

V of Pub. L. 105-65, Oct. 27, 1997, 111 Stat. 1384. For complete classification of this Act to the Code, see Short Title of 1997 Amendment note set out under section 1701 of this title and Tables.

CODIFICATION

This section was enacted as part of the Housing and Community Development Amendments of 1978, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-276 inserted before period at end “, or a project which receives project-based assistance under section 1437f of title 42 or enhanced vouchers under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, the provisions of the Emergency Low Income Housing Preservation Act of 1987, or the Multifamily Assisted Housing Reform and Affordability Act of 1997”.

1988—Subsec. (a). Pub. L. 100-242, §183(a), inserted reference to section 1701q of this title.

Subsec. (b)(1). Pub. L. 100-242, §183(b), substituted “or where the Secretary proposes to sell a mortgage secured by a multifamily housing project” for “and the Secretary deems it appropriate”.

1981—Subsec. (b)(1). Pub. L. 97-35 substituted provisions relating to request by the owner for rent increases, etc., for provisions relating to action by the owner.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, §599(b), Oct. 21, 1998, 112 Stat. 2660, provided that: “The amendment made by this section [amending this section] is made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

§ 1715z-1c. Regulation of rents in insured projects

After December 1, 1987, the Secretary of Housing and Urban Development shall control rents and charges as they were controlled prior to April 19, 1983, for any multifamily housing project insured under the National Housing Act [12 U.S.C. 1701 et seq.] if—

(1) during the period of April 19, 1983, through December 1, 1987, the project owner and the Secretary have not executed, and the project owner has not filed a written request with the Secretary to enter into, an amendment to the regulatory agreement pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986, electing to de-regulate rents or utilize an alternative formula for determining the maximum allowable rents pursuant to regulations published by the Secretary on April 19, 1983, or June 4, 1986; and

(2)(A) the project was, as of December 1, 1987, receiving a housing assistance payment under a contract pursuant to section 1437f of title 42 (other than under the existing housing certificate program of section 1437f(b)(1) of title 42); or

(B) not less than 50 percent of the units in the project are occupied by lower income families (as defined in section 1437a(a)(2)¹ of title 42).

(Pub. L. 100-242, title IV, §425, Feb. 5, 1988, 101 Stat. 1915.)

REFERENCES IN TEXT

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

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

§ 1715z-2. Repealed. Pub. L. 110-289, div. B, title I, § 2120(a)(6), July 30, 2008, 122 Stat. 2835

Section, act June 27, 1934, ch. 847, title II, §237, as added Pub. L. 90-448, title I, §102(a), Aug. 1, 1968, 82 Stat. 485; amended Pub. L. 91-152, title I, §§110, 113(j), Dec. 24, 1969, 83 Stat. 382, 385; Pub. L. 105-276, title V, §599F(a), Oct. 21, 1998, 112 Stat. 2665, related to special mortgage insurance assistance.

§ 1715z-3. Special Risk Insurance Fund

(a) Entitlement to benefits; computation and payment of benefits to mortgagee

(1) Any mortgagee under a mortgage insured under section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title shall be entitled to receive the benefits of the insurance as provided in section 1710(a) of this title with respect to mortgages insured under section 1709 of this title. The provisions of subsections (b), (c), (d), (g), (j), and (k)¹ of section 1710 of this title shall be applicable to mortgages insured under section 1715z(i), (j)(4), 1715z-2,¹ or 1715z-8 of this title, except that all references therein to the “Mutual Mortgage Insurance Fund” shall be construed to refer to the “Special Risk Insurance Fund”, and all references therein to section 1709 of this title shall be construed to refer to section 1715z(i), (j)(4), 1715z-2, or 1715z-8 of this title, as may be appropriate.

(2) Any mortgagee under a mortgage insured under section 1715z(j)(1) or 1715z-1 of this title shall be entitled to receive the benefits of insurance as provided in section 1713(g) of this title with respect to mortgages insured under section 1713 of this title. The provisions of subsections (d), (e), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall be applicable to mortgages insured under section 1715z(j)(1) or 1715z-1 of this title, except that all references therein to the “General Insurance Fund” shall be construed to refer to the “Special Risk Insurance Fund” and the premium charge provided in section 1713(d) of this title shall be payable only in cash or debentures of the Special Risk Insurance Fund.

(3) In lieu of the amount of insurance benefits computed pursuant to paragraph (1) or (2) of this subsection the Secretary, in his discretion and in accordance with such regulations as he may prescribe, may (with respect to any mortgage loan acquired by him) compute and pay insurance benefits to the mortgagee in a total amount equal to the unpaid principal balance of the loan plus any accrued interest and any advances approved by the Secretary and made pre-

¹ Probably should be a reference to section 1437a(b)(2).

¹ See References in Text note below.

viously by the mortgagee under the provisions of the mortgage.

(b) Creation of fund; authorization for advance-ments; repayment; crediting of charges and fees; payments from fund; authorization of appropriations for losses; deposits to fund; open-market purchases of debentures which are obligations of fund

There is hereby created a Special Risk Insurance Fund (hereinafter referred to as the "fund") which shall be used by the Secretary as a revolving fund for carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2,¹ and 1715z-8 of this title, and the Secretary is hereby authorized to advance to the fund, at such times and in such amounts as he may determine to be necessary, a total sum of \$20,000,000 from the General Insurance Fund established pursuant to the provisions of section 1735c of this title. Such advance shall be repayable at such times and at such rates of interest as the Secretary deems appropriate. Premium charges, adjusted premium charges, inspection and other fees, service charges, and any other income received by the Secretary under sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title, together with all earnings on the assets of the fund, shall be credited to the fund. All payments made pursuant to claims of mortgagees with respect to mortgages insured under sections 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title or pursuant to section 1715n(e) of this title, cash adjustments, the principal of and interest paid on debentures which are the obligation of the fund, expenses incurred in connection with or as a consequence of the acquisition and disposal of property acquired under such sections, and all administrative expenses in connection with the mortgage insurance operations under such sections shall be paid out of the fund. Moneys in the fund not needed for current operations of the fund shall be deposited with the Treasurer of the United States to the credit of the fund or invested in bonds or other obligations of, or in bonds or other obligations guaranteed by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary, with the approval of the Secretary of the Treasury, may purchase in the open market debentures which are the obligation of the fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtained from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

(c) Mortgage insurance for military impacted areas; criteria; obligation of Special Risk Insurance Fund; establishment of premiums and other charges

(1) Notwithstanding the provisions of this chapter or any other Act, and without regard to limitations upon eligibility contained in any section of this subchapter, the Secretary is authorized, upon application by the mortgagee, to insure under any section of this subchapter a

mortgage executed in connection with the construction, repair, rehabilitation, or purchase of property located near any installation of the Armed Forces of the United States in federally impacted areas in which the conditions are such that one or more of the eligibility requirements applicable to the section under which insurance is sought could not be met, if (A) the Secretary finds that the benefits to be derived from such use outweigh the risk of probable cost to the Government, and (B) the Secretary of Defense certifies that there is no intention insofar as can reasonably be foreseen to curtail substantially the personnel assigned or to be assigned to such installation. The insurance of a mortgage pursuant to this subsection shall be the obligation of the Special Risk Insurance Fund.

(2) The Secretary is authorized (A) to establish such premiums and other charges as may be necessary to assure that the mortgage insurance program pursuant to this subsection is made available on a basis which, in the Secretary's judgment, is designed to be actuarially sound and likely to maintain the fiscal integrity of such program, and (B) to prescribe such terms and conditions relating to insurance pursuant to this subsection as may be found by the Secretary to be necessary and appropriate, and which are to the maximum extent possible, consistent with provisions otherwise applicable to mortgage insurance and payment of insurance benefits.

(3) The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the Special Risk Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

(June 27, 1934, ch. 847, title II, §238, as added Pub. L. 90-448, title I, §104(a), Aug. 1, 1968, 82 Stat. 486; amended Pub. L. 91-152, title IV, §415, Dec. 24, 1969, 83 Stat. 401; Pub. L. 91-351, title V, §503, July 24, 1970, 84 Stat. 461; Pub. L. 91-609, title I, §117(d), Dec. 31, 1970, 84 Stat. 1775; Pub. L. 93-383, title III, §318, Aug. 22, 1974, 88 Stat. 685; Pub. L. 95-128, title III, §309, Oct. 12, 1977, 91 Stat. 1135; Pub. L. 103-233, title I, §§103(g)(1), 105(a), Apr. 11, 1994, 108 Stat. 362, 363.)

REFERENCES IN TEXT

Subsection (k) of section 1710 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105-276, title VI, §601(c), Oct. 21, 1998, 112 Stat. 2673.

Section 1715z-2 of this title, referred to in subsecs. (a)(1) and (b), was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(6), July 30, 2008, 122 Stat. 2835.

This chapter, referred to in subsec. (c)(1), 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.

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-233, §105(a), struck out after fourth sentence "There is authorized to be appropriated such sums as may be needed from time to time to cover losses sustained by the fund in carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title."

Subsec. (c)(3). Pub. L. 103-233, §103(g)(1), added par. (3).

1977—Subsec. (c). Pub. L. 95-128 substituted provisions of pars. (1) and (2) respecting mortgage insurance for

military impacted areas, criteria therefore, and establishment of premiums and other charges for prior subsec. (c), which had authorized use of the Special Risk Insurance Fund to carry out mortgage insurance obligations of sections 1709 and 1713 of this title to provide housing for military personnel, Federal civilian employees, and Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces in federally impacted areas where in the judgment of the Secretary (1) the residual housing requirements for persons not associated with such installations were insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installations, and (2) the benefits to be derived from such use outweighed the risk of possible cost to the Government.

1974—Subsec. (c). Pub. L. 93-383 added subsec. (c).

1970—Subsec. (a)(1). Pub. L. 91-351, § 503(1), inserted references to section 1715z-8 of this title wherever appearing.

Subsec. (b). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Pub. L. 91-351, § 503(2), inserted references to section 1715z-8 of this title wherever appearing.

1969—Subsec. (b). Pub. L. 91-152 increased from \$5,000,000 to a total sum of \$20,000,000, at such times and in such amounts as he may determine to be necessary, the amount authorized to be advanced by the Secretary to the Fund.

§ 1715z-4. Modifications in terms of mortgages covering multifamily projects; requests for extensions to cure defaults or for modification of mortgage terms; regulations

The Secretary shall not consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, as defined in the regulations of the Secretary, or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by the mortgagor from the property covered by the mortgage which is not required to meet actual and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, or for a modification of the term of such mortgage, without regard to the foregoing requirement, in any case or class of cases in which an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

(June 27, 1934, ch. 847, title II, § 239, as added Pub. L. 90-448, title III, § 302, Aug. 1, 1968, 82 Stat. 506; amended Pub. L. 100-242, title IV, § 416(c), Feb. 5, 1988, 101 Stat. 1908.)

AMENDMENTS

1988—Pub. L. 100-242 struck out “insured” before “mortgages” in section catchline, and struck out sub-

sec. (a) designation and subsec. (b) which related to violations and penalties imposed for violations of the provisions of former subsec. (a).

§ 1715z-4a. Double damages remedy for unauthorized use of multifamily housing project assets and income

(a) Action to recover assets or income

(1) The Secretary of Housing and Urban Development (referred to in this section as the “Secretary”) may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project, nursing home, intermediate care facility, board and care home, assisted living facility, or hospital whose mortgage is or, at the time of the violations, was insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.]; (B) a regulatory agreement that applies to a multifamily project whose mortgage is or, at the time of the violations, was insured or held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held or, at the time of the violations, was¹ insured or held by the Secretary under section 1715z-22 of this title, but not reinsured under section 1715z-22 of this title; or (D) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating expense or necessary repair of the property and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.], under section 1701q of this title (including section 1701q of this title as it existed before November 28, 1990) and under section 1715z-22 of this title, the term “any person” shall mean any person or entity that owns or operates a property, as identified in the regulatory agreement, including but not limited to—

(A) any stockholder holding 25 percent or more interest of a corporation that owns that property;

(B) any beneficial owner of the property under any business or trust;

(C) any officer, director, or partner of an entity owning or controlling the property;

(D) any nursing home lessee or operator;

(E) any hospital lessee or operator;

(F) any other person or entity that controls the property regardless of that person or entity’s official relationship to the property; and

(G) any heir, assignee, successor in interest, or agent of any person or entity described in the preceding subparagraphs.

¹ So in original.