

amended. Titles I and II of the National Housing Act are classified generally to subchapters I (§1702 et seq.) and II (§1707 et seq.), respectively, of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

#### CODIFICATION

Section was enacted as part of the Veterans Housing Amendments Act of 1976, and not as part of the National Housing Act which comprises this chapter.

#### EFFECTIVE DATE

Section effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of Title 38, Veterans' Benefits.

### § 1709-2. Equity skimming; penalty; persons liable; one dwelling exemption

Whoever, with intent to defraud, willfully engages in a pattern or practice of—

- (1) purchasing one- to four-family dwellings (including condominiums and cooperatives) which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Department of Veterans Affairs, or the loan is made by the Department of Veterans Affairs,
- (2) failing to make payments under the mortgage or deed of trust as the payments become due, regardless of whether the purchaser is obligated on the loan, and
- (3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

(Pub. L. 91-609, title IX, §912, Dec. 31, 1970, 84 Stat. 1814; Pub. L. 100-242, title IV, §416(a), Feb. 5, 1988, 101 Stat. 1907; Pub. L. 102-54, §13(d)(1), June 13, 1991, 105 Stat. 274.)

#### CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

#### AMENDMENTS

1991—Par. (1). Pub. L. 102-54 substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places.

1988—Pub. L. 100-242 inserted parenthetical reference to condominiums and cooperatives in par. (1), substituted "due, regardless of whether the purchaser is obligated on the loan" for "due" in par. (2), and substituted "\$250,000" for "\$5,000" and "5" for "three" in closing provisions.

### § 1709a. Determination of loan-to-value ratios

The Secretary of Housing and Urban Development, in establishing maximum loan-to-value ratios for mortgages insured by him under the National Housing Act [12 U.S.C. 1701 et seq.], as amended by sections 101, 102, and 103 of this Act, shall determine that such ratios are in the pub-

lic interest after taking into consideration (1) the effect of such ratios on the national economy and on conditions in the building industry, and (2) the availability or unavailability of residential mortgage credit assisted under the Servicemen's Readjustment Act of 1944, as amended.

(Pub. L. 85-104, title I, §104, July 12, 1957, 71 Stat. 296; Pub. L. 90-19, §14(a), May 25, 1967, 81 Stat. 24.)

#### REFERENCES IN TEXT

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

Amendments by sections 101, 102, and 103 of this act, referred to in text, refers to amendment of sections 1709(b), (i), 1715k(d)(3), and 1715m(b) of this title by Pub. L. 85-104. Section 1709(i) of this title was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(1), July 30, 2008, 122 Stat. 2835. Section 1715m of this title was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans' Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans' Benefits, see Table preceding section 101 of Title 38, Veterans' Benefits.

#### CODIFICATION

Section was enacted as part of the Housing Act of 1957, and not as part of the National Housing Act which comprises this chapter.

#### AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

### § 1709b. Repealed. Pub. L. 85-364, § 6, Apr. 1, 1958, 72 Stat. 77

Section, Pub. L. 85-104, title VI, §605, July 12, 1957, 71 Stat. 305, authorized Federal Housing Commissioner and Administrator of Veterans' Affairs to fix reasonable limits on charges, fees, and discounts imposed upon builders, sellers, or purchasers.

### § 1710. Payment of insurance

#### (a) In general

##### (1) Authorized claims procedures

The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 1709 of this title through any of the following methods:

##### (A) Assignment of mortgage

The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

- (i) all rights and interests arising under the mortgage;
- (ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;
- (iii) title evidence satisfactory to the Secretary; and
- (iv) such records relating to the mortgage transaction as the Secretary may require.

**(B) Conveyance of title to property**

The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

- (i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and
- (ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

**(C) Claim without conveyance of title**

The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

**(D) Preforeclosure sale**

The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

- (i) the sale of the mortgaged property has been approved by the Secretary;
- (ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and
- (iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

**(2) Payment for loss mitigation**

The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default or faces imminent default, as

defined by the Secretary (including but not limited to actions such as special forbearance, loan modification, support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section subsection<sup>1</sup> (a)(1)(A) or section 1715u(c) of this title). No actions taken under this paragraph, nor any failure to act under this paragraph, by the Secretary or by a mortgagee shall be subject to judicial review.

**(3) Determination of claims procedure**

The Secretary shall publish guidelines for determining which of the procedures for payment of insurance under paragraph (1) are available to a mortgagee when it claims insurance benefits. At least one of the procedures for payment of insurance benefits specified in paragraph (1)(A) or (1)(B) shall be available to a mortgagee with respect to a mortgage, but the same procedure shall not be required to be available for all of the mortgages held by a mortgagee.

**(4) Servicing of assigned mortgages**

If a mortgage is assigned to the Secretary under paragraph (1)(A), the Secretary may permit the assigning mortgagee or its servicer to continue to service the mortgage for reasonable compensation and on terms and conditions determined by the Secretary. Neither the Secretary nor any servicer of the mortgage shall be required to forbear from collection of amounts due under the mortgage or otherwise pursue loss mitigation measures.

**(5) Calculation of insurance benefits**

Insurance benefits shall be paid in accordance with section 1735d of this title and shall be equal to the original principal obligation of the mortgage (with such additions and deductions as the Secretary determines are appropriate) which was unpaid upon the date of—

- (A) assignment of the mortgage to the Secretary;
- (B) the institution of foreclosure proceedings;
- (C) the acquisition of the property after default other than by foreclosure; or
- (D) sale of the mortgaged property by the mortgagor.

**(6) Forbearance and recasting after default**

The mortgagee may, upon such terms and conditions as the Secretary may prescribe—

- (A) extend the time for the curing of the default and the time for commencing foreclosure proceedings or for otherwise acquiring title to the mortgaged property, to such time as the mortgagee determines is necessary and desirable to enable the mortgagor to complete the mortgage payments, including an extension of time beyond the stated maturity of the mortgage, and in the event of a subsequent foreclosure or acquisition of the property by other means the Secretary may include in the amount of insurance benefits an amount equal to any unpaid mortgage interest; or

<sup>1</sup> So in original.

(B) provide for a modification of the terms of the mortgage for the purpose of recasting, over the remaining term of the mortgage or over such longer period pursuant to guidelines as may be prescribed by the Secretary, the total unpaid amount then due, with the modification to become effective currently or to become effective upon the termination of an agreed-upon extension of the period for curing the default; and the principal amount of the mortgage, as modified, shall be considered the "original principal obligation of the mortgage" for purposes of paragraph (5).

**(7) Termination of premium obligation**

The obligation of the mortgagee to pay the premium charges for insurance shall cease upon fulfillment of the appropriate requirements under which the Secretary may pay insurance benefits, as described in paragraph (1). The Secretary may also terminate the mortgagee's obligation to pay mortgage insurance premiums upon receipt of an application filed by the mortgagee for insurance benefits under paragraph (1), or in the event the contract of insurance is terminated pursuant to section 1715t of this title.

**(8) Effect on payment of insurance benefits under section 1715u**

Nothing in this section shall limit the authority of the Secretary to pay insurance benefits under section 1715u of this title.

**(9) Treatment of mortgage assignment program**

Notwithstanding any other provision of law, or the Amended Stipulation entered as a consent decree on November 8, 1979, in *Ferrell v. Cuomo*, No. 73 C 334 (N.D. Ill.), or any other order intended to require the Secretary to operate the program of mortgage assignment and forbearance that was operated by the Secretary pursuant to the Amended Stipulation and under the authority of section 1715u of this title, prior to its amendment by section 407(b) of The Balanced Budget Downpayment Act, I (Public Law 104-99; 110 Stat. 45), no mortgage assigned under this section may be included in any mortgage foreclosure avoidance program that is the same or substantially equivalent to such a program of mortgage assignment and forbearance.

**(b) Consent to release of mortgagor or property**

The Secretary may at any time, under such terms and conditions as he may prescribe, consent to the release of the mortgagor from his liability under the mortgage or the credit instrument secured thereby, or consent to the release of parts of the mortgaged property from the lien of the mortgage.

**(c) Debentures; form and amounts**

Debentures issued under this section—

- (1) shall be in such form and amounts;
- (2) shall be subject to such terms and conditions;
- (3) shall include such provisions for redemption, if any, as may be prescribed by the Secretary of Housing and Urban Development, with the approval of the Secretary of the Treasury; and
- (4) may be in book entry or certificated registered form, or such other form as the Sec-

retary of Housing and Urban Development may prescribe in regulations.

**(d) Debentures; issuance; negotiability; terms; tax exemptions**

The debentures issued under this section to any mortgagee<sup>2</sup> with respect to mortgages insured under section 1709 of this title shall be issued in the name of the Mutual Mortgage Insurance Fund as obligor and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations. All such debentures shall be dated as of the date foreclosure proceedings were instituted, or the property was otherwise acquired by the mortgagee after default: *Provided*, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Secretary, in his discretion, may establish by regulation. The debentures shall bear interest from such date at a rate established by the Secretary pursuant to section 1715o of this title, payable semiannually on the 1st day of January and the 1st day of July of each year, and shall mature twenty years after the date thereof. Such debentures as are issued in exchange for property covered by mortgages insured under section 1709 or section 1713 of this title prior to February 3, 1938 shall be subject only to such Federal, State, and local taxes as the mortgages in exchange for which they are issued would be subject to in the hands of the holder of the debentures and shall be a liability of the Mutual Mortgage Insurance Fund, but such debentures shall be fully and unconditionally guaranteed as to principal and interest by the United States; but any mortgagee entitled to receive any such debentures may elect to receive in lieu thereof a cash adjustment and debentures issued as hereinafter provided and bearing the current rate of interest. Such debentures as are issued in exchange for property covered by the mortgages insured after February 3, 1938, shall be exempt, both as to principal and interest, from all taxation (except surtaxes, estate, inheritance, and gift taxes) now or hereafter imposed by the United States, by any Territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; and such debentures shall be paid out of the Mutual Mortgage Insurance Fund, which shall be primarily liable therefor, and they shall be fully and unconditionally guaranteed as to principal and interest by the United States, and, in the case of debentures issued in certificated registered form, such guaranty shall be expressed on the face of the debentures. In the event that the Mutual Mortgage Insurance Fund fails to pay upon demand, when due, the principal of or interest on any debentures issued under this section, the Secretary of the Treasury shall pay to the holders the amount thereof which is authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, and thereupon to the extent of the amount so paid the Secretary of the Treasury

<sup>2</sup> So in original. Probably should be "mortgagee".

shall succeed to all the rights of the holders of such debentures.

**(e) Certificate of claim**

(1) Subject to paragraph (2), the certificate of claim issued by the Secretary to any mortgagee shall be for an amount which the Secretary determines to be sufficient, when added to the face value of the debentures issued and the cash adjustment paid to the mortgagee, to equal the amount which the mortgagee would have received if, at the time of the conveyance to the Secretary of the property covered by the mortgage, the mortgagor had redeemed the property and paid in full all obligations under the mortgage and a reasonable amount for necessary expenses incurred by the mortgagee in connection with the foreclosure proceedings, or the acquisition of the mortgaged property otherwise, and the conveyance thereof to the Secretary. Each such certificate of claim shall provide that there shall accrue to the holder of such certificate with respect to the face amount of such certificate, an increment at the rate of 3 per centum per annum which shall not be compounded. The amount to which the holder of any such certificate shall be entitled shall be determined as provided in subsection (f) of this section.

(2) A certificate of claim shall not be issued and the provisions of paragraph (1) of this subsection shall not be applicable in the case of a mortgage accepted for insurance pursuant to a commitment issued on or after September 2, 1964.

**(f) Division of excess proceeds; settlement of certificates of claims and refunds to mortgagors**

(1) If, after deducting (in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Secretary, the net amount realized from any property conveyed to the Secretary under this section and the claims assigned therewith exceed the face value of the debentures issued and the cash paid in exchange for such property plus all interest paid on such debentures, such excess shall be divided as follows:

(i) If such excess is greater than the total amount payable under the certificate of claim issued in connection with such property, the Secretary shall pay to the holder of such certificate the full amount so payable, and any excess remaining thereafter shall be paid to the mortgagor of such property if the mortgage was insured under section 1709 of this title: *Provided*, That on and after September 2, 1964, any excess remaining after payment to the holder of the full amount of the certificate of claim, together with the accrued interest increment thereon, shall be retained by the Secretary and credited to the applicable insurance fund; and

(ii) If such excess is equal to or less than the total amount payable under such certificate of claim, the Secretary shall pay to the holder of such certificate the full amount of such excess.

(2) Notwithstanding any other provisions of this section, the Secretary is authorized, with respect to mortgages insured pursuant to com-

mitments for insurance issued after August 11, 1955, and, with the consent of the mortgagee or mortgagor, as the case may be, with respect to mortgages insured pursuant to commitments issued prior to such date, to effect the settlement of certificates of claim and refunds to mortgagors at any time after the sale or transfer of title to the property conveyed to the Secretary under this section and without awaiting the final liquidation of such property for the purpose of determining the net amount to be realized therefrom: *Provided*, That the settlement authority created by the Housing Amendments of 1955 shall be terminated with respect to any certificates of claim outstanding as of September 2, 1964.

(3) With the consent of the holder thereof, the Secretary is authorized, without awaiting the final liquidation of the Secretary's interest in the property, to settle any certificate of claim issued pursuant to subsection (e) of this section, with respect to which settlement had not been effected prior to September 2, 1964, by making payment in cash to the holder thereof of such amount not exceeding the face amount of the certificate of claim, together with the accrued interest thereon, as the Secretary may consider appropriate: *Provided*, That in any case where the certificate of claim is settled in accordance with the provisions of this paragraph, any amounts realized after September 2, 1964, in the liquidation of the Secretary's interest in the property, shall be retained by the Secretary and credited to the applicable insurance fund.

**(g) Handling and disposal of property; settlement of claims**

Notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, the Secretary shall have power to deal with, complete, rent, renovate, modernize, insure, or sell for cash or credit, in his discretion, any properties conveyed to him in exchange for debentures and certificates of claim as provided in this section; and notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection, by way of compromise or otherwise, all claims against mortgagors assigned by mortgagees to the Secretary as provided in this section: *Provided*, That section 6101 of title 41 shall not be construed to apply to any contract for hazard insurance, or to any purchase or contract for services or supplies on account of such property if the amount thereof does not exceed \$1,000. The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program. The power to convey and to execute in the name of the Secretary deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real or personal property or any interest therein heretofore or hereafter acquired by the Secretary pursuant to the provisions of this chapter, may be exercised by an officer appointed by him, without the execution of any express delegation of power or power of attorney: *Provided*, That nothing in this subsection shall be construed to prevent the Sec-

retary from delegating such power by order or by power of attorney, in his discretion, to any officer, agent, or employee he may appoint: *And provided further*, That a conveyance or transfer of title to real or personal property or an interest therein to the Secretary of Housing and Urban Development, his successors and assigns, without identifying the Secretary therein, shall be deemed a proper conveyance or transfer to the same extent and of like effect as if the Secretary were personally named in such conveyance or transfer. The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe.

**(h) Disposition of assets in revitalization areas**

**(1) In general**

The purpose of this subsection is to require the Secretary to carry out a program under which eligible assets (as such term is defined in paragraph (2)) shall be made available for sale in a manner that promotes the revitalization, through expanded homeownership opportunities, of revitalization areas. Notwithstanding the authority under the last sentence of subsection (g) of this section, the Secretary shall dispose of all eligible assets under the program and shall establish the program in accordance with the requirements under this subsection.

**(2) Eligible assets**

For purposes of this subsection, the term “eligible asset” means any of the following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land):

**(A) Properties**

Any property that—

- (i) is designed as a dwelling for occupancy by 1 to 4 families;
- (ii) is located in a revitalization area;
- (iii) was previously subject to a mortgage insured under the provisions of this chapter; and
- (iv) is owned by the Secretary pursuant to the payment of insurance benefits under this chapter.

**(B) Mortgages**

Any mortgage that—

- (i) is an interest in a property that meets the requirements of clauses (i) and (ii) of subparagraph (A);
- (ii) was previously insured under the provisions of this chapter except for mortgages insured under or made pursuant to sections 1715z, 1715z-12, or 1715z-20 of this title; and
- (iii) is held by the Secretary pursuant to the payment of insurance benefits under this chapter.

For purposes of this subsection, an asset under this subparagraph shall be considered to be located in a revitalization area, or in the asset control area of a preferred pur-

chaser, if the property described in clause (i) is located in such area.

**(3) Revitalization areas**

The Secretary shall designate areas as revitalization areas for purposes of this subsection. Before designation of an area as a revitalization area, the Secretary shall consult with affected units of general local government, States, and Indian tribes and interested nonprofit organizations. The Secretary may designate as revitalization areas only areas that meet one of the following requirements:

**(A) Very-low income area**

The median household income for the area is less than 60 percent of the median household income for—

- (i) in the case of any area located within a metropolitan area, such metropolitan area; or
- (ii) in the case of any area not located within a metropolitan area, the State in which the area is located.

**(B) High concentration of eligible assets**

A high rate of default or foreclosure for single family mortgages insured under this chapter has resulted, or may result, in the area—

- (i) having a disproportionately high concentration of eligible assets, in comparison with the concentration of such assets in surrounding areas; or
- (ii) being detrimentally impacted by eligible assets in the vicinity of the area.

**(C) Low home ownership rate**

The rate for home ownership of single family homes in the area is substantially below the rate for homeownership in the metropolitan area.

**(4) Preference for sale to preferred purchasers**

The Secretary shall provide a preference, among prospective purchasers of eligible assets, for sale of such assets to any purchaser who—

- (A) is—
  - (i) the unit of general local government, State, or Indian tribe having jurisdiction with respect to the area in which are located the eligible assets to be sold; or
  - (ii) a nonprofit organization;

(B) in making a purchase under the program under this subsection—

- (i) establishes an asset control area, which shall be an area that consists of part or all of a revitalization area; and
- (ii) purchases all assets of the Secretary in the category or categories of eligible assets set forth in the sale agreement required under paragraph (7) that, at any time during the period which shall be set forth in the sale agreement—
  - (I) are or become eligible for purchase under this subsection; and
  - (II) are located in the asset control area of the purchaser; and

(C) has the capacity to carry out the purchase of the category or categories of eligible assets set forth in the sale agreement

under the program under this subsection and under the provisions of this paragraph.

**(5) Agreements required for purchase**

**(A) Preferred purchasers**

Under the program under this subsection, the Secretary may sell an eligible asset as provided in paragraph (4) to a preferred purchaser only pursuant to a binding agreement by the preferred purchaser that the eligible asset will be used in conjunction with a home ownership plan that provides as follows:

(i) The plan has as its primary purpose the expansion of home ownership in, and the revitalization of, the asset control area, established pursuant to paragraph (4)(B)(i) by the purchaser, in which the eligible asset is located.

(ii) Under the plan, the preferred purchaser has established, and agreed to meet, specific performance goals for increasing the rate of home ownership for eligible assets in the asset control area that are under the purchaser's control. The plan shall provide that the Secretary may waive or modify such goals or deadlines only upon a determination by the Secretary that a good faith effort has been made in complying with the goals through the homeownership plan and that exceptional neighborhood conditions prevented attainment of the goal.

(iii) Under the plan, the preferred purchaser has established rehabilitation standards that meet or exceed the standards for housing quality established under subparagraph (B)(iii) by the Secretary, and has agreed that each asset property for an eligible asset purchased will be rehabilitated in accordance with such standards.

**(B) Non-preferred purchasers**

Under the program under this subsection, the Secretary may sell an eligible asset to a purchaser who is not a preferred purchaser only pursuant to a binding agreement by the purchaser that complies with the following requirements:

(i) The purchaser has agreed to meet specific performance goals established by the Secretary for home ownership of the asset properties for the eligible assets purchased by the purchaser, except that the Secretary may, by including a provision in the sale agreement required under paragraph (7), provide for a lower rate of home ownership in sales involving exceptional circumstances.

(ii) The purchaser has agreed that each asset property for an eligible asset purchased will be rehabilitated to comply with minimum standards for housing quality established by the Secretary for purposes of the program under this subsection.

**(6) Discount for preferred purchasers**

**(A) In general**

For the purpose of providing a public purpose discount for the bulk sales of eligible

assets made under the program under this subsection by preferred purchasers, each eligible asset sold through the program under this subsection to a preferred purchaser shall be sold at a price that is discounted from the value of the asset, as based on the appraised value of the asset property (as such term is defined in paragraph (8)).

**(B) Appraisals**

The Secretary shall require that each appraisal of an eligible asset under this paragraph is based upon—

(i) the market value of the asset property in its "as is" physical condition, which shall take into consideration age and condition of major mechanical and structural systems; and

(ii) the value of the property appraised for home ownership.

**(C) Discounts**

The Secretary, in the sole discretion of the Secretary, shall establish the discount under this paragraph for an eligible asset. In determining the discount, the Secretary may consider the condition of the asset property, the extent of resources available to the preferred purchaser, the comprehensive revitalization plan undertaken by such purchaser, the financial safety and soundness of the Mutual Mortgage Insurance Fund, and any other circumstances the Secretary considers appropriate<sup>3</sup>

**(7) Sale agreement**

The Secretary may sell an eligible asset under this subsection only pursuant to a sale agreement entered into under this paragraph with the purchaser, which shall include the following provisions:

**(A) Assets**

The sale agreement shall identify the category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser.

**(B) Revitalization area and asset control area**

The sale agreement shall identify—

(i) the boundaries of the specific revitalization areas (or portions thereof) in which are located the eligible assets that are covered by the agreement; and

(ii) in the case of a preferred purchaser, the asset control area established pursuant to paragraph (4)(B)(i) that is covered by the agreement.

**(C) Financing**

The sale agreement shall identify the sources of financing for the purchase of the eligible assets.

**(D) Binding agreements**

The sale agreement shall contain binding agreements by the purchaser sufficient to comply with—

<sup>3</sup> So in original. There probably should be a period.

(i) in the case of a preferred purchaser, the requirements under paragraph (5)(A), which agreements shall provide that the eligible assets purchased will be used in conjunction with a home ownership plan meeting the requirements of such paragraph, and shall set forth the terms of the homeownership plan, including—

(I) the goals of the plan for the eligible assets purchased and for the asset control area subject to the plan;

(II) the revitalization areas (or portions thereof) in which the homeownership plan is operating or will operate;

(III) the specific use or disposition of the eligible assets under the plan; and

(IV) any activities to be conducted and services to be provided under the plan; or

(ii) in the case of a purchaser who is not a preferred purchaser, the requirements under paragraph (5)(B).

**(E) Purchase price and discount**

The sale agreement shall establish the purchase price of the eligible assets, which in the case of a preferred purchaser shall provide for a discount in accordance with paragraph (6).

**(F) Housing quality**

The sale agreement shall provide for compliance of the eligible assets purchased with the rehabilitation standards established under paragraph (5)(A)(iii) or the minimum standards for housing quality established under paragraph (5)(B)(ii), as applicable, and shall specify such standards.

**(G) Performance goals and sanctions**

The sale agreement shall set forth the specific performance goals applicable to the purchaser, in accordance with paragraph (5), shall set forth any sanctions for failure to meet such goals and deadlines, and shall require the purchaser to certify compliance with such goals.

**(H) Period covered**

The sale agreement shall establish—

(i) in the case of a preferred purchaser, the time period referred to in paragraph (4)(B)(ii); and

(ii) in the case of a purchaser who is not a preferred purchaser, the time period for purchase of eligible assets that may be covered by the purchase.

**(I) Other terms**

The agreement shall contain such other terms and conditions as may be necessary to require that eligible assets purchased under the agreement are used in accordance with the program under this subsection.

**(8) Definitions**

For purposes of this subsection, the following definitions shall apply:

**(A) Asset control area**

The term “asset control area” means the area established by a preferred purchaser pursuant to paragraph (4)(B)(i).

**(B) Asset property**

The term “asset property” means—

(i) with respect to an eligible asset that is a property, such property; and

(ii) with respect to an eligible asset that is a mortgage, the property that is subject to the mortgage.

**(C) Eligible asset**

The term “eligible asset” means an asset described in paragraph (2).

**(D) Nonprofit organization**

The term “nonprofit organization” means a private organization that—

(i) is organized under State or local laws;

(ii) has no part of its net earnings inuring to the benefit of any member, shareholder, founder, contributor, or individual; and

(iii) complies with standards of financial responsibility that the Secretary may require.

**(E) Preferred purchaser**

The term “preferred purchaser” means a purchaser described in paragraph (4).

**(F) Unit of general local government**

The term “unit of general local government” means any city, town, township, county, parish, village, or other general purpose political subdivision of a State, and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection.

**(G) State**

The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the State with regard to provisions of this subsection.<sup>4</sup>

**(H) Indian tribe**

The term “Indian tribe” has the same meaning as in section 1715z-13(i)(I)<sup>5</sup> of this title.

**(9) Secretary’s discretion**

The Secretary shall have the authority to implement and administer the program under this subsection in such manner as the Secretary may determine. The Secretary may, in the sole discretion of the Secretary, enter into contracts to provide for the proper administration of the program with such public or nonprofit entities as the Secretary determines are qualified.

**(10) Regulations**

The Secretary shall issue regulations to implement the program under this subsection through rulemaking in accordance with the procedures established under section 553 of title 5 regarding substantive rules. Such regu-

<sup>4</sup> So in original. Probably should be “subsection.”

<sup>5</sup> So in original. Probably should be section “1715z-13(i)(1)”.

lations shall take effect not later than the expiration of the 2-year period beginning on October 21, 1998.

**(i) Mortgagor's or mortgagee's interest in property or claim conveyed**

No mortgagee or mortgagor shall have, and no certificate of claim shall be construed to give to any mortgagee or mortgagor, any right or interest in any property conveyed to the Secretary or in any claim assigned to him; nor shall the Secretary owe any duty to any mortgagee or mortgagor with respect to the handling or disposal of any such property or the collection of any such claim.

**(j) Foreclosure; payment and cessation of obligation**

In the event that any mortgage under a mortgage insured under section 1709 of this title (other than a mortgagee receiving insurance benefits under clause (1)(A) of the second sentence of subsection (a) of this section) forecloses on the mortgaged property but does not convey such property to the Secretary in accordance with this section, and the Secretary is given written notice thereof, or in the event that the mortgagor pays the obligation under the mortgage in full prior to the maturity thereof, and the mortgagee pays any adjusted premium charge required under the provisions of section 1709(c) of this title, and the Secretary is given written notice by the mortgagee of the payment of such obligation, the obligation to pay any subsequent premium charge for insurance shall cease, and all rights of the mortgagee and the mortgagor under this section shall terminate as of the date of such notice.

**(k) Repealed. Pub. L. 105-276, title VI, § 601(c), Oct. 21, 1998, 112 Stat. 2673**

**(l) Nullification of right of redemption of single family mortgagors**

(1) Whenever the Secretary or a contract mortgagee (pursuant to its contract with the Secretary) forecloses on a Secretary-held single family mortgage in any Federal or State court or pursuant to a power of sale in a mortgage, the purchaser at the foreclosure sale shall be entitled to receive a conveyance of title to, and possession of, the property, subject to the interests senior to the interests of the Secretary or the contract mortgagee, as the case may be. Notwithstanding any State law to the contrary, there shall be no right of redemption (including in all instances any right to possession based upon any right of redemption) in the mortgagor or any other person subsequent to the foreclosure sale in connection with a Secretary-held single family mortgage. The appropriate State official or the trustee, as the case may be, shall execute and deliver a deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale, consistent with applicable procedures in the jurisdiction and without regard to any such right of redemption.

(2) The following actions shall be taken in order to verify title in the purchaser at the foreclosure sale:

(A) In the case of a judicial foreclosure in any Federal or State court, there shall be in-

cluded in the petition and in the judgment of foreclosure a statement that the foreclosure is in accordance with this subsection and that there is no right of redemption in the mortgagor or any other person.

(B) In the case of a foreclosure pursuant to a power of sale provision in the mortgage, the statement required in subparagraph (A) shall be included in the advertisement of the sale and either in the recitals of the deed or other appropriate instrument conveying title to the purchaser at the foreclosure sale or in an affidavit or addendum to the deed.

(3) For purposes of this subsection:

(A) The term "contract mortgagee" means a person or entity under a contract with the Secretary that provides for the assignment of a single-family mortgage from the Secretary to the person or entity for the purpose of pursuing foreclosure.

(B) the<sup>6</sup> term "mortgage" means a deed of trust, mortgage, deed to secure debt, security agreement, or any other form of instrument under which any interest in property, real, personal, or mixed, or any interest in property, including leaseholds, life estates, reversionary interests, and any other estates under applicable State law, is conveyed in trust, mortgaged, encumbered, pledged, or otherwise rendered subject to a lien, for the purpose of securing the payment of money or the performance of an obligation.

(C) The term "Secretary-held single family mortgage" means a single-family mortgage held by the Secretary or by a contract mortgagee at the time of initiation of foreclosure that—

(i) was formerly insured by the Secretary under any section of this subchapter; or

(ii) was taken by the Secretary as a purchase money mortgage in connection with the sale or other transfer of Secretary-owned property under any section of this subchapter.

(D) the term "single-family mortgage" means a mortgage that covers property on which is located a 1-to-4 family residence.

(June 27, 1934, ch. 847, title II, § 204, 48 Stat. 1249; May 28, 1935, ch. 150, § 29(c), 49 Stat. 300; Feb. 19, 1937, ch. 12, 50 Stat. 20; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 12; June 3, 1939, ch. 175, §§ 9, 10, 53 Stat. 806; June 28, 1941, ch. 261, § 9, 55 Stat. 365; Oct. 14, 1943, ch. 258, § 1, 57 Stat. 570; Aug. 10, 1948, ch. 832, title I, § 101(l), (q), 62 Stat. 1273, 1274; Apr. 20, 1950, ch. 94, title I, §§ 105, 122, 64 Stat. 52, 59; Sept. 1, 1951, ch. 378, title VI, § 604(a), 65 Stat. 314; Aug. 2, 1954, ch. 649, title I, §§ 111, 112(a), 113, 68 Stat. 593, 594; Aug. 11, 1955, ch. 783, title I, § 102(a), 69 Stat. 635; Pub. L. 85-104, title I, §§ 107, 108(a), July 12, 1957, 71 Stat. 297; Pub. L. 86-372, title I, §§ 114(b), 117, Sept. 23, 1959, 73 Stat. 662, 664; Pub. L. 87-70, title VI, § 612(b), (c), June 30, 1961, 75 Stat. 180; Pub. L. 88-560, title I, §§ 104(a), 105(a), Sept. 2, 1964, 78 Stat. 769, 770; Pub. L. 89-117, title XI, § 1108(d), Aug. 10, 1965, 79 Stat. 504; Pub. L. 90-19, § 1(a)(2), (3), (4), (d), May 25, 1967, 81 Stat. 17, 18; Pub. L. 98-181, title IV, § 426, Nov. 30, 1983, 97 Stat. 1218; Pub. L. 100-242, title V, § 569, Feb.

<sup>6</sup> So in original. Probably should be capitalized.



5, 1988, 101 Stat. 1948; Pub. L. 100-628, title X, § 1064(a), (b), Nov. 7, 1988, 102 Stat. 3275; Pub. L. 101-235, title I, § 136, Dec. 15, 1989, 103 Stat. 2028; Pub. L. 102-550, title V, § 516(a), Oct. 28, 1992, 106 Stat. 3790; Pub. L. 104-99, title IV, § 407(a), Jan. 26, 1996, 110 Stat. 45; Pub. L. 104-134, title I, § 101(e) [title II, § 221(a)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-290; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-276, title VI, §§ 601(a), (c), (d), 602, Oct. 21, 1998, 112 Stat. 2670, 2673, 2674; Pub. L. 108-447, div. I, title II, § 221, Dec. 8, 2004, 118 Stat. 3320; Pub. L. 111-22, div. A, title II, § 203(c), May 20, 2009, 123 Stat. 1644.)

## REFERENCES IN TEXT

The Housing Amendments of 1955, referred to in subsec. (f)(2), is act Aug. 11, 1955, ch. 783, 69 Stat. 635, as amended. For complete classification of this Act to the Code, see Short Title of 1955 Amendments note set out under section 1701 of this title and Tables.

This chapter, referred to in subsections (g) and (h), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§ 1701 et seq.). For complete classification of this Act to the Code, see Tables.

## CODIFICATION

In subsec. (g), "section 6101 of title 41" substituted for "section 3709 of the Revised Statutes" on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

## AMENDMENTS

2009—Subsec. (a)(2). Pub. L. 111-22, § 203(c)(3), substituted "subsection (a)(1)(A) or section 1715u(c) of this title" for "paragraph (1)(A)".

Pub. L. 111-22, § 203(c)(1), (2), inserted "or faces imminent default, as defined by the Secretary" after "default" and "support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale," after "loan modification."

2004—Subsec. (h)(2). Pub. L. 108-447, § 221(1)(A), substituted "following categories of assets of the Secretary, unless the Secretary determines at any time that the asset property is economically or otherwise infeasible to rehabilitate or that the best use of the asset property is as open space (including park land)" for "following assets of the Secretary" in introductory provisions.

Subsec. (h)(2)(B)(ii). Pub. L. 108-447, § 221(1)(B), inserted "except for mortgages insured under or made pursuant to sections 1715z, 1715z-12, or 1715z-20 of this title" after "chapter".

Subsec. (h)(2)(C). Pub. L. 108-447, § 221(1)(C), struck out heading and text of subpar. (C). Text read as follows: "Any contingent future interest of the Secretary in an asset described in subparagraph (A) or (B)."

Subsec. (h)(3). Pub. L. 108-447, § 221(2), inserted ", States, and Indian tribes" after "government" in second sentence.

Subsec. (h)(4)(A)(i). Pub. L. 108-447, § 221(3)(A), inserted ", State, or Indian tribe" after "government".

Subsec. (h)(4)(B)(ii). Pub. L. 108-447, § 221(3)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "purchases all interests of the Secretary in all assets of the Secretary that, at any time during the period which shall be set forth in the sale agreement required under paragraph (7)—

"(I) are or become eligible assets; and

"(II) are located in the asset control area of the purchaser; and".

Subsec. (h)(4)(C). Pub. L. 108-447, § 221(3)(C), substituted "purchase of the category or categories of eligible assets set forth in the sale agreement under" for "purchase of eligible assets under".

Subsec. (h)(6)(C). Pub. L. 108-447, § 221(4)(A), amended heading and text of subpar. (C) generally. Prior to

amendment, subpar. (C) set out discount classes, including standard, deep, and minimal discounts.

Subsec. (h)(6)(D). Pub. L. 108-447, § 221(4)(B), struck out heading and text of subpar. (D). Text read as follows: "The Secretary shall, in the sole discretion of the Secretary, establish a method for determining which discount under clause (i) or (ii) subparagraph (C) shall be provided for an eligible asset that is described in such clause (i) and sold to a preferred purchaser. The method may result in the assignment of discounts on any basis consistent with subparagraph (C) that the Secretary considers appropriate to carry out the purposes of this subsection."

Subsec. (h)(7)(A). Pub. L. 108-447, § 221(5), substituted "category or categories of eligible assets to be purchased and, based on the purchaser's capacity to manage and dispose of assets, the maximum number of assets owned by the Secretary at the time the sale agreement is executed that shall be sold to the purchaser" for "eligible assets to be purchased and the interests sold".

Subsec. (h)(8)(F). Pub. L. 108-447, § 221(6)(A), inserted ", and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive officer to act on behalf of the jurisdiction with regard to the provisions of this subsection" after "State".

Subsec. (h)(8)(G), (H). Pub. L. 108-447, § 221(6)(B), added subpars. (G) and (H).

1998—Subsec. (a). Pub. L. 105-276, § 601(a), inserted heading and amended text generally, substituting present provisions for provisions which authorized mortgagee of foreclosed property to receive insurance benefit upon conveyance to Secretary of title and assignment of claims, or upon foreclosure sale or approved sale after default where at least fair market value was received, set maintenance of property as condition of receipt of benefit, provided that obligation to pay premium would cease upon conveyance and assignment and debentures would issue having par value equal to value of mortgage, and set forth provisions detailing amounts to be included in debentures or cash payment and provisions authorizing extension or modification of mortgage where default was due to circumstances beyond control of mortgagor.

Subsec. (g). Pub. L. 105-276, § 601(d), inserted at end "The Secretary may sell real and personal property acquired by the Secretary pursuant to the provisions of this chapter on such terms and conditions as the Secretary may prescribe."

Subsecs. (h), (i). Pub. L. 105-276, § 602, added subsec. (h) and redesignated former subsec. (h) as (i).

Subsec. (k). Pub. L. 105-276, § 601(c), struck out subsec. (k) which read as follows: "Notwithstanding any other provision of this section or of section 1739 or 1750c of this title and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Secretary after September 23, 1959 in accordance with such sections, the Secretary may (1) include in debentures reasonable payments made by the mortgagee with the approval of the Secretary for the purpose of protecting, operating, or preserving the property, and taxes imposed upon any deed or any other instrument by which the property was acquired by the mortgagee and transferred or conveyed to the Secretary; (2) include in debentures as a portion of foreclosure costs (to the extent that foreclosure costs may be included in such debentures by any other provision of this chapter) payments made by the mortgagee for the cost of acquiring the property and conveying and evidencing title to the property to the Secretary; and (3) terminate the mortgagee's obligation to pay mortgage insurance premiums upon receipt of an application for debentures filed by the mortgagee, or in the event the contract of insurance is terminated pursuant to section 1715t of this title."

1996—Subsec. (a). Pub. L. 104-134, in penultimate proviso of last sentence, substituted "special forebearance" for "special foreclosure".

Pub. L. 104-99 inserted "And provided further, That the Secretary may pay insurance benefits to the mort-

gagee to recompense the mortgagee for its actions to provide an alternative to the foreclosure of a mortgage that is in default, which actions may include special foreclosure, loan modification, and deeds in lieu of foreclosure, all upon terms and conditions as the mortgagee shall determine in the mortgagee's sole discretion, within guidelines provided by the Secretary, but which may not include assignment of a mortgage to the Secretary: *And provided further*, That for purposes of the preceding proviso, no action authorized by the Secretary and no action taken, nor any failure to act, by the Secretary or the mortgagee shall be subject to judicial review." before period at end of last sentence.

1992—Subsec. (a). Pub. L. 102-550, §516(a)(1), in fifth sentence, substituted "issue to the mortgagee debentures having a par value" for "subject to the cash adjustment hereinafter provided, issue to the mortgagee debentures having a total face value".

Subsec. (c). Pub. L. 102-550, §516(a)(2), added subsec. (c) and struck out former subsec. (c) which read as follows: "Debentures issued under this section shall be in such form and denominations in multiples of \$50, shall be subject to such terms and conditions, and shall include such provisions for redemption, if any, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury, and may be in coupon or registered form. Any difference between the value of the mortgage determined as herein provided and the aggregate face value of the debentures issued, not to exceed \$350, shall be adjusted by the payment of cash by the Secretary to the mortgagee from the Mutual Mortgage Insurance Fund."

Subsec. (d). Pub. L. 102-550, §516(a)(3), (4), in first sentence, substituted "issued in the name of" for "executed in the name of" and "and shall be negotiable, and, if in book entry form, transferable, in the manner described by the Secretary in regulations" for "shall be signed by the Secretary by either his written or engraved signature, and shall be negotiable" and in fifth sentence, substituted "and, in the case of debentures issued in certificated registered form, such guaranty" for "and such guaranty".

1989—Subsec. (a). Pub. L. 101-235, §136(a), inserted after third sentence "As a condition of the receipt of such benefits, the mortgagee shall maintain or assure the maintenance of the mortgaged property (in such manner as the Secretary shall by regulation provide) during the period beginning on the taking of the possession or other acquisition of the mortgaged property by the mortgagee and ending on conveyance to the Secretary or other disposition of the mortgaged property in accordance with this section, and funds expended by the mortgagee in meeting such obligation shall be included, to the extent provided in this subsection or in subsection (k) of this section, in debentures or other insurance payment pursuant to this section."

Subsec. (g). Pub. L. 101-235, §136(b), inserted after first sentence "The Secretary shall, by regulation, carry out a program of sales of such properties and shall develop and implement appropriate credit terms and standards to be used in carrying out the program."

1988—Subsec. (a). Pub. L. 100-628, §1064(a)(1), (2), in second sentence, substituted "(1)(A) upon sale" for "(1) upon sale", inserted cl. (B), and substituted "; and (2)" for "and (2)".

Pub. L. 100-628, §1064(b)(1), in third sentence, substituted "November 30, 1983 (on or after November 7, 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence)," for "the effective date of this sentence".

Pub. L. 100-628, §1064(b)(2)(A), in fifth sentence, struck out "foreclosure" before "sale of the property: *Provided*".

Subsec. (j). Pub. L. 100-628, §1064(b)(2)(B), inserted "clause (1)(A) of" before "the second sentence".

Subsec. (l). Pub. L. 100-242 added subsec. (l).

1983—Subsec. (a). Pub. L. 98-181, §426(a), inserted provision authorizing the Secretary to make the benefit of the insurance available to the mortgagee upon sale of the insured property at foreclosure and assignment of

all claims to the Secretary and provision relating to payment of benefits pursuant to a commitment to insure issued on or after the effective date of this sentence [Nov. 30, 1983], and substituted "any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates, and, in the case of insurance benefits paid in accordance with the second sentence of this section, any amount received upon the foreclosure sale of the property" for "and any amount received as rent or other income from the property, less reasonable expenses incurred in handling the property, after either of such dates".

Subsec. (j). Pub. L. 98-181, §426(b), inserted "(other than a mortgagee receiving insurance benefits under the second sentence of subsection (a) of this section)" after "section 1709 of this title".

1967—Pub. L. 90-19, §1(a)(2), substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner" in subsec. (g).

Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a) to (d), (e)(1), (f)(1), (f)(1)(i), (ii), (f)(2), (3), (g), (h), (j), and (k).

Subsec. (f)(3). Pub. L. 90-19, §1(a)(4), substituted "Secretary's" for "Commissioner's" wherever appearing.

Subsec. (g). Pub. L. 90-19, §1(d), substituted "an officer" for "the Commissioner or by any Assistant Commissioner".

1965—Subsec. (a). Pub. L. 89-117, §1108(d)(1), struck out reference to section 1715a of this title after reference to section 1709 of this title in first sentence.

Subsec. (c). Pub. L. 89-117, §1108(d)(2), substituted "Mutual Mortgage Insurance Fund" for "Fund as to mortgages insured under section 1709 of this title and from the Housing Fund as to mortgages insured under section 1715a of this title".

Subsec. (d). Pub. L. 89-117, §1108(d)(3)-(6), removed all references to debentures issued with respect to mortgages insured under section 1715a of this title and to the Housing Insurance Fund and substituted Mutual Mortgage Insurance Fund for Fund wherever appearing.

Subsec. (f). Pub. L. 89-117, §1108(d)(7), struck out provision of subpar. (1)(i) calling for retention of excess by Commissioner and credit to the Housing Insurance Fund in the case of mortgages insured under section 1713 of this title.

1964—Subsec. (a). Pub. L. 88-560, §§104(a), 105(a)(1)-(3), (6)(B), amended provisions as follows; section 104(a), in proviso reading "*And provided further*, That with respect to any mortgage covering a one-, two-, three-, or four-family residence", struck out "and it is probable that the mortgage will be restored to good standing within a reasonable period of time" after "control of the mortgagor", substituted "upon such terms and conditions" for "under such regulations and conditions", incorporated authority of Commissioner to "extend the time for curing default and enter into an agreement with the mortgage providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures" in cl. (1), and provided for remainder of cl. (1), cl. (2) and consideration of the principal amount of the mortgage, as modified, as the "original principal obligation of the mortgage" for purpose of computing total face value of debentures to be issued or cash payment to be made by Commissioner to a mortgagee; section 105(a)(1) substituted in third sentence "charges for the administration, operation, maintenance and repair of community-owned property or the maintenance and repair of the mortgaged property, the obligation for which arises out of a covenant filed for record and approved by the Commissioner prior to the insurance of the mortgage, insurance on the mortgaged property, and any mortgage insurance premiums" for "insurance on the mortgaged property, and any mortgage insurance premiums paid after either of such dates"; section 105(a)(2) inserted provisos reading "*And provided further*, That with respect to a mortgage accepted for insurance pursuant to

a commitment issued on or after September 2, 1964, the Commissioner may include in debentures or in the cash payment on amount not to exceed the foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner” and “*And provided further*, That with respect to a mortgage accepted for insurance pursuant to a commitment issued prior to September 2, 1964, the Commissioner may, with the consent of the mortgagee (in lieu of issuing a certificate of claim as provided in subsection (e)), included in debentures or in the cash payment, in addition to amounts otherwise allowed for such costs, an amount not to exceed one-third of the total foreclosure, acquisition, and conveyance costs actually paid by the mortgagee and approved by the Commissioner, but in no event may the total allowance for such costs exceed the amount actually paid by the mortgagee”; section 105(a)(3) struck out from proviso reading “*And provided further*, That with respect to mortgages to which the provisions of sections 532 and 536 of Appendix To Title 50 apply” the words “and the payment of insurance premiums” after “on account of interest on debentures” and inserted after such proviso “*And provided further*, That where the claim is paid in cash there shall be included in the cash payment an amount equivalent to the compensation for loss of debenture interest that would be included in computing debentures if such claim were being paid in debentures”; and section 105(a)(6)(B) substituted “and (subject to subsection (e)(2) of this section) a certificate of claim” for “and a certificate of claim” in second sentence.

Subsec. (c). Pub. L. 88-560, § 105(a)(4), increased limitation on the difference between the value of the mortgage and the aggregate face value of the debentures issued from \$50 to \$350.

Subsec. (d). Pub. L. 88-560, § 105(a)(5), substituted “: *Provided*, That debentures issued pursuant to claims for insurance filed on or after September 2, 1964 shall be dated as of the date of default or as of such later date as the Commissioner, in his discretion, may establish by regulation. The debentures” for “, except that debentures issued pursuant to the provisions of section 1715k(f), 1715l(g), and 1715x of this title may be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner, and” in second sentence.

Subsec. (e). Pub. L. 88-560, § 105(a)(6)(A), designated existing provisions as par. (1), substituted “Subject to paragraph (2), the certificate” for “The certificate”, and added par. (2).

Subsec. (f). Pub. L. 88-560, § 105(a)(7)–(11), designated introductory par. as par. (1) and substituted “If, after deducting (in such manner and amount as the Commissioner shall determine to be equitable and in accordance with sound accounting practice) the expenses incurred by the Commissioner, the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith exceed the face value” for “If the net amount realized from any property conveyed to the Commissioner under this section and the claims assigned therewith, after deducting all expenses incurred by the Commissioner in handling, dealing with, and disposing of such property and in collecting such claims, exceeds the face value”; redesignated former par. (1) as (i) and inserted proviso; redesignated former par. (2) as (ii); designated concluding par. as par. (2) and inserted proviso; and added par. (3), respectively.

1961—Subsec. (d). Pub. L. 87-70, § 612(b), permitted debentures issued pursuant to provisions of section 1715k(f), 1715l(g), and 1715x of this title to be dated as of the date the mortgage is assigned (or the property is conveyed) to the Commissioner.

Subsec. (g). Pub. L. 87-70, § 612(c), included instruments relating to personal property, and inserted proviso requiring that a conveyance or transfer of title to real or personal property or an interest therein to the Federal Housing Commissioner, his successors and assigns, without identifying the Commissioner therein, shall be deemed a proper conveyance or transfer.

1959—Subsec. (a). Pub. L. 86-372, § 114(b), authorized the Commissioner, with respect to any mortgage covering a one-, two-, three-, or four-family residence insured under this chapter, if he finds after notice of default, that the default was due to circumstances beyond the control of the mortgagor and it is probable that the mortgage will be restored to good standing within a reasonable period of time, to extend the time for curing default and to enter into an agreement with the mortgagee providing that if the mortgage is subsequently foreclosed, any interest accruing after the date of the agreement which is not paid by the mortgagor may be included in the debentures.

Subsec. (k). Pub. L. 86-372, § 117, substituted “and with respect to any debentures issued in exchange for properties conveyed to and accepted by the Commissioner after September 23, 1959 in accordance with such section” for “with respect to any debentures issued pursuant to this section or section 1739 or 1750c of this title”, and inserted provisions authorizing inclusion as a portion of the foreclosure costs payments made by the mortgagee for the cost of acquiring the property and conveying the evidencing title to the property to the Commissioner, and permitting the termination of the mortgagee’s obligation to pay mortgage insurance premiums in the event the contract of insurance is terminated pursuant to section 1715t of this title.

1957—Subsec. (d). Pub. L. 85-104, § 108(a), substituted “established by the Commissioner pursuant to section 1715o of this title” for “determined by the Commissioner, with the approval of the Secretary of the Treasury, at the time the mortgage was offered for insurance, but not to exceed 3 per centum per annum” in second sentence.

Subsec. (k). Pub. L. 85-104, § 107, added subsec. (k).

1955—Subsec. (f). Act Aug. 11, 1955, authorized the Commissioner to effect the settlement of certificates of claim and refunds to mortgagors.

1954—Subsec. (a). Act Aug. 2, 1954, § 111(l), permitted a mortgagee to receive in debentures amounts paid by it for Federal taxes imposed on a deed to it and on a deed to the Commissioner; (2) substituted, in second proviso, “or under section 1715e of this title, or with respect to any mortgage accepted for insurance under section 1709 of this title on or after August 2, 1954,” for “or under section 1715e of this title”; and (3) inserted proviso permitting direct conveyances to the Commissioner.

Subsec. (d). Act Aug. 2, 1954, § 112(a), substituted provision for a straight 20-year maturity on debentures for former provision that the debentures should mature “three years after the 1st day of July following the maturity date of the mortgage on the property in exchange for which the debentures were issued, except that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures” in second sentence.

Subsec. (j). Act Aug. 2, 1954, § 113, added subsec. (j).

1951—Subsec. (d). Sept. 1, 1951, inserted in second sentence the provision that debentures issued with respect to mortgages insured under section 1715e of this title shall mature twenty years after the date of such debentures.

1950—Act Apr. 20, 1950, § 122, substituted “Commissioner” for “Administrator” wherever appearing.

Subsec. (a). Act Apr. 20, 1950, § 105, inserted “or under section 1715e of this title” in second proviso.

1948—Subsec. (a). Act Aug. 10, 1948, § 101(l)(1), (2), struck out “prior to July 1, 1944” in first proviso and inserted second proviso.

Subsec. (f). Act Aug. 10, 1948, § 101(q), inserted “if the mortgage was insured under section 1709 of this title and shall be retained by the Administrator and credited to the Housing Insurance Fund if the mortgage was insured under section 1713 of this title” before the colon in par. (1).

1943—Subsec. (a). Act Oct. 14, 1943, inserted proviso.

1941—Subsec. (a). Act June 28, 1941, substituted “July 1, 1944” for “July 1, 1941” in last sentence.

1939—Subsec. (a). Act June 3, 1939, § 9, amended last sentence generally.

Subsec. (g). Act June 3, 1939, §10, inserted last sentence.

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally.

Subsecs. (g), (h). Act Feb. 3, 1938, added subsecs. (g) and (h).

1937—Subsec. (b). Act Joint Res. Feb. 19, 1937, substituted “July 1, 1939” for “July 1, 1937”.

1935—Subsec. (a). Act May 28, 1935, amended last sentence generally.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title VI, §601(b), Oct. 21, 1998, 112 Stat. 2673, provided that: “The Secretary shall publish a notice in the Federal Register stating the effective date of the terms and conditions prescribed by the Secretary under section 204(a)(1) of the National Housing Act [12 U.S.C. 1710(a)(1)], as amended by subsection (a) of this section. Subsections (a) and (k) of section 204 of the National Housing Act [12 U.S.C. 1710(a), (k)], as in effect immediately before such effective date, shall continue to apply to any mortgage insured under section 203 of the National Housing Act [12 U.S.C. 1709] before such effective date, except that the Secretary may, at the request of the mortgagee, pay insurance benefits as provided in subparagraphs (A) and (D) of section 204(a)(1) of such Act [12 U.S.C. 1710(a)(1)(A), (D)] to calculate insurance benefits in accordance with section 204(a)(5) of such Act [12 U.S.C. 1710(a)(5)].”

#### EFFECTIVE DATE OF 1996 AMENDMENT

Section 407(c) of Pub. L. 104-99, as amended by Pub. L. 104-134, title I, §101(e) [title II, §221(d)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 104-204, title II, §203, Sept. 26, 1996, 110 Stat. 2894; Pub. L. 105-33, title II, §2002(1), Aug. 5, 1997, 111 Stat. 257, provided that: “Except as provided in subsection (e) [110 Stat. 46, repealed by Pub. L. 105-33, §2002(2)], the amendments made by subsections (a) and (b) [amending this section and section 1715u of this title] shall apply with respect to mortgages insured under the National Housing Act [12 U.S.C. 1701 et seq.] that are executed before, on, or after October 1, 1997.”

#### EFFECTIVE DATE OF 1954 AMENDMENT

Section 112(e) of act Aug. 2, 1954, provided that: “This section [amending this section and sections 1713, 1748b, and 1750c of this title] shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to the effective date of the Housing Act of 1954 [Aug. 2, 1954].”

#### REGULATIONS

Section 101(e) [title II, §221(c)(1)] of Pub. L. 104-134 provided that: “Not later than 30 days after the date of enactment of this Act [Apr. 26, 1996], the Secretary of Housing and Urban Development shall issue interim regulations to implement section 407 of the Balanced Budget Downpayment Act, I [Pub. L. 104-99, amending this section and section 1715u of this title and enacting provisions set out as a note above], and the amendments to the National Housing Act made by that section.”

Section 407(d) of Pub. L. 104-99, which directed the Secretary of Housing and Urban Development to issue interim regulations to implement section 407 of Pub. L. 104-99 and amendments made by that section (amending this section and section 1715u of this title and enacting provisions set out as a note above) not later than 60 days after Jan. 26, 1996, was repealed by Pub. L. 104-134, title I, §101(e) [title II, §221(c)(2)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291; renumbered title I, Pub. L. 104-140, §1(a), May 2, 1996, 110 Stat. 1327.

Section 1064(c) of Pub. L. 100-628 provided that: “In developing regulations to carry out the amendments made by this section [amending this section], the Secretary of Housing and Urban Development may delegate to mortgagees the authority to make determina-

tions on behalf of the Secretary, and the Secretary shall rely on certifications and post audit reviews to the greatest extent possible.”

#### HOMEOWNERSHIP PRESERVATION

Pub. L. 110-289, div. B, title I, §2125, July 30, 2008, 122 Stat. 2840, provided that: “The Secretary of Housing and Urban Development and the Commissioner of the Federal Housing Administration, in consultation with industry, the Neighborhood Reinvestment Corporation, and other entities involved in foreclosure prevention activities, shall—

“(1) develop and implement a plan to improve the Federal Housing Administration’s loss mitigation process; and

“(2) report such plan to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives.”

#### ASSET CONTROL AREA DEMONSTRATION PROGRAM AGREEMENTS, CONTRACTS, AND REGULATIONS

Pub. L. 107-206, title I, §1303, Aug. 2, 2002, 116 Stat. 897, provided that: “The Secretary of Housing and Urban Development shall begin to enter into new agreements and contracts pursuant to the Asset Control Area Demonstration Program as provided in section 602 of Public Law 105-276 [amending this section] not later than September 15, 2002: *Provided*, That any agreement or contract entered into pursuant to such program shall be consistent with the requirements of such section 602: *Provided further*, That the Department shall develop proposed regulations for this program not later than September 15, 2002.”

#### TRANSFER OF HUD ASSETS IN REVITALIZATION AREAS

Pub. L. 106-554, §1(a)(7) [title I, §142], Dec. 21, 2000, 114 Stat. 2763, 2763A-618, provided that: “In carrying out the program under section 204(h) of the National Housing Act (12 U.S.C. 1710(h)), upon the request of the chief executive officer of a county or the government of appropriate jurisdiction and not later than 60 days after such request is made, the Secretary of Housing and Urban Development shall designate as a revitalization area all portions of such county that meet the criteria for such designation under paragraph (3) of such section.”

#### SETTLEMENT COSTS IN THE FINANCING OF FEDERAL HOUSING ADMINISTRATION AND VETERANS’ ADMINISTRATION ASSISTED HOUSING; STUDY AND RECOMMENDATIONS TO CONGRESS ON REDUCTION AND STANDARDIZATION OF COSTS

Pub. L. 91-351, title VII, §701, July 24, 1970, 84 Stat. 461, provided that:

“(a) With respect to housing built, rehabilitated, or sold with assistance provided under the National Housing Act [this chapter] or under chapter 37 of title 38, United States Code, the Secretary of Housing and Urban Development and the Administrator of Veterans’ Affairs are respectively authorized and directed to prescribe standards governing the amounts of settlement costs allowable in connection with the financing of such housing in any such area. Such standards shall—

“(1) be established after consultation between the Secretary and the Administrator;

“(2) be consistent in any area for housing assisted under the National Housing Act and housing assisted under chapter 37 of title 38, United States Code; and

“(3) be based on the Secretary’s and the Administrator’s estimates of the reasonable charge for necessary services involved in settlements for particular classes of mortgages and loans.

“(b) The Secretary and the Administrator shall undertake a joint study and make recommendations to the Congress not later than one year after the date of enactment of this Act [July 24, 1970] with respect to legislative and administrative actions which should be taken to reduce mortgage settlement costs and to standardize these costs for all geographic areas.”

**§ 1711. General Surplus and Participating Reserve Accounts**

**(a) Establishment; abolishment of General Reinsurance Account**

The Secretary shall establish as of July 1, 1954, in the Mutual Mortgage Insurance Fund a General Surplus Account and a Participating Reserve Account. All of the assets of the General Reinsurance Account shall be transferred to the General Surplus Account whereupon the General Reinsurance Account shall be abolished. There shall be transferred from the various group accounts to the Participating Reserve Account as of July 1, 1954, an amount equal to the aggregate amount which would have been distributed under the provisions of this section in effect on June 30, 1954, if all outstanding mortgages in such group accounts had been paid in full on said date. All of the remaining balances of said group accounts shall as of said date be transferred to the General Surplus Account whereupon all of said group accounts shall be abolished.

**(b) Credits and charges**

The aggregate net income thereafter received or any net loss thereafter sustained by the Mutual Mortgage Insurance Fund in any semi-annual period shall be credited or charged to the General Surplus Account and/or the Participating Reserve Account in such manner and amounts as the Secretary may determine to be in accord with sound actuarial and accounting practice.

**(c) Distribution of funds to terminating mortgagors**

Upon termination of the insurance obligation of the Mutual Mortgage Insurance Fund by payment of any mortgage insured thereunder, the Secretary is authorized to distribute to the mortgagor a share of the Participating Reserve Account in such manner and amount as the Secretary shall determine to be equitable and in accordance with sound actuarial and accounting practice: *Provided*, That, in no event, shall any such distributable share exceed the aggregate scheduled annual premiums of the mortgagor to the year of termination of the insurance. The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account.

**(d) Rights and liabilities**

No mortgagor or mortgagee of any mortgage insured under section 1709 of this title shall have any vested right in a credit balance in any such account or be subject to any liability arising out of the mutuality of the Fund and the determination of the Secretary as to the amount to be paid by him to any mortgagor shall be final and conclusive.

**(e) Actuarial status of entire Fund**

In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund.

**(f) Capital ratio for Mutual Mortgage Insurance Fund**

(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after November 5, 1990, and maintains such ratio thereafter, subject to paragraph (2).

(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after November 5, 1990, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

(3) Upon the expiration of the 24-month period beginning on November 5, 1990, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

(4) For purposes of this subsection:

(A) The term "capital" means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 1735f-16 of this title.

(B) The term "capital ratio" means the ratio of capital to unamortized insurance-in-force.

(C) The term "economic net worth" means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

(D) The term "unamortized insurance-in-force" means the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

(June 27, 1934, ch. 847, title II, § 205, 48 Stat. 1250; May 28, 1935, ch. 150, § 29(b), 49 Stat. 300; Feb. 3, 1938, ch. 13, § 3, 52 Stat. 15; June 3, 1939, ch. 175, § 11, 53 Stat. 807; Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; June 30, 1953, ch. 170, § 4, 67 Stat. 122; Aug. 2, 1954, ch. 649, title I, § 114, 68 Stat. 594; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101-508, title II, §§ 2104, 2105, Nov. 5, 1990, 104 Stat. 1388-19; Pub. L. 102-550, title V, § 508(a), Oct. 28, 1992, 106 Stat. 3782; Pub. L. 110-289, div. B, title I, § 2118(c)(1), July 30, 2008, 122 Stat. 2835.)

AMENDMENTS

2008—Subsecs. (g), (h). Pub. L. 110-289 struck out subsecs. (g) and (h) which related to annual independent audit of Mutual Mortgage Insurance Fund and adjustment of premiums, respectively.

1992—Subsec. (c). Pub. L. 102-550 inserted at end "The Secretary shall not distribute any share to an eligible mortgagor under this subsection beginning on the date which is 6 years after the date the Secretary first transmitted written notification of eligibility to the last known address of the mortgagor, unless the mortgagor has applied in accordance with procedures prescribed by the Secretary for payment of the share within the 6-year period. The Secretary shall transfer any amounts no longer eligible for distribution under the previous sentence from the Participating Reserve Account to the General Surplus Account."