

1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2004—Pub. L. 108-199, which directed amendment of section by adding sentence relating to interest rate for claim paid in cash at end of first paragraph, was executed by adding sentence at end of section to reflect the probable intent of Congress.

1968—Pub. L. 90-448 included debentures issued pursuant to section 1715z-3 of this title.

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

1961—Pub. L. 87-70 changed the date for determination of the rate of interest for debentures, other than those issued pursuant to section 1715k(f), 1715k(h)(7), 1715l(g), 1715l(g)(4), or 1715x, from the rate in effect on the date the debentures are issued to the rate in effect on the date the commitment to insure the loan or mortgage was issued, or the date the loan or mortgage was endorsed for insurance, or (when there are two or more insurance endorsements) the date the loan or mortgage was initially endorsed for insurance, whichever rate is highest.

#### § 1715p. Insurance of advances under open-end mortgages; payment of charges; eligibility and conditions

Notwithstanding any other provisions of this chapter, in connection with any mortgage insured pursuant to any section of this chapter which covers a property upon which there is located a dwelling designed principally for residential use for not more than four families in the aggregate, the Secretary is authorized, upon such terms and conditions as he may prescribe, to insure under said section the amount of any advance for the improvement or repair of such property made to the mortgagor pursuant to an “open-end” provision in the mortgage, and to add the amount of such advance to the original principal obligation in determining the value of the mortgage for the purpose of computing the amounts of debentures and certificate of claim to which the mortgagee may be entitled: *Provided*, That the Secretary may require the payment of such charges, including charges in lieu of insurance premiums, as he may consider appropriate for the insurance of such “open-end” advances: *Provided, further*, That only advances for such improvements or repairs as substantially protect or improve the basic livability or utility of the property involved shall be eligible for insurance under this section; *Provided further*, That no such advance shall be insured under this section if the amount thereof plus the amount of the unpaid balance of the original principal obligation of the mortgage would exceed the amount of such original principal obligation unless the mortgagor certifies that the proceeds of such advance will be used to finance the construction of additional rooms or other enclosed space as a part of the dwelling: *And provided further*, That the insurance of “open-end” advances shall not be taken into account in determining the aggregate amount of principal obligations of mortgages which may be insured under this chapter.

(June 27, 1934, ch. 847, title II, §225, as added Aug. 2, 1954, ch. 649, title I, §126, 68 Stat. 607; amended Pub. L. 90-19, §1(a) (3), May 25, 1967, 81 Stat. 17.)

#### REFERENCES IN TEXT

This chapter, referred to in text, 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

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

#### § 1715q. Delivery of statement of appraisal or estimates to home buyers

The Secretary is authorized and directed to require that in connection with any property upon which there is located a dwelling designed principally for a single-family residence or a two-family residence and which is approved for mortgage insurance under section 1709 or 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (2) of subsection (a) of section 1715e of this title, or sections 1715k, 1715l, 1715m,<sup>1</sup> 1715x, 1715y, 1715z(i), 1715z-2,<sup>1</sup> or 1750b of this title, the seller or builder or such other person as may be designated by the Secretary shall agree to deliver, prior to the sale of the property, to the person purchasing such dwelling for his own occupancy, a written statement setting forth the amount of the appraised value of the property as determined by the Secretary. This section shall not apply in any case where the mortgage involved was insured or the commitment for such insurance was issued prior to August 2, 1954. Notwithstanding the first sentence of this section, the Secretary is authorized to require, in connection with any mortgage where the mortgage amount is computed on the basis of the Secretary’s estimate of the replacement cost of the property, or on the basis of any other estimates of the Secretary, that a written statement setting forth such estimate or estimates, as the case may be, be furnished under this section in lieu of a written statement setting forth the amount of the appraised value of the property.

(June 27, 1934, ch. 847, title II, §226, as added Aug. 2, 1954, ch. 649, title I, §126, 68 Stat. 607; amended Pub. L. 85-104, title I, §115, July 12, 1957, 71 Stat. 298; Pub. L. 87-70, title VI, §612(j), June 30, 1961, 75 Stat. 182; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §102(b), Aug. 1, 1968, 82 Stat. 486.)

#### REFERENCES IN TEXT

Section 1715m of this title, referred to in text, was repealed by Pub. L. 110-289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

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

#### AMENDMENTS

1968—Pub. L. 90-448 inserted references to sections 1715z(i) and 1715z-2 of this title.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing, and “Secretary’s” for “Commissioner’s”.

1961—Pub. L. 87-70 inserted references to sections 1715x and 1715y of this title, and substituted “or on the

<sup>1</sup> See References in Text note below.

basis of any other estimates of the Commissioner, that a written statement setting forth such estimate or estimates, as the case may be," for "that a written statement setting forth such estimate".

1957—Pub. L. 85-104 inserted sentence authorizing estimate of replacement cost in lieu of an estimate of value where mortgage amount is based upon replacement cost.

**§ 1715r. Requirement of builder's cost certification; definitions**

**(a) Requirement**

Except as provided in subsection (b) and notwithstanding any other provision of this chapter, no mortgage covering new or rehabilitated multifamily housing or a property or project described in subchapter IX-B shall be insured under this chapter unless the mortgagor has agreed (A) to certify, upon completion of the physical improvements on the mortgaged property or project and prior to final endorsement of the mortgage, either (i) that the approved percentage of actual cost (as those terms are herein defined) equaled or exceeded the proceeds of the mortgage loan or (ii) the amount by which the proceeds of the mortgage loan exceeded such approved percentage of actual cost, as the case may be, and (B) to pay forthwith to the mortgagee, for application to the reduction of the principal obligation of such mortgage, the amount, if any, certified to be in excess of such approved percentage of actual cost. Upon the Secretary's approval of the mortgagor's certification as required hereunder, such certification shall be final and incontestable, except for fraud or material misrepresentation on the part of the mortgagor.

**(b) Exemption for certain projects assisted with low-income housing tax credit**

In the case of any mortgage insured under any provision of this subchapter that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity<sup>1</sup> provided through any low-income housing tax credit pursuant to section 42 of title 26, if the Secretary determines at the time of issuance of the firm commitment for insurance that the ratio of the loan proceeds to the actual cost of the project is less than 80 percent, subsection (a) of this section shall not apply.

**(c) Definitions**

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

(1) The term "new or rehabilitated multifamily housing" means a project or property approved for mortgage insurance prior to the construction or the repair and rehabilitation involved and covered by a mortgage insured or to be insured (i) under section 1713 of this title, (ii) under section 1715e of this title with respect to any property or project of a corporation or trust of the character described in paragraph (1) of subsection (a) of section 1715e of this title or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) thereof, (iii) under section 1715k of this title if

the mortgage meets the requirements of paragraph (3)(B) of subsection (d) thereof, (iv) under section 1715l of this title if the mortgage meets the requirements of paragraph (3) or paragraph (4) of subsection (d) thereof, (v) under section 1715v of this title, (vi) under section 1715x of this title if the mortgage meets the requirements of subsection (b), (vii) under section 1748h-2 of this title if the mortgage meets the requirements of subsection (f), (viii) under section 1715y(d) of this title, or (ix) under section 1715z-1 of this title;

(2) The term "approved percentage" means the percentage figure which, under applicable provisions of this chapter, the Secretary is authorized to apply to his estimate of value, cost, or replacement costs, as the case may be, of the property or project in determining the maximum insurable mortgage amount; except that if the mortgage is to assist the financing of repair or rehabilitation and no part of the proceeds will be used to finance the purchase of the land or structure involved, the approved percentage shall be 100 per centum; and

(3) The term "actual cost" has the following meaning: (i) in case the mortgage is to assist the financing of new construction, the term means the actual cost to the mortgagor of such construction, including amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organizational and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (I) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (II) an amount equal to the Secretary's estimate of the fair market value of any land (prior to the construction of the improvements built as a part of the project) in the property or project owned by the mortgagor in fee (or, in case the land in the property or project is held by the mortgagor under a leasehold or other interest less than a fee, such amount as the mortgagor paid for the acquisition of such leasehold or other interest but, in no event, in excess of the fair market value of such leasehold or other interest exclusive of the proposed improvements), but excluding the amount of any kickbacks, rebates, or trade discounts received in connection with the construction of the improvements, or (ii) in case the mortgage is to assist the financing of repair or rehabilitation the term means the actual cost to the mortgagor of such repair or rehabilitation, including the amounts paid for labor, materials, construction contracts, off-site public utilities, streets, organization and legal expenses, such allocations of general overhead items as are acceptable to the Secretary, and other items of expense approved by the Secretary, plus (I) a reasonable allowance for builder's profit if the mortgagor is also the builder as defined by the Secretary, and (II) an additional amount equal to (A) in case the land and improvements are to be acquired by the mortgagor and the purchase price thereof is to be financed with part of the proceeds of the mortgage, the purchase price of such land and improvements prior to such repair or rehabilitation, or (B) in

<sup>1</sup> So in original. Probably should be followed by "is".