

§ 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."

1990—Subsec. (e). Pub. L. 101-508, §2104, added subsec. (e).

Subsecs. (f) to (h). Pub. L. 101-508, §2105, added subsecs. (f) to (h).

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (a) to (d) of this section.

1954—Act Aug. 2, 1954, amended section generally to eliminate the former group accounts and substitute therefor a general surplus account and participating reserve account.

1953—Subsec. (c). Act June 30, 1953, inserted sentence relating to semi-annual transfer of group accounts, and, in remainder of section, changed the provisions relating to settlement of accounts.

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

1939—Subsec. (b). Act June 3, 1939, inserted “prior to July 1, 1939”.

1938—Subsecs. (a) to (f). Act Feb. 3, 1938, amended provisions generally, and among other changes, struck out subsec. (f).

1935—Subsec. (f). Act May 28, 1935, substituted “annual premium charge” for “premium charge” in first sentence.

EXCEPTION TO STATUTE OF LIMITATIONS

Section 508(b) of Pub. L. 102-550 provided that: “Notwithstanding the 6-year limitation on distribution of shares of the Participating Reserve Account under section 205(c) of the National Housing Act [12 U.S.C. 1711(c)], the Secretary shall distribute a share to an otherwise eligible mortgagor in accordance with section 205(c), if the mortgagor applies for payment of the share within 1 year after the date of enactment of this Act [Oct. 28, 1992] in accordance with procedures in effect on such date.”

§ 1712. Investment of funds

Moneys in the Fund not needed for the current operations of the Department of Housing and Urban Development related to insurance under section 1709 of this title shall be deposited with the Treasurer of the United States to the credit of the Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued under the provisions of section 1710 of this title. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued, and the several group accounts to which such debentures have been charged shall be charged with the amounts used in making such purchases.

(June 27, 1934, ch. 847, title II, §206, 48 Stat. 1252; Feb. 3, 1938, ch. 13, §3, 52 Stat. 16; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90-19, §1(a)(1), (3), (e), May 25, 1967, 81 Stat. 17, 18; Pub. L. 91-609, title I, §117(a), Dec. 31, 1970, 84 Stat. 1774.)

AMENDMENTS

1970—Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States

and for investment of monies in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1967—Pub. L. 90-19 substituted “Department of Housing and Urban Development” and “Secretary” for “Federal Housing Administration” and “Commissioner”, respectively, and inserted “related to insurance under section 1709 of this title” before “shall be deposited”.

1950—Act Apr. 20, 1950, substituted “Commissioner” for “Administrator”.

1938—Act Feb. 3, 1938, among other changes, inserted “or in bonds or other obligations guaranteed as to principal and interest by” in first sentence, and inserted third sentence.

§ 1712a. Indexing of FHA multifamily housing loan limits

(a) Method of indexing

The dollar amounts set forth in—

- (1) section 1713(c)(3)(A) of this title;
- (2) section 1715e(b)(2)(A) of this title;
- (3) section 1715k(d)(3)(B)(iii)(I) of this title;
- (4) section 1715l(d)(3)(ii)(I) of this title;
- (5) section 1715l(d)(4)(ii)(I) of this title;
- (6) section 1715v(c)(2)(A) of this title; and
- (7) section 1715y(e)(3)(A) of this title;

(collectively hereinafter referred to as the “Dollar Amounts”) shall be adjusted annually (commencing in 2004) on the effective date of the Federal Reserve Board’s adjustment of the \$400 figure in the Home Ownership and Equity Protection Act of 1994 (HOEPA). The adjustment of the Dollar Amounts shall be calculated using the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U) as applied by the Federal Reserve Board for purposes of the above-described HOEPA adjustment.

(b) Notification

The Federal Reserve Board on a timely basis shall notify the Secretary, or his designee, in writing of the adjustment described in subsection (a) of this section and of the effective date of such adjustment in order to permit the Secretary to undertake publication in the Federal Register of corresponding adjustments to the Dollar Amounts. The dollar amount of any adjustment shall be rounded to the next lower dollar.

(June 27, 1934, ch. 847, title II, §206A, as added Pub. L. 107-326, §5(a), Dec. 4, 2002, 116 Stat. 2794.)

REFERENCES IN TEXT

The Home Ownership and Equity Protection Act of 1994, referred to in subsec. (a), is subtitle B (§§151-158) of title I of Pub. L. 103-325, Sept. 23, 1994, 108 Stat. 2190, which enacted sections 1639 and 1648 of Title 15, Commerce and Trade, amended sections 1602, 1604, 1610, 1640, 1641, and 1647 of Title 15, and enacted provisions set out as notes under sections 1601 and 1602 of Title 15. For complete classification of this Act to the Code, see Short Title of 1994 Amendment note set out under section 1601 of Title 15 and Tables.

§ 1713. Rental housing insurance

(a) Definitions

As used in this section—

- (1) The term “mortgage” means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine