subsection (e) of this section, issue to the mortgagee debentures having a total face value equal to the value of the mortgage, and a certificate of claim as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of default, the amount 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) any amount received on account of the mortgage after such date; and (ii) any net income received by the mortgagee from the property after such date.

(e) Debentures; issuance; form and denomination

Debentures issued under this subchapter 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 $50, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the General Insurance Fund.

(f) Debentures; execution; signature; negotiability; interest rate; tax exemption; guarantee

Debentures issued under this subchapter shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary, by either his written or engraved signature, and shall be negotiable. All such debentures shall be dated as of the date of default as determined in accordance with subsection (d) of this section, and shall bear interest from such date at a rate established by the Secretary pursuant to section 1715*o* 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 shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States or by the District of Columbia, 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 such guaranty shall be expressed on the face of the debentures. In the event the General Insur-

ance 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, 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.

(g) Claim certificates

The certificate of claim issued by the Secretary to any mortgagee in connection with the insurance of mortgages under this subchapter shall be for an amount determined in accordance with subsections (e) and (f) of section 1739 of this title, except that any amount remaining after the payment of the full amount under the certificate of claim shall be retained by the Secretary and credited to the General Insurance Fund.

(h) Laws applicable

The provisions of section 1713(k) and (*l*) of this title shall be applicable to mortgages insured under this subchapter and to property acquired by the Secretary hereunder, except that as applied to such mortgages and property, the reference in section 1713(k) of this title to subsection (g) shall be construed to refer to subsection (d) of this section.

(i) Secretary's additional powers to insure certain mortgages

The Secretary shall also have power to insure under this subchapter or subchapter II of this chapter any mortgage executed in connection with the sale by him of any property acquired under this subchapter without regard to any limit as to eligibility, time or aggregate amount contained in this subchapter or subchapter II of this chapter.

(j) Conclusiveness and validity of insurance contract

Any contract of insurance executed by the Secretary under this subchapter 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.

(k) Certification as to overtime wages paid to laborers and mechanics

The Secretary shall not insure any mortgage under this section unless the principal contractor or contractors engaged in the construction of the project involved file a certificate or certificates (at such times, in the course of construction or otherwise, as the Secretary may prescribe) certifying that the laborers and mechanics employed in the construction of such project have been paid not less than one and one-half times the regular rate of pay for employment in excess of eight hours in any one day or in excess of forty hours in any one week.

(June 27, 1934, ch. 847, title VIII, § 803, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 571; amended Sept. 1, 1951, ch. 378, title VI, § 601(a)–(c), 65 Stat. 312; June 30, 1953, ch. 170, § 10, 67 Stat. 124; June 29, 1954, ch. 410, § 1(2), 68 Stat. 320; Aug. 2, 1954, ch. 649, title I, §§ 112(c), 128(a), 130, 68 Stat. 593, 609; June 30, 1955, ch. 251, § 1(2), 69 Stat. 225; Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 647; Aug. 7, 1956, ch. 1029, title V, §§ 502–506(a), 70 Stat. 1109, 1110; July 12, 1957, Pub. L. 85–104, title I, § 108(c), title V, §§ 501, 502, 71 Stat. 297, 303; Apr. 1, 1958, Pub. L. 85–364, § 3(b), 72 Stat. 73; Aug. 10, 1959, Pub. L. 86–149, title IV, § 414(a), 73 Stat. 322; Sept. 23, 1959, Pub. L. 86–372, title VII, § 701, 73 Stat. 682; June 8, 1960, Pub. L. 86–500, title V, § 507(a), (c), 74 Stat. 185, 186; June 27, 1961, Pub. L. 87–57, title VI, § 607(a), 75 Stat. 111; June 30, 1961, Pub. L. 87–70, title VI, § 604(d), 75 Stat. 177; Aug. 31, 1962, Pub. L. 87–623, § 1, 76 Stat. 418; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(u), 79 Stat. 506; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (p), 81 Stat. 17, 19; Oct. 19, 1980, Pub. L. 96–470, title I, § 107(b), 94 Stat. 2238.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1980—Subsec. (b)(2). Pub. L. 96–470 struck out provision requiring the Secretary to report to the Committees on Banking and Currency of the Senate and the House of Representatives each instance in which he has required the Secretary of Defense to guarantee the General Insurance Fund and the reasons therefor.

1967—Pub. L. 90–19, § 1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a), (b)(1), (2), (3)(A), (B), following (C), and (c) to (k).

Subsec. (b)(2). Pub. L. 90–19, § 1(p)(1)–(4), substituted "Secretary of Defense" for "Secretary" in first, third, and fourth sentences.

1965—Subsecs. (b)(1), (b)(2), (e), (f), (g). Pub. L. 89–117, § 1108(u)(1), substituted "General Insurance Fund" for "Armed Services Housing Mortgage Insurance Fund" wherever appearing.

Subsec. (h). Pub. L. 89–117, § 1108(u)(2), struck out provision that, as applied to mortgages insured under this subchapter and to property acquired by the Commissioner hereunder, reference in subsecs. (k) and *(l)* of section 1713 of this title to the "Housing Fund" shall be construed to refer to the "Armed Services Housing Mortgage Insurance Fund".

1962—Subsec. (a). Pub. L. 87–623 substituted "mortgages shall be insured under this section after October 1, 1962" for "mortgages shall be insured under this subchapter after October 1, 1962".

1961—Subsec. (a). Pub. L. 87–70 made amendment identical to that made by Pub. L. 87–57.

Pub. L. 87–57 substituted "October 1, 1962" for "October 1, 1961", and "twenty-eight thousand family units" for "twenty-five thousand family housing units".

1960—Subsec. (a). Pub. L. 86–500, § 507(a), substituted "twenty-five thousand family housing units" for "twenty thousand family housing units".

Subsec. (b)(3). Pub. L. 86–500, § 507(c), inserted proviso prohibiting, subject to the limitations of par. (B), the contracting for any family unit included in any mortgaged property after June 8, 1960, if the cost of the unit exceeds $19,800.

1959—Subsec. (a). Pub. L. 86–372, § 701(a), substituted "October 1, 1961" for "September 30, 1960".

Pub. L. 86–149 inserted provisions in subsec. (a) to prohibit insurance of mortgages under this subchapter after Sept. 30, 1960, and to limit the number of housing units which may be contracted for after June 30, 1959 to not more than 20,000.

Subsec. (b)(3). Pub. L. 86–372, § 701(b), (c), substituted "but not to exceed thirty years from the beginning of amortization of the mortgage" for "have a maturity of not to exceed twenty-five years", and inserted provisions authorizing the property or project to include

such nondwelling facilities as the Commission deems adequate to serve the occupants.

Subsec. (c). Pub. L. 86–372, § 701(d), authorized the Commissioner to reduce the amount of the premium charge below one-half of 1 per centum per annum with respect to any mortgage on property acquired by the Secretary of Defense or his designee if the mortgage is insured pursuant to the provisions of this subchapter as in effect prior to August 11, 1955.

Subsec. (k). Pub. L. 86–372, § 701(e), added subsec. (k).

1958—Subsec. (b). Pub. L. 85–364 increased the maximum amount of interest from 4 to 4½ per centum per annum.

1957—Subsec. (a). Pub. L. 85–104, § 501, substituted ''June 30, 1959'' for ''June 30, 1958''.

Subsec. (b)(3)(B). Pub. L. 85–104, § 502, inserted proviso that should financing of housing to be constructed pursuant to a single invitation for bids be accomplished by two or more mortgages, any single mortgage may exceed an average of $16,500 if sum of all mortgages for such housing does not exceed average of $16,500.

Subsec. (f). Pub. L. 85–104, § 108(c), substituted, in second sentence, ''established by the Commissioner pursuant to section 1715*o* of this title'' for ''determined by the Commissioner with the approval of the Secretary of the Treasury, at the time the mortgage was accepted for insurance, but not to exceed 3 per centum per annum''.

1956—Subsec. (a). Act Aug. 7, 1956, §§ 502, 503, inserted ''(except mortgages insured pursuant to the provisions of this subchapter in effect prior to August 11, 1955)'' and substituted ''$2,300,000'' for ''$1,363,500,000'' in first proviso and ''June 30, 1958'' for ''September 30, 1956'' in third proviso.

Subsec. (b)(2). Act Aug. 7, 1956, § 504, required approval of Commissioner, with determination of Secretary, that new units will not substantially curtail occupancy in existing houses covered by mortgages insured under this chapter, and provided that if Commissioner requires Secretary to guarantee the armed services housing mortgages insurance fund from loss, he shall report to the Committees on Banking and Currency of the Senate and House of Representatives each instance in which he required such a guarantee.

Subsec. (b)(3)(B). Act Aug. 7, 1956, § 505, substituted ''$16,500'' for ''$13,500'' in two places, and inserted ''(including ranges, refrigerators, shades, screens, and fixtures)''.

Subsec. (b)(3)(C). Act Aug. 7, 1956, § 506(a), substituted ''eligible bidder with respect to'' for ''eligible builder of''.

1955—Subsec. (a). Act Aug. 11, 1955, increased authorization from $500,000,000 to $1,363,500,000, and extended from June 30, 1955, to September 30, 1956, period within which mortgages can be insured.

Act June 30, 1955, extended termination date, with respect to authority to insure, from June 30, 1955, to July 31, 1955.

Subsec. (b). Act Aug. 11, 1955, authorized issuance of insurance for units necessary for reasons of safety, security, or other essential military requirements, or where adequate housing is not available at reasonable rentals within reasonable commuting distance, limited the amount of the mortgage to not more than the replacement cost of the property or project, restricted the amount of the mortgage to not more than an average of $13,500 for a family unit, and required the mortgage to mature in not more than 25 years.

Subsec. (c). Act Aug. 11, 1955, struck out authorization of Commissioner to require payment by mortgagee of an adjusted premium charge in event that principal obligation of mortgage is paid in full prior to maturity date.

Subsec. (d). Act Aug. 11, 1955, struck out provisions which authorized mortgagee to proceed to foreclose mortgage in event of a default, and which granted mortgagee right to elect benefits of insurance when the United States acquires, or commences condemnation proceedings to acquire, all or a substantial part, of mortgaged property.

Subsecs. (e) to (h). Act Aug. 11, 1955, substituted ''Armed Services Housing Mortgage Insurance Fund'' for ''Military Housing Insurance Fund,'' wherever appearing.

Subsec. (i). Act Aug. 11, 1955, struck out the power of the Commissioner to insure under subchapter VI of this chapter.

Subsec. (j). Act Aug. 11, 1955, reenacted provisions without change.

Subsec. (k). Act Aug. 11, 1955, struck out provisions which authorized utilization of the powers of the Federal National Mortgage Association and of any other Federal corporation or other Federal agency to purchase, service, or sell any mortgages, or partial interest therein.

1954—Subsec. (a). Acts Aug. 2, 1954, § 128(a), and June 29, 1954, extended termination date, with respect to authority to insure, from July 31, 1954, to June 30, 1955, and from July 1, 1954, to July 31, 1954, respectively.

Subsec. (b). Act Aug. 2, 1954, § 130, in par. immediately following subpar. (C) of par. (3) of the subsection, substituted the requirement that the mortgagor shall enter into the agreement required by section 1715r of this title for former provisions relating to certification of builders' costs, the certifications now being prescribed into section 1715r.

Subsec. (f). Act Aug. 2, 1954, § 112(c), in second sentence, substituted a twenty-year period for ten-year period, with respect to the maturity of debentures.

1953—Subsec. (a). Act June 30, 1953, § 10(a), in second proviso substituted ''July 1, 1954'' for ''July 1, 1953''.

Subsec. (b). Act June 30, 1953, § 10(b), (c), inserted par. commencing ''The mortgagor shall agree''; and, in first sentence of par. commencing ''The mortgage shall provide'', substituted ''4½ per centum'' for ''4 per centum''.

1951—Subsec. (a). Act Sept. 1, 1951, § 601(a), substituted ''July 1, 1953'' for ''July 1, 1951'' in second proviso.

Subsec. (b)(3)(C). Act Sept. 1, 1951, § 601(b), inserted proviso.

Subsec. (d). Act Sept. 1, 1951, § 601(c), inserted reference to the Atomic Energy Commission in last sentence.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by section 112(c) of act Aug. 2, 1954, as not applicable in any case where the mortgage involved was insured or the commitment for such 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.

EFFECTIVE DATE OF 1951 AMENDMENT

Act Sept. 1, 1951, § 601(a), provided that the amendment made by that section is effective July 1, 1951.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1731b, 1748h–1, 1748h–2, 1748h–3 of this title.

§ 1748c. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title VIII, § 804, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 575; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 650, provided for disposition and use of excess moneys in Armed Services Housing Mortgage Insurance Fund, issue and cancellation of debentures, and receipt and payment of credits and charges.

§ 1748d. Lease of property; terms and conditions

Whenever the Secretary of the Army, Navy, or Air Force determines that it is necessary to lease any land held by the United States on or near a military installation to effectuate the purposes of this subchapter, he may lease such land upon such terms and conditions as will, in

his opinion, best serve the national interest. The authority conferred by this section shall be in addition to and not in derogation of any other power or authority of the Secretary of the Army, Navy, or Air Force.

(June 27, 1934, ch. 847, title VIII, § 805, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651.)

AMENDMENTS

1955—Act Aug. 11, 1955, struck out specific references to sections authorizing leases of property, and struck out the power to sell, transfer, and convey real property.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1748h–1 of this title.

§ 1748e. Mortgages on property in Alaska

The second sentence of section 1715d of this title, as amended, relating to housing in the State of Alaska, shall not apply to mortgages insured under this subchapter on property in said State.

(June 27, 1934, ch. 847, title VIII, § 806, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651; June 25, 1959, Pub. L. 86–70, § 10(d), 73 Stat. 143.)

REFERENCES IN TEXT

Section 1715d of this title, referred to in text, was in the original ''section 214 of the National Housing Act, as amended''. Section 214 of that Act was classified originally to section 1715d of this title and to section 484d of Title 48, Territories and Insular Possessions. Section 484d of Title 48 has been omitted from the Code.

AMENDMENTS

1959—Pub. L. 86–70 substituted ''State'' for ''Territory'' in two places.

1955—Act Aug. 11, 1955, reenacted section without change.

§ 1748f. 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 VIII, § 807, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (q), 81 Stat. 17, 19.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' and struck out authorization for appointment by the Commissioner of a Special Assistant for Armed Services Housing for Mortgage Insurance with an adequate staff to expedite operations and eliminate administrative obstacles to this subchapter, respectively.

1955—Act Aug. 11, 1955, amended section generally, striking out provisions which stated that nothing should be construed as exempting property from taxation, and inserting provisions authorizing the Commissioner to make rules and regulations and to appoint a Special Assistant.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1748h–1, 1748h–2 of this title.

§ 1748g. Cost certification

Except in the case of mortgages on multifamily rental housing projects insured under section 1748h–2 of this title, the cost certification required under section 1715r of this title shall not be required with respect to mortgages insured under the provisions of this subchapter.

(June 27, 1934, ch. 847, title VIII, § 808, as added Aug. 8, 1949, ch. 403, § 1, 63 Stat. 576; amended Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 651; Sept. 23, 1959, Pub. L. 86–372, title VII, § 704(b), 73 Stat. 686.)

AMENDMENTS

1959—Pub. L. 86–372 substituted ''Except in the case of mortgages on multifamily rental housing projects insured under section 1748h–2 of this title, the'' for ''The''.

1955—Act Aug. 11, 1955, struck out provisions requiring cost certifications.

§§ 1748g–1, 1748h. Omitted

CODIFICATION

Section 1748g–1, act June 27, 1934, ch. 847, title VIII, § 810, as added Sept. 1, 1951, ch. 378, title VI, § 601(d), 65 Stat. 313, which related to mortgages on housing constructed for personnel of the Atomic Energy Commission, was omitted from the amendments to title VIII of act June 27, 1934, this subchapter, by act Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646.

Section 1748h, act June 27, 1934, ch. 847, title VIII, § 809, as added May 2, 1950, ch. 151, 64 Stat. 97, which related to the procurement of services of architects and engineers by the Secretaries of the Army, Navy and Air Force to effectuate the purposes of this subchapter, was omitted from the amendment to title VIII of act June 27, 1934, this subchapter, by act Aug. 11, 1955, ch. 783, title IV, § 401, 69 Stat. 646.

§ 1748h–1. Civilian employees of Armed Forces

(a) Requirements; certificate of need for housing and employment status

Notwithstanding any other provisions of this subchapter and in addition to mortgages insured under section 1748b of this title, the Secretary may insure any mortgage under this section which meets the eligibility requirements set forth in section 1709(b) of this title: *Provided*, That a mortgage insured under this section shall have been executed by a mortgagor who at the time of insurance is the owner of the property and either occupies the property or certifies that his failure to do so is the result of a change in his employment by the Armed Forces or a contractor thereof and to whom the Secretary of Defense or his designee has issued a certificate indicating that such person requires housing and is at the date of the certificate a civilian employee at a research or development installation of one of the military departments of the United States or a contractor thereof and is considered by such military department to be an essential, nontemporary employee at such date. Such certificate shall be conclusive evidence to the Secretary of the employment status of the mortgagor and of the mortgagor's need for housing.

(b) Certification of housing need to Secretary; guaranty from loss; authorization of appropriations

No mortgage shall be insured under this section unless the Secretary of Defense or his des-

ignee shall have certified to the Secretary that the housing is necessary to provide adequate housing for such civilians employed in connection with such a research or development installation and that there is no present intention to substantially curtail the number of such civilian personnel assigned or to be assigned to such installation. Such certification shall be conclusive evidence to the Secretary of the need for such housing but if the Secretary determines that insurance of mortgages on such housing is not an acceptable risk, he may require the Secretary of Defense to guarantee the General Insurance Fund from loss with respect to mortgages insured pursuant to this section: *Provided*, That the Secretary shall relieve the Secretary of Defense from any obligation to guarantee the General Insurance Fund from loss with respect to a mortgage assumed by a person ineligible to receive a certificate under subsection (a) of this section, if the original mortgagor is issued another certificate with respect to a mortgage insured under this section on property which the Secretary determines is not an acceptable risk. There are authorized to be appropriated such sums as may be necessary to provide for payment to meet losses arising from such guaranty.

(c) Economic soundness of property

The Secretary may accept any mortgage for insurance under this section without regard to any requirement in any other section of this chapter, that the project or property be economically sound or an acceptable risk.

(d) Insurance benefits to which mortgagee entitled

Any mortgagee under a mortgage insured under this section is entitled to the benefits of insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title.

(e) Payment of insurance; meaning of terms

The provisions of subsections (b), (c), (d), (e), (f), (g), (h), (j), and (k) of section 1710 of this title shall apply to mortgages insured under this section except that as applicable to those mortgages: (1) all references to the ''Fund'' or ''Mutual Mortgage Insurance Fund'' shall refer to the ''General Insurance Fund'' and (2) all references to section 1709 of this title shall refer to this section.

(f) Provisions of subchapter applicable; termination date

The provisions of sections 1748, 1748a, 1748b(c), 1748b(i), 1748b(j), 1748c(a), 1748c(b), and 1748f of this title and the provisions of section 1748b(a) of this title relating to the aggregate amount of all mortgages insured under this subchapter, shall be applicable to mortgages insured under this section.

(g) Housing for persons employed by National Aeronautics and Space Administration or Atomic Energy Commission; guaranty from loss; definitions

(1) A mortgage secured by property which is intended to provide housing for a person (i) employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration and which is located at or near such installation, or (ii) employed at any research or development installation of the Atomic Energy Commission and which is located at or near such installation, may (if the mortgage otherwise meets the requirements of this section) be insured by the Secretary under the provisions of this section. The Administrator of the National Aeronautics and Space Administration (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed or assigned to duty at any such installation of the National Aeronautics and Space Administration, or the Chairman of the Atomic Energy Commission (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed at such installation of the Atomic Energy Commission, is authorized to guarantee and indemnify the General Insurance Fund against loss to the extent required by the Secretary, in accordance with the provisions of subsection (b) of this section.

(2) For purposes of this subsection—

(i) The terms ''Armed Forces'', ''one of the military departments of the United States'', ''military department'', ''Secretary of Defense or his designee'', and ''Secretary of Defense'', when used in subsections (a) and (b) of this section, shall be deemed to refer to the National Aeronautics and Space Administration (or the Administrator thereof), or the Atomic Energy Commission (or the Chairman thereof), as may be appropriate;

(ii) The term ''Secretary of the Army, Navy, or Air Force'', when used in section 1748d of this title, shall be deemed to refer to the National Aeronautics and Space Administration or the Administrator thereof, as may be appropriate;

(iii) The terms ''civilian employee'', ''civilians'', and ''civilian personnel'', as used in this section, shall be deemed to refer to (A) employees of the National Aeronautics and Space Administration or a contractor thereof or to military personnel assigned to duty at an installation of the National Aeronautics and Space Administration, or (B) persons employed at or in connection with any research or development installation of the Atomic Energy Commission, as the case may be; and

(iv) The term ''military installation'' when used in section 1748d of this title shall be deemed to refer to an installation of the National Aeronautics and Space Administration.

(June 27, 1934, ch. 847, title VIII, §809, as added June 13, 1956, ch. 381, 70 Stat. 273; amended Sept. 23, 1959, Pub. L. 86–372, title I, §116(b), 73 Stat. 664; July 5, 1960, Pub. L. 86–578, 74 Stat. 314; Sept. 13, 1960, Pub. L. 86–774, §3, 74 Stat. 915; Aug. 31, 1962, Pub. L. 87–623, §2, 76 Stat. 418; Sept. 23, 1963, Pub. L. 88–127, §1, 77 Stat. 163; Aug. 10, 1965, Pub. L. 89–117, title II, §202(c), title XI, §1108(v), 79 Stat. 466, 506; May 25, 1967, Pub. L. 90–19, §1(a)(3), (r), 81 Stat. 17, 19; Sept. 30, 1969, Pub. L. 91–78, §2(d), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, §101(f), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91–432, §1(d), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91–473, §1(d), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91–525, §1(d), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, §§101(f), 112, 84 Stat. 1770, 1772; Oct.

18, 1972, Pub. L. 92–503, § 1(f), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(f), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(f), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title III, § 316(d), 88 Stat. 685; June 30, 1977, Pub. L. 95–60, § 1(e), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, § 1(e), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, § 301(h), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95–406, § 1(h), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, § 301(h), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, § 1(h), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, § 1(h), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, § 301(h), 93 Stat. 1112; Oct. 3, 1980, Pub. L. 96–372, § 1(h), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, § 301(h), 94 Stat. 1638; Aug. 13, 1981, Pub. L. 97–35, title III, § 331(h)(1), 95 Stat. 413; Oct. 6, 1982, Pub. L. 97–289, § 1(h), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, § 1(h), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(h), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV, § 401(g), 97 Stat. 1208; Oct. 8, 1985, Pub. L. 99–120, § 1(h)(1), 99 Stat. 503; Nov. 15, 1985, Pub. L. 99–156, § 1(h)(1), 99 Stat. 815; Dec. 26, 1985, Pub. L. 99–219, § 1(h)(1), 99 Stat. 1730; Mar. 27, 1986, Pub. L. 99–267, § 1(i)(1), 100 Stat. 74; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(h)(1), 100 Stat. 105; 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; Feb. 5, 1988, Pub. L. 100–242, title IV, § 401(a)(5), 101 Stat. 1898; Nov. 28, 1990, Pub. L. 101–625, title IX, § 952(b), 104 Stat. 4418; Oct. 28, 1992, Pub. L. 102–550, title IX, § 904(b), 106 Stat. 3868.)

References in Text

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Sections 1748a and 1748c of this title, referred to in subsec. (f), were repealed by Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507.

Prior Provisions

A prior section 809 of title VIII of act June 27, 1934, as added May 2, 1950, ch. 151, 64 Stat. 97, which related to the procurement of services of architects and engineers by the armed services to effectuate purposes of this subchapter, was classified to section 1748h of this title.

Amendments

1992—Subsec. (h). Pub. L. 102–550 struck out subsec. (h) which related to an Advanced Building Technology Program. See section 1701j–2(h) of this title.

1990—Subsecs. (h) to (j). Pub. L. 101–625, § 952(b), which directed the addition of subsec. (h) relating to an Advanced Building Technology Program and the redesignation of subsecs. (h) and (i) as (i) and (j), respectively, was executed by adding subsec. (h) because this section did not contain subsec. (h) or (i).

1988—Subsec. (f). Pub. L. 100–242 struck out ''No more mortgages shall be insured under this section after March 15, 1988, except pursuant to a commitment to insure before such date.''

1987—Subsec. (f). 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. (f). 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. (f). Pub. L. 99–219 substituted ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

1983—Subsec. (f). Pub. L. 98–181 substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

1982—Subsec. (f). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (f). Pub. L. 97–35 substituted ''1982'' for ''1981''.

1980—Subsec. (f). Pub. L. 96–399 substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372 substituted ''October 15, 1980'' for ''September 30, 1980''.

1979—Subsec. (f). Pub. L. 96–153 substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979''.

1978—Subsec. (f). Pub. L. 95–557 substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (f). Pub. L. 95–128 substituted ''September 30, 1978'' for ''September 30, 1977''.

Pub. L. 95–80 substituted ''September 30, 1977'' for ''July 31, 1977''.

Pub. L. 95–60 substituted ''July 31, 1977'' for ''June 30, 1977''.

1974—Subsec. (f). Pub. L. 93–383 substituted ''June 30, 1977'' for ''October 1, 1974''.

1973—Subsec. (f). 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. (f). Pub. L. 92–503 substituted ''June 30, 1973'' for ''October 1, 1972''.

1970—Subsec. (b). Pub. L. 91–609, § 112, inserted the proviso.

Subsec. (f). Pub. L. 91–609, § 101(f), 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''.

1969—Subsec. (f). Pub. L. 91–152 substituted ''October 1, 1970'' for ''January 1, 1970''.

Pub. L. 91–78 substituted ''January 1, 1970'' for ''October 1, 1969''.

1967—Pub. L. 90–19, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a) to (c) and (g)(1).

Subsec. (a). Pub. L. 90–19, § 1(r)(1), substituted ''Secretary of Defense'' for ''Secretary''.

Subsec. (b). Pub. L. 90–19, § 1(r)(1), (2), substituted ''Secretary of Defense'' for ''Secretary'' wherever appearing.

Subsec. (g)(2). Pub. L. 90–19, § 1(r)(3), (4), substituted ''Secretary of Defense'' for ''Secretary'' in cl. (i) and

''the National Aeronautics and Space Administration'' for ''such Administration'', wherever appearing, respectively.

1965—Subsecs. (b), (e). Pub. L. 89–117, § 1108(v), substituted ''General Insurance Fund'' for ''Armed Services Housing Mortgage Insurance Fund'' wherever appearing.

Subsec. (f). Pub. L. 89–117, § 202(c), substituted ''October 1, 1969'' for ''October 1, 1965''.

Subsec. (g). Pub. L. 89–117, § 1108(v), substituted ''General Insurance Fund'' for ''Armed Services Housing Mortgage Insurance Fund'' wherever appearing.

1963—Subsec. (f). Pub. L. 88–127, § 1(1), substituted ''October 1, 1965'' for ''October 1, 1963''.

Subsec. (g)(1). Pub. L. 88–127, § 1(2), substituted ''or in connection with any'' for ''a'', struck out requirement that such installation belong to a military department of the United States on or after June 13, 1956, before its transfer to the Administration, in cl. (i), and extended cl. (ii) to include persons at any installation of the Atomic Energy Commission instead of only the one in Los Alamos County, N. Mex.

Subsec. (g)(2)(iii). Pub. L. 88–127, § 1(3), extended cl. (B) to include persons at any installation of the Atomic Energy Commission instead of only the one in Los Alamos, N. Mex.

1962—Subsec. (f). Pub. L. 87–623 provided that no mortgages shall be insured under this section after October 1, 1963, except pursuant to a commitment before such date, and struck out ''and the expiration date of the Commissioner's authority to insure'' after ''amount of all mortgages insured''.

1960—Subsec. (g). Pub. L. 86–774 designated part of existing provisions as par. (1), inserting cl. (ii) and ''in the case of any mortgage secured by property intended to provide housing for any person employed or assigned to duty at any such installation of the National Aeronautics and Space Administration, or the Chairman of the Atomic Energy Commission (or his designee), in the case of any mortgage secured by property intended to provide housing for any person employed at such installation of the Atomic Energy Commission'' and striking out ''in the case of mortgages referred to in this subsection'' after ''subsection (b) of this section'', and designated cl. (1) as par. (2)(i) and (ii), cl. (2) as par. (2)(iii), adding subpar. (B), and cl. (3) as par. (2)(iv).

Subsec. (g). Pub. L. 86–578 added subsec. (g).

1959—Subsec. (e). Pub. L. 86–372 inserted reference to subsec. (k) to section 1710 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.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See also Transfer of Functions notes set out under those sections.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1748h–3 of this title.

§ 1748h–2. Insurance of mortgages for defense housing for impacted areas

(a) Authorization

Notwithstanding any other provision of this subchapter, the Secretary may insure and make commitments to insure any mortgage under this section which meets the eligibility requirements hereinafter set forth.

(b) Eligibility requirements

No mortgage shall be insured under this section unless (1) the housing which is covered by the insured mortgage is necessary in the interest of national security in order to provide adequate housing for (A) military personnel and essential civilian personnel serving or employed in connection with any installation of one of the armed services of the United States, or (B) essential personnel employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration or of the Atomic Energy Commission, (2) there is no present intention to curtail substantially the number of such personnel assigned or to be assigned to the installation, (3) adequate housing is not available for such personnel at reasonable rentals within reasonable commuting distances of such installation, and (4) the mortgaged property will not so far as can be reasonably foreseen substantially curtail occupancy in any existing housing in the vicinity of the installation which is covered by mortgages insured under this chapter.

(c) Economical soundness of property or project

The Secretary may accept any mortgage for insurance under this section without regard to any requirement in any other section of this chapter that the property or project be economically sound.

(d) Rental conditions; preferences and priorities in the sale or rental of dwellings

The Secretary shall require each project covered by a mortgage insured under this section to be held for rental for a period of not less than five years after the project or dwelling is made available for initial occupancy or until he finds that the housing may be released from such rental condition. The Secretary shall prescribe such procedures as in his judgment are necessary to secure reasonable preference or priority in the sale or rental of dwellings covered by a mortgage insured under this section for military personnel and essential civilian employees of the armed services, employees of contractors for the armed services, and persons described in clause (1)(B) of subsection (b) of this section.

(e) Property held by mortgagor approved by Secretary; acquisition of stock or interest; redemption

For the purpose of providing multifamily rental housing projects or housing projects consisting of individual single-family dwellings for sale, the Secretary is authorized to insure mortgages (including advances on such mortgages during construction) which cover property held by a mortgagor approved by the Secretary. Any such mortgagor shall possess powers necessary therefor and incidental thereto and shall until the termination of all obligations of the Secretary under such insurance be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operation to such extent and in such manner as to provide reasonable rentals to tenants and a reasonable return on the investment. The Secretary may make such contracts with, and acquire for not to exceed $100 such stock or interest in, any such mortgagor as he may deem necessary to render effective such restriction or regulation. 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.

(f) Mortgage limitations for multifamily rental property or project

To be eligible for insurance under this section, a mortgage on any multifamily rental property or project shall involve a principal obligation in an amount not to exceed, for such part of such property or project as may be attributable to dwelling use, $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, and not to exceed 90 per centum of the estimated value of the property or project when the proposed physical improvements are completed. The Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph by not to exceed 45 per centum in any geographical area where he finds that cost levels so require.

(g) Mortgage limitation for property or project constructed for eventual sale of single-family dwellings

To be eligible for insurance under this section a mortgage on any property or project constructed for eventual sale of single-family dwellings 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 the required payment on account of the property prescribed in such paragraph.

(h) Amortization; interest; release of part of mortgaged property from lien; replacement of certain mortgages by individual mortgages; commercial and community facilities

Any mortgage insured under this section shall provide for complete amortization by periodic payments within such terms as the Secretary may prescribe but not to exceed the maximum term applicable to mortgages under section 1713 of this title and shall bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee, except that individual mortgages of the character described in subsection (g) of this section covering the individual dwellings in the project may have a term not in excess of the maximum term applicable to mortgages insured under section 1709 of this title or the unexpired term of the project mortgage at the time of the release of the mortgaged property from such project mortgage, whichever is the greater, 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 of the character described in subsection (g) of this section may provide that, at any time after the release of the project from the rental period prescribed by subsection (d) of this section, 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 may include eight or more family units and may include such commercial and community facilities as the Secretary deems adequate to serve the occupants.

(i) Limitation on aggregate number of dwelling units

The aggregate number of dwelling units (including all units in multifamily projects or individual dwellings) covered by outstanding commitments to insure and mortgages insured under this section shall at no time exceed five thousand dwelling units.

(j) Applicability of other laws

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 of the character described in subsection (g) 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), (j), and (k) of section 1710 of this title shall be applicable: *Provided*, That wherever the words ''Fund'' or ''Mutual Mortgage Insurance Fund'' appear in section 1710 of this title, such reference shall refer to the General Insurance Fund with respect to mortgages insured under this section.

(k) Aggregate amount of mortgages insured; termination date

The provisions of sections 1748, 1748a, 1748b(c), 1748b(i), 1748b(j), 1748c(a), 1748c(b), and 1748f of this title and the provisions of section 1748b(a) of this title relating to the aggregate amount of all mortgages insured under this subchapter shall be applicable to mortgages insured under this section.

(June 27, 1934, ch. 847, title VIII, § 810, as added Sept. 23, 1959, Pub. L. 86–372, title VII, § 704(a), 73 Stat. 683; amended June 30, 1961, Pub. L. 87–70, title VI, § 611(a), 75 Stat. 180; Aug. 31, 1962, Pub. L. 87–623, § 3, 76 Stat. 418; Sept. 23, 1963, Pub. L. 88–127, § 2, 77 Stat. 163; Sept. 2, 1964, Pub. L. 88–560, title I, § 107(f), 78 Stat. 776; Aug. 10, 1965, Pub. L. 89–117, title II, § 202(c), title XI, § 1108(w), 79 Stat. 466, 506; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1722(f), 82 Stat. 611; Sept. 30, 1969, Pub. L. 91–78, § 2(e), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, § 101(g), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91–432, § 1(e), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91–473, § 1(e), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91–525, § 1(e), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, § 101(g), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92–503, § 1(g), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(g), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(g), 87 Stat. 421; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 304(j),

316(e), 88 Stat. 678, 685; June 30, 1977, Pub. L. 95–60, § 1(f), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, § 1(f), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, § 301(i), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95–406, § 1(i), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, § 301(i), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, § 1(i), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, § 1(i), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, § 301(i), 93 Stat. 1112; Oct. 3, 1980, Pub. L. 96–372, § 1(i), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, § 301(i), 94 Stat. 1639; Aug. 13, 1981, Pub. L. 97–35, title III, § 331(h)(2), 95 Stat. 413; Oct. 6, 1982, Pub. L. 97–289, § 1(i), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, § 1(i), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(i), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV, § 401(h), 97 Stat. 1208; Oct. 8, 1985, Pub. L. 99–120, § 1(h)(2), 99 Stat. 503; Nov. 15, 1985, Pub. L. 99–156, § 1(h)(2), 99 Stat. 816; Dec. 26, 1985, Pub. L. 99–219, § 1(h)(2), 99 Stat. 1731; Mar. 27, 1986, Pub. L. 99–267, § 1(i)(2), 100 Stat. 74; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(h)(2), 100 Stat. 105; 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; Feb. 5, 1988, Pub. L. 100–242, title IV, §§ 401(a)(6), 429(k), 101 Stat. 1898, 1919.)

References in Text

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Sections 1748a and 1748c of this title, referred to in subsec. (k), were repealed by Pub. L. 89–117, title XI, § 1108 (aa), Aug. 10, 1965, 79 Stat. 507.

Prior Provisions

A prior section 810 of title VIII of act June 27, 1934, ch. 847, as added Sept. 1, 1951, ch. 378, title VI, § 601(d), 65 Stat. 313, which related to mortgage on housing constructed for personnel of the Atomic Energy Commission, was classified to section 1748g–1 of this title.

Amendments

1988—Subsec. (h). Pub. L. 100–242, § 429(k), substituted ''at such rate as may be agreed upon by the mortgagor and the mortgagee'' for ''(exclusive of premium charges for insurance) at not to exceed the rate applicable to mortgages insured under section 1713 of this title'' and ''such rate as may be agreed upon by the mortgagor and the mortgagee'' for ''not to exceed the rate applicable to mortgages insured under section 1709 of this title''.

Subsec. (k). Pub. L. 100–242, § 401(a)(6), struck out ''No more mortgages shall be insured under this section after March 15, 1988, except pursuant to a commitment to insure before such date.''

1987—Subsec. (k). 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. (k). 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. (k). Pub. L. 99–219 substituted ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

1983—Subsec. (k). Pub. L. 98–181 substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

1982—Subsec. (k). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (k). Pub. L. 97–35 substituted ''1982'' for ''1981''.

1980—Subsec. (k). Pub. L. 96–399 substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372 substituted ''October 15, 1980'' for ''September 30, 1980''.

1979—Subsec. (k). Pub. L. 96–153 substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979''.

1978—Subsec. (k). Pub. L. 95–557 substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (k). Pub. L. 95–128 substituted ''September 30, 1978'' for ''September 30, 1977''.

Pub. L. 95–80 substituted ''September 30, 1977'' for ''July 31, 1977''.

Pub. L. 95–60 substituted ''July 31, 1977'' for ''June 30, 1977''.

1974—Subsec. (f). Pub. L. 93–383, § 304(j)(1), struck out ''(1) not to exceed $5,000,000 or (2)'' after ''in an amount''.

Subsec. (g). Pub. L. 93–383, § 304(j)(2), struck out ''not to exceed $5,000,000 and'' after ''in an amount''.

Subsec. (k). Pub. L. 93–383, § 316(e), substituted ''June 30, 1977'' for ''October 1, 1974''.

1973—Subsec. (k). 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. (k). Pub. L. 92–503 substituted ''June 30, 1973'' for ''October 1, 1972''.

1970—Subsec. (k). Pub. L. 91–609 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''.

1969—Subsec. (k). Pub. L. 91–152 substituted ''October 1, 1970'' for ''January 1, 1970''.

Pub. L. 91–78 substituted ''January 1, 1970'' for ''October 1, 1969''.

1968—Subsec. (e). Pub. L. 90–448 substituted ''mortgagor approved by the Secretary'' for ''private corporation, association, cooperative society, or trust'' in first sentence, and ''mortgagor'' for ''corporation, association, cooperative society, or trust'' in third and fourth sentences.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (c) to (f), and (h).

1965—Subsec. (e). Pub. L. 89–117, § 1108(w)(1), substituted ''General Insurance Fund'' for ''Armed Services Housing Mortgage Insurance Fund''.

Subsec. (j). Pub. L. 89–117, § 1108(w)(2), (3), struck out reference to subsecs. (m) and (p) of section 1713 of this

title and, in proviso, substituted ''General Insurance Fund'' for ''Armed Services Housing Mortgage Insurance Fund'' and struck out reference to the appearance of ''Housing Insurance Fund'' in sections 1710 and 1713 of this title and the appearance of ''Fund'' or ''Mutual Mortgage Insurance Fund'' in section 1713 of this title.

Subsec. (k). Pub. L. 89–117, § 202(c), substituted ''October 1, 1969'' for ''October 1, 1965''.

1964—Subsec. (f). Pub. L. 88–560 changed limits on mortgages for multifamily rental property or project, in cl. (2) of the first sentence 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''; and, in the second sentence, inserted '', by regulation,'' and substituted provisions 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 $1,000 per room'', respectively.

1963—Subsec. (b)(1). Pub. L. 88–127, § 2(1), included essential personnel employed or assigned to duty at or in connection with any research or development installation of the National Aeronautics and Space Administration or of the Atomic Energy Commission.

Subsec. (d). Pub. L. 88–127, § 2(2), included persons described in cl. (1)(B) of subsec. (b) of this section.

Subsec. (k). Pub. L. 88–127, § 2(3), substituted ''October 1, 1965'' for ''October 1, 1963''.

1962—Subsec. (k). Pub. L. 87–623 provided that no mortgages shall be insured under this section after October 1, 1963, except pursuant to a commitment before such date, and struck out ''and the expiration date of the Commissioner's authority to insure'' after ''amount of all mortgages insured''.

1961—Subsec. (b). Pub. L. 87–70, § 611(a)(1), struck out provisions which required certification by Secretary of Defense or his designee.

Subsec. (d). Pub. L. 87–70, § 611(a)(2), struck out provisions which related to certification and advice of Secretary of Defense or his designee.

Subsec. (*l*). Pub. L. 87–70, § 611(a)(3), repealed subsec. (*l*) which required Secretary of Defense to guarantee Armed Services Housing Mortgage Insurance Fund from loss.

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.

TRANSFER OF FUNCTIONS

Atomic Energy Commission abolished and functions transferred by sections 5814 and 5841 of Title 42, The Public Health and Welfare. See, also, Transfer of Functions notes set out under those 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. (f) of this section by section 107(f) 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1715r, 1715z–19, 1748g, 1748h–3 of this title.

§ 1748h–3. Payments in lieu of taxes; limitations; exemption from taxation

(a) The Secretary is authorized to make payments in lieu of taxes on any real property to which title has been or is hereafter acquired by him in fee under section 1748b of this title as effective prior to August 11, 1955, and on which taxes or payments in lieu of such taxes were payable or paid prior to acquisition by the Secretary. Such payments may be made in connection with tax years occurring prior to or subsequent to October 5, 1962. The amount of any such payments shall not exceed taxes on similar property and shall not include interest or penalties. If the Secretary has acquired or hereafter acquires title in fee to real property by foreclosure or by transfer from some other department or agency of the Government or otherwise during a tax year, he may make a payment in lieu of taxes prorated for that portion of the year remaining after his acquisition of title. This subsection shall not authorize any lien against property held by the Secretary, nor the payment of any tax, nor any payment in lieu of any tax, on any interest of the Secretary as lessee or mortgagee.

(b) Nothing in this subchapter shall be construed to exempt any real property which has been or is hereafter acquired and held by the Secretary under section 1748h–1 or 1748h–2 of this title 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 VIII, § 811, as added Oct. 5, 1962, Pub. L. 87–756, 76 Stat. 751; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Subsecs. (a), (b). Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing.

§ 1748i. Omitted

CODIFICATION

Section, act Sept. 28, 1951, ch. 434, title V, § 505, 65 Stat. 365, related to appropriation and expenditure of funds for acquisition of land, installation of outside utilities, and site preparation for housing projects constructed under this subchapter.

SUBCHAPTER IX—HOUSING FOR EDUCATIONAL INSTITUTIONS

§§ 1749 to 1749c. Repealed. Pub. L. 99–498, title VII, § 702, Oct. 17, 1986, 100 Stat. 1545

Section 1749, acts Apr. 20, 1950, ch. 94, title IV, § 401, 64 Stat. 77; June 30, 1953, ch. 170, § 24(b), 67 Stat. 128; Aug. 2, 1954, ch. 649, title VIII, § 808(b), 68 Stat. 646; Aug. 11, 1955, ch. 783, title III, § 301, 69 Stat. 644; Aug. 7, 1956, ch. 1029, title VI, § 601, 70 Stat. 1113; July 12, 1957, Pub. L. 85–104, title VI, § 601(a), 71 Stat. 303; Sept. 23, 1959, Pub. L. 86–372, title VI, §§ 601, 603(b), 73 Stat. 681, 682; Sept. 14, 1960, Pub. L. 86–788, § 2(b), 74 Stat. 1028; June 30, 1961, Pub. L. 87–70, title IV, § 401, 75 Stat. 172; Aug. 10, 1965, Pub. L. 89–117, title VI, §§ 601, 602, 604(b), 79 Stat. 489; May 24, 1966, Pub. L. 89–429, § 3(b), 80 Stat. 166; Nov. 3, 1966, Pub. L. 89–754, title X, § 1014(b), 80 Stat. 1292; May 25, 1967, Pub. L. 90–19, § 8(a), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1705(b)–(e), (g)(1), 82 Stat. 604, 605; Dec. 24, 1969, Pub. L. 91–152, title II, § 219, 83 Stat. 390; July 24, 1970, Pub. L. 91–351, title VII, § 710, 84 Stat. 463; Dec. 31, 1970, Pub. L. 91–609, title II, § 205, 84 Stat. 1777; Oct. 17, 1984, Pub. L. 98–479, title II, § 203(e)(1), 98 Stat. 2230, authorized Federal loans and grants to assist educational institutions in providing housing and other educational facilities for students and faculties.

Section 1749a, acts Apr. 20, 1950, ch. 94, title IV, § 402, 64 Stat. 78; Sept. 23, 1959, Pub. L. 86–372, title VI, § 602,

73 Stat. 681; May 25, 1967, Pub. L. 90–19, § 8(a), (b), 81 Stat. 22; Jan. 2, 1975, Pub. L. 93–604, title VII, § 705(b), 88 Stat. 1964; Oct. 31, 1983, Pub. L. 98–139, title III, § 308, 97 Stat. 895; Oct. 17, 1984, Pub. L. 98–479, title II, §§ 201(d)(1), 203(e)(2)–(4), 204(d), 98 Stat. 2228, 2230, 2233; Nov. 8, 1984, Pub. L. 98–619, title III, § 308, 98 Stat. 3329; Dec. 12, 1985, Pub. L. 99–178, title III, § 307, 99 Stat. 1128; Oct. 18, 1986, Pub. L. 99–500, § 101(i) [H.R. 5233, title III, § 307], 100 Stat. 1783–287, and Oct. 30, 1986, Pub. L. 99–591, § 101(i) [H.R. 5233, title III, § 307], 100 Stat. 3341–287; Dec. 22, 1987, Pub. L. 100–202, § 106, 101 Stat. 1329–433, related to powers and duties of Secretary in carrying out subchapter.

Section 1749b, acts Apr. 20, 1950, ch. 94, title IV, § 403, 64 Stat. 80; June 30, 1961, Pub. L. 87–70, title IV, § 402, 75 Stat. 173; Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1705(f), 82 Stat. 604, related to apportionment of funds.

Section 1749c, acts Apr. 20, 1950, ch. 94, title IV, § 404, 64 Stat. 80; Aug. 11, 1955, ch. 783, title III, §§ 302, 303, 69 Stat. 645; July 12, 1957, Pub. L. 85–104, title VI, § 601(b), 71 Stat. 304; Sept. 23, 1959, Pub. L. 86–372, title VI, § 603(a), 73 Stat. 682; June 30, 1961, Pub. L. 87–70, title IV, § 403, 75 Stat. 173; Sept. 2, 1964, Pub. L. 88–560, title X, § 1002, 78 Stat. 806; Aug. 10, 1965, Pub. L. 89–117, title VI, §§ 603, 604(a), 79 Stat. 489; Nov. 3, 1966, Pub. L. 89–754, title X, § 1014(a), 80 Stat. 1292; May 25, 1967, Pub. L. 90–19, § 8(a), (c), 81 Stat. 22; Aug. 1, 1968, Pub. L. 90–448, title XVII, § 1705(g)(2)–(7), 82 Stat. 605; Oct. 17, 1984, Pub. L. 98–479, title II, § 201(d)(2), 98 Stat. 2228, defined terms used in subchapter.

§ 1749d. Cost of inspections and of providing representatives

On and after December 19, 1963, necessary expenses of inspections and of providing representatives at the site of projects being planned or undertaken by local public agencies pursuant to title I of the Housing Act of 1949, as amended [42 U.S.C. 1450 et seq.], projects financed through loans to educational institutions authorized by this subchapter, projects and facilities financed by loans to public agencies pursuant to title II of the Housing Amendments of 1955, as amended [42 U.S.C. 1491 et seq.], urban planning financed through grants to State and local government agencies pursuant to title VII of the Housing Act of 1954, as amended [40 U.S.C. 460 et seq.], and reserves of planned public works financed through advances to municipalities and other public agencies pursuant to title VII of the Housing Act of 1954, as amended, shall be compensated by such agencies or institutions by the payment of fixed fees which in the aggregate will cover the costs of rendering such services, and expenses for such purpose shall be considered nonadministrative; and for the purpose of providing such inspections, the Secretary of Housing and Urban Development may utilize any agency and such agency may accept reimbursement or payment for such services from such institutions, or the Secretary, and shall credit such amounts to the appropriations or funds against which such charges have been made.

(Pub. L. 88–215, title I, Dec. 19, 1963, 77 Stat. 437; Pub. L. 89–174, § 5, Sept. 9, 1965, 79 Stat. 669.)

REFERENCES IN TEXT

The Housing Act of 1949, as amended, referred to in text, is act July 15, 1949, ch. 338, 63 Stat. 413, as amended. 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, was omitted from the Code pursuant to section 5316 of Title 42 which terminated the authority to make grants or loans under such chapter 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.

The Housing Amendments of 1955, referred to in text, is act Aug. 11, 1955, ch. 783, 69 Stat. 645, as amended. Title II of the Housing Amendments of 1955 which was classified generally to chapter 8B (§ 1491 et seq.) of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 1701 of this title and Tables.

The Housing Act of 1954, as amended, referred to in text, is act Aug. 2, 1954, ch. 649, 68 Stat. 590, as amended. Title VII of the Housing Act of 1954 is classified generally to subchapter II (§ 460 et seq.) of chapter 9 of Title 40, Public Buildings and Works. For complete classification of this Act to the Code, see Short Title of 1954 Amendments note set out under section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Independent Offices Appropriation Act, 1964, Pub. L. 88–215, and not as part of the National Housing Act which comprises this chapter. Similar provisions were contained in the following prior appropriation acts:

Oct. 3, 1962, Pub. L. 87–741, title I, 76 Stat. 728.
Aug. 17, 1961, Pub. L. 87–141, title I, 75 Stat. 353.
July 12, 1960, Pub. L. 86–626, title I, 74 Stat. 434.
Sept. 14, 1959, Pub. L. 86–255, title I, 73 Stat. 508.
Aug. 28, 1958, Pub. L. 85–844, title I, 72 Stat. 1070.
June 29, 1957, Pub. L. 85–69, title I, 71 Stat. 233.
June 27, 1956, ch. 452, title I, 70 Stat. 345.
June 30, 1955, ch. 244, title I, 69 Stat. 206.
June 24, 1954, ch. 359, title I, 68 Stat. 283.
July 31, 1953, ch. 302, title I, 67 Stat. 305.
July 5, 1952, ch. 578, title I, 66 Stat. 402.
Aug. 31, 1951, ch. 376, title I, 65 Stat. 276.
Sept. 6, 1950, ch. 896, Ch. VIII, title I, 64 Stat. 709.

TRANSFER OF FUNCTIONS

''Secretary'' substituted for ''Administrator'' pursuant to section 5 of Pub. L. 89–174, Sept. 9, 1965, 79 Stat. 669, which transferred functions, powers, and duties of Housing and Home Finance Agency and its Administrator to Secretary of Housing and Urban Development, and which is classified to section 3534 of Title 42, The Public Health and Welfare.

LIMITATION ON EXPENSE

Section 101 of Pub. L. 89–555, title I, Sept. 6, 1966, 80 Stat. 684, limited nonadministrative expenses to $5,535,000 for fiscal year 1966. Similar provisions for prior fiscal years were contained in acts Aug. 31, 1951, ch. 376, title I, § 101, 65 Stat. 276; July 5, 1952, ch. 578, title I, § 101, 66 Stat. 402; July 31, 1953, ch. 302, title I, § 101, 67 Stat. 305; June 24, 1954, ch. 359, title I, § 101, 68 Stat. 283; June 30, 1955, ch. 244, title I, § 101, 69 Stat. 206; May 19, 1956, ch. 313, Ch. V, § 501, 70 Stat. 166; June 27, 1956, ch. 452, title I, § 101, 70 Stat. 346; June 29, 1957, Pub. L. 85–69, title I, § 101, 71 Stat. 233; Aug. 28, 1958, Pub. L. 85–844, title I, § 101, 72 Stat. 1070; Sept. 14, 1959, Pub. L. 86–255, title I, § 101, 73 Stat. 508; July 12, 1960, Pub. L. 86–626, title I, § 101, 74 Stat. 435; Aug. 17, 1961, Pub. L. 87–141, title I, § 101, 75 Stat. 353; Oct. 3, 1962, Pub. L. 87–741, title I, § 101, 76 Stat. 729; Dec. 19, 1963, Pub. L. 88–215, title I, § 101, 77 Stat. 437; Aug. 30, 1964, Pub. L. 88–507, title I, § 101, 78 Stat. 655; Aug. 16, 1965, Pub. L. 89–128, title I, § 101, 79 Stat. 531.

SUBCHAPTER IX–A—MORTGAGE INSURANCE FOR LAND DEVELOPMENT AND NEW COMMUNITIES

§§ 1749aa to 1749*ll*. Repealed. Pub. L. 101–235, title I, § 133(a), Dec. 15, 1989, 103 Stat. 2027

Section 1749aa, act June 27, 1934, ch. 847, title X, § 1001, as added Aug. 10, 1965, Pub. L. 89–117, title II,

§ 201(a), 79 Stat. 461; amended Nov. 3, 1966, Pub. L. 89–754, title X, §§ 1019, 1020(f), 80 Stat. 1295, 1296; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, defined terms for this subchapter.

Section 1749bb, act June 27, 1934, ch. 847, title X, § 1002, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 462; amended Nov. 3, 1966, Pub. L. 89–754, title IV, § 402, 80 Stat. 1272; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, Pub. L. 90–448, title III, § 310, 82 Stat. 509; Sept. 30, 1969, Pub. L. 91–78, § 2(f), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, § 101(h), 83 Stat. 379; Oct. 2, 1970, Pub. L. 91–432, § 1(f), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91–473, § 1(f), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91–525, § 1(f), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, § 101(h), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92–503, § 1(h), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, § 1(h), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, § 1(h), 87 Stat. 422; Aug. 22, 1974, Pub. L. 93–383, title III, §§ 304(k), 314, 316(f), 88 Stat. 678, 684, 685; June 30, 1977, Pub. L. 95–60, § 1(g), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, § 1(g), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, § 301(j), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95–406, § 1(j), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, § 301(j), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, § 1(j), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, § 1(j), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, § 301(j), 93 Stat. 1112; Oct. 3, 1980, Pub. L. 96–372, § 1(j), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, § 301(j), 94 Stat. 1639; Aug. 13, 1981, Pub. L. 97–35, title III, § 331(i), 95 Stat. 413; Oct. 6, 1982, Pub. L. 97–289, § 1(j), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, § 1(j), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, § 1(j), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV, §§ 401(i), 404(b)(16), 97 Stat. 1208, 1210; Oct. 8, 1985, Pub. L. 99–120, § 1(i), 99 Stat. 503; Nov. 15, 1985, Pub. L. 99–156, § 1(i), 99 Stat. 816; Dec. 26, 1985, Pub. L. 99–219, § 1(i), 99 Stat. 1731; Mar. 27, 1986, Pub. L. 99–267, § 1(j), 100 Stat. 74; Apr. 7, 1986, Pub. L. 99–272, title III, § 3007(i), 100 Stat. 105; 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; Feb. 5, 1988, Pub. L. 100–242, title IV, § 401(a)(7), 101 Stat. 1898, authorized Secretary to insure mortgages in accordance with provisions of this subchapter.

Section 1749cc, act June 27, 1934, ch. 847, title X, § 1003, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 463; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), (u), 81 Stat. 17, 19; Dec. 31, 1970, Pub. L. 91–609, title I, § 119, 84 Stat. 1775, directed that land development covered by mortgage insured under this subchapter be undertaken pursuant to a schedule and in accordance with an overall development plan.

Section 1749cc–1, act June 27, 1934, ch. 847, title X, § 1004, as added Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271, related to approval of new communities for mortgage insurance.

Section 1749dd, act June 27, 1934, ch. 847, title X, § 1005, formerly § 1004, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 463; renumbered § 1005 and amended Nov. 3, 1966, Pub. L. 89–754, title IV, §§ 401(a), 403, 80 Stat. 1271, 1272; May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, directed adoption of requirements to encourage homebuilding industry and proper balance of housing for moderate and low income families.

Section 1749ee, act June 27, 1934, ch. 847, title X, § 1006, formerly § 1005, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 463; renumbered § 1006 and amended Nov. 3, 1966, Pub. L. 89–754, title IV, §§ 401(a), 404, 80 Stat. 1271, 1272, related to service of land by public water and sewerage systems after development.

Section 1749ff, act June 27, 1934, ch. 847, title X, § 1007, formerly § 1006, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1007, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, related to release or subordination of mortgaged property.

Section 1749gg, act June 27, 1934, ch. 847, title X, § 1008, formerly § 1007, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1008, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, related to premium rates and other charges for mortgage insurance and report to Congress thereon.

Section 1749hh, act June 27, 1934, ch. 847, title X, § 1009, formerly § 1008, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1009, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, related to applicability of other provisions of law to this subchapter.

Section 1749ii, act June 27, 1934, ch. 847, title X, § 1010, formerly § 1009, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1010, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, provided that insurance contract under this subchapter was conclusive evidence of eligibility for insurance and that the validity of such contract was incontestable.

Section 1749jj, act June 27, 1934, ch. 847, title X, § 1011, formerly § 1010, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1011, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, authorized making rules and regulations to carry out provisions of subchapter.

Section 1749kk, act June 27, 1934, ch. 847, title X, § 1012, formerly § 1011, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1012, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17, related to taxation of real property acquired by Secretary.

Section 1749*ll*, act June 27, 1934, ch. 847, title X, § 1013, formerly § 1012, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 201(a), 79 Stat. 464; renumbered § 1013, Nov. 3, 1966, Pub. L. 89–754, title IV, § 401(a), 80 Stat. 1271; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), 81 Stat. 17, related to requirements to assure that amount of mortgage was not excessive and to requirement that mortgagor certify costs of land development.

SAVINGS PROVISION

Section 133(c) of Pub. L. 101–235 provided that: ''Any contract of insurance entered into under title X [this subchapter, §§ 1749aa to 1749*ll*] before the date of enactment of this Act [Dec. 15, 1989] shall be governed by the provisions of such title as such title existed immediately before such date.''

APPLICABILITY OF REPEAL

Section 133(b) of Pub. L. 101–235 provided that: ''On or after the date of enactment of this Act [Dec. 15, 1989], no mortgage may be insured under title X [this subchapter, §§ 1749aa to 1749*ll*], as such title existed immediately before such date, except pursuant to a commitment to insure made before such date.''

SUBCHAPTER IX–B—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES AND MEDICAL PRACTICE FACILITIES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 24, 1702, 1715c, 1715n, 1715r, 1715z–19, 1731a, 1735f–8 of this title.

§ 1749aaa. Insurance of mortgages

(a) Authority of Secretary; termination date

The Secretary is authorized (1) to insure mortgages (including advances on such mortgages during construction), upon such terms and conditions as he may prescribe, in accordance with

the provisions of this subchapter, and (2) to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) Eligibility for insurance

To be eligible for insurance under this subchapter, the mortgage shall (1) be executed by a mortgagor that is a group practice unit or organization or other mortgagor approved by the Secretary, (2) be made to and held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly, and (3) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation and is designed for use as a group practice facility or medical practice facility which the Secretary finds will be constructed in an economical manner, will not be of elaborate or extravagant design or materials, and will be adequate and suitable for carrying out the purposes of this subchapter. No mortgage shall be insured under this subchapter unless it is shown to the satisfaction of the Secretary that the applicant would be unable to obtain the mortgage loan without such insurance on terms comparable to those specified in subsection (c) of this section.

(c) Replacement cost of property; maturity; amortization; interest rate

The mortgage shall—

(1) Repealed. Pub. L. 93–383, title III, §304(*l*), Aug. 22, 1974, 88 Stat. 678;

(2) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when construction or rehabilitation is completed. The replacement cost of the property may include the land and the proposed physical improvements, equipment, utilities within the boundaries of the property, 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, architects' fees, taxes, and interest accruing during construction or rehabilitation, and other miscellaneous charges incident to construction or rehabilitation and approved by the Secretary;

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the beginning of the amortization of the mortgage, and provide for complete amortization of the principal obligation by periodic payments within such term as the Secretary shall prescribe; and

(4) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

(d) Conclusiveness of insurance contract as to eligibility; validity of contract incontestable

Any contract of insurance executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgage for insurance, and the validity of any contract for 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.

(e) Undertaking

Each mortgage insured under this subchapter shall contain an undertaking (in accordance with regulations prescribed under this subchapter and in force at the time the mortgage is approved for insurance) to the effect that, except as authorized by the Secretary and the mortgagee, the property will be used as a group practice facility or medical practice facility until the mortgage has been paid in full or the contract of insurance otherwise terminated.

(f) Recordkeeping; reports; examination and audit

No mortgage shall be insured under this subchapter unless the mortgagor and the mortgagee certify (1) that they will keep such records relating to the mortgage transaction and indebtedness, to the construction of the facility covered by the mortgage, and to the use of such facility as a group practice facility or medical practice facility as are prescribed by the Secretary at the time of such certification, (2) that they will make such reports as may from time to time be required by the Secretary pertaining to such matters, and (3) that the Secretary shall have access to and the right to examine and audit such records.

(June 27, 1934, ch. 847, title XI, §1101, as added Nov. 3, 1966, Pub. L. 89–754, title V, §502(a), 80 Stat. 1274; amended Aug. 1, 1968, Pub. L. 90–448, title XVII, §1722(d), 82 Stat. 610; Sept. 30, 1969, Pub. L. 91–78, §2(g), 83 Stat. 125; Dec. 24, 1969, Pub. L. 91–152, title I, §101(i), title IV, §418(f), 83 Stat. 379, 402; Oct. 2, 1970, Pub. L. 91–432, §1(g), 84 Stat. 887; Oct. 21, 1970, Pub. L. 91–473, §1(g), 84 Stat. 1065; Dec. 1, 1970, Pub. L. 91–525, §1(g), 84 Stat. 1384; Dec. 31, 1970, Pub. L. 91–609, title I, §101(i), 84 Stat. 1770; Oct. 18, 1972, Pub. L. 92–503, §1(i), 86 Stat. 906; Aug. 10, 1973, Pub. L. 93–85, §1(i), 87 Stat. 220; Oct. 2, 1973, Pub. L. 93–117, §1(i), 87 Stat. 422; Aug. 22, 1974, Pub. L. 93–383, title III, §§304(*l*), 312(a)(1)–(4), 316(g), 88 Stat. 678, 683, 685; June 30, 1977, Pub. L. 95–60, §1(h), 91 Stat. 257; July 31, 1977, Pub. L. 95–80, §1(h), 91 Stat. 339; Oct. 12, 1977, Pub. L. 95–128, title III, §301(k), 91 Stat. 1131; Sept. 30, 1978, Pub. L. 95–406, §1(k), 92 Stat. 879; Oct. 31, 1978, Pub. L. 95–557, title III, §301(k), 92 Stat. 2096; Sept. 28, 1979, Pub. L. 96–71, §1(k), 93 Stat. 501; Nov. 8, 1979, Pub. L. 96–105, §1(k), 93 Stat. 794; Dec. 21, 1979, Pub. L. 96–153, title III, §301(k), 93 Stat. 1112; Oct. 3, 1980, Pub. L. 96–372, §1(k), 94 Stat. 1363; Oct. 8, 1980, Pub. L. 96–399, title III, §§301(k), 310(i), 94 Stat. 1639, 1643; Aug. 13, 1981, Pub. L. 97–35, title III, §331(j), 95 Stat. 413; Oct. 6, 1982, Pub. L. 97–289, §1(k), 96 Stat. 1230; May 26, 1983, Pub. L. 98–35, §1(k), 97 Stat. 197; Oct. 1, 1983, Pub. L. 98–109, §1(k), 97 Stat. 745; Nov. 30, 1983, Pub. L. 98–181, title IV, §401(j), 97 Stat. 1208; Oct. 17, 1984, Pub. L. 98–479, title I, §104(a)(8), 98 Stat. 2225; Oct. 8, 1985, Pub. L. 99–120, §1(j), 99 Stat. 503; Nov. 15, 1985, Pub. L. 99–156, §1(j), 99

[1] See References in Text note below.

Stat. 816; Dec. 26, 1985, Pub. L. 99–219, §1(j), 99 Stat. 1731; Mar. 27, 1986, Pub. L. 99–267, §1(k), 100 Stat. 74; Apr. 7, 1986, Pub. L. 99–272, title III, §3007(j), 100 Stat. 105; 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; Feb. 5, 1988, Pub. L. 100–242, title IV, §401(a)(8), 101 Stat. 1898.)

REFERENCES IN TEXT

Section 8211 of title 42, referred to in subsec. (c)(2), 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

1988—Subsec. (a). Pub. L. 100–242 struck out at end ''No mortgage shall be insured under this subchapter after March 15, 1988, except pursuant to a commitment to insure issued before that date.''

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 ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''November 14, 1985'' for ''September 30, 1985''.

1984—Subsec. (c)(4). Pub. L. 98–479 substituted ''at such rate as may be agreed upon by the mortgagor and the mortgagee,'' for ''(exclusive of premium charges for insurance, and service charges if any) at a rate of not to exceed 5 per centum per annum of the amount of the principal obligation outstanding at any time, or not to exceed such rate (not in excess of 6 per centum per annum) as the Secretary finds necessary to meet the mortgage market.''

1983—Subsec. (a). Pub. L. 98–181 substituted ''September 30, 1985'' for ''November 30, 1983''.

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

1982—Subsec. (a). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (a). Pub. L. 97–35 substituted ''1982'' for ''1981''.

1980—Subsec. (a). Pub. L. 96–399, §301(k), substituted ''September 30, 1981'' for ''October 15, 1980''.

Pub. L. 96–372 substituted ''October 15, 1980'' for ''September 30, 1980''.

Subsec. (c)(2). Pub. L. 96–399, §310(i), inserted provisions relating to solar energy systems and residential energy conservation measures.

1979—Subsec. (a). Pub. L. 96–153 substituted ''September 30, 1980'' for ''November 30, 1979''.

Pub. L. 96–105 substituted ''November 30, 1979'' for ''October 31, 1979''.

Pub. L. 96–71 substituted ''October 31, 1979'' for ''September 30, 1979''.

1978—Subsec. (a). Pub. L. 95–557 substituted ''September 30, 1979'' for ''October 31, 1978''.

Pub. L. 95–406 substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (a). Pub. L. 95–128 substituted ''September 30, 1978'' for ''September 30, 1977''.

Pub. L. 95–80 substituted ''September 30, 1977'' for ''July 31, 1977''.

Pub. L. 95–60 substituted ''July 31, 1977'' for ''June 30, 1977''.

1974—Subsec. (a). Pub. L. 93–383, §316(g), substituted ''June 30, 1977'' for ''October 1, 1974''.

Subsec. (b). Pub. L. 93–383, §312(a)(1), (2), in cl. (1) inserted ''or other mortgagor'' after ''or organization'', and in cl. (3) inserted ''or medical practice facility'' after ''group practice facility''.

Subsec. (c)(1). Pub. L. 93–383, §304(*l*), struck out par. (1) which set forth limitation on amount of mortgage.

Subsecs. (e), (f). Pub. L. 93–383, §312(a)(3), (4), inserted ''or medical practice facility'' after ''group practice facility''.

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 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''.

1969—Subsec. (a). Pub. L. 91–152, §101(i), substituted ''October 1, 1970'' for ''January 1, 1970''.

Pub. L. 91–78 substituted ''January 1, 1970'' for ''October 1, 1969''.

Subsec. (c)(2). Pub. L. 91–152, §418(f), substituted ''replacement cost'' for ''value'' wherever appearing.

1968—Subsec. (c)(3). Pub. L. 90–448 limited term of mortgage to not more than twenty-five years from beginning of amortization of mortgage.

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.

DECLARATION OF PURPOSE

Section 501 of title V of Pub. L. 89–754 provided that: ''It is the purpose of this title [enacting this subchapter and amending sections 24, 371, 1715c, and 1715r of this title, section 663 of former Title 11, Bankruptcy, and section 77ddd of Title 15, Commerce and Trade] to assure the availability of credit on reasonable terms to units or organizations engaged in the group practice of medicine, optometry, or dentistry, particularly those in smaller communities and those sponsored by cooperative or other nonprofit organizations, to assist in financing the construction and equipment of group practice facilities.''

§ 1749aaa–1. Premiums and other charges

The Secretary shall fix premium charges for the insurance of mortgages under this subchapter, but such charges shall not be more than 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. In addition to the premium charge, the Secretary is authorized to charge and collect such amounts as he

may deem reasonable for the analysis of a proposed project and the appraisal and inspection of the property and improvements. Where the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Secretary is authorized to require the payment by the mortgagee of an adjusted premium charge. This charge shall be 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 the maturity date. Where such prepayment occurs, 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. Premium charges fixed under this section shall be payable by the mortgagee either in cash, or in debentures which are the obligation of the General Insurance Fund at par plus accrued interest, at such times and in such manner as may be prescribed by the Secretary.

(June 27, 1934, ch. 847, title XI, § 1102, as added Nov. 3, 1966, Pub. L. 89–754, title V, § 502(a), 80 Stat. 1275.)

§ 1749aaa–2. Payment of insurance benefits

The mortgagee shall be entitled to receive the benefits of the insurance under this subchapter in the manner provided in subsection (g) of section 1713 of this title with respect to mortgages insured under that section. For such purpose the provisions of subsections (g), (h), (i), (j), (k), (*l*), and (n) of such section 1713 shall apply to mortgages insured under this subchapter and all references in such subsections to such section 1713 shall be deemed to refer to this subchapter.

(June 27, 1934, ch. 847, title XI, § 1103, as added Nov. 3, 1966, Pub. L. 89–754, title V, § 502(a), 80 Stat. 1275.)

§ 1749aaa–3. Regulations

The Secretary shall prescribe such regulations as may be necessary to carry out this subchapter, after consulting with the Secretary of Health and Human Services with respect to any health or medical aspects of the program under this subchapter which may be involved in such regulations.

(June 27, 1934, ch. 847, title XI, § 1104, as added Nov. 3, 1966, Pub. L. 89–754, title V, § 502(a), 80 Stat. 1275; amended Oct. 17, 1984, Pub. L. 98–479, title II, § 201(a)(2), 98 Stat. 2227.)

AMENDMENTS

1984—Pub. L. 98–479 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

§ 1749aaa–4. Administration

(a) Technical assistance

At the request of individuals or organizations operating or contemplating the operation of group practice facilities or medical practice facility (as defined in section 1749aaa–5 of this title), the Secretary may provide or obtain technical assistance in the planning for and construction of such facilities.

(b) Utilization of services and facilities of Federal agencies; payment; advances or reimbursement

With a view to avoiding unnecessary duplication of existing staffs and facilities of the Federal Government, the Secretary is authorized to utilize available services and facilities of any agency of the Federal Government in carrying out the provisions of this subchapter, and to pay for such services and facilities, either in advance or by way of reimbursement, in accordance with an agreement between the Secretary and the head of such agency.

(June 27, 1934, ch. 847, title XI, § 1105, as added Nov. 3, 1966, Pub. L. 89–754, title V, § 502(a), 80 Stat. 1276; amended Aug. 22, 1974, Pub. L. 93–383, title III, § 312(a)(5), 88 Stat. 683.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93–383 substituted ''or medical practice facility (as defined in section 1749aaa–5 of this title)'' for ''(as defined in section 1749aaa–5(1) of this title)''.

§ 1749aaa–5. Definitions

For the purposes of this subchapter—

(1) The term ''group practice facility'' means a facility in a State for the provision of preventive, diagnostic, and treatment services to ambulatory patients (in which patient care is under the professional supervision of persons licensed to practice medicine or osteopathy in the State or, in the case of optometric care or treatment, is under the professional supervision of persons licensed to practice optometry in the State, or, in the case of dental diagnosis or treatment, is under the professional supervision of persons licensed to practice dentistry in the State, or, in the case of podiatric care or treatment, is under the professional supervision of persons licensed to practice podiatry in the State) and which is primarily for the provision of such health services by a medical or dental group.

(2) The term ''medical practice facility'' means an adequately equipped facility in which not more than four persons licensed to practice medicine in the State where the facility is located can provide, as may be appropriate, preventive, diagnostic, and treatment services, and which is situated in a rural area or small town, or in a low-income section of an urban area, in which there exists, as determined by the Secretary, a critical shortage of physicians. As used in this paragraph—

(A) the term ''small town'' means any town, village, or city having a population of not more than 10,000 inhabitants according to the most recent available data compiled by the Bureau of the Census; and

(B) the term ''low-income section of an urban area'' means a section of a larger urban area in which the median family income is substantially lower, as determined by the Secretary, than the median family income for the area as a whole.

(3) The term ''medical or dental group'' means a partnership or other association or group of persons licensed to practice medicine, osteopathy, or surgery in the State, or of per-

sons licensed to practice optometry in the State, or of persons licensed to practice dentistry in the State, or of persons licensed to practice podiatry in the State, or of any combination of such persons, who, as their principal professional activity and as a group responsibility, engage or undertake to engage in the coordinated practice of their profession primarily in one or more group practice facilities, and who (in this connection) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records, and substantial portions of the equipment and the professional, technical, and administrative staffs, and which partnership or association or group is composed of at least such professional personnel and make available at least such health services as may be provided in regulations prescribed under this subchapter.

(4) The term ''group practice unit or organization'' means—

(A) a private nonprofit agency or organization undertaking to provide, directly or through arrangements with a medical or dental group, comprehensive medical care, osteopathic care, optometric care, dental care, or podiatric care, or any combination thereof, which may include hospitalization, to members or subscribers primarily on a group practice prepayments basis; or

(B) a private nonprofit agency or organization, established for the purpose of improving the availability of medical, osteopathic, optometric, dental or podiatric care in the community or having some function or functions related to the provision of such care, which will, through lease or other arrangement, make the group practice facility with respect to which assistance has been requested under this subchapter available to a medical or dental group for use by it.

(5) The term ''nonprofit organization'' means a corporation, association, foundation, trust, or other organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual except, in the case of an organization the purposes of which include the provision of personal health services to its members or subscribers or their dependents under a plan of such organization for the provision of such services to them (which plan may include the provision of other services or insurance benefits to them), through the provision of such health services (or such other services or insurance benefits) to such members or subscribers or dependents under such plan.

(6) The term ''State'' includes the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the District of Columbia.

(7) 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. The term ''first mortgage'' means such classes of first liens as are commonly given to secure advances (including but not 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 any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty.

(8) The term ''mortgagee'' means the original lender under a mortgage, and his or 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 named therein.

(9) The term ''mortgagor'' means the original borrower under a mortgage and his or its successors and assigns.

(June 27, 1934, ch. 847, title XI, § 1106, as added Nov. 3, 1966, Pub. L. 89–754, title V, § 502(a), 80 Stat. 1276; amended Aug. 22, 1974, Pub. L. 93–383, title III, § 312(a)(6), (b), 88 Stat. 683, 684.)

AMENDMENTS

1974—Par. (1). Pub. L. 93–383, § 312(b)(1), inserted references to practice of osteopathy and authorized inclusion of podiatric care or treatment under the professional supervision of persons licensed to practice podiatry in the State.

Par. (2). Pub. L. 93–383, § 312(a)(6), added par. (2). Former par. (2) redesignated (3).

Par. (3). Pub. L. 93–383, § 312(a)(6), (b)(2), redesignated former par. (2) as par. (3) and inserted references to persons licensed to practice osteopathy and persons licensed to practice podiatry. Former par. (3) redesignated (4).

Par. (4). Pub. L. 93–383, § 312(a)(6), (b)(3), (4), redesignated former par. (3) as par. (4) and in cls. (A) and (B) inserted references to osteopathic care and podiatric care wherever appearing. Former par. (4) redesignated (5).

Pars. (5) to (9). Pub. L. 93–383, § 312(a)(6), redesignated former pars. (4) to (8) as pars. (5) to (9), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749aaa–4 of this title.

SUBCHAPTER IX–C—NATIONAL INSURANCE DEVELOPMENT PROGRAM

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 1735d of this title.

§ 1749bbb. Program authority; termination date; report to the Congress

(a) The Director is authorized to establish and carry out the programs provided for in parts A, B, C, and D of this subchapter.

(b) The powers of the Director under part B shall terminate on November 30, 1983, and part A shall terminate on September 30, 1985, and parts C and D shall terminate on September 30, 1995, except to the extent necessary—

(1) to continue reinsurance and direct insurance in accordance with the provisions of sec-

tions 1749bbb–9(b) and 1749bbb–10a(c) of this title until September 30, 1985, and September 30, 1996, respectively;

(2) to process, verify, and pay claims for reinsured losses and directly insured losses and perform other necessary functions in connection therewith; and

(3) to complete the liquidation and termination of the reinsurance and direct insurance programs.

(June 27, 1934, ch. 847, title XII, § 1201, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 556; amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(a), 84 Stat. 1788; Apr. 8, 1975, Pub. L. 94–13, § 2, 89 Stat. 69; Apr. 30, 1977, Pub. L. 95–24, title I, § 104(a), 91 Stat. 55; Sept. 30, 1978, Pub. L. 95–406, § 5, 92 Stat. 880; Oct. 31, 1978, Pub. L. 95–557, title III, § 307(a), 92 Stat. 2097; Dec. 21, 1979, Pub. L. 96–153, title VI, § 601, 93 Stat. 1137; Aug. 13, 1981, Pub. L. 97–35, title III, § 342(a), 95 Stat. 420; Oct. 6, 1982, Pub. L. 97–289, § 4(c), 96 Stat. 1231; May 26, 1983, Pub. L. 98–35, § 4(c), 97 Stat. 198; Oct. 1, 1983, Pub. L. 98–109, § 5(c), 97 Stat. 746; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(a), (b)(1), 97 Stat. 1230; Oct. 12, 1984, Pub. L. 98–473, title I, § 113, 98 Stat. 1964; Oct. 8, 1985, Pub. L. 99–120, § 4(b), 99 Stat. 503; Nov. 15, 1985, Pub. L. 99–156, § 4(b), 99 Stat. 816; Dec. 26, 1985, Pub. L. 99–219, § 4(b), 99 Stat. 1731; Mar. 27, 1986, Pub. L. 99–267, § 4(b), 100 Stat. 74; Apr. 7, 1986, Pub. L. 99–272, title III, § 3010(b), 100 Stat. 106; 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; Feb. 5, 1988, Pub. L. 100–242, title V, §§ 542(a), (b), 545(a), 101 Stat. 1940, 1942; Nov. 3, 1989, Pub. L. 101–137, § 6(a), (b), 103 Stat. 825; Nov. 5, 1990, Pub. L. 101–508, title II, § 2301(a), (b), 104 Stat. 1388–23.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101–508 substituted ''September 30, 1995'' for ''September 30, 1991'' in introductory provisions and ''September 30, 1996'' for ''September 30, 1992'' in par. (1).

1989—Subsec. (b). Pub. L. 101–137 substituted ''September 30, 1991'' for ''September 30, 1989'' in introductory provisions and substituted ''September 30, 1992'' for ''September 30, 1990'' in par. (1).

1988—Subsec. (b). Pub. L. 100–242, § 545(a), redesignated former par. (1) as subsec. (b) and former subpars. (A) to (C) as pars. (1) to (3), respectively, and struck out former pars. (2) and (3) which read as follows:

''(2) On September 30, 1981, the Secretary shall submit to the Congress, for its approval, a plan for the liquidation and termination of the reinsurance and direct insurance programs.

''(3) The Administrator shall notify participating insurers under part B that the reinsurance authority of the Administrator under such part shall terminate on November 30, 1983.''

Pub. L. 100–242, § 542(a), (b), substituted ''September 30, 1989'' for ''March 15, 1988'' in introductory provisions and ''September 30, 1990'' for ''September 30, 1986'' in par. (1).

1987—Subsec. (b)(1). 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. (b)(1). 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. (b)(1). Pub. L. 99–219 substituted ''March 17, 1986'' for ''December 15, 1985''.

Pub. L. 99–156 substituted ''December 15, 1985'' for ''November 14, 1985''.

Pub. L. 99–120 substituted ''part A'' for ''parts A, C, and D'' and inserted ''and parts C and D shall terminate on November 14, 1985,''.

1984—Subsec. (b)(1). Pub. L. 98–473, § 113(1), substituted ''September 30, 1985'' for ''September 30, 1984'' in provisions preceding subpar. (A).

Subsec. (b)(1)(A). Pub. L. 98–473, § 113(2), inserted '', and September 30, 1986, respectively''.

1983—Subsec. (a). Pub. L. 98–181, § 452(b)(1), substituted ''Director'' for ''Secretary''.

Subsec. (b)(1). Pub. L. 98–181, § 452(a)(1), (b)(1), substituted ''part B shall terminate on November 30, 1983, and parts A, C, and D shall terminate on September 30, 1984'' for ''this subchapter shall terminate on November 30, 1983'' and substituted ''Director'' for ''Secretary''.

Pub. L. 98–109 substituted ''November 30, 1983'' for ''September 30, 1983''.

Pub. L. 98–35 substituted ''September 30, 1983'' for ''May 20, 1983''.

Subsec. (b)(3). Pub. L. 98–181, § 452(a)(2), added par. (3).

1982—Subsec. (b)(1). Pub. L. 97–289 substituted ''May 20, 1983'' for ''September 30, 1982''.

1981—Subsec. (b)(1). Pub. L. 97–35 substituted ''1982'' for ''1981'' in par. (1) and ''1985'' for ''1984'' in subpar. (A).

1979—Subsec. (b). Pub. L. 96–153 substituted ''September 30, 1981'' for ''September 30, 1980'' and ''September 30, 1984'' for ''September 30, 1983'' in par. (1) and ''On September 30, 1981,'' for ''On September 30, 1981, or as soon thereafter as possible,'' in par. (2).

1978—Subsec. (b)(1). Pub. L. 95–557, § 307(a)(1), (2), substituted in provision preceding subpar. (A) ''September 30, 1980'' for ''October 31, 1978'' and in subpar. (A) ''September 30, 1983'' for ''October 31, 1981''.

Pub. L. 95–406, § 5(1), (2), substituted in provision preceding subpar. (A) ''October 31, 1978'' for ''September 30, 1978'' and in subpar. (A) ''October 31, 1981'' for ''September 30, 1981''.

Subsec. (b)(2). Pub. L. 95–557, § 307(a)(3), substituted ''September 30, 1981'' for ''October 31, 1978''.

Pub. L. 95–406, § 5(1), substituted ''October 31, 1978'' for ''September 30, 1978''.

1977—Subsec. (b)(1). Pub. L. 95–24, § 104(a)(1), (2), substituted in provisions preceding subpar. (A) ''September 30, 1978'' for ''April 30, 1977'' and in subpar. (A) ''September 30, 1981'' for ''April 30, 1978''.

Subsec. (b)(2). Pub. L. 95–24, § 104(a)(3), substituted ''September 30, 1978'' for ''April 30, 1978''.

1970—Subsec. (a). Pub. L. 91–609 inserted reference to part D of this subchapter.

Subsec. (b). Pub. L. 91–609 extended termination date for powers of Secretary in par. (1) from Apr. 30, 1973, to Apr. 30, 1975; provided for continuation of direct insurance and for continuation of insurance in accordance with section 1749bbb–10a(c) of this title, formerly § 1749bbb–11(c) renumbered § 1749bbb–10a(c) by Pub. L. 91–609, title VI, § 602(d), and extended continuation date from Apr. 30, 1976, to Apr. 30, 1978, in par. (1)(A); provided for claims for directly insured losses in par. (1)(B); provided for liquidation and termination of direct insurance programs in pars. (1)(C) and (2), and extended date for submission of liquidation plan from Apr. 30, 1976, to Apr. 30, 1978, in par. (2).

1975—Subsec. (b)(1). Pub. L. 94–13 extended termination date for powers of Secretary to Apr. 30, 1977, from Apr. 30, 1975.

1970—Subsec. (a). Pub. L. 91–609 inserted reference to part D of this subchapter.

Subsec. (b). Pub. L. 91–609 extended termination date for powers of Secretary in par. (1) from Apr. 30, 1973, to Apr. 30, 1975; provided for continuation of direct insurance and for continuation of insurance in accordance with section 1749bbb–11(c) of this title, and extended continuation date from Apr. 30, 1976, to Apr. 30, 1978, in par. (1)(A); provided for claims for directly insured losses in par. (1)(B); provided for liquidation and termination of direct insurance programs in pars. (1)(C) and (2), and extended date for submission of liquidation plan from Apr. 30, 1976, to Apr. 30, 1978, in par. (2).

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.

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Section 1 of Pub. L. 94–13 provided that:

''(a) The Congress finds that (1) under the Housing and Urban Development Act of 1968 (Public Law 90–448, approved August 1, 1968), as amended [this subchapter], the powers of the Secretary of the Department of Housing and Urban Development to enter into new reinsurance contracts with respect to the Federal riot reinsurance program and into new direct insurance contracts with respect to the Federal crime insurance program will terminate on April 30, 1975, except to the extent necessary (a) to continue policies of direct insurance and reinsurance, until April 30, 1978, (b) to handle claims and those arising under the policies still in force on the termination date of the program, and (c) to complete the liquidation and termination of the reinsurance and direct insurance programs; (2) continuation of the Federal riot reinsurance program is essential both to the operation of the system of State FAIR plans, which provide access for many people to basic property insurance not otherwise available in urban areas, and to the continued existence of such FAIR plans inasmuch as many State laws condition the very existence of such FAIR plans upon the continued existence of the Federal riot reinsurance program; (3) continuation of the Federal crime insurance program, which provides access for many homeowners, tenants, and small businessmen to burglary, robbery, and similar coverages, in States where an insurance coverage availability problem exists, is likewise essential; (4) withdrawal at this time of the Federal support which these programs give to the insurance buying public and the insurers would be particularly ill timed and inadvisable in view of the (a) threatening major shortage of voluntary insurance facilities to which the consumer can turn to fulfill his insurance purchase needs and (b) the potential for insurer insolvencies inherent in times of economic stress; and (5) the impending tightening of the availability of insurance coverage in the insurance market will only intensify due to the present economic conditions confronting insurers, which affect the capital adequacies of insurers due to severe declines in the values of insurers' securities portfolios, thus impacting on their ability to increase their underwritings in a growing insurance market.

''(b) The purpose of this Act, therefore, is to extend the duration of the national insurance development program so as to maintain the Federal riot reinsurance program which reinsures the general property insurance business against the catastrophic peril of riot and, thus, makes this insurance available, together with its review and compliance function which assures that the intent of the Housing and Urban Development Act of 1968 (Public Law 90–448, approved August 1, 1968) as amended [this subchapter] is carried out, as well as the Federal crime insurance program which provides basic crime insurance coverages in the States where it is needed, both of which programs aid the insurance purchasing consumer when, from time to time and especially in times such as these, insurers engage in conscious policies of market constriction which lead to serious inner-city insurance availability problems of the kind the national insurance development program has been created to ameliorate.''

Section 1102 of Pub. L. 90–448, as amended by Pub. L. 91–609, title VI, § 601, Dec. 31, 1970, 84 Stat. 1788, provided that:

''(a) The Congress finds that (1) the vitality of many American cities is being threatened by the deterioration of their inner city areas; responsible owners of well-maintained residential, business, and other properties in many of these areas are unable to obtain adequate property insurance coverage against fire, crime, and other perils; the lack of such insurance coverage accelerates the deterioration of these areas by discouraging private investment and restricting the availability of credit to repair and improve property therein; and this deterioration poses a serious threat to the national economy; (2) recent riots and other civil commotion in many American cities have brought about abnormally high losses to the private property insurance industry for which adequate reinsurance cannot be obtained at reasonable cost, and the risk of such losses will make most lines of property insurance even more difficult to obtain; (3) the capacity of the private property insurance industry to provide adequate insurance is threatened, and the continuity of such property insurance protection is essential to the extension of credit in these areas; and (4) the national interest demands urgent action by the Congress to assure that essential lines of property insurance, including lines providing protection against riot and civil commotion damage will be available to property owners at reasonable cost.

''(b) The purposes of this title [this subchapter] are, therefore, to (1) encourage and assist the various State insurance authorities and the property insurance industry to develop and carry out statewide programs which will make necessary property insurance coverage against the fire, crime, and other perils more readily available for residential, business, and other properties meeting reasonable underwriting standards; (2) provide a Federal program of reinsurance against abnormally high property insurance losses resulting from riots and other civil commotion, placing appropriate financial responsibility upon the States to share in such losses; and (3) provide direct insurance through the facilities of the Federal Government in the case of properties for which statewide programs and the Federal reinsurance program either do not make crime insurance available or offer such insurance to property owners only at prohibitive cost.''

§ 1749bbb–1. Advisory Board

(a) Establishment; membership; Chairman and Vice Chairman; term; vacancies

(1) There is established an Advisory Board (hereinafter called the ''Board'') consisting of nineteen members appointed by the Director. Members of the Board shall be selected from among representatives of the general public, the insurance industry, State and local governments including State insurance authorities, and the Federal Government. Of these members of the Board, not more than six shall be regular full-time employees of the Federal Government, and not less than four shall be representatives of the private insurance industry and not less than four shall be representatives of State insurance authorities.

(2) The Director shall designate a Chairman and a Vice Chairman of the Board.

(3) Each member shall serve for a term of two years or until his successor has been appointed,

except that no person who is appointed while a fulltime employee of a State or the Federal Government shall serve in such position after he ceases to be so employed, unless he is reappointed.

(4) 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 that term.

(b) Meetings

The Chairman shall preside at all meetings, and the Vice Chairman shall preside in the absence or disability of the Chairman. In the absence of both the Chairman and Vice Chairman, the Director may appoint any member to act as Chairman pro tempore. The Board shall meet at such times and places as it or the Director may fix and determine, but shall hold at least four regularly scheduled meetings a year. Special meetings may be held at the call of the Chairman or any three members of the Board, or at the call of the Director.

(c) Functions

The Board shall review general policies and shall advise the Director with respect thereto, and perform such other functions as are specified in this subchapter.

(d) Compensation and travel expenses

The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States, and such members, except those who are regular full-time employees of the Government, shall receive for their services, as members, the per diem equivalent to the rate for grade GS–18 of the General Schedule under section 5332 of title 5 when engaged in the performance of their duties, and each member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of such title for persons in the Government service employed intermittently.

(June 27, 1934, ch. 847, title XII, § 1202, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 556; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsecs. (a)(1), (2), (b), (c). Pub. L. 98–181, substituted ''Director'' for ''Secretary'' wherever appearing.

REFERENCES IN OTHER LAWS TO GS–16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS–16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101–509, set out in a note under section 5376 of Title 5.

TERMINATION OF ADVISORY BOARDS

Advisory boards 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 board established by the President or an officer of the Federal Government, such board is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a board established by the Congress, its duration is otherwise provided by law, see sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1749bbb–2. Definitions

(a) When used in this subchapter, unless the context otherwise requires, the term—

(1) ''affordable rate'' means such premium rate as the Director determines would permit the purchase of a specific type of insurance coverage by a reasonably prudent person in similar circumstances with due regard to the costs and benefits involved;

(2) ''crime insurance'' means insurance against losses resulting from robbery, burglary, larceny, and similar crimes, and may include broad form personal theft insurance, mercantile open stock insurance, mercantile robbery and mercantile safe burglary insurance, storekeepers burglary and robbery insurance, office burglary and robbery insurance, and may include business interruption insurance as the Director may designate; the term does not include automobile insurance or losses resulting from embezzlement;

(3) ''directly insured losses'' means losses on direct insurance claims and all direct expenses incurred in connection therewith, including but not limited to expenses for processing, verifying, and paying such losses;

(4) ''environmental hazard'' means any hazardous condition that might give rise to loss under an insurance contract, but which is beyond the control of the property owner;

(5) ''essential property insurance'' means insurance against direct loss to property as defined and limited in standard fire policies and extended coverage endorsement thereon, as approved by the State insurance authority, and insurance, for such types, classes, and locations of property against the perils of vandalism, malicious mischief, burglary, or theft, as the Director by rule shall designate. Such insurance shall not include automobile insurance and shall not include insurance on such types of manufacturing risks as may be excluded by the State insurance authority;

(6) ''inspection facility'', with respect to any State, means any rating bureau or other person designated by the State insurance authority to perform inspections under fair access to insurance requirements plans under part A;

(7) ''insurer'' includes any insurance company or group of companies under common ownership which is authorized to engage in the insurance business under the laws of any State;

(8) ''pool'' means any pool or association of insurance companies in any State which is formed, associated, or otherwise created for the purpose of making property insurance more readily available;

(9) ''losses resulting from riots or civil disorders'' means losses resulting from riots or civil disorders under policies for standard lines of property insurance for which reinsurance is offered under section 1749bbb–7 of this title, as determined under regulations of the Director;

(10) ''property owner'' with respect to any real, personal, or mixed real and personal property, means any person having an insurable interest in such property;

(11) ''person'' includes any individual or group of individuals, corporation, partnership, or association, or any other organized group of persons;

(12) ''reinsured losses'' means losses on reinsurance claims and all direct expenses incurred in connection therewith including, but not limited to, expenses for processing, verifying, and paying such losses;

(13) ''standard line of property insurance'' includes—

(A) fire and extended coverage;

(B) vandalism and malicious mischief;

(C) other allied lines of fire insurance;

(D) burglary and theft;

(E) those portions of multiple peril policies covering perils similar to those provided for in subparagraphs (A), (B), (C), and (D);

(F) inland marine;

(G) glass;

(H) boiler and machinery;

(I) ocean marine;

(J) aircraft physical damage; and

(K) such other lines generally offered to the public which include protection against damage from riot or civil commotion as the Director by regulation may designate;

(14) ''State'' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions, and the Trust Territory of the Pacific Islands;

(15) ''urban area'' includes any municipality or other political subdivision of a State, subject to population or other limitations defined in rules and regulations of the Director and such additional areas as may be designated by the State insurance authority;

(16) ''year'' means a calendar year, fiscal year of a company, or such other period of twelve months as may be designated by the Director; and

(17) ''Director'' means the Director of the Federal Emergency Management Agency.

(b) The Director is authorized to define, by rules and regulations, any technical or trade term, insofar as such definition is not inconsistent with the provisions of this subchapter.

(June 27, 1934, ch. 847, title XII, § 1203, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 557; amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(b), 84 Stat. 1788; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), (2), 97 Stat. 1230.)

AMENDMENTS

1983—Subsec. (a)(1), (2), (5), (9), (13)(K), (15), (16). Pub. L. 98–181, § 452(b)(1), substituted ''Director'' for ''Secretary''.

Subsec. (a)(17). Pub. L. 98–181, § 452(b)(2), added par. (17).

Subsec. (b). Pub. L. 98–181, § 452(b)(1), substituted ''Director'' for ''Secretary''.

1970—Subsec. (a). Pub. L. 91–609 added pars. (1) to (3) and redesignated former pars. (1) to (13) as (4) to (16), respectively.

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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–7 of this title.

PART A—STATEWIDE PLANS TO ASSURE FAIR ACCESS TO INSURANCE REQUIREMENTS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb–2, 1749bbb–7, 1749bbb–9, 1749bbb–16 of this title.

§ 1749bbb–3. FAIR plans

(a) Cooperation by insurers with State insurance authorities

Each insurer reinsured under this subchapter shall cooperate with the State insurance authority in each State in which it is to acquire such reinsurance in establishing and carrying out statewide plans to assure fair access to insurance requirements (FAIR plans).

(b) Approval and administration of plans; provisions of plans

Such plans must be approved by, and administered under the supervision of, the State insurance authority, or be authorized or required by State law, and shall be designed to make essential property insurance more readily available in, but not necessarily limited to, urban areas. Such plans may vary in detail from State to State because of local conditions, but all plans shall contain provisions that—

(1) no risk shall be written at surcharged rates or be denied insurance coverage for essential property insurance unless there has first been an inspection of the risk, without cost to the owner, by an inspection facility and a determination by the insurer, based on information in the inspection report and other sources, that the risk does not meet reasonable underwriting standards at the applicable premium rate;

(2) inspections under the plan may be requested by the property owner or his representative, the insurer, or the insurance agent, broker or other producer, and such requests need not be made in writing;

(3) the absence of a building owner or his representative during an inspection shall not preclude a tenant seeking insurance from obtaining an inspection under the plan;

(4) following the inspection, a copy of the inspection report shall be promptly sent by the inspection facility to the insurer or insurers, or to an all-industry placement facility referred to under section 1749bbb–4 of this title, as may be designated by the person requesting the inspection;

(5) after the inspection report is received by an insurer, it shall promptly determine if the risk meets reasonable underwriting standards at the applicable premium rate, and shall promptly return to the inspection facility the inspection report and provide an action report setting forth—

(A)(i) the amount of coverage it agrees to write; and if the insurer agrees to write the coverage with a surcharge (if such a surcharge is authorized by the State insurance authority), the improvements necessary before it will provide coverage at an unsurcharged premium rate; and

(ii) the amount of coverage it agrees to write if certain improvements specified in the action report are made; or

(B) the specific reasons it declines to write coverage;

(6) if the insurer declines the risk, or agrees to write the coverage sought on condition that the property will be improved, it shall also promptly send a copy of both the inspection and action reports to the property owner and the State insurance authority, and at the time the insurer sends such reports to the property owner, it shall also explain his right, under applicable State laws, to appeal the decision of the insurer to the State insurance authority, setting forth the procedures to be followed for such appeal;

(7) all policies written pursuant to the plan shall be promptly written after inspection or reinspection and shall be separately coded so that appropriate records may be compiled for purposes of performing loss prevention and other studies of the operation of the plan;

(8) the inspection facility shall submit to the State insurance authority and to the Director periodic reports setting forth information, by individual insurers, including the number of risks inspected under the plan, the number of risks accepted, the number of risks conditionally accepted and reinspections made, the number of risks declined, and such other information as the State insurance authority may request;

(9) notice will be given to any policyholder a reasonable time prior to the cancellation or nonrenewal of any risk eligible under the plan (except in case of nonpayment of premium or evidence of incendiarism), to allow ample time for an application for new coverage to be made and a new policy to be written under the plan, and the insurer shall, in writing, explain to the policyholder the procedures for obtaining an inspection under the plan in the notice of cancellation or nonrenewal; and

(10) a continuing public education program will be undertaken by the participating insurers, agents, and brokers to assure that the plan receives adequate public attention.

(c) Membership of board of directors, board, etc., for each plan

At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) of this section shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.

(June 27, 1934, ch. 847, title XII, § 1211, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 558; amended Oct. 31, 1978, Pub. L. 95–557, title III, § 307(b), (c), 92 Stat. 2097, 2098; Aug. 13, 1981, Pub. L. 97–35, title III, § 342(b), 95 Stat. 420; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsec. (b)(8). Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

1981—Subsec. (b)(11). Pub. L. 97–35 struck out par. (11) which related to maximum rate of insurance for risks within the plan on and after Jan. 31, 1979.

1978—Subsec. (b)(11). Pub. L. 95–557, § 307(c), added par. (11).

Subsec. (c). Pub. L. 95–557, § 307(b), added subsec. (c).

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.

§ 1749bbb–4. All-industry placement facility

Any plan under this part shall include an all-industry placement facility doing business with every insurer participating in the plan in the State, and shall provide that this facility shall perform certain functions including, but not limited to, the following:

(1) seeking, upon request by or on behalf of any property owner requesting an inspection under the plan, to distribute the risks involved equitably among the insurers with which it is doing business; and

(2) seeking to place insurance up to the full insurable value of the risk to be insured with one or more insurers with which it is doing business, except to the extent that deductibles, percentage participation clauses, and other underwriting devices are employed to meet special problems of insurability.

(June 27, 1934, ch. 847, title XII, § 1212, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 560.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–3 of this title.

§ 1749bbb–5. Industry cooperation

(a) Each insurer seeking reinsurance under this subchapter shall file a statement with the State insurance authority in each State in which it is participating in a plan under this part, pledging its full participation and cooperation in carrying out the plan, and shall file a copy of such statement with the Director.

(b) No insurer acquiring reinsurance under this subchapter shall direct any agent or broker or other producer not to solicit business through such a plan, nor shall any agent, broker, or other producer be penalized by such insurer in any way for submitting applications for insurance to an insurer under the plan.

(June 27, 1934, ch. 847, title XII, § 1213, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 560; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

§ 1749bbb–6. Plan evaluation; modification or waiver of plan criteria

(a) In accordance with such rules and regulations as the Director may prescribe, each State insurance authority shall—

(1) transmit to the Director any proposed or adopted plan, or amendments thereto; and

(2) advise the Director, from time to time, concerning the operation of the plan, its effectiveness in providing essential property insur-

ance, and the need to form a pool of insurers or adopt other programs to make essential property insurance more readily available in urban areas of the State.

(b) The Director may, after full consultation with the Board, by rules and regulations, modify the plan criteria set forth under this part, if he finds, on the basis of experience, that such action is necessary or desirable to carry out the purposes of this subchapter. The Director may also, with respect to any State, waive compliance with one or more of the plan criteria, upon certification by the State insurance authority that compliance is unnecessary or inadvisable under local conditions or State law.

(June 27, 1934, ch. 847, title XII, § 1214, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 560; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

§ 1749bbb–6a. Office of Review and Compliance

The Director, through an Office of Review and Compliance under the Federal Insurance Administrator, shall periodically review each plan under this part and the methods and practices by which such plan is being actually carried out in the areas and communities where it is intended to operate, in order to assure that such plan is effectively making essential property insurance readily available in such areas and communities and is otherwise carrying out the purposes of this subchapter, and in order to identify any aspects of the operation or administration of such plan which may require revision, modification, or other action to carry out such purposes.

(June 27, 1934, ch. 847, title XII, § 1215, as added Dec. 31, 1970, Pub. L. 91–609, title VI, § 603, 84 Stat. 1791; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

PART B—REINSURANCE COVERAGE

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb–13 of this title.

§ 1749bbb–7. Reinsurance of losses from riots or civil disorders

(a) Authorization; lines of property insurance included

(1) The Director is authorized to offer to any insurer or pool, subject to the conditions set forth in section 1749bbb–9 of this title, reinsurance against property losses resulting from riots or civil disorders in any one or more States.

(2) Reinsurance shall be offered to any such insurer or pool only on all standard lines of property insurance enumerated under subparagraphs (A) through (E) of section 1749bbb–2(a)(13) of this title together, and any insurer or pool purchasing such reinsurance shall also be eligible, to purchase reinsurance on any one or more standard lines of property insurance enumerated under subparagraphs (F) through (J) of section 1749bbb–2(a)(13) of this title or which may be designated by regulation pursuant to subparagraph (K) of that section.

(b) Temporary coverage

Reinsurance coverage under this section may be provided immediately following August 1, 1968, to any insurer or pool in any State on a temporary basis, and on such terms and conditions as may be agreed upon, and coverage under such terms and conditions may be bound with respect to any such insurer or pool by means of a written binder which shall remain in force not more than ninety days and shall expire at the earlier of either—

(1) the termination of such ninety-day period, or

(2) the effective date of any governing contract, agreement, treaty, or other arrangement entered into between the insurer or pool and the Director under section 1749bbb–8 of this title for the purpose of providing reinsurance coverage against losses resulting from riots or civil disorders.

(c) Participation in State plan or pool

No reinsurance shall be offered to any insurer or pool in a State after the expiration of the written binder entered into under subsection (b) of this section, unless there is in effect in such State a plan as set forth under part A and the insurer or pool is participating in such plan, and unless, in the case of an insurer in a State where a pool has been established pursuant to State Law, the insurer is participating in such a pool.

(June 27, 1934, ch. 847, title XII, § 1221, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 560; amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(c), 84 Stat. 1789; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsecs. (a)(1), (b)(2). Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

1970—Subsec. (a)(2). Pub. L. 91–609 substituted reference to section ''1749bbb–2(a)(13)'' of this title for ''1749bbb–2(a)(10)'' in two places.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–2 of this title.

§ 1749bbb–8. Reinsurance agreements and premiums

(a) Authorization to enter into contracts, agreements, treaties, or other arrangements for reinsurance coverage

During the first year following August 1, 1968, the Director is authorized to enter into any contract, agreement, treaty, or other arrangement with any insurer or pool for reinsurance coverage, in consideration of payment of such premiums, fees, or other charges by insurers or pools which the Director, after full consultation with the Board, deems to be adequate to obtain aggregate reinsurance premiums for deposit in the National Insurance Development Fund established under section 1749bbb–13 of this title in

excess of the estimated amount of insured riot losses during the calendar year 1967, on the assumption that a substantial proportion of the property insurance written will be reinsured under this subchapter, and thereafter the Director may increase or decrease such premiums for reinsurance if it is found after full consultation with the Board and the National Association of Insurance Commissioners that such action is necessary or appropriate to carry out the purposes of this subchapter.

(b) Reimbursement for total proved and approved claims for covered losses

Reinsurance offered under this subchapter shall reimburse an insurer or pool for its total proved and approved claims for covered losses resulting from riots of civil disorders during the term of the reinsurance contract, agreement, treaty, or other arrangement, over and above the amount of the insurers' or pool's retention of such losses as provided in such reinsurance contract, agreement, treaty, or other arrangement entered into under this section.

(c) Terms and conditions of contracts, etc., uniformity of rates, terms and conditions

Such contracts, agreements, treaties, or other arrangements may be made without regard to section 1341(a) of title 31, and shall include any terms and conditions which the Director deems necessary to carry out the purposes of this subchapter. The premium rates, terms, and conditions of such contracts with insurers or pools, throughout the country, in any one year shall be uniform.

(d) Expiration date of contracts, etc.

Any contract, agreement, treaty, or other arrangement for reinsurance under this section shall be for a term expiring on April 30, 1969, and on April 30 each year thereafter, except that such term shall expire on September 30, beginning in either calendar year 1977 or 1978, as determined by the Director.

(June 27, 1934, ch. 847, title XII, § 1222, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 561; amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 405, 83 Stat. 396; Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(e), 84 Stat. 1790; Apr. 30, 1977, Pub. L. 95–24, title I, § 104(b), 91 Stat. 56; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230; Oct. 17, 1984, Pub. L. 98–479, title II, § 203(i)(1), 98 Stat. 2230; Feb. 5, 1988, Pub. L. 100–242, title V, § 545(b), 101 Stat. 1942.)

AMENDMENTS

1988—Subsec. (c). Pub. L. 100–242 substituted ''section 1341(a) of title 31'' for ''section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))''. See 1984 Amendment note below.

1984—Subsec. (c). Pub. L. 98–479 substituted ''section 1341(a) of title 31'' for ''section 3679(a) of the Revised Statutes of the United States (31 U.S.C. 665(a))''. Directory language of Pub. L. 98–479 should have provided for amendment of section 1222(c) of act June 27, 1934 (the National Housing Act) rather than amendment of the Urban Property Protection and Reinsurance Act of 1968 (Pub. L. 90–448), which added this section. See 1988 Amendment note above.

1983—Subsecs. (a), (c), (d). Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

1977—Subsec. (d). Pub. L. 95–24 inserted exception that such term shall expire on Sept. 30, beginning in either calendar year 1977 or 1978, as determined by the Secretary.

1970—Subsec. (a). Pub. L. 91–609 renumbered section 1233 as 1243 of act June 27, 1934, without affecting its designation in the text as section 1749bbb–13.

1969—Subsec. (d). Pub. L. 91–152 struck out requirement that any contract, etc., for reinsurance be entered into within 90 days after Aug. 1, 1968, or within 90 days prior to Apr. 30 each year thereafter, or within 90 days after an insurer is authorized to write insurance eligible for reinsurance in a State which it was not authorized to write in the preceding year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1749bbb–7, 1749bbb–9, 1749bbb–14 of this title.

§ 1749bbb–9. Conditions of reinsurance

(a) Subject to the provisions of subsection (b) of this section, reinsurance shall not be offered by the Director in a State or be applicable to insurance policies written in that State by an insurer—

(1) in any States which has not, after the close of the second full regular session of the appropriate State legislative body following August 1, 1968, adopted appropriate legislation, retroactive to August 1, 1968, under which the State, its political subdivisions, or a governmental corporation or fund established pursuant to State law, will reimburse the Director for any reinsured losses in that State in any reinsurance contract year, in an amount up to 5 per centum of the aggregate property insurance premiums earned in that State during the calendar year immediately preceding the end of the reinsurance contract year on those lines of insurance reinsured by the Director in that State during the contract year, to the extent that reinsured losses paid by the Director for such year exceed the total of (A) reinsurance premiums earned in that State during that reinsurance contract year plus (B) the excess of (i) the total premiums earned by the Director for reinsurance in that State during a preceding period measured from the end of the most recent reinsurance contract year with respect to which the Director was reimbursed for losses under this subchapter over (ii) any amounts paid by the Director for reinsured losses that were incurred during such period;

(2) after thirty days following notification to the insurer that the Director finds (after consultation with the State insurance authority) that there has not been adopted by the State, or the property insurance industry in that State, a suitable program or programs, in addition to plans under part A, to make essential property insurance available without regard to environmental hazards, and that such action is necessary to carry out the purposes of this subchapter; except that this paragraph shall not become effective until two years after August 1, 1968, or at such earlier date as the Director, after consultation with the State insurance authority, may determine;

(3) after thirty days following notification to the insurer that the Director, or the State insurance authority, finds that such insurer is not fully participating—

(A) in the plan in the State;

(B) where it exists, in a pool; and

(C) where it exists, in any other program found by the Director to aid in making essential property insurance more readily available in the State:

Provided, That the Director shall not make any such finding with respect to any insurer unless (i) prior to making such finding the Director has requested and considered the views of the State insurance authority as to whether such finding should be made, or (ii) the Director has made such a request in writing to the State insurance authority and such authority has failed to respond thereto within a reasonable period of time after receiving such request;

(4) following a merger, acquisition, consolidation or reorganization involving one or more insurers having lines of property insurance in the State reinsured under this subchapter and one or more insurers with or without such reinsurance, unless the surviving company—

(A) meets the criteria of eligibility for reinsurance, other than as provided under section 1749bbb–8(d) of this title; and

(B) within ten days pays any reinsurance premiums due; or

(5) upon receipt of notice from the insurer or pool that it desires to cancel its reinsurance agreement with the Director in the State.

(b) Notwithstanding the foregoing provisions of this section, reinsurance may be continued for the term of the policies written prior to the date of termination or nonrenewal of reinsurance under this section, for as long as the insurer pays reinsurance premiums annually in such amounts as are determined under section 1749bbb–8 of this title, based on the annual premiums earned on such reinsured policies, and for the purpose of this subsection, the renewal, extension, modification, or other change in a policy, for which any additional premium is charged, shall be deemed to be a policy written on the date such change was made.

(June 27, 1934, ch. 847, title XII, § 1223, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 562; amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 406, 83 Stat. 396; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

1969—Subsec. (a)(1). Pub. L. 91–152 substituted provisions requiring appropriate legislation to be adopted by the close of the second full regular session of the appropriate State legislative body following Aug. 1, 1968 for provisions requiring such legislation to be adopted within one year following Aug. 1, 1968, or by the close of the next regular session of the appropriate State legislative body if that body had not met in regular session during that year, and provisions computing the requisite amount of State reimbursement on the basis of the reinsurance contract year for provisions computing such amount on the basis of the calendar year.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1749bbb, 1749bbb–7, 1749bbb–20 of this title.

§ 1749bbb–10. Recovery of premiums; jurisdiction; limitations

(a) The Director, in a suit brought in the appropriate United States district court, shall be entitled to recover from any insurer the amount of any unpaid premiums lawfully payable by such insurer to the Director.

(b) No action or proceeding shall be brought for the recovery of any premium due to the Director for reinsurance, or for the recovery of any premium paid to the Director in excess of the amount due to him, unless such action or proceeding shall have been brought within five years after the right accrued for which the claim is made, except that, where the insurer has made or filed with the Director a false or fraudulent annual statement, or other document with the intent to evade, in whole or in part, the payment of premiums, the claim shall not be deemed to have accrued until its discovery by the Director.

(June 27, 1934, ch. 847, title XII, § 1224, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 563; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

PART C—FEDERAL INSURANCE AGAINST BURGLARY AND THEFT

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in sections 1749bbb, 1749bbb–13 of this title.

§ 1749bbb–10a. Review and program authority

(a) Review of market availability

The Director shall conduct a continuing review of the market availability situation in each of the several States to determine whether crime insurance is available at affordable rates either through the normal insurance market or through a suitable program adopted under State law.

(b) Government crime insurance

Upon determining pursuant to subsection (a) of this section that, at any time on or after August 1, 1971, a critical market unavailability situation for crime insurance then exists in any State and has not been met through appropriate State action, the Director is authorized to make crime insurance available at affordable rates within such State through the facilities of the Federal Government. Such insurance shall be provided upon such terms and conditions, and subject to such deductibles and other restrictions and limitations, as the Director deems appropriate, but no such insurance shall be made available to a property which the Director determines to be uninsurable or to a property with respect to which reasonable protective measures to prevent loss, consistent with standards established by the Director, have not been adopted.

(c) Termination of insurance

Notwithstanding any other provision of this subchapter, direct insurance may be continued for the term of the policies written prior to the

date of termination of the Director's direct insurance authority under this part, for as long as the insured pays the required direct insurance premiums; except that direct insurance under this part for any risk shall be terminated after notice whenever the Director determines that the standard lines of crime insurance otherwise have become available to such property at affordable rates.

(June 27, 1934, ch. 847, title XII, § 1231, as added Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing, and ''Director's'' for ''Secretary's'' in subsec. (c).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb of this title.

§ 1749bbb–10b. Use of existing facilities and services

In carrying out his responsibilities under this part, the Director may utilize—

(1) insurance companies and other insurers, insurance agents and brokers, and insurance adjustment organizations, as fiscal agents of the United States,

(2) such other officers and employees of any executive agency (as defined in section 105 of title 5) as the Director and the head of any such agency may from time to time agree upon, on a reimbursement or other basis, or

(3) both the alternatives specified in paragraphs (1) and (2), or any combination thereof.

(June 27, 1934, ch. 847, title XII, § 1232, as added Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), (3), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing, and in par. (2) struck out ''officers and employees of the Department of Housing and Urban Development, and'' before ''such other officers''.

§ 1749bbb–10c. Affordable rates; establishment; factors considered; uniform national rates; periodic modification

In estimating the affordable rates for the various crime insurance coverages offered from time to time under this part, the Director shall consult with appropriate State insurance authorities and other knowledgeable persons and is authorized to take into consideration the nature and degree of the risks involved, the protective devices employed, the extent of anticipated losses, the prevailing rates for similar coverages in adjacent or comparable areas and territories, the economic importance of the various individual coverages and the type of property involved, and the relative abilities of the particular classes and types of insureds to pay the full estimated costs of such coverages. Nothing in this section shall be construed to prohibit or require either the adoption of uniform national rates or the periodic modification of currently estimated affordable rates for any particular line or subline of coverage, class, State, territory, or risk on the basis of additional information or actual loss experience.

(June 27, 1934, ch. 847, title XII, § 1233, as added Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1790; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

LIMITATION ON PREMIUMS

Pub. L. 100–242, title V, § 542(c), Feb. 5, 1988, 101 Stat. 1940, as amended by Pub. L. 101–137, § 6(c), Nov. 3, 1989, 103 Stat. 825; Pub. L. 101–508, title II, § 2301(c), Nov. 5, 1990, 104 Stat. 1388–23, provided that: ''The premium rates charged for crime insurance under any program established pursuant to part C of title XII of the National Housing Act [this part] may not be increased during the period beginning on the date of the enactment of this Act [Feb. 5, 1988] and ending on September 30, 1995, by more than a prorated annual rate of 15 percent.''

§ 1749bbb–10d. Reports on operations

The Director shall report to the Congress not less than annually on the program authorized by this subchapter. The reports under this section shall include—

(1) full and complete information on the operations and activities of the Director under this part, together with such recommendations with respect thereto as the Director may deem appropriate; and

(2) a detailed justification of any increase in premium rates charged for crime insurance made during the period for which the report is submitted.

(June 27, 1934, ch. 847, title XII, § 1234, as added Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1790; amended Oct. 19, 1980, Pub. L. 96–470, title II, § 205(a), 94 Stat. 2244; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230; Nov. 3, 1989, Pub. L. 101–137, § 6(d), 103 Stat. 825.)

AMENDMENTS

1989—Pub. L. 101–137 amended section generally. Prior to amendment, section read as follows: ''The Director shall include at least biennially in his reports to the Congress on the program authorized by this subchapter full and complete information on his operations and activities under this part, together with such recommendations with respect thereto as he may deem appropriate.''

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

1980—Pub. L. 96–470 inserted ''at least biennially'' after ''shall include''.

PART D—GENERAL PROVISIONS

PART REFERRED TO IN OTHER SECTIONS

This part is referred to in section 1749bbb of this title.

§ 1749bbb–11. Submission of claims; judicial review; jurisdiction; limitations

(a) All reinsurance or direct insurance claims for losses under this subchapter shall be submitted by insurers or property owners in accordance with such terms and conditions as may be established by the Director.

(b)(1) Upon disallowance of any claim under color of reinsurance or direct insurance made available under this subchapter, or upon refusal of the claimant to accept the amount allowed upon any such claim, the claimant may institute an action against the Director on such claim in the United States district court for the district in which a major portion (in terms of value) of the claim arose.

(2) Any such action must be begun within one year after the date upon which the claimant received written notice of disallowance or partial disallowance of the claim, and exclusive jurisdiction is hereby conferred upon United States district courts to hear and determine such actions without regard to the amount in controversy.

(June 27, 1934, ch. 847, title XII, § 1241, formerly § 1231, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 563; renumbered § 1241 and amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), (g), (h), 84 Stat. 1789, 1790; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsecs. (a), (b)(1). Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

1970—Subsec. (a). Pub. L. 91–609, § 602(g), provided for direct insurance claims and submission of claims by property owners.

Subsec. (b)(1). Pub. L. 91–609, § 602(h), provided for disallowance of claim under color of direct insurance.

§ 1749bbb–12. Fiscal intermediaries and servicing agents

(a) In order to provide for maximum efficiency in the administration of the reinsurance and direct insurance programs under this subchapter, and in order to facilitate the expeditious payment of any funds under such program, the Director may enter into contracts with any insurer, pool, or other person, for the purpose of providing for the performance of any or all of the following functions:

(1) estimating or determining any amounts of payments for reinsurance or direct insurance claims;

(2) receiving and disbursing and accounting for funds in making payments for reinsurance or direct insurance claims;

(3) auditing the records of any insurer, pool, or other person to the extent necessary to assure that proper payments are made;

(4) establishing the basis of liability for reinsurance or direct insurance payments, including the total amount of proved and approved claims which may be payable to any insurer or property owner, and the total amount of premiums earned by any insurer in the respective States for reinsured or directly insured lines of property insurance; and

(5) otherwise assisting in any manner provided in the contract to further the purposes of this subchapter.

(b)(1) Any such contract may require the insurer, pool, or other person, or any of its officers or employees certifying payments or disbursing funds pursuant to the contract, or otherwise participating in carrying out the contract, to give surety bond to the United States in such amounts as the Director may deem appropriate.

(2) In the absence of gross negligence or intent to defraud the United States—

(A) no individual designated pursuant to a contract under this section to certify payments shall be liable with respect to any payment certified by him under this section; and

(B) no officer of the United States disbursing funds shall be liable with respect to any otherwise proper payment by him if it was based on a voucher signed by an individual designated pursuant to a contract under this section to certify payments.

(June 27, 1934, ch. 847, title XII, § 1242, formerly § 1232, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 563; renumbered § 1242 and amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), (i), 84 Stat. 1789, 1790; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsecs. (a), (b)(1). Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

1970—Subsec. (a). Pub. L. 91–609, § 602(i), provided for: administration of direct insurance in introductory text, payments for direct insurance claims in pars. (1) and (2), and liability for direct insurance payments, payment of claims to any property owner, and premium for directly insured lines of property insurance in par. (4).

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–14 of this title.

§ 1749bbb–13. National Insurance Development Fund

(a) Establishment

To carry out the programs authorized under this subchapter, the Director is authorized to establish a National Insurance Development Fund (hereinafter called the ''fund'') which shall be available, without fiscal year limitations—

(1) to make such payments as may, from time to time, be required under reinsurance and direct insurance contracts under this subchapter;

(2) to pay such administrative expenses as may be necessary or appropriate to carry out the purposes of this subchapter; and

(3) to repay to the Secretary of the Treasury such sums, including interest thereon, as may be borrowed from him for purposes of such programs under section 1735d(b) of this title.

(b) Credits to fund

The fund shall be credited with—

(1) reinsurance and direct insurance premiums, fees, and other charges which may be paid or collected in connection with reinsurance and direct insurance provided under parts B and C;

(2) interest which may be earned on investments of the fund;

(3) such amounts as may be advanced to the fund from appropriations in order to maintain the fund in an operative condition adequate to meet its liabilities;

(4) such amounts which are hereby authorized to be appropriated as may be necessary from time to time to reimburse the fund for losses and expenses (including administrative

expenses) incurred in carrying out the program authorized under part C;

(5) receipts from any other source which may, from time to time, be credited to the fund; and

(6) funds borrowed by the Director under section 1735d(b) of this title and deposited in the fund.

(c) Investment in obligations issued or guaranteed by United States

If, after any amounts which may have been advanced to the fund from appropriations have been credited to the appropriation from which advanced (including interest thereon at the rate prescribed under section 1735d(b) of this title), the Director determines that the moneys of the fund are in excess of current needs, he may request the investment of such amounts as he deems advisable by the Secretary of the Treasury in obligations issued or guaranteed by the United States.

(d) Annual budget

An annual business-type budget for the fund shall be prepared, transmitted to the Congress, considered, and enacted in the manner prescribed by sections 9103 and 9104 of title 31 for wholly owned Government corporations.

(June 27, 1934, ch. 847, title XII, § 1243, formerly § 1233, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 564; renumbered § 1243 and amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), (j), 84 Stat. 1789, 1790; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230; Oct. 17, 1984, Pub. L. 98–479, title II, § 203(i)(2), 98 Stat. 2231; Feb. 5, 1988, Pub. L. 100–242, title V, § 545(c), 101 Stat. 1942.)

AMENDMENTS

1988—Subsec. (d). Pub. L. 100–242 substituted ''sections 9103 and 9104 of title 31'' for ''law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849))''. See 1984 Amendment note below.

1984—Subsec. (d). Pub. L. 98–479 substituted ''sections 9103 and 9104 of title 31'' for ''law (sections 102, 103, and 104 of the Government Corporation Control Act (31 U.S.C. 847–849))''. Directory language of Pub. L. 98–479 should have provided for amendment of section 1243(d) of act June 27, 1934 (the National Housing Act) rather than amendment of the Urban Property Protection and Reinsurance Act of 1968 (Pub. L. 90–448), which added this section. See 1988 Amendment note above.

1983—Subsecs. (a), (b)(6), (c). Pub. L. 98–181, substituted ''Director'' for ''Secretary''.

1970—Subsec. (a)(1). Pub. L. 91–609, § 602(j)(1), provided for payments under direct insurance contracts.

Subsec. (b)(1). Pub. L. 91–609, § 602(j)(1), (2), provided the fund with a credit for direct insurance premiums and in connection with direct insurance and inserted reference to part C, respectively.

Subsec. (b)(4) to (6). Pub. L. 91–609, § 602(j)(3), added cl. (4) and redesignated former cls. (4) and (5) as (5) and (6), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1749bbb–8 of this title.

§ 1749bbb–14. Records, annual statement, and audits

(a) Information reports for Director

Any insurer, pool, or property owner acquiring reinsurance or direct insurance under this subchapter shall furnish the Director with such summaries and analyses of information in its records as may be necessary to carry out the purposes of this subchapter, in such form as the Director, in cooperation with the State insurance authority, shall, by rules and regulations, prescribe. The Director shall make use of State insurance authority examination reports and facilities to the maximum extent feasible.

(b) Filing of annual statement

Any insurer or pool acquiring reinsurance under this subchapter shall file with the Director a true and correct copy of any annual statement, or amendment thereof, filed with the State insurance authority of its domiciliary State, at the time it files such statement or amendment with such State insurance authority.

(c) Recordkeeping requirements

Any insurer or other person executing any contract, agreement, or other appropriate arrangement with the Director under section 1749bbb–8 or 1749bbb–12 of this title shall keep reasonable records which fully disclose the total costs of the programs undertaken or the services being rendered, and such other records as will facilitate an effective audit of liability for reinsurance or direct insurance payments by the Director.

(d) Investigation and audit

The Director and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of investigation, audit, and examination to any books, documents, papers, and records of any insurer or other person that are pertinent to the costs of any program undertaken for, or services rendered to, the Director. Such audits shall be conducted to the maximum extent feasible in cooperation with the State insurance authorities and through the use of their examining facilities.

(June 27, 1934, ch. 847, title XII, § 1244, formerly § 1234, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 565; renumbered § 1244 and amended Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), (f), (k), (*l*), 84 Stat. 1789–1791; Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

1970—Subsec. (a). Pub. L. 91–609, § 602(k), required property owners acquiring insurance to furnish necessary information and made the requirement applicable when acquiring direct insurance.

Subsec. (c). Pub. L. 91–609, § 602(f), (*l*), renumbered section 1232 to be 1242 of act June 27, 1934, without affecting its designation in the text as section 1749bbb–12, and provided for audit of liability for direct insurance payments, respectively.

§ 1749bbb–15. Study of reinsurance and other programs; report to the President and Congress

(a) The Director is authorized and directed to conduct a study of reinsurance and other means to help assure—

(1) an adequate market for burglary and theft and other property insurance in urban areas; and

(2) adequate availability of surety bonds for construction contractors in urban areas.

(b) The Director shall submit the results of this study, together with appropriate recommendations, to the President and Congress no later than June 30, 1970.

(June 27, 1934, ch. 847, title XII, § 1245, formerly § 1235, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 565; amended Dec. 24, 1969, Pub. L. 91–152, title IV, § 407, 83 Stat. 396; renumbered § 1245, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

1969—Subsec. (b). Pub. L. 91–152 substituted ''June 30, 1970'' for ''one year following August 1, 1968''.

§ 1749bbb–16. Other studies; cooperation with State insurance authorities and private insurance industry

(a) The Director is authorized to undertake such studies as may be necessary to carry out the purposes of this subchapter including, but not limited to, inquiries concerning—

(1) the operation of plans under part A;

(2) the extent to which essential property insurance is unavailable in urban areas;

(3) the market for private reinsurance; and

(4) loss prevention methods and procedures, insurance marketing methods, and underwriting techniques.

(b) To such extent and under such circumstances as may be practicable and feasible, the Director shall conduct any study authorized under this section in cooperation with State insurance authorities and the private insurance industry.

(June 27, 1934, ch. 847, title XII, § 1246, formerly § 1236, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 565; renumbered § 1246, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

§ 1749bbb–17. General powers of Director

In the performance of, and with respect to, the functions, powers, and duties vested in him by this subchapter, the Director shall (in addition to any authority otherwise vested in him) have the functions, powers, and duties (including the authority to issue rules and regulations) of the Secretary of Housing and Urban Development set forth in section 1749a,[1] except subsections (c)(2), (d), and (f), of this title. Any rules or regulations of the Director shall only be issued after full consultation with the Board and after notice and hearing, if granted, as required by subchapter II of chapter 5, and chapter 7, of title 5.

(June 27, 1934, ch. 847, title XII, § 1247, formerly § 1237, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 566; renumbered § 1247, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), (4), 97 Stat. 1230; Oct. 17, 1984, Pub. L. 98–479, title II, § 202(a)(2), 98 Stat. 2228.)

REFERENCES IN TEXT

Section 1749a of this title, referred to in text, was repealed by Pub. L. 99–498, title VII, § 702, Oct. 17, 1986, 100 Stat. 1545. Previously, subsec. (c)(2) of section 1749a had been repealed and subsec. (c)(3) had been redesignated (c)(2) by Pub. L. 98–479, title II, § 201(d)(1), Oct. 17, 1984, 98 Stat. 2228.

AMENDMENTS

1984—Pub. L. 98–479 substituted ''subchapter II of chapter 5, and chapter 7, of title 5'' for ''the Administrative Procedure Act''.

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' in two places and inserted ''of the Secretary of Housing and Urban Development'' after ''regulations)''.

§ 1749bbb–18. Utilization of services and facilities of other agencies

The Director may, with the consent of the agency concerned, accept and utilize, on a reimbursable basis, the officers, employees, services, facilities, and information of any agency of the Federal Government, except that any such agency having custody of any data relating to any of the matters within the jurisdiction of the Director shall, to the extent permitted by law, upon request of the Director makes such data available to the Director.

(June 27, 1934, ch. 847, title XII, § 1248, formerly § 1238, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 566; renumbered § 1248, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary'' wherever appearing.

§ 1749bbb–19. Advance payments

Any payments which are made under the authority of this subchapter may be made, after necessary adjustments on account of previously made underpayments or overpayments in advance or by way of reimbursement. Payments may be made in such installments and on such conditions as the Director may determine.

(June 27, 1934, ch. 847, title XII, § 1249, formerly § 1239, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 566; renumbered § 1249, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

§ 1749bbb–20. Taxation

(a) The National Insurance Development Fund, including its reserves, surplus, and in-

[1] See References in Text note below.

come, shall be exempt from all taxation now or hereafter imposed by the United States, or by any State, or any subdivision thereof, except that any real property acquired by the Director as a result of reinsurance shall be subject to taxation by any State or political subdivision thereof, to the same extent, according to its value, as other real property is taxed.

(b) Any measures undertaken by any State to meet or to fund its obligations under section 1749bbb–9(a)(1) of this title shall not be the subject of any retaliatory or fiscal imposition by any other State.

(June 27, 1934, ch. 847, title XII, § 1250, formerly § 1240, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 566; renumbered § 1250, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789; amended Nov. 30, 1983, Pub. L. 98–181, title IV, § 452(b)(1), 97 Stat. 1230.)

AMENDMENTS

1983—Subsec. (a). Pub. L. 98–181 substituted ''Director'' for ''Secretary''.

§ 1749bbb–21. Authorization of appropriations

There are hereby authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(June 27, 1934, ch. 847, title XII, § 1251, formerly § 1241, as added Aug. 1, 1968, Pub. L. 90–448, title XI, § 1103, 82 Stat. 566; renumbered § 1251, Dec. 31, 1970, Pub. L. 91–609, title VI, § 602(d), 84 Stat. 1789.)

SUBCHAPTER X—NATIONAL DEFENSE HOUSING INSURANCE

EXPIRATION DATE

Insurance of mortgages under this subchapter prohibited, with certain exceptions, after July 31, 1954, see section 1591c of Title 42, The Public Health and Welfare.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 1702, 1715f, 1731a, 1735f–8, 1743 of this title; title 42 sections 1591, 1591a, 1591c.

§ 1750. Definitions

As used in this subchapter, the terms ''mortgage'', ''first mortgage'', ''mortgagee'', ''mortgagor'', ''maturity date'', and ''State'' shall have the same meaning as in section 1707 of this title.

(June 27, 1934, ch. 847, title IX, § 901, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 295.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1750g of this title.

§ 1750a. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title IX, § 902, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 296, created the National Defense Housing Insurance Fund.

For establishment of the General Insurance Fund, see section 1735c of this title.

§ 1750a–1. Omitted

CODIFICATION

Section, act Nov. 1, 1951, ch. 665, Ch. V, 65 Stat. 763, authorized the National Defense Housing Insurance Fund to be available for administrative expenses of the Federal Housing Administration. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507, eliminated the Fund, and all functions, powers, and duties of the Federal Housing Administration and its Administrator 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. Act June 27, 1934, ch. 847, title V, § 519, as added Aug. 10, 1965, Pub. L. 89–117, title II, § 214, 79 Stat. 471, classified to section 1735c of this title, created the General Insurance Fund, which authorized the general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are obligations of the General Insurance Fund to be charged to the General Insurance Fund.

§ 1750b. Insurance in critical areas

(a) Limitations; termination of certain commitments; requirements; discrimination against children

This subchapter is designed to supplement systems of mortgage insurance under other provisions of this chapter in order to assist in providing adequate housing in areas which the President, pursuant to section 1591 of title 42, shall have determined to be critical defense housing areas. The Secretary is authorized, upon application by the mortgagee, to insure under this section or section 1750g of this title as hereinafter provided any mortgage 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 property covered by the mortgage is in an area which the President, pursuant to section 1591 of title 42, shall have determined to be a critical defense housing area, and that the total number of dwelling units in properties covered by mortgages insured under this subchapter in any such area does not exceed the number authorized by the Secretary of Housing and Urban Development from time to time as needed in such area for defense purposes and to be insured pursuant to this subchapter: *Provided further*, That in the event the Secretary has issued a commitment to insure a mortgage under this section, which commitment was in force and effect on June 1, 1953, and the Secretary determines that, because of changes in defense requirements, there is reasonable doubt that such housing is needed for defense purposes and that it is probable that the mortgage would become immediately in default and claim made for payment under the mortgage insurance contract if the unit or units are completed and the mortgage insured, the Secretary is authorized, in the interest of conserving the General Insurance Fund, to pay (in cash from the General Insurance Fund) to the mortgagee for the account of the mortgagor such amount as the Secretary shall determine to be necessary to reimburse the mortgagor the amounts paid or to be paid by the mortgagor on account of labor performed and materials in place, less the Secretary's estimate of the reasonable salvage value of such materials, plus an allowance for development costs equal to 4 per centum of the principal amount of the mortgage specified in such commitment, and no payments

shall be made pursuant to this proviso unless a claim therefor is filed not later than six months from date of the determination of lack of need and the claim is in such form and contains such supporting information, documents, and data as the Secretary may require: *Provided further*, That the aggregate amount of principal obligations of all mortgages insured under this subchapter shall not exceed such sum as may be authorized by the President from time to time for the purposes of this subchapter pursuant to his authority under section 1715h[1] of this title: *Provided further*, That the Secretary shall have power to require properties covered by mortgages insured under this subchapter to be held for rental for such periods of time and at such rentals or other charges as he may prescribe; and, with respect to such properties being held for rental, (1) to require that the property be held by a mortgagor approved by him, and (2) to prescribe such requirements as he deems to be reasonable governing the method of operation and prohibiting or restricting sales of such properties or interests therein or agreements relating to such sales: *Provided further*, That the Secretary shall require each dwelling covered by a mortgage insured under this section, for which a commitment to insure is issued after August 2, 1954, to be held for rental for a period of not less than three years after the dwelling is made available for initial occupancy: *And provided further*, That no mortgage shall be insured under this subchapter unless the mortgagor certifies under oath that in selecting tenants for any 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.

(b) Eligibility requirements

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 90 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for residential use for not more than two families in the aggregate, which is approved for mortgage insurance prior to the beginning of construction, the construction of which is begun after September 1, 1951. The principal obligation of such mortgage shall not, however, exceed $8,100 if such dwelling is designed for a single-family residence, or $15,000 if such dwelling is designed for a two-family residence except that the Secretary may by regulation increase these amounts to not to exceed $9,000 and $16,000, respectively, in any geographical area where he finds that cost levels so require: *Provided*, That if the Secretary finds that it is not feasible within the aforesaid dollar amount limitations to construct dwellings containing three or four bedrooms per family unit without sacrifice of sound standards of construction, design, and livability, he may increase such dollar amount limitations by not exceeding $1,080 for each additional bedroom (as defined by the Secretary) in excess of two contained in such family unit if he finds that such unit meets sound standards of livability as a three-bedroom or a four-bedroom unit as the case may be;

(3) have a maturity satisfactory to the Secretary but not to exceed thirty years from the date of the insurance of the mortgage;

(4) contain complete amortization provisions satisfactory to the Secretary;

(5) bear interest (exclusive of premium charges for insurance) at not to exceed 4½ 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 herein provided) to amortization of the principal of the mortgage; and

(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.

(c) Premium charges; payments; needs of national defense as prerequisite; adjustments and refunds

The Secretary is authorized to fix a premium charge for the insurance of mortgages under this subchapter 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 1½ 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 subchapter 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 subchapter, 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 subchapter unless the Secretary

[1] See References in Text note below.

finds that the project with respect to which the mortgage is executed is an acceptable risk in view of the needs of national defense. In the event that the principal obligation of any mortgage accepted for insurance under this subchapter 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 has continued to be insured under this subchapter 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. Upon application of the mortgagee with the consent of the mortgagor of a mortgage for which a commitment to insure has been issued pursuant to section 1709 of this title covering property on which the construction of the dwellings thereon was begun prior to the enactment of this subchapter and the determination of prevailing wages in the locality in accordance with section 1715c of this title, the Secretary is authorized, notwithstanding such beginning of construction, to convert such commitment to a commitment under section 1750g of this title; any charges or fees paid to the Secretary with respect to such insurance under section 1709 of this title shall be credited to charges or fees due the Secretary with respect to such insurance under section 1750g of this title; and the determination of prevailing wages in the locality for purposes of section 1715c of this title may be made by the Secretary of Labor at any time prior to the insurance under section 1750g of this title: *Provided*, That such mortgage, or the mortgage covering the same property executed in substitution therefor, is otherwise eligible for insurance under section 1750g of this title.

(d) Preference or priority in purchasing or renting properties

Notwithstanding any other provisions of this chapter or any other Act, except provisions of law enacted hereafter expressly referring to this subsection (d), the Secretary is further authorized to prescribe such procedures as are necessary to secure to persons engaged or to be engaged in national defense activities preference or priority of opportunity to purchase or rent properties, or interests therein, covered by mortgages insured under this subchapter.

(e) Conclusiveness of insurance contract as to eligibility

Any contract of insurance heretofore or hereafter executed by the Secretary under this subchapter 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.

(June 27, 1934, ch. 847, title IX, § 903, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 296; amended July 14, 1952, ch. 723, § 13, 66 Stat. 604; June 30, 1953, ch. 170, § 11, 67 Stat. 124; Aug. 2, 1954, ch. 649, title I, § 128(b), 68 Stat. 609; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(x), 79 Stat. 507; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (4), (s), (t), 81 Stat. 17, 19.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

Section 1715h of this title, referred to in subsec. (a), was repealed by Pub. L. 100–242, title IV, § 401(a)(1), Feb. 5, 1988, 101 Stat. 1898.

AMENDMENTS

1967—Pub. L. 90–19, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (b)(1) to (4), (6), (7), and (c) to (e).

Subsec. (a). Pub. L. 90–19, § 1(a)(4), (s), substituted ''Secretary's'' and ''Secretary of Housing and Home Development'' for ''Commissioner's'' and ''Housing and Home Finance Administrator'', respectively.

Subsec. (d). Pub. L. 90–19, § 1(t), struck out '', with the approval of the Housing and Home Finance Administrator,'' before ''is further authorized''.

1965—Subsec. (a). Pub. L. 89–117 substituted ''General Insurance Fund'' for ''National Defense Housing Insurance Fund''.

1954—Subsec. (a). Act Aug. 2, 1954, inserted proviso relating to requirement for rental for a period of not less than three years after dwelling is made available for initial occupancy.

1953—Subsec. (a). Act June 30, 1953, inserted proviso commencing ''*Provided further*, That in the event''.

1952—Subsec. (c). Act July 14, 1952, inserted last sentence.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715q, 1750c, 1750g of this title.

§ 1750c. Mortgage insurance benefits

(a) Conveyance and assignment by mortgagee after foreclosure; debentures and certificates of claim; cost of foreclosure

In any case in which the mortgagee under a mortgage insured under section 1750b of this title shall have foreclosed and taken possession of the mortgaged property, in accordance with 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 benefit of the insurance as hereinafter provided, upon (1) the prompt conveyance to the Secretary of title to the property which meets the requirements of 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 as 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 Secretary shall, subject to the cash adjustment hereinafter provided, issue to the mortgagee de-

bentures having a total face value equal to the value of the mortgage and a certificate of claim, as hereinafter provided. For the purposes of this subsection, the value of the mortgage shall be determined, in accordance with rules and regulations prescribed by the Secretary, by adding to the amount of the original principal obligation of the mortgage which was unpaid on the date of the institution of foreclosure proceedings, or on the date of the acquisition of the property after default other than by foreclosure, the amount of all payments which have been made by the mortgagee for taxes, ground rents, and water rates, which are liens prior to the mortgage, special assessments which are noted on the application for insurance or which become liens after the insurance of the mortgage, insurance of the mortgaged property, and any mortgage insurance premiums and by deducting from such total amount any amount received on account of the mortgage after either of such dates 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: *Provided*, That with respect to mortgages which are foreclosed before there shall have been paid on account of the principal obligation of the mortgage a sum equal to 10 per centum of the appraised value of the property as of the date the mortgage was accepted for insurance, there may be included in the debentures issued by the Secretary, on account of the cost of foreclosure (or of acquiring the property by other means) actually paid by the mortgagee and approved by the Secretary an amount—

(1) not in excess of 2 per centum of the unpaid principal of the mortgage as of the date of the institution of foreclosure proceedings and not in excess of $75; or

(2) not in excess of two-thirds of such cost, whichever is the greater: *Provided further*, That with respect to any debentures issued on or after September 2, 1964, the Secretary may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e) of this section), include in debentures, 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 Secretary, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee: *And provided further*, That with respect to mortgages to which the provisions of sections 532 and 536 of the Appendix to title 50, apply and which are insured under section 1750b of this title, and subject to such regulations and conditions as the Secretary may prescribe, there shall be included in the debentures an amount which the Secretary finds to be sufficient to compensate the mortgagee for any loss which it may have sustained on account of interest on debentures and the payment of insurance premiums by reason of its having postponed the institution of foreclosure proceedings or the acquisition of the property by other means during any part or all of the period of such military service and three months thereafter.

(b) Consent to release of mortgagee 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 denomination

Debentures issued under this subchapter 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 amount of debentures to which the mortgagee is entitled under this section or section 1750g of this title 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 General Insurance Fund.

(d) Debentures; execution; negotiability; terms; tax exemptions

The debentures issued under this section to any mortgagee shall be executed in the name of the General Insurance Fund as obligor, shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable. 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, except 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 determined by the Secretary, with the approval of the Secretary of the Treasury, at the time the mortgage was accepted for insurance, but not to exceed 3 per centum per annum, payable semiannually on the 1st day of January and the 1st day of July of each year. Such debentures shall mature twenty years after the date thereof. Such debentures shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, or gift taxes) now or hereafter imposed by any Territory, dependency, or possession of the United States, or by the District of Columbia, or by any State, county, municipality, or local taxing authority, and 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 such guaranty shall be expressed on the face of the debentures. In the event that the General Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this subchapter, 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; division of excess proceeds

The certificate of claim issued by the Secretary to any mortgagee under this section shall be for an amount determined in accordance with, and shall contain provisions and shall be paid in accordance with, the provisions of section 1710(e) and section 1710(f) of this title.

(f) 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, make contracts or establish suitable agencies for the management of, 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 subchapter: *Provided*, That section 5 of title 41 shall not be construed to apply to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed $1,000. The power to convey and to execute in the name of the Secretary deeds of conveyances, deeds of release, assignments, and satisfactions of mortgages, and any other written instrument relating to real 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.

(g) Mortgagor's or mortgagee's interest in property or claim conveyed

No mortgagee or mortgagor shall have, and no certification 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.

(June 27, 1934, ch. 847, title IX, § 904, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 298; amended Aug. 2, 1954, ch. 649, title I, § 112(d), 68 Stat. 593; Sept. 2, 1964, Pub. L. 88–560, title I, § 105(e), (f), 78 Stat. 773, 774; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(y), 79 Stat. 507; May 25, 1967, Pub. L. 90–19, § 1(a)(3), (d), 81 Stat. 17, 18; Oct. 17, 1984, Pub. L. 98–479, title II, § 204(a)(23), 98 Stat. 2233.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1984—Subsec. (d). Pub. L. 98–479 substituted ''authorized'' for ''auhorized'' in last sentence.

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (a)(2), and (b) to (g).

Subsec. (f). Pub. L. 90–19, § 1(d), substituted ''an officer'' for ''the Commissioner or by any Assistant Commissioner''.

1965—Subsecs. (c), (d). Pub. L. 89–117, § 1108(y)(1), substituted ''General Insurance Fund'' for ''National Defense Housing Insurance Fund''.

Subsec. (e). Pub. L. 89–117, § 1108(y)(2), removed limitation which had rendered applicable to certificates of claim only those provisions of sections 1710(e) and 1710(f) of this title which were applicable to mortgages insured under section 1713 of this title and struck out provision that reference in section 1710(f) of this title to the ''Housing Insurance Fund'' shall be deemed for the purpose of this section to be reference to the ''National Defense Housing Insurance Fund''.

1964—Subsec. (a). Pub. L. 88–560, § 105(e)(1), (f), inserted ''*Provided further*, That with respect to any debentures issued on or after 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)), include in debentures, 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:'' and struck out ''paid after either of such dates'' after ''mortgage insurance premiums'' in third sentence, respectively.

Subsec. (c). Pub. L. 88–560, § 105(e)(2), increased limitation on difference between amount of debentures to which the mortgagee is entitled under this section or section 1750g of this title and aggregate face value of debentures issued from $50 to $350.

Subsec. (d). Pub. L. 88–560, § 105(e)(3), substituted in second sentence ''default, except 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 ''default, and''.

1954—Subsec. (d). Act Aug. 2, 1954, in third sentence, substituted a twenty-year period for the ten-year period, with respect to the maturity of debentures.

EFFECTIVE DATE OF 1954 AMENDMENT

Amendment by act Aug. 2, 1954, as not applicable in any case where the mortgage involved was insured or the commitment for such 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1710, 1750g of this title.

§ 1750d. Repealed. Pub. L. 89–117, title XI, § 1108(aa), Aug. 10, 1965, 79 Stat. 507

Section, act June 27, 1934, ch. 847, title IX, § 905, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301, provided for management of National Defense Housing Insurance Fund, issue and cancellation of debentures, and receipt and payment of charges and fees.

§ 1750e. 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 IX, § 906, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

§ 1750f. 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 IX, § 907, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301; amended May 25, 1967, Pub. L. 90–19, § 1(a)(3), 81 Stat. 17.)

AMENDMENTS

1967—Pub. L. 90–19 substituted ''Secretary'' for ''Commissioner''.

§ 1750g. Insurance of additional mortgages

(a) Authorization

In addition to mortgages insured under section 1750b of this title, the Secretary is authorized to insure mortgages as defined in section 1750 of this title (including advances on such mortgages during construction) which are eligible for insurance as hereinafter provided.

(b) Eligibility requirements; release of part of property

To be eligible for insurance under this section a mortgage shall meet the following conditions:

(1) The mortgaged property shall be held by a mortgagor approved by the Secretary. 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. 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 regulation. 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.

(2) The mortgage shall involve a principal obligation in an amount—

(A) not to exceed $5,000,000; and

(B) not to exceed 90 per centum of the amount which the Secretary estimates will be the value of the property or project when the proposed improvements are completed: *Provided*, That such mortgage shall not in any event exceed the amount which the Secretary estimates will be the cost of the completed physical improvements on the property or project exclusive of off-site public utilities and streets and organization and legal expenses; and

(C) not to exceed $8,100 per family unit (or $7,200 per family unit if the number of rooms in such property or project does not equal or exceed four per family unit) for such part of such property or project as may be attributable to dwelling use: *Provided*, That the Secretary may by regulation increase such dollar amount limitations by not exceeding $900 in any geographical area where he finds that cost levels so require.

(3) The mortgagor shall enter into the agreement required by section 1715r of this title.

The mortgage shall provide for complete amortization by periodic payments within such term as the Secretary shall prescribe, and shall bear interest (exclusive of premium charges for insurance) at not to exceed 4½ per centum per annum on the amount of the principal obligation outstanding at any time. 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.

(c) Default; debentures; cash adjustment; certificate of claim

The mortgagee shall be entitled to receive debentures in connection with mortgages insured under this section in the amount and under the conditions specified in subsection (g) of section 1713 of this title, and the references in said subsection (g) to the cash adjustment provided for in subsection (j) of section 1713 and to the certificate of claim provided for in subsection (h) of section 1713 shall be deemed to refer respectively to the cash adjustment provided for in subsection (c) of section 1750c of this title and to the certificate of claim provided for in subsection (d) of this section.

(d) Certificate of claim; contents and payment

The certificate of claim issued by the Secretary to any mortgagee under this section shall be for an amount determined in accordance with, and shall contain provisions and shall be paid in accordance with, the provisions of section 1713(h) of this title.

(e) Debentures; issuance and payment in accordance with section 1750c(c), (d) of this title

Debentures issued under this section shall be issued in accordance with the provisions of section 1750c(c) and (d) of this title except that such debentures shall be dated as of the date of default as determined in subsection (c) of this section, and shall bear interest from such date.

(f) Applicability of section 1713(k), (*l*) of this title

The provisions of section 1713(k) and (*l*) of this title shall be applicable to mortgages insured under this section and to property acquired by the Secretary hereunder, except that, as applied to such mortgages and property, the reference therein to subsection (g) shall be construed to refer to subsection (c) of this section.

(g) Applications under section 1743; credit for fees upon reapplication under this section

In any case where an application for insurance under section 1743 of this title was received by the Secretary of Housing and Urban Development on or before March 1, 1950, and has not been rejected or committed upon, the mortgagee upon reapplication for insurance of a mortgage under this section with respect to the same property shall receive credit for any application

fees paid in connection with the prior application: *Provided*, That this subsection shall not constitute a waiver of any requirements otherwise applicable to the insurance of mortgages under this section.

(h) Preferences

The Secretary shall grant preference to applications for insurance under this subchapter to mortgages covering housing of lower rents.

(June 27, 1934, ch. 847, title IX, § 908, as added Sept. 1, 1951, ch. 378, title II, § 201, 65 Stat. 301; amended June 30, 1953, ch. 170, § 10(c), 67 Stat. 124; Aug. 2, 1954, ch. 649, title I, § 130, 68 Stat. 609; Aug. 10, 1965, Pub. L. 89–117, title XI, § 1108(z), 79 Stat. 507; May 25, 1967, Pub. L. 90–19, § 1(a)(2), (3), 81 Stat. 17.)

REFERENCES IN TEXT

The General Insurance Fund, referred to in text, was established by section 1735c of this title.

AMENDMENTS

1967—Pub. L. 90–19, § 1(a)(3), substituted ''Secretary'' for ''Commissioner'' wherever appearing in subsecs. (a), (b)(1), (2)(B), (C), last par. following (C), (d), (f), and (h).

Subsec. (g). Pub. L. 90–19, § 1(a)(2), substituted ''Secretary of Housing and Urban Development'' for ''Federal Housing Commissioner''.

1965—Subsec. (b)(1). Pub. L. 89–117, § 1108(z)(1), substituted ''General Insurance Fund'' for ''National Defense Housing Insurance Fund''.

Subsec. (d). Pub. L. 89–117, § 1108(z)(2), struck out provision that reference in section 1713(h) of this title to ''the Housing Insurance Fund'' shall be deemed for the purposes of this section to be a reference to the National Defense Housing Insurance Fund.

Subsec. (f). Pub. L. 89–117, § 1108(z)(3), struck out provision that references in subsections (k) and (*l*) of section 1713 of this title ''Housing Fund'' shall be construed to refer to the ''National Defense Housing Insurance Fund''.

1954—Subsec. (b)(3). Act Aug. 2, 1954, substituted requirement that mortgagor shall enter into the agreement required by section 1715r of this title for former provisions relating to certification of builders' costs, such certifications now being prescribed in said section 1715r.

1953—Subsec. (b). Act June 30, 1953, in paragraph commencing ''The mortgage shall provide'', substituted ''4½ per centum'' for ''4 per centum''.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1715c, 1731b, 1750b, 1750c of this title.

SUBCHAPTER XI—VOLUNTARY HOME MORTGAGE CREDIT

CODIFICATION

This subchapter was enacted as part of the Housing Act of 1954, and not as part of the National Housing Act which comprises this chapter.

§§ 1750aa to 1750jj. Omitted

CODIFICATION

Section 1750aa, act Aug. 2, 1954, ch. 649, title VI, § 601, 68 Stat. 637, contained a declaration of policy for voluntary home mortgage credit.

Section 1750bb, acts Aug. 2, 1954, ch. 649, title VI, § 602, 68 Stat. 637; Sept. 2, 1958, Pub. L. 85–857, § 13(s)(1), 72 Stat. 1266, defined ''Insured or guaranteed mortgage loan'', ''Private financing institutions'', ''Administrator'', and ''State''.

Section 1750cc, acts Aug. 2, 1954, ch. 649, title VI, § 603, 68 Stat. 637; Aug. 11, 1955, ch. 783, title I, § 109(a)(3), 69 Stat. 640, provided for establishment and composition of National Voluntary Mortgage Credit Extension Committee.

Section 1750dd, act Aug. 2, 1954, ch. 649, title VI, § 604, 68 Stat. 638, provided for establishment, composition, and organization of regional subcommittees of National Voluntary Mortgage Credit Extension Committee.

Section 1750ee, act Aug. 2, 1954, ch. 649, title VI, § 605, 68 Stat. 638, set forth general functions of National Committee and regional subcommittees.

Section 1750ff, act Aug. 2, 1954, ch. 649, title VI, § 606, 68 Stat. 638, authorized National Committee to study and review demand and supply of funds for residential mortgage loans, to receive reports from and correlate the activities of regional subcommittees to report periodically to Commissioner of Federal Housing Administration and Administrator of Veterans' Affairs, to maintain liaison with State and local government housing officials, and to submit reports to Congress.

Section 1750gg, acts Aug. 2, 1954, ch. 649, title VI, § 607, 68 Stat. 639; Sept. 2, 1958, Pub. L. 85–857, § 13(s)(1), 72 Stat. 1266, set forth the functions, powers, and duties of regional subcommittees.

Section 1750hh, act Aug. 2, 1954, ch. 649, title VI, § 608, 68 Stat. 640, authorized Administrator, after consultation with National Committee, to issue general rules and procedures for implementation of this subchapter and functioning of regional subcommittees.

Section 1750ii, act Aug. 2, 1954, ch. 649, title VI, § 609, 68 Stat. 640, exempted laws promulgated pursuant to this subchapter from prohibitions of antitrust laws or Federal Trade Commission Act of United States, provided for status of members of National Committee or any of regional subcommittees, and provided for an office, staff assistance and expenses of members.

Section 1750jj, acts Aug. 2, 1954, ch. 649, title VI, § 610, 68 Stat. 640; June 29, 1957, Pub. L. 85–66, 71 Stat. 209; July 12, 1957, Pub. L. 85–104, title VI, § 602, 71 Stat. 304; July 31, 1959, Pub. L. 86–119, 73 Stat. 266; Sept. 23, 1959, Pub. L. 86–372, title VIII, § 806, 73 Stat. 687; June 30, 1961, Pub. L. 87–70, title IX, § 903, 75 Stat. 191, provided that, unless Congress authorized for an earlier termination, this subchapter and all authority conferred hereunder was to terminate at close of Oct. 1, 1965.

CHAPTER 14—FEDERAL CREDIT UNIONS

Sec.
1751. Short title.
1751a. Omitted.

SUBCHAPTER I—GENERAL PROVISIONS

1752. Definitions.
1752a. National Credit Union Administration.
(a) Establishment; management under National Credit Union Administration Board.
(b) Membership of Board; designation of Chairman.
(c) Term of office.
(d) Management of Administration vested in Board; adoption of rules; quorum; report to President and Congress.
(e) Functions of Chairman.
(f) Audit by General Accounting Office.
1753. Federal credit union organization.
1754. Approval of organization certificate.
1755. Fees.
(a) Payment by Federal credit union to Administration.
(b) Determinations of amount, assessment periods, and payment dates.
(c) Supervision charge exception; waiver of payment.
(d) Payment into Treasury of United States.
(e) Investment of annual operating fees not needed for current operations.