

1966—Pub. L. 89-358, §5(b), (f)(2), Mar. 3, 1966, 80 Stat. 26, 27, added items 1818 and 1826.

1960—Pub. L. 86-665, §§6(b), 7(b), July 14, 1960, 74 Stat. 532, 533, added items 1806 and 1824 and renumbered former item 1824 as 1825.

MAXIMUM INTEREST RATES FOR MORTGAGE INSURANCE PROGRAM

Consultation of Secretary of Housing and Urban Development with Administrator of Veterans' Affairs regarding interest rate considered necessary to meet mortgage market for guaranteed or insured home loans to veterans under this chapter, in determining rate for mortgage insurance program under section 1709(b)(5) of Title 12, see section 1709-1 of Title 12, Banks and Banking.

STATE CONSTITUTIONAL AND LEGAL LIMITS UPON INTEREST CHARGEABLE ON LOAN OR MORTGAGE

Any loan or mortgage secured by a one- to four-family dwelling and insured, guaranteed, or made under this chapter not to be covered by any State constitutional and legal limit upon amount of interest charged, taken, etc., see section 1709-1a of Title 12, Banks and Banking.

SUBCHAPTER I—GENERAL

§ 3701. Definitions

(a) For the purpose of this chapter, the term "housing loan" means a loan for any of the purposes specified by sections 3710(a) and 3712(a)(1) of this title.

(b) For the purposes of housing loans under this chapter—

(1) The term "World War II" (A) means the period beginning on September 16, 1940, and ending on July 25, 1947, and (B) includes, in the case of any veteran who enlisted or reenlisted in a Regular component of the Armed Forces after October 6, 1945, and before October 7, 1946, the period of the first such enlistment or reenlistment.

(2) The term "veteran" includes the surviving spouse of any veteran (including a person who died in the active military, naval, or air service) who died from a service-connected disability, but only if such surviving spouse is not eligible for benefits under this chapter on the basis of the spouse's own active duty. The active duty or service in the Selected Reserve of the deceased spouse shall be deemed to have been active duty or service in the Selected Reserve by such surviving spouse for the purposes of this chapter.

(3) The term "veteran" also includes, for purposes of home loans, the spouse of any member of the Armed Forces serving on active duty who is listed, pursuant to section 556 of title 37, United States Code, and regulations issued thereunder, by the Secretary concerned in one or more of the following categories and has been so listed for a total of more than ninety days: (A) missing in action, (B) captured in line of duty by a hostile force, or (C) forcibly detained or interned in line of duty by a foreign government or power. The active duty of the member shall be deemed to have been active duty by such spouse for the purposes of this chapter. The loan eligibility of such spouse under this paragraph shall be limited to one loan guaranteed or made for the acquisition of a home, and entitlement to such

loan shall terminate automatically, if not used, upon receipt by such spouse of official notice that the member is no longer listed in one of the categories specified in the first sentence of this paragraph.

(4) The term "veteran" also includes an individual serving on active duty.

(5)(A) The term "veteran" also includes an individual who is not otherwise eligible for the benefits of this chapter and (i) who has completed a total service of at least 6 years in the Selected Reserve and, following the completion of such service, was discharged from service with an honorable discharge, was placed on the retired list, was transferred to the Standby Reserve or an element of the Ready Reserve other than the Selected Reserve after service in the Selected Reserve characterized by the Secretary concerned as honorable service, or continues serving in the Selected Reserve, or (ii) who was discharged or released from the Selected Reserve before completing 6 years of service because of a service-connected disability.

(B) The term "Selected Reserve" means the Selected Reserve of the Ready Reserve of any of the reserve components (including the Army National Guard of the United States and the Air National Guard of the United States) of the Armed Forces, as required to be maintained under section 10143(a) of title 10.

(c) Benefits shall not be afforded under this chapter to any individual on account of service as a commissioned officer of the National Oceanic and Atmospheric Administration (or predecessor entity), or of the Regular or Reserve Corps of the Public Health Service, unless such service would have qualified such individual for benefits under title III of the Servicemen's Readjustment Act of 1944.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1203, §1801; Pub. L. 91-584, §5(a), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 94-324, §7(1), (2), June 30, 1976, 90 Stat. 721; Pub. L. 97-72, title III, §303(a), Nov. 3, 1981, 95 Stat. 1059; Pub. L. 97-295, §4(62), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100-322, title IV, §415(c)(1), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, §313(a), Dec. 18, 1989, 103 Stat. 2077; renumbered §3701 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §2(a)(1), Oct. 28, 1992, 106 Stat. 3633; Pub. L. 103-446, title IX, §901, Nov. 2, 1994, 108 Stat. 4675; Pub. L. 104-106, div. A, title XV, §1501(e)(2)(B), Feb. 10, 1996, 110 Stat. 501.)

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c), 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, which was repealed and the provisions thereof reenacted as this chapter by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105.

AMENDMENTS

1996—Subsec. (b)(5)(B). Pub. L. 104-106 substituted "section 10143(a) of title 10" for "section 268(b) of title 10".

1994—Subsec. (b)(2). Pub. L. 103-446, §901(b), inserted "or service in the Selected Reserve" after "duty" in two places and substituted "deceased spouse shall" for "spouse shall".

Subsec. (b)(5)(A). Pub. L. 103-446, §901(a), inserted "(i)" before "who has" and substituted ", or" and cl. (ii) for the period at end.

1992—Subsec. (b)(5). Pub. L. 102-547 added par. (5).

1991—Pub. L. 102-83, §5(a), renumbered section 1801 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3710(a) and 3712(a)(1)" for "1810(a) and 1812(a)(1)".

1989—Subsec. (b)(4). Pub. L. 101-237 added par. (4).

1988—Subsec. (a). Pub. L. 100-322 substituted "1812(a)(1)" for "1819(a)(1)".

1982—Subsec. (b)(3). Pub. L. 97-295 substituted "member shall be deemed" for "spouse shall be deemed", and "member is no longer listed" for "spouse is no longer listed".

1981—Subsec. (a). Pub. L. 97-72, §303(a)(2), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (b). Pub. L. 97-72, §303(a)(1), (3), redesignated subsec. (a) as (b) and substituted "For the purposes of housing loans under this chapter" for "For the purposes of this chapter". Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 97-72, §303(a)(1), (4), redesignated subsec. (b) as (c) and substituted "National Oceanic and Atmospheric Administration (or predecessor entity)" for "Coast and Geodetic Survey".

1976—Subsec. (a)(2). Pub. L. 94-324, §7(1), substituted "surviving spouse", "the spouse's own", and "the spouse" for "widow", "her own", and "her husband", respectively, wherever appearing.

Subsec. (a)(3). Pub. L. 94-324, §7(2), substituted "spouse" and "the spouse" for "wife" and "her husband", respectively, wherever appearing.

1970—Subsec. (a)(3). Pub. L. 91-584 added par. (3).

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-106 effective as if included in the Reserve Officer Personnel Management Act, title XVI of Pub. L. 103-337, as enacted on Oct. 5, 1994, see section 1501(f)(3) of Pub. L. 104-106, set out as a note under section 113 of Title 10, Armed Forces.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 9 of Pub. L. 94-324 provided that:

"(a) Except as provided in subsection (b), the provisions of this Act [see Tables for classification] shall become effective on the date of enactment [June 30, 1976].

"(b) Sections 2 [enacting section 1807 of this title] and 3 [amending section 1811 [now 3711] of this title] shall become effective on October 1, 1976. Section 5 [amending section 1819 [now 3712] of this title] shall become effective on July 1, 1976."

§ 3702. Basic entitlement

(a)(1) The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter. In the case of any veteran who served on active duty during two or more of the periods specified in paragraph (2) for which eligibility for the housing loan benefits under this chapter may be granted, entitlement derived from service during the most recent such period (A) shall cancel any unused entitlement derived from service during any earlier such period, and (B) shall be reduced by the amount by which entitlement from service during any earlier such period has been used to obtain a direct, guaranteed, or insured housing loan—

(i) on real property which the veteran owns at the time of application; or

(ii) as to which the Secretary has incurred actual liability or loss, unless in the event of loss or the incurrence and payment of such liability by the Secretary the resulting indebtedness of the veteran to the United States has been paid in full.

(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

(D) Each veteran who served on active duty for 90 days or more at any time during the Persian Gulf War, other than a veteran ineligible for benefits under this title by reason of section 5303A(b) of this title.

(E) Each veteran described in section 3701(b)(5) of this title.

(F) Each veteran who was discharged or released from a period of active duty of 90 days or more by reason of a sole survivorship discharge (as that term is defined in section 1174(i) of title 10).

(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.

(4) A veteran's entitlement under this chapter shall not be reduced by any entitlement used by the veteran's spouse which was based upon the provisions of paragraph (3) of section 3701(b) of this title.

(b) In computing the aggregate amount of guaranty or insurance housing loan entitlement available to a veteran under this chapter, the Secretary may exclude the amount of guaranty or insurance housing loan entitlement used for any guaranteed, insured, or direct loan under the following circumstances:

(1)(A) The property which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard; and

(B) the loan has been repaid in full, or the Secretary has been released from liability as to the loan, or if the Secretary has suffered a loss on such loan, the loss has been paid in full.

(2) A veteran-transferee has agreed to assume the outstanding balance on the loan and consented to the use of the veteran-transferee's entitlement, to the extent that the entitlement of the veteran-transferor had been

used originally, in place of the veteran-transferor's for the guaranteed, insured, or direct loan, and the veteran-transferee otherwise meets the requirements of this chapter.

(3)(A) The loan has been repaid in full; and

(B) the loan for which the veteran seeks to use entitlement under this chapter is secured by the same property which secured the loan referred to in subparagraph (A) of this paragraph.

(4) In a case not covered by paragraph (1) or (2)—

(A) the loan has been repaid in full and, if the Secretary has suffered a loss on the loan, the loss has been paid in full; or

(B) the Secretary has been released from liability as to the loan and, if the Secretary has suffered a loss on the loan, the loss has been paid in full.

The Secretary may, in any case involving circumstances the Secretary deems appropriate, waive one or more of the conditions prescribed in paragraph (1). The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4).

(c) An honorable discharge shall be deemed to be a certificate of eligibility to apply for a guaranteed loan. Any veteran who does not have a discharge certificate, or who received a discharge other than honorable, may apply to the Secretary for a certificate of eligibility. Upon making a loan guaranteed or insured under this chapter, the lender shall forthwith transmit to the Secretary a report thereon in such detail as the Secretary may, from time to time, prescribe. Where the loan is guaranteed, the Secretary shall provide the lender with a loan guaranty certificate or other evidence of the guaranty. The Secretary shall also endorse on the veteran's discharge, or eligibility certificate, the amount and type of guaranty used, and the amount, if any, remaining. Nothing in this chapter shall preclude the assignment of any guaranteed loan or the security therefor.

(d) Housing loans will be automatically guaranteed under this chapter only if made (1) by any Federal land bank, national bank, State bank, private bank, building and loan association, insurance company, credit union, or mortgage and loan company, that is subject to examination and supervision by an agency of the United States or of any State, or (2) by any State, or (3) by any lender approved by the Secretary pursuant to standards established by the Secretary. Any housing loan proposed to be made to a veteran pursuant to this chapter by any lender not of a class specified in the preceding sentence may be guaranteed by the Secretary if the Secretary finds that it is in accord otherwise with the provisions of this chapter.

(e) The Secretary may at any time upon thirty days' notice require housing loans to be made by any lender or class of lenders to be submitted to the Secretary for prior approval. No guaranty or insurance liability shall exist with respect to any such loan unless evidence of guaranty or insurance is issued by the Secretary.

(f) Any housing loan at least 20 percent of which is guaranteed under this chapter may be

made by any national bank or Federal savings and loan association, or by any bank, trust company, building and loan association, or insurance company, organized or authorized to do business in the District of Columbia. Any such loan may be so made without regard to the limitations and restrictions of any other law relating to—

(1) ratio of amount of loan to the value of the property;

(2) maturity of loan;

(3) requirement for mortgage or other security;

(4) dignity of lien; or

(5) percentage of assets which may be invested in real estate loans.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1203, § 1802; Pub. L. 86-73, § 1, June 30, 1959, 73 Stat. 156; Pub. L. 87-84, § 1(b), July 6, 1961, 75 Stat. 201; Pub. L. 90-19, § 25(1), May 25, 1967, 81 Stat. 28; Pub. L. 90-77, title IV, § 403(a), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-506, § 2(a), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 91-584, § 5(b), Dec. 24, 1970, 84 Stat. 1576; Pub. L. 93-569, § 2(a), (b), Dec. 31, 1974, 88 Stat. 1863; Pub. L. 94-324, § 7(3)-(5), June 30, 1976, 90 Stat. 721; Pub. L. 95-476, title I, § 102, Oct. 18, 1978, 92 Stat. 1497; Pub. L. 97-72, title III, § 303(b), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, § 4(61), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 98-223, title II, § 204, Mar. 2, 1984, 98 Stat. 42; Pub. L. 100-322, title IV, § 415(a)(1), (2), May 20, 1988, 102 Stat. 549, 550; Pub. L. 101-237, title III, §§ 310, 313(b)(1), Dec. 18, 1989, 103 Stat. 2075, 2077; Pub. L. 102-25, title III, § 341, Apr. 6, 1991, 105 Stat. 92; Pub. L. 102-40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3702 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, § 2(a)(2), Oct. 28, 1992, 106 Stat. 3633; Pub. L. 103-446, title IX, § 902, title XII, § 1201(f)(4), Nov. 2, 1994, 108 Stat. 4676, 4687; Pub. L. 105-368, title VI, § 603(a), Nov. 11, 1998, 112 Stat. 3348; Pub. L. 106-117, title VII, § 711, Nov. 30, 1999, 113 Stat. 1584; Pub. L. 107-103, title IV, § 405(a), Dec. 27, 2001, 115 Stat. 993; Pub. L. 108-183, title IV, § 403, Dec. 16, 2003, 117 Stat. 2664; Pub. L. 110-317, § 6(a), Aug. 29, 2008, 122 Stat. 3528.)

AMENDMENTS

2008—Subsec. (a)(2)(F). Pub. L. 110-317 added subpar. (F).

2003—Subsec. (a)(2)(E). Pub. L. 108-183 substituted "Each" for "For the period beginning on October 28, 1992, and ending on September 30, 2009, each".

2001—Subsec. (a)(2)(E). Pub. L. 107-103 substituted "September 30, 2009" for "September 30, 2007".

1999—Subsec. (a)(2)(E). Pub. L. 106-117 substituted "September 30, 2007" for "September 30, 2003".

1998—Subsec. (a)(2)(E). Pub. L. 105-368 substituted "September 30, 2003" for "October 27, 1999".

1994—Subsec. (a)(2)(E). Pub. L. 103-446, § 1201(f)(4), substituted "For the period beginning on October 28, 1992, and ending on October 27, 1999," for "For the 7-year period beginning on the date of enactment of this subparagraph."

Subsec. (b). Pub. L. 103-446, § 902(1), (6), (7), in introductory provisions, substituted "loan under the following circumstances:" for "loan, if—", and in concluding provisions, substituted "paragraph (1)" for "clause (1) of the preceding sentence" and inserted at end "The authority of the Secretary under this subsection to exclude an amount of guaranty or insurance housing loan entitlement previously used by a veteran may be exercised only once for that veteran under the authority of paragraph (4)."

Subsec. (b)(1). Pub. L. 103-446, §902(2), substituted "The property" for "the property" in subpar. (A) and a period for the semicolon at end of subpar. (B).

Subsec. (b)(2). Pub. L. 103-446, §902(3), substituted "A veteran-transferee" for "a veteran-transferee" and a period for "; or" at end.

Subsec. (b)(3)(A). Pub. L. 103-446, §902(4), substituted "The loan" for "the loan".

Subsec. (b)(4). Pub. L. 103-446, §902(5), added par. (4). 1992—Subsec. (a)(2)(E). Pub. L. 102-547 added subpar. (E).

1991—Pub. L. 102-83, §5(a), renumbered section 1802 of this title as this section.

Subsec. (a)(2)(D). Pub. L. 102-40 substituted "5303A(b)" for "3103A(b)".

Pub. L. 102-25 added subpar. (D).

Subsec. (a)(4). Pub. L. 102-83, §5(c)(1), substituted "3701(b)" for "1801(b)".

1989—Subsecs. (a)(1)(ii), (b). Pub. L. 101-237, §313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

Subsec. (b)(3). Pub. L. 101-237, §310, added par. (3).

Subsecs. (c) to (e). Pub. L. 101-237, §313(b)(1), substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (a)(1). Pub. L. 100-322, §415(a)(1)(A)–(E), designated existing provisions as par. (1), substituted "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter" for "Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for ninety days or more, or who was discharged or released from a period of active duty, any part of which occurred during World War II, the Korean conflict, or the Vietnam era, for a service-connected disability, shall be eligible for the housing loan benefits of this chapter", substituted "in paragraph (2)" for "in the preceding sentence, or in section 1818 of this title," and redesignated former cls. (1) and (2) as cls. (A) and (B), respectively, and former cls. (A) and (B) as subcls. (i) and (ii), respectively.

Subsec. (a)(2), (3). Pub. L. 100-322, §415(a)(1)(F), added pars. (2) and (3).

Subsec. (a)(4). Pub. L. 100-322, §415(a)(2), redesignated subsec. (g) as (a)(4) and substituted "1801(b)" for "1801(a)".

Subsec. (g). Pub. L. 100-322, §415(a)(2)(B), redesignated subsec. (g) as (a)(4).

1984—Subsec. (b)(2). Pub. L. 98-223 substituted "a" for "an immediate".

1982—Subsec. (f). Pub. L. 97-295 substituted "percent" for "per centum".

1981—Subsec. (a). Pub. L. 97-72, §303(b)(1), (2), substituted "the housing loan benefits" for "the benefits" in two places and "insured housing loan" for "insured loan".

Subsec. (b). Pub. L. 97-72, §303(b)(3), substituted "insurance housing loan entitlement" for "insurance entitlement" in two places.

Subsec. (d). Pub. L. 97-72, §303(b)(4), (5), substituted "Housing loans will be automatically guaranteed" for "Loans will be automatically guaranteed" and "Any housing loan proposed" for "Any loan proposed".

Subsec. (e). Pub. L. 97-72, §303(b)(6), substituted "require housing loans" for "require loans".

Subsec. (f). Pub. L. 97-72, §303(b)(7), substituted "Any housing loan at least" for "Any loan at least".

1978—Subsec. (a). Pub. L. 95-476, §102(a), inserted provisions entitling Vietnam era veterans to the benefits of this chapter and including such veterans in the cancellation of unused entitlement derived from earlier service and the reduction of current entitlement provisions of this subsection.

Subsec. (b). Pub. L. 95-476, §102(b), redesignated cl. (1) as (1)(A), cl. (2) as (B), cl. (3) as (2), and struck out reference to cl. (2) in provision authorizing the Administrator to waive certain conditions prescribed in this subsection.

1976—Subsec. (b). Pub. L. 94-324, §7(3), substituted "the Administrator deems" for "he deems" and "the

veteran-transferee's entitlement" for "his entitlement".

Subsec. (c). Pub. L. 94-324, §7(4), substituted "The Administrator" for "He".

Subsec. (d). Pub. L. 94-324, §7(4), substituted "the Administrator" for "him" and "he".

Subsec. (e). Pub. L. 94-324, §7(5), substituted "the Administrator" for "him" in first sentence.

Subsec. (g). Pub. L. 94-324, §7(5), substituted "the veteran's spouse" for "his wife".

1974—Subsec. (b). Pub. L. 93-569, §2(a), expanded provisions so as to permit restoration of a veteran's entitlement to a guaranteed, insured, or direct loan provided any prior loan has been paid in full, and the property has been disposed of by the veteran, or any immediate veteran-transferee has agreed to the use of his veteran's entitlement.

Subsec. (d)(3). Pub. L. 93-569, §2(b), substituted provisions relating to any lender approved by Administrator pursuant to standards established by him, for provisions relating to approval of mortgagees by Secretary of Housing and Urban Development and designated by him as certified agent.

1970—Subsec. (b). Pub. L. 91-506 struck out loan eligibility expiration dates for World War II and Korean conflict veterans.

Subsec. (g). Pub. L. 91-584 added subsec. (g).

1967—Subsec. (b). Pub. L. 90-77 extended loan program for certain World War II veterans from July 26, 1967 to July 26, 1970.

Subsec. (d). Pub. L. 90-19 substituted "mortgagee approved by the Secretary of Housing and Urban Development and designated by him" for "Federal Housing Administration approved mortgagee designated by the Federal Housing Commissioner".

1961—Subsec. (b). Pub. L. 87-84 substituted in last sentence "by a World War II veteran at any time before July 26, 1967, and by a Korean conflict veteran at any time before February 1, 1975" for "at any time before February 1, 1965".

1959—Subsec. (d)(3). Pub. L. 86-73 added cl. (3).

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-317 applicable with respect to any sole survivorship discharge granted after Sept. 11, 2001, see section 10 of Pub. L. 110-317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 108 of title I of Pub. L. 95-476 provided that: "(a) Except as provided in subsection (b) of this section, the amendments made by this title [see Tables for classification] shall take effect on October 1, 1978.

"(b) The amendment made by clause (1) of section 104 of this title [amending section 1810 [now 3710] shall take effect on July 1, 1979, except with respect to the authority to prescribe regulations for the implementation of such amendment, which shall be effective on the date of the enactment of this Act [Oct. 18, 1978]."

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

Section 10 of Pub. L. 93-569 provided that: "The provisions of this Act [see Tables for classification] shall be-

come effective on the date of enactment [Dec. 31, 1974] except that the amendments made by sections 2(a)(3) [amending section 1802 [now 3702] of this title] and 2(b) [amending section 1802 [now 3702] of this title] and section 3(2) [amending section 1810 [now 3710] of this title] and 3(4) [amending section 1810 [now 3710] of this title] shall become effective ninety days after such date of enactment [Dec. 31, 1974]."

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

ANNUAL REPORTS ON VETERANS RECEIVING GUARANTEED MORTGAGE LOANS AS RESULT OF AMENDMENTS BY PUB. L. 102-547

Section 2(c) of Pub. L. 102-547 directed Secretary of Veterans Affairs to transmit report on selected reserve veterans receiving guaranteed mortgage loans to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1994, and annually thereafter, prior to repeal by Pub. L. 104-110, title II, §201(b), Feb. 13, 1996, 110 Stat. 770.

REFERENCES IN OTHER LAWS

Section 415(c)(7) of Pub. L. 100-322 provided that: "Any reference, in effect on the date of the enactment of this Act [May 20, 1988], in any law, rule, or regulation to any of the sections, or parts thereof, which are redesignated or transferred by this section [sections 1802(a), (g), 1815, 1816(a) to (c), 1816(d) to (f), 1817, 1817A, 1819, and 1832 of this title were redesignated as sections 1802(a)(1), (4), 1803(a)(2), 1832(a) to (c), 1833(a) to (c), 1813, 1814, 1812, and 1833(d) [now 3702(a)(1), (4), 3703(a)(2), 3732(a) to (c), 3733(a) to (c), 3713, 3714, 3712, and 3733(d)], respectively, of this title] shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section."

TECHNICAL NATURE OF 1986 AMENDMENTS

Section 415(f) of Pub. L. 100-322 provided that: "The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section [see Tables for classification]."

§ 3703. Basic provisions relating to loan guaranty and insurance

(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 3710 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

(i)(I) in the case of any loan of not more than \$45,000, 50 percent of the loan;

(II) in the case of any loan of more than \$45,000, but not more than \$56,250, \$22,500;

(III) except as provided in subclause (IV) of this clause, in the case of any loan of more than \$56,250, the lesser of \$36,000 or 40 percent of the loan; or

(IV) in the case of any loan of more than \$144,000 for a purpose specified in clause (1), (2), (3), (5), (6), or (8) of section 3710(a) of this title, the lesser of the maximum guaranty amount (as defined in subparagraph (C)) or 25 percent of the loan; or

(ii) the maximum amount of guaranty entitlement available to the veteran as specified in subparagraph (B) of this paragraph.

(B) The maximum amount of guaranty entitlement available to a veteran for purposes speci-

fied in section 3710 of this title shall be \$36,000, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, the maximum guaranty amount (as defined in subparagraph (C)), reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 3702(b) of this title.

(C) In this paragraph, the term "maximum guaranty amount" means the dollar amount that is equal to 25 percent of the Freddie Mac conforming loan limit limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for a single-family residence, as adjusted for the year involved.

(2)(A) Any housing loan which might be guaranteed under the provisions of this chapter, when made or purchased by any financial institution subject to examination and supervision by any agency of the United States or of any State may, in lieu of such guaranty, be insured by the Secretary under an agreement whereby the Secretary will reimburse any such institution for losses incurred on such loan up to 15 percent of the aggregate of loans so made or purchased by it.

(B) Loans insured under this section shall be made on such other terms, conditions, and restrictions as the Secretary may prescribe within the limitations set forth in this chapter.

(b) The liability of the United States under any guaranty, within the limitations of this chapter, shall decrease or increase pro rata with any decrease or increase of the amount of the unpaid portion of the obligation.

(c)(1) Loans guaranteed or insured under this chapter shall be payable upon such terms and conditions as may be agreed upon by the parties thereto, subject to the provisions of this chapter and regulations of the Secretary issued pursuant to this chapter, and shall bear interest not in excess of such rate as the Secretary may from time to time find the loan market demands, except that in establishing the rate of interest that shall be applicable to such loans, the Secretary shall consult with the Secretary of Housing and Urban Development regarding the rate of interest applicable to home loans insured under section 203(b) of the National Housing Act (12 U.S.C. 1709(b)). In establishing rates of interest under this paragraph for one or more of the purposes described in clauses (4) and (7) of section 3710(a) of this title, the Secretary may establish a rate or rates higher than the rate specified for other purposes under such section, but any such rate may not exceed such rate as the Secretary may from time to time find the loan market demands for loans for such purposes.

(2) The provisions of the Servicemen's Readjustment Act of 1944 which were in effect before April 1, 1958, with respect to the interest chargeable on loans made or guaranteed under such Act shall, notwithstanding the provisions of paragraph (1) of this subsection, continue to be applicable—

(A) to any loan made or guaranteed before April 1, 1958; and

(B) to any loan with respect to which a commitment to guarantee was entered into by the Secretary before April 1, 1958.

(3) This section shall not be construed to prohibit a veteran from paying to a lender any reasonable discount required by such lender, when the proceeds from the loan are to be used—

(A) to refinance indebtedness pursuant to clause (5), (8), or (9)(B)(i) of section 3710(a) of this title or section 3712(a)(1)(F) of this title;

(B) to repair, alter, or improve a farm residence or other dwelling pursuant to clauses (4) and (7) of section 3710(a) of this title;

(C) to construct a dwelling or farm residence on land already owned or to be acquired by the veteran except where the land is directly or indirectly acquired from a builder or developer who has contracted to construct such dwelling for the veteran;

(D) to purchase a dwelling from a class of sellers which the Secretary determines are legally precluded under all circumstances from paying such a discount if the best interest of the veteran would be so served; or

(E) to refinance indebtedness and purchase a manufactured-home lot pursuant to section 3710(a)(9)(B)(ii) or 3712(a)(1)(G) of this title, but only with respect to that portion of the loan used to refinance such indebtedness.

(4)(A) In guaranteeing or insuring loans under this chapter, the Secretary may elect whether to require that such loans bear interest at a rate that is—

(i) agreed upon by the veteran and the mortgagee; or

(ii) established under paragraph (1).

The Secretary may, from time to time, change the election under this subparagraph.

(B) Any veteran, under a loan described in subparagraph (A)(i), may pay reasonable discount points in connection with the loan. Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount points may not be financed as part of the principal amount of a loan guaranteed or insured under this chapter.

(C) Not later than 10 days after an election under subparagraph (A), the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives a notification of the election, together with an explanation of the reasons therefor.

(d)(1) The maturity of any housing loan at the time of origination shall not be more than thirty years and thirty-two days.

(2)(A) Any loan for a term of more than five years shall be amortized in accordance with established procedure.

(B) The Secretary may guarantee loans with provisions for various rates of amortization corresponding to anticipated variations in family income. With respect to any loan guaranteed under this subparagraph—

(i) the initial principal amount of the loan may not exceed the reasonable value of the property as of the time the loan is made; and

(ii) the principal amount of the loan thereafter (including the amount of all interest to be deferred and added to principal) may not at any time be scheduled to exceed the projected value of the property.

(C) For the purposes of subparagraph (B) of this paragraph, the projected value of the prop-

erty shall be calculated by the Secretary by increasing the reasonable value of the property as of the time the loan is made at a rate not in excess of 2.5 percent per year, but in no event may the projected value of the property for the purposes of such subparagraph exceed 115 percent of such reasonable value. A loan made for a purpose other than the acquisition of a single-family dwelling unit may not be guaranteed under such subparagraph.

(3) Any real estate housing loan (other than for repairs, alterations, or improvements) shall be secured by a first lien on the realty. In determining whether a loan for the purchase or construction of a home is so secured, the Secretary may disregard a superior lien created by a duly recorded covenant running with the realty in favor of a private entity to secure an obligation to such entity for the homeowner's share of the costs of the management, operation, or maintenance of property, services or programs within and for the benefit of the development or community in which the veteran's realty is located, if the Secretary determines that the interests of the veteran borrower and of the Government will not be prejudiced by the operation of such covenant. In respect to any such superior lien to be created after June 6, 1969, the Secretary's determination must have been made prior to the recordation of the covenant.

(e)(1) Except as provided in paragraph (2) of this subsection, an individual who pays a fee under section 3729 of this title, or who is exempted under section 3729(c) of this title from paying such fee, with respect to a housing loan guaranteed or insured under this chapter that is closed after December 31, 1989, shall have no liability to the Secretary with respect to the loan for any loss resulting from any default of such individual except in the case of fraud, misrepresentation, or bad faith by such individual in obtaining the loan or in connection with the loan default.

(2) The exemption from liability provided by paragraph (1) of this subsection shall not apply to—

(A) an individual from whom a fee is collected (or who is exempted from such fee) under section 3729(b)(2)(I) of this title; or

(B) a loan made for any purpose specified in section 3712 of this title.

(f) The application for or obtaining of a loan made, insured, or guaranteed under this chapter shall not be subject to reporting requirements applicable to requests for, or receipts of, Federal contracts, grants, loans, loan guarantees, loan insurance, or cooperative agreements except to the extent that such requirements are provided for in, or by the Secretary pursuant to, this title.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1205, 1212, §1803; Pub. L. 86-73, §2, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, §1, July 14, 1960, 74 Stat. 531; Pub. L. 87-84, §1(a), July 6, 1961, 75 Stat. 201; Pub. L. 89-358, §5(d), Mar. 3, 1966, 80 Stat. 26; Pub. L. 90-77, title IV, §403(b), Aug. 31, 1967, 81 Stat. 190; Pub. L. 91-22, §4, June 6, 1969, 83 Stat. 32; Pub. L. 91-506, §2(b), (c), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-75, July 26, 1973, 87 Stat. 176; Pub. L. 93-569, §§2(c), 8(1)-(5), Dec. 31, 1974, 88 Stat. 1863, 1866;

Pub. L. 94-324, §7(6), (16), June 30, 1976, 90 Stat. 721; Pub. L. 95-476, title I, §103, Oct. 18, 1978, 92 Stat. 1498; Pub. L. 96-385, title IV, §401(c)(1), Oct. 7, 1980, 94 Stat. 1533; Pub. L. 97-66, title V, §501(a), Oct. 17, 1981, 95 Stat. 1031; Pub. L. 97-72, title III, §303(c), (e), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 97-295, §4(61), (63), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 97-306, title IV, §406(b), Oct. 14, 1982, 96 Stat. 1444; Pub. L. 98-223, title II, §205(c), Mar. 2, 1984, 98 Stat. 43; Pub. L. 100-198, §3(a)(1), Dec. 21, 1987, 101 Stat. 1315; Pub. L. 100-253, §3(a), Feb. 29, 1988, 102 Stat. 20; Pub. L. 100-322, title IV, §415(a)(3), (c)(2), (d)(1), May 20, 1988, 102 Stat. 550-552; Pub. L. 101-237, title III, §§304(a), 306(a), 313(b)(1), (6), Dec. 18, 1989, 103 Stat. 2073, 2074, 2077; Pub. L. 102-54, §§4(b), 6, June 13, 1991, 105 Stat. 268; renumbered §3703 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §10(a), Oct. 28, 1992, 106 Stat. 3643; Pub. L. 103-78, §6, Aug. 13, 1993, 107 Stat. 769; Pub. L. 103-353, §7, Oct. 13, 1994, 108 Stat. 3175; Pub. L. 104-110, title I, §101(d), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105-368, title VI, §602(e)(1)(A), Nov. 11, 1998, 112 Stat. 3346; Pub. L. 107-103, title IV, §401, Dec. 27, 2001, 115 Stat. 993; Pub. L. 107-330, title III, §308(f)(1), Dec. 6, 2002, 116 Stat. 2828; Pub. L. 108-454, title IV, §403, Dec. 10, 2004, 118 Stat. 3616; Pub. L. 110-389, title V, §504(a), Oct. 10, 2008, 122 Stat. 4176; Pub. L. 111-22, div. A, title I, §102(a), May 20, 2009, 123 Stat. 1636.)

REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, referred to in subsec. (c)(2), 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, which was repealed upon the enactment of Title 38, Veterans' Benefits, by Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1105. For distribution of sections 693 to 697g of former Title 38 in this title, see Table preceding section 101 of this title.

AMENDMENTS

2009—Subsec. (d)(1). Pub. L. 111-22 inserted “at the time of origination” after “loan”.

2008—Subsec. (a)(1)(A)(i)(IV). Pub. L. 110-389 inserted “(5),” after “(3).”

2004—Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 108-454, §403(a), substituted “the maximum guaranty amount (as defined in subparagraph (C))” for “\$60,000”.

Subsec. (a)(1)(C). Pub. L. 108-454, §403(b), added subpar. (C).

2002—Subsec. (e)(2)(A). Pub. L. 107-330 substituted “3729(b)(2)(I)” for “3729(b)”.

2001—Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 107-103 substituted “\$60,000” for “\$50,750”.

1998—Subsec. (e)(1). Pub. L. 105-368 substituted “3729(c)” for “3729(c)(1)”.

1996—Subsec. (c)(4)(D). Pub. L. 104-110 struck out subpar. (D) which read as follows: “This paragraph shall expire on December 31, 1995.”

1994—Subsec. (a)(1)(A)(i)(IV), (B). Pub. L. 103-353 substituted “\$50,750” for “\$46,000”.

1993—Subsec. (c)(4)(B). Pub. L. 103-78 in second sentence substituted “Except in the case of a loan for the purpose specified in section 3710(a)(8), 3710(b)(7), or 3712(a)(1)(F) of this title, discount” for “Discount”.

1992—Subsec. (c)(1). Pub. L. 102-547, §10(a)(1), in first sentence substituted “applicable to” for “the Secretary of Housing and Urban Development considers necessary to meet the mortgage market for” and struck out “, and, to the maximum extent practicable, carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter” after “(12 U.S.C. 1709(b))”.

Subsec. (c)(4). Pub. L. 102-547, §10(a)(2), added par. (4). 1991—Pub. L. 102-83, §5(a), renumbered section 1803 of this title as this section.

Subsec. (a)(1)(A). Pub. L. 102-83, §5(c)(1), substituted “3710” for “1810” in introductory provisions.

Subsec. (a)(1)(A)(i)(III). Pub. L. 102-54, §6(1), inserted “except as provided in subclause (IV) of this clause,” after “(III)” and struck out “but not more than \$144,000.” after “\$56,250.”

Subsec. (a)(1)(A)(i)(IV). Pub. L. 102-83, §5(c)(1), substituted “3710(a)” for “1810(a)”.

Pub. L. 102-54, §6(2), substituted “(6), or (8)” for “or (6)”.

Subsec. (a)(1)(B). Pub. L. 102-83, §5(c)(1), substituted “3710” for “1810” and “3702(b)” for “1802(b)”.

Subsec. (c)(1). Pub. L. 102-83, §5(c)(1), substituted “3710(a)” for “1810(a)”.

Subsec. (c)(3). Pub. L. 102-83, §5(c)(1), substituted “3710(a)” for “1810(a)” and “3712(a)(1)(F)” for “1812(a)(1)(F)” in subpar. (A), “3710(a)” for “1810(a)” in subpar. (B), and “3710(a)(9)(B)(ii) or 3712(a)(1)(G)” for “1810(a)(9)(B)(ii) or 1812(a)(1)(G)” in subpar. (E).

Subsec. (e)(1). Pub. L. 102-83, §5(c)(1), substituted “3729” for “1829” and “3729(c)(1)” for “1829(c)(1)”.

Subsec. (e)(2). Pub. L. 102-83, §5(c)(1), substituted “3729(b)” for “1829(b)” in subpar. (A) and “3712” for “1812” in subpar. (B).

Subsec. (f). Pub. L. 102-54, §4(b), added subsec. (f).

1989—Subsec. (a)(1)(A)(i). Pub. L. 101-237, §306(a)(1), added subcls. (II) to (IV) and struck out former subcl. (II) which read as follows: “in the case of any loan of more than \$45,000, the lesser of \$36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than \$22,500; or”.

Subsec. (a)(1)(B). Pub. L. 101-237, §306(a)(2), inserted “, or in the case of a loan described in subparagraph (A)(i)(IV) of this paragraph, \$46,000,” after “\$36,000”.

Subsec. (a)(2). Pub. L. 101-237, §313(b)(1), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c)(1). Pub. L. 101-237, §313(b)(6), substituted “Secretary of Housing and Urban Development considers” for “Secretary considers”.

Pub. L. 101-237, §313(b)(1), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (c)(2)(B), (3)(D). Pub. L. 101-237, §313(b)(1), substituted “Secretary” for “Administrator”.

Subsec. (d)(2)(B), (C), (3). Pub. L. 101-237, §313(b)(1), substituted “Secretary” and “Secretary’s” for “Administrator” and “Administrator’s”, respectively, wherever appearing.

Subsec. (e). Pub. L. 101-237, §304(a), added subsec. (e).

1988—Pub. L. 100-322, §415(a)(3)(B), inserted “and insurance” in section catchline.

Subsec. (a)(1). Pub. L. 100-322, §415(d)(1), inserted “as specified in subparagraph (B) of this paragraph” before period at end of cl. (A)(ii) and substituted “for purposes specified in section 1810 of this title” for “under section 1810 of this chapter” in cl. (B).

Pub. L. 100-253 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed—

“(A) in the case of any loan of not more than \$45,000, 50 percent of the loan; or

“(B) in the case of any loan of more than \$45,000, 40 percent of the loan or \$36,000, whichever is less, except that the amount of such guaranty for any such loan shall not be less than \$22,500;

reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.”

Subsec. (a)(2). Pub. L. 100-322, §415(a)(3)(A)(ii), (iii), (B)(ii), redesignated subsecs. (a) and (b) of section 1815 of this title as subpars. (A) and (B), respectively, of par. (2) of subsec. (a) of this section and struck out former par. (2) which read as follows: “Any unused entitlement of World War II or Korean conflict veterans which ex-

pired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used."

Subsec. (c)(3)(A). Pub. L. 100-322, §415(c)(2)(A), substituted "1812(a)(1)(F)" for "1819(a)(1)(F)".

Subsec. (c)(3)(E). Pub. L. 100-322, §415(c)(2)(B), substituted "1812(a)(1)(G)" for "1819(a)(1)(G)".

1987—Subsec. (a)(1). Pub. L. 100-198 amended par. (1) generally. Prior to amendment, par. (1) read as follows: "Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes, and in compliance with the provisions, specified in this chapter is automatically guaranteed by the United States in an amount not more than 60 percent of the loan if the loan is made for any of the purposes specified in section 1810 of this title."

1984—Subsec. (c)(3)(A). Pub. L. 98-223, §205(c)(1), substituted "(8), or (9)(B)(i)" for "or (8)".

Subsec. (c)(3)(E). Pub. L. 98-223, §205(c)(2), inserted "1810(a)(9)(B)(ii) or" after "section".

1982—Subsec. (a)(1). Pub. L. 97-295, §4(61), substituted "percent" for "per centum".

Subsec. (a)(2). Pub. L. 97-295, §4(63)(A), substituted "before October 23, 1970," for "prior to the date of enactment of the Veterans' Housing Act of 1970".

Subsec. (c)(1). Pub. L. 97-295, §4(63)(B), inserted "(12 U.S.C. 1709(b))" after "the National Housing Act".

Subsec. (c)(3). Pub. L. 97-306, §406(b)(1), substituted "used—" for "used:". Notwithstanding that Pub. L. 97-306 directed amendment be made in provisions preceding cl. (1), amendment was executed in provisions preceding cl. (A) as the probable intent of Congress in view of the absence of a cl. (1) in subsec. (c)(3).

Subsec. (c)(3)(E). Pub. L. 97-306, §406(b)(2)-(4), added cl. (E).

Subsec. (d)(3). Pub. L. 97-295, §4(63)(C), substituted "June 6, 1969" for "the effective date of this amendment".

1981—Subsec. (a)(2)(A) [formerly §1815(a)]. Pub. L. 97-72, §303(e), substituted "Any housing loan" for "Any loan". See 1988 Amendment note above.

Subsec. (d)(1). Pub. L. 97-72, §303(c)(1), substituted "any housing loan" for "any loan".

Subsec. (d)(2). Pub. L. 97-66 designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (d)(3). Pub. L. 97-72, §303(c)(2), substituted "Any real estate housing loan" for "Any real estate loan".

1980—Subsec. (c)(3)(A). Pub. L. 96-385 substituted "clause (5) or (8) of section 1810(a) of this title or section 1819(a)(1)(F) of this title" for "section 1810(a)(5)".

1978—Subsec. (a)(1). Pub. L. 95-476, §103(a), substituted provision extending loan guarantees under this section to veterans eligible for benefits under this chapter for provision limiting such guarantees to World War II or Korean conflict veterans.

Subsec. (c)(1). Pub. L. 95-476, §103(b)(1), inserted provision authorizing the Administrator in establishing rates of interest under this paragraph for purposes of cls. (4) to (7) of section 1810(a) of this title to establish rates higher than the rate specified for other purposes under such section but not in excess of the rate the Administrator may find the loan market demands for loans for such purposes.

Subsec. (c)(3)(B). Pub. L. 95-476, §103(b)(2), substituted "clauses (4) and (7) of section 1810(a) of this title" for "section 1810(a)(4)".

1976—Subsec. (a)(2)(A) [formerly §1815(a)]. Pub. L. 94-324, §7(16), substituted "the Administrator will" for "he will". See 1988 Amendment note above.

Subsec. (d)(3). Pub. L. 94-324, §7(6), substituted "the Administrator determines" for "he determines".

1974—Subsec. (a)(1). Pub. L. 93-569, §8(1), struck out "and not more than 50 per centum of the loan if the loan is for any of the purposes specified in section 1812, 1813, or 1814 of this title" after "section 1810 of this title".

Subsec. (a)(2)(B) [formerly §1815(b)]. Pub. L. 93-569, §8(5), struck out provision authorizing the Administrator to fix maximum interest rate payable on non-

real-estate loans at not in excess of 3 percent discount rate or an equivalent straight interest rate on unamortized loans.

Pub. L. 93-569, §8(2), struck out provision that, except as provided in sections 1810, 1811, and 1819, the aggregate amount guaranteed should not be more than \$2,000 in the case of non-real-estate loans, nor \$4,000 in the case of real-estate loans or a prorated portion thereof in a combination loan.

Subsec. (c)(3). Pub. L. 93-569, §2(c), added par. (3).

Subsec. (d)(1). Pub. L. 93-569, §8(3), substituted provision that the maturity of any loan shall not be more than thirty years and thirty-two days for provisions that non-real-estate loans shall not be more than ten years except as provided in section 1819, that the maturity of a real estate loan be not more than thirty years, and a loan on farm realty be not more than forty years.

Subsec. (d)(3). Pub. L. 93-569, §8(4), struck out provision that any non-real-estate loan should be secured by personalty to the extent legal and practicable.

1973—Subsec. (c)(1). Pub. L. 93-75 substituted provisions requiring the Administrator to consult with the Secretary of Housing and Urban Development regarding the establishment of the rate of interest the Secretary considers necessary to meet the mortgage market for home loans insured under section 203(b) of the National Housing Act, and to carry out a coordinated policy on interest rates on loans insured under such section 203(b) and on loans guaranteed or insured under this chapter, for former provision limiting rate of interest to rate in effect under section 203(b)(5) of the National Housing Act.

1970—Subsec. (a). Pub. L. 91-506, §2(b), struck out loan eligibility expiration dates for World War II and Korean conflict veterans and inserted provision restoring expired entitlements of World War II and Korean conflict veterans and providing that such entitlements shall not expire until used.

Subsec. (b). Pub. L. 91-506, §2(c)(1), substituted "1810, 1811, and 1819" for "1810 and 1811".

Subsec. (d)(1). Pub. L. 91-506, §2(c)(2), limited maturity of non-real-estate loan to not more than ten years except as provided in section 1819 of this title.

1969—Subsec. (d)(3). Pub. L. 91-22 authorized the Administrator, in determining whether a Government loan is secured by a first lien on realty, to disregard a superior lien created by a duly recorded covenant which secures a veteran homeowner's share of the costs of managing, operating or maintaining property, services or programs common to the community in which the veteran's home is located, provided the interests of the Government and the veteran borrower are not prejudiced.

1967—Subsec. (a)(3)(A). Pub. L. 90-77 extended in cls. (i) and (ii) loan program for certain World War II veterans from July 25, 1967 to July 25, 1970.

1966—Subsec. (c)(1). Pub. L. 89-358 struck out provision for approval of rate of interest by the Secretary of the Treasury and substituted provision for a rate not in excess of that in effect under section 203(b)(5) of the National Housing Act, section 1709(b)(5) of Title 12, for former limitation of 5¼ per centum per annum.

1961—Subsec. (a). Pub. L. 87-84 substituted "to a World War II or Korean conflict veteran, if made within the applicable period prescribed in paragraph (3) of this subsection" for "made to a World War II veteran, if made before July 26, 1962 (or, in the case of a veteran described in section 1801(a)(1)(B) of this title, before the expiration of fifteen years after World War II is deemed to have ended with respect to him), or to a Korean conflict veteran, if made before February 1, 1965," in par. (1), and "is received by the Administrator before the date of the expiration of the veteran's entitlement, the loan" for "to a World War II veteran, whose entitlement would otherwise expire on July 25, 1962, has been received by the Administrator before July 26, 1962, such loan" in par. (2), and added par. (3).

1960—Subsec. (a). Pub. L. 86-665 substituted "1962" for "1960" in three places, "fifteen" for "thirteen" years, and "after such date" for "before July 26, 1961".

1959—Subsec. (c)(1). Pub. L. 86-73 struck out requirement that the interest rate on a Veterans' Administration guarantee for direct loan be at least one-half of one percent below the prevailing rate on FHA-insured sales housing loans and increased the interest rate ceiling from 4¾ to 5¼ percent.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-330, title III, §308(f)(2), Dec. 6, 2002, 116 Stat. 2828, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of section 402 of the Veterans Benefits and Health Care Improvement Act of 2000 (Public Law 106-419; 114 Stat. 1861)."

EFFECTIVE DATE OF 1998 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-353 effective with respect to reemployments initiated on or after the first day after the 60-day period beginning Oct. 13, 1994, with transition rules, see section 8 of Pub. L. 103-353, set out as an Effective Date note under section 4301 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 306(b) of Pub. L. 101-237 provided that: "The amendments made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Dec. 18, 1989] and shall apply only with respect to loans closed after such date."

EFFECTIVE DATE OF 1988 AMENDMENT

Section 3(c) of Pub. L. 100-253 provided that: "The amendments made by this section [amending this section and section 1819 [now 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987."

EFFECTIVE DATE OF 1987 AMENDMENT

Section 3(d) of Pub. L. 100-198 provided that: "The amendments made by this section [amending this section and sections 1810, 1811, and 1819 [now 3710, 3711, and 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987."

EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-385 effective Oct. 7, 1980, see section 601(d) of Pub. L. 96-385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95-476, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

IMPLEMENTATION OF AMENDMENT BY PUB. L. 111-22

Pub. L. 111-22, div. A, title I, §102(b), May 20, 2009, 123 Stat. 1636, provided that: "The Secretary of Veterans Affairs may implement the amendments made by this section [amending this section] through notice, procedure notice, or administrative notice."

TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY SECRETARY OF VETERANS AFFAIRS

Pub. L. 110-389, title V, §501, Oct. 10, 2008, 122 Stat. 4175, provided that: "Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act [Oct. 10, 2008] and ending on December 31, 2011, the term 'maximum guaranty amount' shall mean an amount equal to 25 percent of the higher of—

"(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

"(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 percent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence."

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

ANNUAL REPORTS ON GUARANTEE AND INSURANCE OF LOANS BEARING NEGOTIATED INTEREST RATES AND POINTS

Section 10(b) of Pub. L. 102-547, as amended by Pub. L. 103-446, title XII, §1202(d), Nov. 2, 1994, 108 Stat. 4689, directed Secretary of Veterans Affairs to transmit report on guarantee and insurance of loans bearing negotiated interest rates and points to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, and annually thereafter, prior to repeal by Pub. L. 104-110, title II, §201(b), Feb. 13, 1996, 110 Stat. 770.

EXPIRATION OF LOAN BENEFIT ENTITLEMENT OF CERTAIN WORLD WAR II VETERANS

Section 403(c) of Pub. L. 90-77 provided that the World War II loan benefit entitlement of any veteran whose period of entitlement as computed under former subsec. (a)(3)(A) of this section extended beyond July 25, 1967, was not to be deemed to expire earlier than ninety days after the effective date of section 403 of Pub. L. 90-77 [see section 405(a) of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title].

§ 3704. Restrictions on loans

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the prop-

erty meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Secretary; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) Subject to notice and opportunity for a hearing, the Secretary may refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person identified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers. The Secretary may also refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(c)(1) Except as provided in paragraph (2) of this subsection, no loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that the veteran applies for the loan, and also at the time that the loan is closed, certifies in such form as the Secretary may require, that the veteran intends to occupy the property as the veteran's home. Except as provided in paragraph (2) of this subsection, no loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that the veteran applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Secretary, that the veteran occupies the property as the veteran's home. Notwithstanding the foregoing provisions of this subsection, in the case of a loan automatically guaranteed under this chapter, the veteran shall be required to make the certification only at the time the loan is closed. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct home loan must occupy or intend to occupy the property as the veteran's home means that the veteran as of the date of the veteran's certification actually lives in the property personally as the veteran's residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as the veteran's residence. Notwithstanding the foregoing requirements of this subsection, the provisions for certification by the veteran at the time the veteran applies for the loan and at the time the loan is closed shall be considered to be satisfied if the Secretary finds that (1) in the case of a loan for repair, alteration, or improvement the veteran in fact did occupy the property at such times, or (2) in the case of a loan for construction or purchase the veteran intended to

occupy the property as the veteran's home at such times and the veteran did in fact so occupy it when, or within a reasonable time after, the loan was closed.

(2) In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

- (A) paragraph (1) of this subsection;
- (B) paragraphs (1) through (5) and paragraph (7) of section 3710(a) of this title;
- (C) section 3712(a)(5)(A)(i) of this title; and
- (D) section 3712(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and the spouse makes the certification required by paragraph (1) of this subsection.

(d) Subject to notice and opportunity for a hearing, whenever the Secretary finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, the Secretary may refuse either temporarily or permanently to guarantee or insure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Secretary shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender. The Secretary may also refuse either temporarily or permanently to guarantee or insure any loans made by a lender or holder refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(e) Any housing loan which is financed through the assistance of this chapter and to which section 3714 of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 3714.

(f) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206, § 1804; Pub. L. 86-73, § 3, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, § 5, July 14, 1960, 74 Stat. 532; Pub. L. 89-117, title II, § 217(b), Aug. 10, 1965, 79 Stat. 473; Pub. L. 90-19, § 25(2), May 25, 1967, 81 Stat. 28; Pub. L. 91-506, § 2(d), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, § 2(d), (e), Dec. 31, 1974, 88 Stat. 1863, 1864; Pub. L. 94-324, § 7(7), (8), June 30, 1976, 90 Stat. 721; Pub. L. 97-295, § 4(64), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100-198, §§ 8(a)(1), 10(b), Dec.

21, 1987, 101 Stat. 1319, 1323; Pub. L. 100-322, title IV, §415(c)(3), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3704 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-486, title I, §101(c)(2), Oct. 24, 1992, 106 Stat. 2787; Pub. L. 103-446, title IX, §903, Nov. 2, 1994, 108 Stat. 4676.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (b) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

AMENDMENTS

1994—Subsecs. (e) to (g). Pub. L. 103-446 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: "No loan for the purchase or construction of new residential property (other than property served by a water and sewerage system approved by the Secretary of Housing and Urban Development pursuant to title X of the National Housing Act (12 U.S.C. 1749aa et seq.)) shall be financed through the assistance of this chapter, except pursuant to a commitment made prior to August 10, 1965, if such property is not served by a public or adequate community water and sewerage system and is located in an area where the appropriate local officials certify that the establishment of such systems is economically feasible. For purposes of this subsection, the economic feasibility of establishing 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."

1992—Subsec. (g). Pub. L. 102-486 added subsec. (g).

1991—Pub. L. 102-83, §5(a), renumbered section 1804 of this title as this section.

Subsec. (c)(2). Pub. L. 102-83, §5(c)(1), substituted "3710(a)" for "1810(a)" in subpar. (B), "3712(a)(5)(A)(i)" for "1812(a)(5)(A)(i)" in subpar. (C), and "3712(e)(5)" for "1812(e)(5)" in subpar. (D).

Subsec. (f). Pub. L. 102-83, §5(c)(1), substituted "3714" for "1814" in two places.

1989—Subsecs. (a) to (c)(1), (d). Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (c)(2)(C). Pub. L. 100-322, §415(c)(3)(A), substituted "1812(a)(5)(A)(i)" for "1819(a)(5)(A)(i)".

Subsec. (c)(2)(D). Pub. L. 100-322, §415(c)(3)(b), substituted "1812(e)(5)" for "1819(e)(5)".

Subsec. (f). Pub. L. 100-322, §415(c)(3)(C), substituted "section 1814" for "section 1817A" in two places.

1987—Subsec. (c). Pub. L. 100-198, §8(a), designated existing provision as par. (1), substituted "Except as provided in paragraph (2) of this subsection, no" for "No" in first and second sentences, and added par. (2).

Subsec. (f). Pub. L. 100-198, §10(b), added subsec. (f).

1982—Subsec. (e). Pub. L. 97-295 inserted "(12 U.S.C. 1749aa et seq.)" after "the National Housing Act", and substituted "August 10, 1965" for "the date of the enactment of the Housing and Urban Development Act of 1965".

1976—Subsec. (c). Pub. L. 94-324, §7(7), substituted "the veteran" for "he" in six places and "the veterans" for "his" wherever appearing.

Subsec. (d). Pub. L. 94-324, §7(8), substituted "the Administrator may" for "he may".

1974—Subsec. (b). Pub. L. 93-569, §2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

Subsec. (c). Pub. L. 93-569, §2(d), inserted provision that, the foregoing provisions notwithstanding, in the case of an automatically guaranteed loan, the veteran is required to make certification only at the time of loan closing.

Subsec. (d). Pub. L. 93-569, §2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

1970—Subsec. (b). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, the" for "The".

Subsec. (d). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, whenever" for "Whenever".

1967—Subsecs. (b), (d), (e). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (e). Pub. L. 89-117 added subsec. (e).

1960—Subsec. (c). Pub. L. 86-665 inserted sentence respecting satisfaction of provisions for certification by the veteran at the time he applies for the loan and at the time the loan is closed.

1959—Subsec. (b). Pub. L. 86-73, §3(a), authorized the Administrator to refuse to appraise any property if the builder or sponsor of the property had been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

Subsec. (d). Pub. L. 86-73, §3(b), authorized the Administrator to refuse to guarantee or insure loans if the lender or holder of the loans has been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 8(c) of Pub. L. 100-198 provided that: "The amendments made by this section [amending this section and sections 1810 and 1819 [now 3710 and 3712] of this title] shall apply with respect to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987]."

EFFECTIVE DATE OF 1976 AMENDMENT

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

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

§ 3705. Warranties

(a) The Secretary shall 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 appraised for guaranty or insurance before the beginning of construction, the seller or builder, and such other person as may be required by the 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 amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary) on which the Secretary based the Secretary's valuation of the dwelling. The Secretary shall deliver to the builder, seller, or other warrantor the Secretary's written approval (which shall be conclusive evidence of such appraisal) 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. Such warranty shall apply only with respect to such instances of substantial non-conformity to such approved plans and specifications (including any amendments thereof, or

changes or variations therein, which have been approved in writing, as provided in this section, by the Secretary) as to which the purchaser or home owner 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. 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. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Secretary on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a commitment therefor made before October 1, 1954.

(b) The Secretary shall permit copies of the plans and specifications (including written approvals of any amendments thereof, or changes or variations therein, as provided in this section) 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, home owner, or warrantor during such hours or periods of time as the Secretary may determine to be reasonable.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206, §1805; Pub. L. 94-324, §7(9), June 30, 1976, 90 Stat. 721; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §15(a)(1), June 13, 1991, 105 Stat. 288; renumbered §3705, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, §1202(a)(2), Nov. 2, 1994, 108 Stat. 4689.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-446 made technical correction to directory language of Pub. L. 102-54, §15(a)(1)(A). See 1991 Amendment note below.

1991—Pub. L. 102-83, §5(a), renumbered section 1805 of this title as this section.

Subsec. (a). Pub. L. 102-54, §15(a)(1)(B), substituted "appraisal" for "approval" in second sentence.

Pub. L. 102-54, §15(a)(1)(A), as amended by Pub. L. 103-446, substituted "appraised" for "approved" before "for guaranty" in first sentence.

1989—Pub. L. 101-237 substituted "Secretary" and "Secretary's" for "Administrator" and "Administrator's", respectively, wherever appearing.

1976—Subsec. (a). Pub. L. 94-324 substituted "the Administrator's" for "his" wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 1202(a) of Pub. L. 103-446 provided that the amendment made by that section is effective June 13, 1991, and as if included in the enactment of Pub. L. 102-54.

EFFECTIVE DATE OF 1976 AMENDMENT

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

§ 3706. Escrow of deposits and downpayments

(a) Any deposit or downpayment made by an eligible veteran in connection with the purchase of proposed or newly constructed and previously unoccupied residential property in a project on which the Secretary has issued a Certificate of Reasonable Value, which purchase is to be financed with a loan guaranteed, insured, or made

under the provisions of this chapter, shall be deposited forthwith by the seller, or the agent of the seller, receiving such deposit or payment, in a trust account to safeguard such deposit or payment from the claims of creditors of the seller. The failure of the seller or the seller's agent to create such trust account and to maintain it until the deposit or payment has been disbursed for the benefit of the veteran purchaser at settlement or, if the transaction does not materialize, is otherwise disposed of in accordance with the terms of the contract, may constitute an unfair marketing practice within the meaning of section 3704(b) of this title.

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

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

AMENDMENTS

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

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

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

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

1976—Subsec. (a). Pub. L. 94-324 substituted "the seller's" for "his".

EFFECTIVE DATE OF 1976 AMENDMENT

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

§ 3707. Adjustable rate mortgages

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 1993 through 2012 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act.

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

(1) correspond to a specified national interest rate index approved by the Secretary, information on which is readily accessible to

mortgagors from generally available published sources;

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

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

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

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

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

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

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

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

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

(Added Pub. L. 102-547, §3(a)(1), Oct. 28, 1992, 106 Stat. 3634; amended Pub. L. 103-78, §7, Aug. 13, 1993, 107 Stat. 769; Pub. L. 108-454, title IV, §404, Dec. 10, 2004, 118 Stat. 3616; Pub. L. 110-389, title V, §505(a), Oct. 10, 2008, 122 Stat. 4176.)

REFERENCES IN TEXT

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

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-389 substituted “2012” for “2008”.

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

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

ANNUAL REPORTS ON ADJUSTABLE RATE MORTGAGES GUARANTEED UNDER THIS SECTION

Section 3(b) of Pub. L. 102-547 directed Secretary of Veterans Affairs to transmit adjustable rate mortgage report to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, containing description of project carried out under this section and thereafter to transmit annual reports to such committees with respect to default rates and other information concerning loans guaranteed under this section prior to repeal by Pub. L. 104-110, title II, §201(b), Feb. 13, 1996, 110 Stat. 770.

§ 3707A. Hybrid adjustable rate mortgages

(a) The Secretary shall carry out a demonstration project under this section during fiscal years 2004 through 2012 for the purpose of guaranteeing loans in a manner similar to the manner in which the Secretary of Housing and Urban Development insures adjustable rate mortgages under section 251 of the National Housing Act in accordance with the provisions of this section with respect to hybrid adjustable rate mortgages described in subsection (b).

(b) Adjustable rate mortgages that are guaranteed under this section shall be adjustable rate mortgages (commonly referred to as “hybrid adjustable rate mortgages”) having interest rate adjustment provisions that—

(1) specify an initial rate of interest that is fixed for a period of not less than the first three years of the mortgage term;

(2) provide for an initial adjustment in the rate of interest by the mortgagee at the end of the period described in paragraph (1); and

(3) comply in such initial adjustment, and any subsequent adjustment, with subsection (c).

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

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

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

(3) in the case of the initial contract interest rate adjustment—

(A) if the initial contract interest rate remained fixed for less than 5 years, be limited to a maximum increase or decrease of 1 percentage point; or

(B) if the initial contract interest rate remained fixed for 5 years or more, be limited to a maximum increase or decrease of such percentage point or points as the Secretary may prescribe;

(4) in the case of any single annual interest rate adjustment after the initial contract interest rate adjustment, be limited to a maximum increase or decrease of such percentage points as the Secretary may prescribe; and

(5) be limited, over the term of the mortgage, to a maximum increase of such number of percentage points as the Secretary shall prescribe for purposes of this section.

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

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

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

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

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

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

(Added Pub. L. 107-330, title III, §303(a), Dec. 6, 2002, 116 Stat. 2825; amended Pub. L. 108-454, title IV, §405(a), (b), Dec. 10, 2004, 118 Stat. 3616; Pub. L. 109-233, title I, §102, June 15, 2006, 120 Stat. 399; Pub. L. 110-389, title V, §505(b), Oct. 10, 2008, 122 Stat. 4176.)

REFERENCES IN TEXT

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

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-389 substituted “2012” for “2008”.

2006—Subsec. (c)(4). Pub. L. 109-233 substituted “such percentage points as the Secretary may prescribe” for “1 percentage point”.

2004—Subsec. (a). Pub. L. 108-454, §405(a), substituted “during fiscal years 2004 through 2008” for “during fiscal years 2004 and 2005”.

Subsec. (c)(3). Pub. L. 108-454, §405(b)(2), added par. (3) and struck out former par. (3) which read as follows: “be limited, with respect to any single annual interest rate adjustment, to a maximum increase or decrease of 1 percentage point; and”.

Subsec. (c)(4). Pub. L. 108-454, §405(b)(2), added par. (4). Former par. (4) redesignated (5).

Subsec. (c)(5). Pub. L. 108-454, §405(b)(1), (3), redesignated par. (4) as (5) and substituted “such number of percentage points as the Secretary shall prescribe for purposes of this section” for “5 percentage points above the initial contract interest rate”.

NO EFFECT ON GUARANTEE OF LOANS UNDER HYBRID ADJUSTABLE RATE MORTGAGE GUARANTEE DEMONSTRATION PROJECT

Pub. L. 108-454, title IV, §405(c), Dec. 10, 2004, 118 Stat. 3616, provided that: “The amendments made by this section [amending this section] shall not be construed to affect the force or validity of any guarantee of a loan made by the Secretary of Veterans Affairs under the demonstration project for the guarantee of hybrid adjustable rate mortgages under section 3707A of title 38, United States Code, as in effect on the day before the date of the enactment of this Act [Dec. 10, 2004].”

§ 3708. Authority to buy down interest rates: pilot program

(a) In order to enable the purchase of housing in areas where the supply of suitable military housing is inadequate, the Secretary may conduct a pilot program under which the Secretary may make periodic or lump sum assistance payments on behalf of an eligible veteran for the purpose of buying down the interest rate on a loan to that veteran that is guaranteed under this chapter for a purpose described in paragraph (1), (6), or (10) of section 3710(a) of this title.

(b) An individual is an eligible veteran for the purposes of this section if—

(1) the individual is a veteran, as defined in section 3701(b)(4) of this title;

(2) the individual submits an application for a loan guaranteed under this chapter within one year of an assignment of the individual to duty at a military installation in the United States designated by the Secretary of Defense as a housing shortage area;

(3) at the time the loan referred to in subsection (a) is made, the individual is an enlisted member, warrant officer, or an officer (other than a warrant officer) at a pay grade of O-3 or below;

(4) the individual has not previously used any of the individual's entitlement to housing loan benefits under this chapter; and

(5) the individual receives comprehensive prepurchase counseling from the Secretary (or the designee of the Secretary) before making application for a loan guaranteed under this chapter.

(c) Loans with respect to which the Secretary may exercise the buy down authority under subsection (a) shall—

(1) provide for a buy down period of not more than three years in duration;

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

(3) be subject to such other terms and conditions as the Secretary may prescribe by regulation.

(d) The Secretary shall promulgate underwriting standards for loans for which the interest rate assistance payments may be made under subsection (a). Such standards shall be based on the interest rate for the second year of the loan.

(e) The Secretary or lender shall provide comprehensive prepurchase counseling to eligible veterans explaining the features of interest rate buy downs under subsection (a), including a hypothetical payment schedule that displays the increases in monthly payments to the mortgagor over the first five years of the mortgage term. For the purposes of this subsection, the Secretary may assign personnel to military installations referred to in subsection (b)(2).

(f) There is authorized to be appropriated \$3,000,000 annually to carry out this section.

(g) The Secretary may not guarantee a loan under this chapter after September 30, 1998, on which the Secretary is obligated to make payments under this section.

(Added Pub. L. 104-106, div. B, title XXVIII, §2822(b)(1), Feb. 10, 1996, 110 Stat. 556.)

AUTHORITY OF SECRETARY OF DEFENSE

Section 2822(c) of Pub. L. 104-106 provided that:

“(1) REIMBURSEMENT FOR BUY DOWN COSTS.—The Secretary of Defense shall reimburse the Secretary of Veterans Affairs for amounts paid by the Secretary of Veterans Affairs to mortgagees under section 3708 of title 38, United States Code, as added by subsection (b).

“(2) DESIGNATION OF HOUSING SHORTAGE AREAS.—For purposes of section 3708 of title 38, United States Code, the Secretary of Defense may designate as a housing shortage area a military installation in the United States at which the Secretary determines there is a shortage of suitable housing to meet the military family needs of members of the Armed Forces and the dependents of such members.

“(3) REPORT.—Not later than March 30, 1998, the Secretary shall submit to Congress a report regarding the effectiveness of the authority provided in section 3708 of title 38, United States Code, in ensuring that members of the Armed Forces and their dependents have access to suitable housing. The report shall include the recommendations of the Secretary regarding whether the authority provided in this subsection should be extended beyond the date specified in paragraph (5).

“(4) EARMARK.—Of the amount provided in section 2405(a)(1)(B) [110 Stat. 538], \$10,000,000 for fiscal year 1996 shall be available to carry out this subsection.

“(5) SUNSET.—This subsection shall not apply with respect to housing loans guaranteed after September 30, 1998, for which assistance payments are paid under section 3708 of title 38, United States Code.”

SUBCHAPTER II—LOANS

§ 3710. Purchase or construction of homes

(a) Except as provided in section 3704(c)(2) of this title, any loan to a veteran, if made pursuant to the provisions of this chapter, is automatically guaranteed if such loan is for one or more of the following purposes:

(1) To purchase or construct a dwelling to be owned and occupied by the veteran as a home.

(2) To purchase a farm on which there is a farm residence to be owned and occupied by the veteran as the veteran's home.

(3) To construct on land owned by the veteran a farm residence to be occupied by the veteran as the veteran's home.

(4) To repair, alter, or improve a farm residence or other dwelling owned by the veteran and occupied by the veteran as the veteran's home.

(5) To refinance existing mortgage loans or other liens which are secured of record on a dwelling or farm residence owned and occupied by the veteran as the veteran's home.

(6) To purchase a one-family residential unit in a condominium housing development or project, if such development or project is approved by the Secretary under criteria which the Secretary shall prescribe in regulations.

(7) To improve a dwelling or farm residence owned by the veteran and occupied by the veteran as the veteran's home through energy efficiency improvements, as provided in subsection (d).

(8) To refinance in accordance with subsection (e) of this section an existing loan guaranteed, insured, or made under this chapter.

(9)(A)(i) To purchase a manufactured home to be permanently affixed to a lot that is owned by the veteran.

(ii) To purchase a manufactured home and a lot to which the home will be permanently affixed.

(B)(i) To refinance, in accordance with the terms and conditions applicable under the provisions of subsection (e) of this section (other than paragraph (1)(E) of such subsection) to the guaranty of a loan for the purpose specified in clause (8) of this subsection, an existing loan guaranteed, insured, or made under this chapter that is secured by a manufactured home permanently affixed to a lot that is owned by the veteran.

(ii) To refinance, in accordance with section 3712(a)(5) of this title, an existing loan that

was made for the purchase of, and that is secured by, a manufactured home that is permanently affixed to a lot and to purchase the lot to which the manufactured home is affixed.

(10) To purchase a dwelling to be owned and occupied by the veteran as a home and make energy efficiency improvements, as provided in subsection (d).

(11) To refinance in accordance with subsection (e) an existing loan guaranteed, insured, or made under this chapter, and to improve the dwelling securing such loan through energy efficiency improvements, as provided in subsection (d).

(12) With respect to a loan guaranteed after the date of the enactment of this paragraph and before the date that is five years after that date, to purchase stock or membership in a cooperative housing corporation for the purpose of entitling the veteran to occupy for dwelling purposes a single family residential unit in a development, project, or structure owned or leased by such corporation, in accordance with subsection (h).

If there is an indebtedness which is secured by a lien against land owned by the veteran, the proceeds of a loan guaranteed under this section or made under section 3711 of this title for construction of a dwelling or farm residence on such land may be used also to liquidate such lien, but only if the reasonable value of the land is equal to or greater than the amount of the lien.

(b) No loan may be guaranteed under this section or made under section 3711 of this title unless—

(1) the proceeds of such loan will be used to pay for the property purchased, constructed, or improved;

(2) the contemplated terms of payment required in any mortgage to be given in part payment of the purchase price or the construction cost bear a proper relation to the veteran's present and anticipated income and expenses;

(3) the veteran is a satisfactory credit risk, as determined in accordance with the credit underwriting standards established pursuant to subsection (g) of this section;

(4) the nature and condition of the property is such as to be suitable for dwelling purposes;

(5) except in the case of a loan described in clause (7) or (8) of this subsection, the loan to be paid by the veteran for such property or for the cost of construction, repairs, or alterations, does not exceed the reasonable value thereof as determined pursuant to section 3731 of this title;

(6) if the loan is for repair, alteration, or improvement of property, such repair, alteration, or improvement substantially protects or improves the basic livability or utility of such property;

(7) in the case of a loan (other than a loan made for a purpose specified in subsection (a)(8) of this section) that is made to refinance—

(A) a construction loan,

(B) an installment land sales contract, or

(C) a loan assumed by the veteran that provides for a lower interest rate than the loan being refinanced,