

(June 27, 1934, ch. 847, title V, § 534, as added Pub. L. 100-242, title IV, § 418, Feb. 5, 1988, 101 Stat. 1912; amended Pub. L. 102-550, title V, § 512(a), Oct. 28, 1992, 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 Pub. L. 100-242, title IV, § 419(a), Feb. 5, 1988, 101 Stat. 1913.)

§ 1735f-14. Civil money penalties against mortgagees, lenders, and other participants in FHA programs

(a) In general

(1) Authority

If a mortgagee approved under the¹ chapter, a lender holding a contract of insurance under subchapter I of this chapter, or a principal, officer, or employee of such mortgagee or lender, or other person or entity participating in either an insured mortgage or subchapter I loan transaction under this chapter or providing assistance to the borrower in connection with any such loan, including sellers of the real estate involved, borrowers, closing agents, title companies, real estate agents, mortgage brokers, appraisers, loan correspondents and dealers, knowingly and materially violates any applicable provision of subsection (b) of this section, the Secretary may impose a civil money penalty on the mortgagee or lender, or such other person or entity, in accordance with this section. The penalty under this paragraph 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 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.

¹ So in original. Probably should be “this”.

(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 or such other person or entity during any 1-year period shall not exceed \$1,000,000. Each violation of a² the provisions 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.

In the case of the mortgagee’s failure to engage in loss mitigation activities, as provided in subsection (b)(1)(I) of this section, the penalty shall be in the amount of three times the amount of any insurance benefits claimed by the mortgagee with respect to any mortgage for which the mortgagee failed to engage in such loss mitigation actions.

(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 or any of its owners, officers, or directors, 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 Deposit Insurance Fund, 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 adminis-

² So in original. The word “a” probably should not appear.