

monly given to secure advances on, or the unpaid purchase price of, real estate, under the laws of the State, in which the real estate is located, together with the credit instruments, if any, secured thereby.

(b) The term “mortgagee” includes the original lender under a mortgage, and his successors and assigns approved by the Secretary; and the term “mortgagor” includes the original borrower under a mortgage and his successors and assigns.

(c) The term “maturity date” means the date on which the mortgage indebtedness would be extinguished if paid in accordance with periodic payments provided for in the mortgage.

(d) The term “State” includes the several States, and Puerto Rico, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Virgin Islands.

(e) The term “family member” means, with respect to a mortgagor under such section, a child, parent, or grandparent of the mortgagor (or the mortgagor’s spouse). In determining whether any of the relationships referred to in the preceding sentence exist, a legally adopted son or daughter of an individual (and a child who is a member of an individual’s household, if placed with such individual by an authorized placement agency for legal adoption by such individual), and a foster child of an individual, shall be treated as a child of such individual by blood.

(f) The term “child” means, with respect to a mortgagor under such section, a son, stepson, daughter, or stepdaughter of such mortgagor.

(g) The term “real estate” means land and all natural resources and structures permanently affixed to the land, including residential buildings and stationary manufactured housing. The Secretary may not require, for treatment of any land or other property as real estate for purposes of this subchapter, that such land or property be treated as real estate for purposes of State taxation.

(June 27, 1934, ch. 847, title II, §201, 48 Stat. 1247; Feb. 3, 1938, ch. 13, §3, 52 Stat. 9; Mar. 28, 1941, ch. 31, §4(a), 55 Stat. 61; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; July 14, 1952, ch. 723, §10(a)(2), 66 Stat. 603; Pub. L. 86-70, §10(a), June 25, 1959, 73 Stat. 142; Pub. L. 86-624, §6, July 12, 1960, 74 Stat. 411; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 91-152, title IV, §403(c)(1), Dec. 24, 1969, 83 Stat. 395; Pub. L. 96-399, title III, §306, Oct. 8, 1980, 94 Stat. 1640; Pub. L. 98-181, title I [title IV, §407(b)], Nov. 30, 1983, 97 Stat. 1211; Pub. L. 104-204, title IV, §425(b), Sept. 26, 1996, 110 Stat. 2928; Pub. L. 110-289, div. B, title I, §§2117(b), (c), 2120(c), July 30, 2008, 122 Stat. 2833, 2835.)

AMENDMENTS

2008—Subsec. (a). Pub. L. 110-289, §2117(b), inserted “(A)” before “a first mortgage”, substituted “(B) a first mortgage on a leasehold on real estate (i)” for “or on a leasehold (1)” and “”, or (ii)” for “or (2)”, and inserted “”, or (C) a first mortgage given to secure the unpaid purchase price of a fee interest in, or long-term leasehold interest in, real estate consisting of a one-family unit in a multifamily project, including a project in which the dwelling units are attached, or are manufactured housing units, semi-detached, or detached, and an undivided interest in the common areas

and facilities which serve the project” before semicolon.

Subsec. (d). Pub. L. 110-289, §2120(c), substituted “the Commonwealth of the Northern Mariana Islands” for “the Trust Territory of the Pacific Islands”.

Subsec. (g). Pub. L. 110-289, §2117(c), added subsec. (g). 1996—Subsecs. (e), (f). Pub. L. 104-204 added subsecs. (e) and (f).

1983—Subsec. (d). Pub. L. 98-181 inserted “American Samoa,” after “Pacific Islands,”.

1980—Subsec. (a). Pub. L. 96-399 substituted “ten years to run beyond the maturity date of the mortgage” for “fifty years to run from the date the mortgage was executed”.

1969—Subsec. (d). Pub. L. 91-152 inserted “the Trust Territory of the Pacific Islands” after “Guam”.

1967—Subsec. (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner”.

1960—Subsec. (d). Pub. L. 86-624 struck out “Hawaii,” before “Puerto Rico”.

1959—Subsec. (d). Pub. L. 86-70 struck out “Alaska,” before “Hawaii”.

1952—Subsec. (d). Act July 14, 1952, inserted “Guam,” after “District of Columbia”.

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

1941—Subsec. (a). Act Mar. 28, 1941, §4(a)(1), struck out “district, or Territory”.

Subsec. (d). Act Mar. 28, 1941, §4(a)(2), added subsec. (d).

1938—Subsec. (a)(2). Act Feb. 3, 1938, struck out “upon which there is located a dwelling for not more than four families which is used in whole or in part for residential purposes, irrespective of whether such dwelling has a party wall or is otherwise physically connected with another dwelling” after “executed”.

Subsec. (c). Act Feb. 3, 1938, added subsec. (c).

IMPROVEMENT OF FINANCING FOR MULTIFAMILY HOUSING

Pub. L. 102-550, title V, subtitle C, Oct. 28, 1992, 106 Stat. 3794, which related to improvement of financing for multifamily housing and was formerly set out as a note under this section, was transferred or omitted as follows:

Section 541 of Pub. L. 102-550 was transferred and is set out as a note under section 1701 of this title;

Section 542 of Pub. L. 102-550 was transferred to section 1715z-22 of this title;

Section 543 of Pub. L. 102-550, as amended by Pub. L. 111-203, title III, §371, July 21, 2010, 124 Stat. 1565, was omitted from the Code;

Section 544 of Pub. L. 102-550 was transferred to section 1715z-22a of this title.

§ 1708. Federal Housing Administration operations

(a) Mutual Mortgage Insurance Fund

(1) Establishment

Subject to the provisions of the Federal Credit Reform Act of 1990 [2 U.S.C. 661 et seq.], there is hereby created a Mutual Mortgage Insurance Fund (in this subchapter referred to as the “Fund”), which shall be used by the Secretary to carry out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title. The Secretary may enter into commitments to guarantee, and may guarantee, such insured mortgages.

(2) Limit on loan guarantees

The authority of the Secretary to enter into commitments to guarantee such insured mortgages shall be effective for any fiscal year only to the extent that the aggregate original principal loan amount under such mortgages, any

part of which is guaranteed, does not exceed the amount specified in appropriations Acts for such fiscal year.

(3) Fiduciary responsibility

The Secretary has a responsibility to ensure that the Mutual Mortgage Insurance Fund remains financially sound.

(4) Annual independent actuarial study

The Secretary shall provide for an independent actuarial study of the Fund to be conducted annually, which shall analyze the financial position of the Fund. The Secretary shall submit a report annually to the Congress describing the results of such study and assessing the financial status of the Fund. The report shall recommend adjustments to underwriting standards, program participation, or premiums, if necessary, to ensure that the Fund remains financially sound. The report shall also include an evaluation of the quality control procedures and accuracy of information utilized in the process of underwriting loans guaranteed by the Fund. Such evaluation shall include a review of the risk characteristics of loans based not only on borrower information and performance, but on risks associated with loans originated or funded by various entities or financial institutions.

(5) Quarterly reports

During each fiscal year, the Secretary shall submit a report to the Congress for each calendar quarter, which shall specify for mortgages that are obligations of the Fund—

(A) the cumulative volume of loan guarantee commitments that have been made during such fiscal year through the end of the quarter for which the report is submitted;

(B) the types of loans insured, categorized by risk;

(C) any significant changes between actual and projected claim and prepayment activity;

(D) projected versus actual loss rates; and

(E) updated projections of the annual subsidy rates to ensure that increases in risk to the Fund are identified and mitigated by adjustments to underwriting standards, program participation, or premiums, and the financial soundness of the Fund is maintained.

The first quarterly report under this paragraph shall be submitted on the last day of the first quarter of fiscal year 2008, or on the last day of the first full calendar quarter following July 30, 2008, whichever is later.

(6) Adjustment of premiums

If, pursuant to the independent actuarial study of the Fund required under paragraph (4), the Secretary determines that the Fund is not meeting the operational goals established under paragraph (7) or there is a substantial probability that the Fund will not maintain its established target subsidy rate, the Secretary may either make programmatic adjustments under this subchapter as necessary to reduce the risk to the Fund, or make appropriate premium adjustments.

(7) Operational goals

The operational goals for the Fund are—

(A) to minimize the default risk to the Fund and to homeowners by among other actions instituting fraud prevention quality control screening not later than 18 months after July 30, 2008; and

(B) to meet the housing needs of the borrowers that the single family mortgage insurance program under this subchapter is designed to serve.

(b) Advisory Board

There is created a Federal Housing Administration Advisory Board (“Board”) that shall review operation of the Federal Housing Administration, including the activities of the Mortgage Review Board, and shall provide advice to the Federal Housing Commissioner with respect to the formulation of general policies of the Federal Housing Administration and such other matters as the Federal Housing Commissioner may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

(1) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in housing and mortgage lending of whom—

(A) 9 shall be appointed by the Secretary;

(B) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(C) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(2) Membership on the Advisory Board shall include—

(A) not less than 4 persons with distinguished private sector careers in housing finance, lending, management, development or insurance;

(B) not less than 4 persons with outstanding reputations as licensed actuaries, experts in actuarial science, or economics related to housing;

(C) not less than 4 persons with backgrounds of leadership in representing the interests of housing consumers;

(D) not less than 1 person with significant experience and a distinguished reputation for work in the enforcement, advocacy, or development of fair housing or civil rights legislation; and

(E) not less than 1 person with a background of leadership representing rural housing interests.

(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation or every region of the country.

(4) Not more than 8 members of the Advisory Board may be from any one political party.

(5) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register

with the Secretary under section 3537b(c)¹ of title 42 or employed a person for purposes that required such person to so register.

(6) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years. Their successors and all other appointees shall have terms of 3 years.

(7) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Federal Housing Commissioner. The Commissioner shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Federal Housing Administration.

(8) The Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities of the Federal Housing Administration, including the soundness of underwriting procedures, the adequacy of information systems, the appropriateness of staffing patterns, the effectiveness of the Mortgagee Review Board, and other matters related to the Federal Housing Administration's ability to serve the nation's homebuyers and renters. Such report shall contain the Board's recommendations for improvement and include any minority views.

(9) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Federal Housing Commissioner or a majority of the members. The Board shall elect a chair, vice-chair and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

(10) Subject to the provisions of Section 7 of the Federal Advisory Committee Act, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board.

(11) The Board shall terminate on January 1, 1995.

(c) Mortgagee Review Board

(1) Establishment

There is established within the Federal Housing Administration the Mortgagee Review Board ("Board"). The Board is empowered to initiate the issuance of a letter of reprimand, the probation, suspension or withdrawal of any mortgagee found to be engaging in activities in violation of Federal Housing Administration requirements or the nondiscrimination requirements of the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], or Executive Order 11063.

(2) Composition

The Board shall consist of—

(A) the Assistant Secretary of Housing/Federal Housing Commissioner;

(B) the General Counsel of the Department;

(C) the President of the Government National Mortgage Association;

(D) the Assistant Secretary for Administration;

(E) the Assistant Secretary for Fair Housing Enforcement (in cases involving violations of nondiscrimination requirements); and

(F) the Chief Financial Officer of the Department or their designees.

(3) Actions authorized

When any report, audit, investigation, or other information before the Board discloses that a basis for an administrative action against a mortgagee exists, the Board shall take one of the following administrative actions:

(A) Letter of reprimand

The Board may issue a letter of reprimand only once to a mortgagee without taking action under subparagraphs² (B), (C), or (D) of this section. A letter of reprimand shall explain the violation and describe actions the mortgagee should take to correct the violation.

(B) Probation

The Board may place a mortgagee on probation for a specified period of time not to exceed 6 months for the purpose of evaluating the mortgagee's compliance with Federal Housing Administration requirements, the Equal Credit Opportunity Act [15 U.S.C. 1691 et seq.], the Fair Housing Act [42 U.S.C. 3601 et seq.], Executive Order 11063, or orders of the Board. During the probation period, the Board may impose reasonable additional requirements on a mortgagee including supervision of the mortgagee's activities by the Federal Housing Administration, periodic reporting to the Federal Housing Commissioner, or submission to Federal Housing Administration audits of internal financial statements, audits by an independent certified public accountant or other audits.

(C) Suspension

The Board may issue an order temporarily suspending a mortgagee's approval for doing business with the Federal Housing Administration if (i) there exists adequate evidence of a violation or violations and (ii) continuation of the mortgagee's approval, pending or at the completion of any audit, investigation, or other review, or such administrative or other legal proceedings as may ensue, would not be in the public interest or in the best interests of the Department. Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public. A suspension shall last for not less than 6 months, and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in

¹ See References in Text note below.

² So in original. Probably should be "subparagraph".

the public interest. If the Board and the mortgagee agree, these time limits may be extended. During the period of suspension, the Federal Housing Administration shall not commit to insure any mortgage originated by the suspended mortgagee.

(D) Withdrawal

The Board may issue an order withdrawing a mortgagee if the Board has made a determination of a serious violation or repeated violations by the mortgagee. The Board shall determine the terms of such withdrawal, but the term shall be not less than 1 year. Where the Board has determined that the violation is egregious or willful, the withdrawal shall be permanent.

(E) Settlements

The Board may at any time enter into a settlement agreement with a mortgagee to resolve any outstanding grounds for an action. Agreements may include provisions such as—

- (i) cessation of any violation;
- (ii) correction or mitigation of the effects of any violation;
- (iii) repayment of any sums of money wrongfully or incorrectly paid to the mortgagee by a mortgagor, by a seller or by the Federal Housing Administration;
- (iv) actions to collect sums of money wrongfully or incorrectly paid by the mortgagee to a third party;
- (v) indemnification of the Federal Housing Administration for mortgage insurance claims on mortgages originated in violation of Federal Housing Administration requirements;
- (vi) modification of the length of the penalty imposed; or
- (vii) implementation of other corrective measures acceptable to the Secretary.

Material failure to comply with the provisions of a settlement agreement shall be sufficient cause for suspension or withdrawal.

(4) Notice and hearing

(A) The Board shall issue a written notice to the mortgagee at least 30 days prior to taking any action against the mortgagee under subparagraph (B), (C), or (D) of paragraph (3). The notice shall state the specific violations which have been alleged, and shall direct the mortgagee to reply in writing to the Board within 30 days. If the mortgagee fails to reply during such period, the Board may make a determination without considering any comments of the mortgagee.

(B) If the Board takes action against a mortgagee under subparagraph (B), (C), or (D) of paragraph (3), the Board shall promptly notify the mortgagee in writing of the nature, duration, and specific reasons for the action. If, within 30 days of receiving the notice, the mortgagee requests a hearing, the Board shall hold a hearing on the record regarding the violations within 30 days of receiving the request. If a mortgagee fails to request a hearing within such 30-day period, the right of the mortgagee to a hearing shall be considered waived.

(C) In any case in which the notification of the Board does not result in a hearing (includ-

ing any settlement by the Board and a mortgagee), any information regarding the nature of the violation and the resolution of the action shall be available to the public.

(5) Publication

The Secretary shall establish and publish in the Federal Register a description of and the cause for administrative action against a mortgagee.

(6) Cease-and-desist orders

(A) Whenever the Secretary, upon request of the Mortgagee Review Board, determines that there is reasonable cause to believe that a mortgagee is violating, has violated, or is about to violate, a law, rule or regulation or any condition imposed in writing by the Secretary or the Board, and that such violation could result in significant cost to the Federal Government or the public, the Secretary may issue a temporary order requiring the mortgagee to cease and desist from any such violation and to take affirmative action to prevent such violation or a continuation of such violation pending completion of proceedings of the Board with respect to such violation. Such order shall include a notice of charges in respect thereof and shall become effective upon service to the mortgagee. Such order shall remain effective and enforceable for a period not to exceed 30 days pending the completion of proceedings of the Board with respect to such violation, unless such order is set aside, limited, or suspended by a court in proceedings authorized by subparagraph (B) of this paragraph. The Board shall provide the mortgagee an opportunity for a hearing on the record, as soon as practicable but not later than 20 days after the temporary cease-and-desist order has been served.

(B) Within 10 days after the mortgagee has been served with a temporary cease-and-desist order, the mortgagee may apply to the United States district court for the judicial district in which the home office of the mortgagee is located, or the United States District Court for the District of Columbia, for an injunction setting aside, limiting of suspending the enforcement, operation, or effectiveness of such order pending the completion of the administrative proceedings pursuant to the notice of charges served upon the mortgagee, and such court shall have jurisdiction to issue such injunction.

(C) In the case of violation or threatened violation of, or failure to obey, a temporary cease-and-desist order issued pursuant to this paragraph, the Secretary may apply to the United States district court, or the United States court of any territory, within the jurisdiction of which the home office of the mortgagee is located, for an injunction to enforce such order, and, if the court shall determine that there has been such violation or threatened violation or failure to obey, it shall be the duty of the court to issue such injunction.

(7) "Mortgagee" defined

For purposes of this subsection, the term "mortgagee" means—

- (A) a mortgagee approved under this chapter;

(B) a lender or a loan correspondent approved under subchapter I of this chapter;

(C) a branch office or subsidiary of the mortgagee, lender, or loan correspondent; or

(D) a director, officer, employee, agent, or other person participating in the conduct of the affairs of the mortgagee, lender, or loan correspondent.

(8) Report required

The Board, in consultation with the Federal Housing Administration Advisory Board, shall annually recommend to the Secretary such amendments to statute or regulation as the Board determines to be appropriate to ensure the long term financial strength of the Federal Housing Administration fund and the adequate support for home mortgage credit.

(9) Prohibition against limitations on Mortgage Review Board's power to take action against mortgagees

No State or local law, and no Federal law (except a Federal law enacted expressly in limitation of this subsection after the effective date of this sentence), shall preclude or limit the exercise by the Board of its power to take any action authorized under paragraphs (3) and (6) of this subsection against any mortgagee.

(d) Limitations on participation in origination and mortgage approval

(1) Requirement

Any person or entity that is not approved by the Secretary to serve as a mortgagee, as such term is defined in subsection (c)(7), shall not participate in the origination of an FHA-insured loan except as authorized by the Secretary.

(2) Eligibility for approval

In order to be eligible for approval by the Secretary, an applicant mortgagee shall not be, and shall not have any officer, partner, director, principal, manager, supervisor, loan processor, loan underwriter, or loan originator of the applicant mortgagee who is—

(A) currently suspended, debarred, under a limited denial of participation (LDP), or otherwise restricted under part 25 of title 24 of the Code of Federal Regulations, 2 Code of Federal Regulations, part 180 as implemented by part 2424, or any successor regulations to such parts, or under similar provisions of any other Federal agency;

(B) under indictment for, or has been convicted of, an offense that reflects adversely upon the applicant's integrity, competence or fitness to meet the responsibilities of an approved mortgagee;

(C) subject to unresolved findings contained in a Department of Housing and Urban Development or other governmental audit, investigation, or review;

(D) engaged in business practices that do not conform to generally accepted practices of prudent mortgagees or that demonstrate irresponsibility;

(E) convicted of, or who has pled guilty or nolo contendere³ to, a felony related to par-

ticipation in the real estate or mortgage loan industry—

(i) during the 7-year period preceding the date of the application for licensing and registration; or

(ii) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering;

(F) in violation of provisions of the S.A.F.E. Mortgage Licensing Act of 2008 (12 U.S.C. 5101 et seq.) or any applicable provision of State law; or

(G) in violation of any other requirement as established by the Secretary.

(3) Rulemaking and implementation

The Secretary shall conduct a rulemaking to carry out this subsection. The Secretary shall implement this subsection not later than the expiration of the 60-day period beginning upon May 20, 2009, by notice, mortgagee letter, or interim final regulations, which shall take effect upon issuance.

(e) Coordination of GNMA and FHA withdrawal action

(1) Whenever the Federal Housing Administration or Government National Mortgage Association initiates proceedings that could lead to withdrawing the mortgagee from participating in the program, the initiating agency shall—

(A) within 24 hours notify the other agency in writing of the action taken;

(B) provide to the other agency the factual basis for the action taken; and

(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(2) Within 60 days of receipt of a notification of action that could lead to withdrawal under subsection⁴ (1), the Federal Housing Administration or the Government National Mortgage Association shall—

(A) conduct and complete its own investigation;

(B) provide written notification to the other agency of its decision, including the factual basis for its decision; and

(C) if a mortgagee is withdrawn, publish its decision in the Federal Register.

(f) Suspension or revocation of approval of mortgage; notice and statement of reasons

Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this subchapter, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to—

(1) the Secretary of Veterans Affairs;

(2) the chief executive officer of the Federal National Mortgage Association;

(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

(4) the Secretary of Agriculture;

(5) if the mortgagee is a national bank, a subsidiary or affiliate of such bank, a Federal savings association or a subsidiary or affiliate

³So in original. Probably should be "contendere".

⁴So in original. Probably should be "paragraph".

of a savings association, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System; and

(7) if the mortgagee is a State bank or State savings association that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation.

(g) Appraisal standards

(1) The Secretary shall prescribe standards for the appraisal of all property to be insured by the Federal Housing Administration. Such appraisals shall be performed in accordance with uniform standards, by individuals who have demonstrated competence and whose professional conduct is subject to effective supervision. These standards shall require at a minimum—

(A) that the appraisals of properties to be insured by the Federal Housing Administration shall be performed in accordance with generally accepted appraisal standards, such as the appraisal standards promulgated by the Appraisal Foundation a not-for-profit corporation established on November 30, 1987 under the laws of Illinois; and

(B) that each appraisal be a written statement used in connection with a real estate transaction that is independently an⁵ impartially prepared by a licensed or certified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by presentation and analysis of relevant market information.

(2) The Appraisal Subcommittee of the Federal Financial Institutions Examination Council shall include the Secretary or his designee.

(3) DIRECT ENDORSEMENT PROGRAM.—

(A) Any mortgagee that is authorized by the Secretary to process mortgages as a direct endorsement mortgagee (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary pursuant to this subsection.

(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

(4) FEE PANEL APPRAISERS.—

(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this subchapter in the same manner and on the same basis as other approved appraisers.

(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this subchapter, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services.

(5) ADDITIONAL APPRAISER STANDARDS.—Beginning on July 30, 2008, any appraiser chosen or approved to conduct appraisals for mortgages under this subchapter shall—

(A) be certified—

(i) by the State in which the property to be appraised is located; or

(ii) by a nationally recognized professional appraisal organization; and

(B) have demonstrated verifiable education in the appraisal requirements established by the Federal Housing Administration under this subsection.

(h) Use of name

The Secretary shall, by regulation, require each mortgagee approved by the Secretary for participation in the FHA mortgage insurance programs of the Secretary—

(1) to use the business name of the mortgagee that is registered with the Secretary in connection with such approval in all advertisements and promotional materials, as such terms are defined by the Secretary, relating to the business of such mortgagee in such mortgage insurance programs; and

(2) to maintain copies of all such advertisements and promotional materials, in such form and for such period as the Secretary requires.

(June 27, 1934, ch. 847, title II, §202, 48 Stat. 1248; Feb. 3, 1938, ch. 13, §3, 52 Stat. 10; June 3, 1939, ch. 175, §5, 53 Stat. 805; Apr. 20, 1950, ch. 94, title I, §122, 64 Stat. 59; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101-235, title I, §142, Dec. 15, 1989, 103 Stat. 2030; Pub. L. 101-625, title III, §322, Nov. 28, 1990, 104 Stat. 4134; Pub. L. 102-550, title V, §§502, 518, 519, Oct. 28, 1992, 106 Stat. 3778, 3792; Pub. L. 105-65, title V, §551, Oct. 27, 1997, 111 Stat. 1412; Pub. L. 106-377, §1(a)(1) [title II, §209(c)], Oct. 27, 2000, 114 Stat. 1441, 1441A-25; Pub. L. 110-289, div. A, title IV, §1404, div. B, title I, §§2116(1), (3), 2118(a), July 30, 2008, 122 Stat. 2810, 2832, 2833; Pub. L. 111-22, div. A, title II, §203(a), (b), May 20, 2009, 123 Stat. 1643; Pub. L. 111-203, title III, §373, July 21, 2010, 124 Stat. 1566.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (a)(1), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, §13201(a), Nov. 5, 1990, 104

⁵ So in original. Probably should be “and”.

Stat. 1388-609, which is classified generally to subchapter III (§661 et seq.) of chapter 17A of Title 2, The Congress. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Federal Advisory Committee Act, referred to in subsec. (b), is Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, which is set out in the Appendix to Title 5, Government Organization and Employees.

Section 3537b(c) of title 42, referred to in subsec. (b)(5), was in the original "section 112(c) of the Department of Housing and Urban Development Reform Act of 1989", meaning section 112 of Pub. L. 101-235, which does not contain a subsec. (c), but enacted section 13 of the Department of Housing and Urban Development Act, which was classified to section 3537b of title 42 prior to repeal by Pub. L. 104-65, §11(b)(1), Dec. 19, 1995, 109 Stat. 701, and which contained a subsec. (c) relating to registration with the Secretary.

The Equal Credit Opportunity Act, referred to in subsec. (c)(1), (3)(B), is title VII of Pub. L. 90-321, as added by Pub. L. 93-495, title V, §503, Oct. 28, 1974, 88 Stat. 1521, which is classified generally to subchapter IV (§1691 et seq.) of chapter 41 of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 15 and Tables.

The Fair Housing Act, referred to in subsec. (c)(1), (3)(B), is title VIII of Pub. L. 90-284, Apr. 11, 1968, 82 Stat. 81, which is classified principally to subchapter I (§3601 et seq.) of chapter 45 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3601 of Title 42 and Tables.

Executive Order 11063, referred to in subsec. (c)(1), (3)(B), is set out as a note under section 1982 of Title 42.

This chapter, referred to in subsec. (c)(7)(A), 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.

The effective date of this sentence, referred to in subsec. (c)(9), is the date of enactment of Pub. L. 111-22, which enacted par. (9) and was approved May 20, 2009.

The S.A.F.E. Mortgage Licensing Act of 2008, referred to in subsec. (d)(2)(F), is title V of div. A of Pub. L. 110-289, July 30, 2008, 122 Stat. 2810, also known as the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, which is classified generally to chapter 51 (§5101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5101 of this title and Tables.

CODIFICATION

Section 1709(s) of this title, which was transferred and redesignated as subsec. (e) of this section by Pub. L. 110-289, div. B, title I, §2116(3), July 30, 2008, 122 Stat. 2832, was based on act June 27, 1934, ch. 847, title II, §203(s), as added Pub. L. 101-235, title I, §135, Dec. 15, 1989, 103 Stat. 2028; amended Pub. L. 108-386, §8(b), Oct. 30, 2004, 118 Stat. 2231; Pub. L. 110-289, div. B, title I, §2116(2), July 30, 2008, 122 Stat. 2832.

AMENDMENTS

2010—Subsec. (f)(5). Pub. L. 111-203, §373(1), added par. (5) and struck out former par. (5) which read as follows: "if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;"

Subsec. (f)(6). Pub. L. 111-203, §373(2), inserted "and" at end.

Subsec. (f)(7). Pub. L. 111-203, §373(3), inserted "or State savings association" after "State bank" and substituted period for "; and" at end.

Subsec. (f)(8). Pub. L. 111-203, §373(4), struck out par. (8) which read as follows: "if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision."

2009—Subsec. (c)(2)(E). Pub. L. 111-22, §203(a)(1)(A), inserted "and" after semicolon at end.

Subsec. (c)(2)(F). Pub. L. 111-22, §203(a)(1)(B), substituted "or their designees." for "; and".

Subsec. (c)(2)(G). Pub. L. 111-22, §203(a)(1)(C), struck out subpar. (G), which read as follows: "the Director of the Enforcement Center; or their designees."

Subsec. (c)(9). Pub. L. 111-22, §203(a)(2), added par. (9).

Subsecs. (d) to (g). Pub. L. 111-22, §203(b)(1), (2), added subsec. (d) and redesignated former subsecs. (d) to (f) as (e) to (g), respectively.

Subsec. (h). Pub. L. 111-22, §203(b)(3), added subsec. (h).

2008—Subsec. (a). Pub. L. 110-289, §2118(a), amended subsec. (a) generally. Prior to amendment, text read as follows: "There is created a Mutual Mortgage Insurance Fund (hereinafter referred to as the 'Fund'), which shall be used by the Secretary as a revolving fund for carrying out the provisions of this subchapter with respect to mortgages insured under section 1709 of this title as hereinafter provided, and there shall be allocated immediately to such Fund the sum of \$10,000,000 out of funds made available to the Secretary for the purposes of this subchapter."

Subsec. (e). Pub. L. 110-289, §2116(3), transferred subsec. (s) of section 1709 of this title and redesignated it as subsec. (e) of this section. See Codification note above. Former subsec. (e) redesignated (f).

Subsec. (e)(3)(B). Pub. L. 110-289, §2116(1)(A), made technical amendment to reference in original act which appears in text as reference to "this subsection".

Subsec. (e)(5). Pub. L. 110-289, §1404, added par. (5).

Subsec. (f). Pub. L. 110-289, §2116(1)(B), redesignated subsec. (e) as (f).

2000—Subsec. (c)(2)(E). Pub. L. 106-377, §1(a)(1) [title II, §209(c)(1)], struck out "and" at end.

Subsec. (c)(2)(F). Pub. L. 106-377, §1(a)(1) [title II, §209(c)(2)], which directed substitution of "and" for "or their designees.", was executed by inserting "and" after semicolon to reflect the probable intent of Congress, because the phrase "or their designees." appeared at end of par. (2) and did not appear in subpar. (F).

Subsec. (c)(2)(G). Pub. L. 106-377, §1(a)(1) [title II, §209(c)(3)], added subpar. (G).

1997—Subsec. (c)(3)(C). Pub. L. 105-65 inserted after first sentence "Notwithstanding paragraph (4)(A), a suspension shall be effective upon issuance by the Board if the Board determines that there exists adequate evidence that immediate action is required to protect the financial interests of the Department or the public."

1992—Subsec. (b)(11). Pub. L. 102-550, §502, added par. (11).

Subsec. (c)(3)(C). Pub. L. 102-550, §518, inserted "temporarily" after "order", "(i)" after "Administration if", "(ii)" after "violations and", and ", and for not longer than 1 year. The Board may extend the suspension for an additional 6 months if it determines the extension is in the public interest. If the Board and the mortgagee agree, these time limits may be extended" after "6 months".

Subsec. (c)(6)(D). Pub. L. 102-550, §519(1), struck out subpar. (D) which read as follows: "For purposes of this paragraph, the term 'mortgagee' means a mortgagee, a branch office or subsidiary of a mortgagee, or a director, officer, employee, agent, or other person participating in the conduct of the affairs of such mortgagee."

Subsec. (c)(7), (8). Pub. L. 102-550, §519(2), added par. (7) and redesignated former par. (7) as (8).

1990—Subsec. (e)(3), (4). Pub. L. 101-625 added pars. (3) and (4).

1989—Pub. L. 101-235 substituted "Federal Housing Administration operations" for "Mutual Mortgage Insurance Fund" in section catchline, designated existing provisions as subsec. (a) and inserted heading, and added subsecs. (b) to (e).

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing.

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

1939—Act June 3, 1939, substituted “created” for “create”.

1938—Act Feb. 3, 1938, inserted “with respect to mortgages insured under section 1709 of this title”.

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the transfer date, see section 351 of Pub. L. 111-203, set out as a note under section 906 of Title 2, The Congress.

EXPANDED REVIEW OF FHA MORTGAGEE APPLICANTS AND NEWLY APPROVED MORTGAGEES

Pub. L. 111-22, div. A, title II, §203(g), May 20, 2009, 123 Stat. 1648, provided that: “Not later than the expiration of the 3-month period beginning upon the date of the enactment of this Act [May 20, 2009], the Secretary of Housing and Urban Development shall—

“(1) expand the existing process for reviewing new applicants for approval for participation in the mortgage insurance programs of the Secretary for mortgages on 1- to 4-family residences for the purpose of identifying applicants who represent a high risk to the Mutual Mortgage Insurance Fund; and

“(2) implement procedures that, for mortgagees approved during the 12-month period ending upon such date of enactment—

“(A) expand the number of mortgages originated by such mortgagees that are reviewed for compliance with applicable laws, regulations, and policies; and

“(B) include a process for random reviews of such mortgagees and a process for reviews that is based on volume of mortgages originated by such mortgagees.”

§ 1709. Insurance of mortgages

(a) Authorization

The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) Eligibility for insurance; mortgage limits

To be eligible for insurance under this section a mortgage shall comply with the following:

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount—

(A) not to exceed the lesser of—

(i) in the case of a 1-family residence, 115 percent of the median 1-family house price

in the area, as determined by the Secretary; and in the case of a 2-, 3-, or 4-family residence, the percentage of such median price that bears the same ratio to such median price as the dollar amount limitation determined under the sixth sentence of section 1454(a)(2) of this title for a 2-, 3-, or 4-family residence, respectively, bears to the dollar amount limitation determined under such section for a 1-family residence; or

(ii) 150 percent of the dollar amount limitation determined under the sixth sentence of such section 1454(a)(2) for a residence of applicable size;

except that the dollar amount limitation in effect under this subparagraph for any size residence for any area may not be less than the greater of: (I) the dollar amount limitation in effect under this section for the area on October 21, 1998; or (II) 65 percent of the dollar amount limitation determined under the sixth sentence of such section 1454(a)(2) for a residence of the applicable size; and

(B) not to exceed 100 percent of the appraised value of the property.

For purposes of the preceding sentence, the term “area” means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.