

mortgage for the purpose of changing the amortization provisions by recasting the unpaid balance and substituted provisions for acquisition of the loan and security upon payment of the insurance benefits in an amount equal to the unpaid principal balance of the loan plus any unpaid mortgage interest plus reimbursement for such costs and attorney's fees as the Commissioner finds were properly incurred in connection with the defaulted mortgage and its assignment to the Commissioner for former provision for such acquisition upon issuance to the mortgagee of debentures having a total face value equal to the unpaid principal balance of the loan plus any accrued interest.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-99 applicable with respect to mortgages insured under this chapter that are executed before, on, or after Oct. 1, 1997, see section 407(c) of Pub. L. 104-99, as amended, set out as a note under section 1710 of this title.

SAVINGS PROVISION

Pub. L. 104-134, title I, §101(e) [title II, §221(b)(1)], Apr. 26, 1996, 110 Stat. 1321-257, 1321-291, provided that: "Any mortgage for which the mortgagor has applied to the Secretary, before the date of enactment of this Act [Apr. 26, 1996], for assignment to the Secretary pursuant to section 230(b) of the National Housing Act [12 U.S.C. 1715u(b)] shall continue to be governed by the provisions of such section, as in effect immediately before enactment of the Balanced Budget Downpayment Act, I [Pub. L. 104-99, which was approved Jan. 26, 1996]."

IMPLEMENTATION OF 2009 AMENDMENT

Pub. L. 111-22, div. A, title II, §203(d)(4), May 20, 2009, 123 Stat. 1647, provided that: "The Secretary of Housing and Urban Development may implement the amendments made by this subsection [amending this section] through notice or mortgagee letter."

§ 1715v. Insurance of mortgages for housing for elderly persons

(a) Purpose; definitions

The purpose of this section is to assist in relieving the shortage of housing for elderly persons and to increase the supply of rental housing for elderly persons.

For the purposes of this section—

(1) the term "housing" means eight or more new or rehabilitated living units, not less than 50 per centum of which are specially designed for the use and occupancy of elderly persons;

(2) the term "elderly person" means any person, married or single, who is sixty-two years of age or over; and

(3) the terms "mortgage", "mortgagee", "mortgagor", and "maturity date" shall have the meanings respectively set forth in section 1713 of this title.

(b) Authorization

The Secretary is authorized to insure any mortgage (including advances on mortgages during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgages prior to the date of their execution or disbursement thereon.

(c) Eligibility for insurance; maximum amount of mortgage; terms and conditions

To be eligible for insurance under this section, a mortgage to provide housing for elderly persons shall—

(1) Repealed. Pub. L. 93-383, title III, §304(f), Aug. 22, 1974, 88 Stat. 678.

(2)(A) not exceed, for such part of the property or project as may be attributable to dwelling use (excluding exterior land improvements as defined by the Secretary), \$35,978 per family unit without a bedroom, \$40,220 per family unit with one bedroom, \$48,029 per family unit with two bedrooms, \$57,798 per family unit with three bedrooms, and \$67,950 per family unit with four or more bedrooms; except that as to projects to consist of elevator-type structures the Secretary may, in his discretion, increase the dollar amount limitations per family unit to not to exceed \$40,876 per family unit without a bedroom, \$46,859 per family unit with one bedroom, \$56,979 per family unit with two bedrooms, \$73,710 per family unit with three bedrooms, and \$80,913 per family unit with four or more bedrooms, as the case may be, to compensate for the higher costs incident to the construction of elevator-type structures of sound standards of construction and design; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 170 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 170 percent, or 215 percent in high cost areas, where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720¹ of this title (as such section existed immediately before November 30, 1983) is involved; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title) by not to exceed 20 per centum if such increase is necessary to account for the increased cost of the project due to the installation therein of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)¹ in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure;

(3) if executed by a mortgagor which is a public instrumentality or a private nonprofit corporation or association or other acceptable private nonprofit organization regulated or supervised under Federal or State laws or by political subdivisions of States, or agencies thereof, or by the Secretary under a regulatory agreement or otherwise, as to rents, charges, and methods of operation, in such form and in such manner as, in the opinion of the Secretary, will effectuate the purpose of

¹ See References in Text note below.

this section, involve a principal obligation not in excess of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement cost may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary); *Provided*, That in the case of properties other than new construction, the principal obligation shall not exceed the appraised value rather than the Secretary's estimate of the replacement cost;

(4) if executed by a mortgagor which is approved by the Secretary but is not a public instrumentality or a private nonprofit organization, involve a principal obligation not in excess (in the case of a property or project approved for mortgage insurance prior to the beginning of construction) of 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when the proposed improvements are completed (the replacement costs may include the land, the proposed physical improvements, utilities within the boundaries of the land, architect's fees, taxes, interest during construction, and other miscellaneous charges incident to construction and approved by the Secretary, and shall include an allowance for builder's and sponsor's profit and risk of 10 per centum of all of the foregoing items except the land unless the Secretary, after certification that such allowance is unreasonable, shall by regulation prescribe a lesser percentage): *Provided*, That in the case of properties other than new construction the principal obligation shall not exceed 90 per centum of the Secretary's estimate of the value of the property or project: *And provided further*, That the Secretary may in his discretion require such mortgagor to be regulated or restricted as to rents or sales, charges, capital structure, rate of return, and methods of operating, and for such purpose the Secretary may make contracts with and acquire for not to exceed \$100 such stock or interest in any such mortgagor as the Secretary may deem necessary to render effective such restrictions or regulations; such stock or interest shall be paid for out of the General Insurance Fund and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance;

(5) provide for a complete amortization by periodic payments (unless otherwise approved by the Secretary) within such terms as the Secretary shall prescribe;

(6) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee; and

(7) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation, with 50 per centum or more of the units therein specially designed for the use and occupancy of elderly persons in accordance with standards established by the Secretary, and which may include such commercial and special facilities

as the Secretary deems adequate to serve the occupants.

(d) Release of part of mortgaged property or project from lien; preferences and priorities in rental of dwellings

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe, and shall prescribe such procedures as in his judgment are necessary to secure to elderly persons a preference or priority of opportunity to rent the dwellings included in such property or project.

(e) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

(f) Handicapped family units and facilities; rental preference or priority

Notwithstanding any of the provisions of this section, the housing provided under this section may include family units which are specially designed for the use and occupancy of any person or family qualifying as a handicapped family as defined in section 1701q² of this title, and such special facilities as the Secretary deems adequate to serve handicapped families (as so defined). The Secretary may also prescribe procedures to secure to such families preference or priority of opportunity to rent the living units specially designed for their use and occupancy.

(June 27, 1934, ch. 847, title II, §231, as added Pub. L. 86-372, title II, §201(a), Sept. 23, 1959, 73 Stat. 665; amended Pub. L. 87-70, title VI, §612(m), June 30, 1961, 75 Stat. 183; Pub. L. 88-560, title I, §107(e), title II, §203(c), Sept. 2, 1964, 78 Stat. 776, 784; Pub. L. 89-117, title II, §207(e), title XI, §1108(l), Aug. 10, 1965, 79 Stat. 467, 505; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 90-301, §3(d), May 7, 1968, 82 Stat. 114; Pub. L. 91-152, title I, §113(g), Dec. 24, 1969, 83 Stat. 384; Pub. L. 93-383, title III, §§303(f), 304(f), Aug. 22, 1974, 88 Stat. 677, 678; Pub. L. 94-173, §3, Dec. 23, 1975, 89 Stat. 1027; Pub. L. 94-375, §8(a), (b)(6), Aug. 3, 1976, 90 Stat. 1071, 1072; Pub. L. 96-153, title III, §314, Dec. 21, 1979, 93 Stat. 1117; Pub. L. 96-399, title III, §310(e), Oct. 8, 1980, 94 Stat. 1642; Pub. L. 97-35, title III, §339B(a), Aug. 13, 1981, 95 Stat. 417; Pub. L. 97-377, title I, §101(g), Dec. 21, 1982, 96 Stat. 1908; Pub. L. 98-181, title I [title IV, §§404(b)(9), 446(e)], Nov. 30, 1983, 97 Stat. 1209, 1228; Pub. L. 100-242, title IV, §426(f), (h), Feb. 5, 1988, 101 Stat. 1916; Pub. L. 102-550, title V, §509(f), Oct. 28, 1992, 106 Stat. 3783; Pub. L. 107-73, title II, §213(f), Nov. 26, 2001, 115 Stat. 677; Pub. L. 107-326, §5(b)(6), Dec. 4, 2002, 116 Stat. 2795; Pub. L. 108-186, title III, §302(b), Dec. 16, 2003, 117 Stat. 2692; Pub. L. 110-161, div. K, title II, §221(1), Dec. 26, 2007, 121 Stat. 2436.)

REFERENCES IN TEXT

Section 1720 of this title, referred to in subsec. (c)(2)(B), was repealed by Pub. L. 98-181, title I [title IV, §483(a)], Nov. 30, 1983, 97 Stat. 1240.

² See References in Text note below.

Section 8211 of title 42, referred to in subsec. (c)(2)(C), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

The General Insurance Fund, referred to in subsec. (c)(4), was established by section 1735c of this title.

Section 1701q of this title, referred to in subsec. (f), was amended generally by Pub. L. 101-625, title VIII, §801(a), Nov. 28, 1990, 104 Stat. 4297, and, as so amended, no longer defines the term "handicapped family".

AMENDMENTS

2007—Subsec. (c)(2)(B). Pub. L. 110-161 substituted "170 percent" for "140 percent" after "not to exceed" in two places and "215 percent in high cost areas" for "170 percent in high cost areas".

2003—Subsec. (c)(2)(B). Pub. L. 108-186 substituted "140 percent in" for "110 percent in" and inserted ", or 170 percent in high cost areas," after "and by not to exceed 140 percent".

2002—Subsec. (c)(2). Pub. L. 107-326 inserted "(A)" after "(2)" and substituted "; (B) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for "; and except that the Secretary may, by regulation, increase any of the foregoing dollar amount limitations contained in this paragraph" and "; (C) the Secretary may, by regulation, increase any of the dollar limitations in subparagraph (A) (as such limitations may have been adjusted in accordance with section 1712a of this title)" for ": *Provided*, That the Secretary may further increase the dollar amount limitations which would otherwise apply for the purpose of this section".

2001—Subsec. (c)(2). Pub. L. 107-73 substituted "\$35,978", "\$40,220", "\$48,029", "\$57,798", and "\$67,950" for "\$28,782", "\$32,176", "\$38,423", "\$46,238", and "\$54,360", respectively, and "\$40,876", "\$46,859", "\$56,979", "\$73,710", and "\$80,913" for "\$32,701", "\$37,487", "\$45,583", "\$58,968", and "\$64,730", respectively.

1992—Subsec. (c)(2). Pub. L. 102-550 substituted "\$28,782", "\$32,176", "\$38,423", "\$46,238", and "\$54,360" for "\$23,985", "\$26,813", "\$32,019", "\$38,532", and "\$45,300", respectively, and "\$32,701", "\$37,487", "\$45,583", "\$58,968", and "\$64,730" for "\$27,251", "\$31,239", "\$37,986", "\$49,140", and "\$53,942", respectively.

1988—Subsec. (c)(2). Pub. L. 100-242 substituted "\$23,985", "\$26,813", "\$32,019", "\$38,532", and "\$45,300" for "\$18,450", "\$20,625", "\$24,630", "\$29,640", and "\$34,846", respectively, and "\$27,251", "\$31,239", "\$37,986", "\$49,140", and "\$53,942" for "\$20,962", "\$24,030", "\$29,220", "\$37,800", and "\$41,494", respectively, and substituted "not to exceed 110 percent in any geographical area where the Secretary finds that cost levels so require and by not to exceed 140 percent where the Secretary determines it necessary on a project-by-project basis, but in no case may any such increase exceed 90 percent where the Secretary determines that a mortgage purchased or to be purchased by the Government National Mortgage Association in implementing its special assistance functions under section 1720 of this title (as such section existed immediately before November 30, 1983) is involved" for "not to exceed 75 per centum in any geographical area where he finds that cost levels so require, except that, where the Secretary determines it necessary on a project by project basis, the foregoing dollar amount limitations contained in this paragraph may be exceeded by not to exceed 90 per centum (by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved) in such an area".

1983—Subsec. (c)(5). Pub. L. 98-181, §446(e), inserted "(unless otherwise approved by the Secretary)" after "periodic payments".

Subsec. (c)(6). Pub. L. 98-181, §404(b)(9), substituted provision that the interest rate be at such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

1982—Subsec. (c)(2). Pub. L. 97-377 inserted "(by not to exceed 140 per centum where the Secretary determines that a mortgage other than one purchased or to be purchased under section 1720 of this title by the Government National Mortgage Association in implementing its special assistance functions is involved)" after "90 per centum".

1981—Subsec. (c)(2). Pub. L. 97-35 inserted "therein" after "installation" and struck out "therein" after "measure".

1980—Subsec. (c)(2). Pub. L. 96-399 inserted proviso relating to increase of dollar amount limitations due to installation of a solar energy system.

1979—Subsec. (c)(2). Pub. L. 96-153 substituted "75 per centum" for "50 per centum" and inserted exception that the dollar amount limitations may be exceeded by not be exceed 90 per centum where the Secretary determines it to be necessary.

1976—Subsec. (c)(2). Pub. L. 94-375 substituted "50 per centum in any geographical area" for "75 per centum in any geographical area", "\$18,450" for "\$12,300", "\$20,625" for "\$17,188", "\$24,630" for "\$20,525", "\$29,640" for "\$24,700", "\$34,846" for "\$29,038", "\$20,962" for "\$13,975", "\$24,030" for "\$20,025", "\$29,220" for "\$24,350", "\$37,800" for "\$31,500", and "\$41,494" for "\$34,578".

1975—Subsec. (c)(2). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93-383, §304(f), struck out par. (1) which set forth limits on principal obligations of mortgages.

Subsec. (c)(2). Pub. L. 93-383, §303(f), substituted "\$12,300" for "\$8,800", "\$13,975" for "\$10,450", "\$17,188" for "\$12,375", "\$20,025" for "\$14,850", "\$20,525" for "\$14,850", "\$24,350" for "\$17,600", "\$24,700" for "\$18,700", "\$29,038" for "\$21,175", "\$31,500" for "\$22,000", and "\$34,578" for "\$25,025".

1969—Subsec. (c)(2). Pub. L. 91-152 substituted "\$8,800" for "\$8,000", "\$10,450" for "\$9,500", "\$12,375" for "\$11,250", "\$14,850" for "\$13,500" wherever appearing, "\$17,600" for "\$16,000", "\$18,700" for "\$17,000", "\$21,175" for "\$19,250", "\$22,000" for "\$20,000", and "\$25,025" for "\$22,750".

1968—Subsec. (c)(6). Pub. L. 90-301 increased limitation on interest rates from 5½ to 6 per centum per annum.

1967—Pub. L. 90-19, §1(a)(3), substituted "Secretary" for "Commissioner" wherever appearing in subssecs. (b), (c)(2) to (7), (d), and (f).

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

1965—Subsec. (c)(2). Pub. L. 89-117, §207(e), substituted "\$17,000 per family unit with three bedrooms, and \$19,250 per family unit with four or more bedrooms" for "and \$17,000 per family unit with three or more bedrooms" and "\$20,000 per family unit with three bedrooms, and \$22,750 per family unit with four or more bedrooms" for "and \$20,000 per family unit with three or more bedrooms".

Subsec. (c)(4). Pub. L. 89-117, §1108(l)(1), substituted "General Insurance Fund" for "section 207 Housing Insurance Fund".

Subsec. (e). Pub. L. 89-117, §1108(l)(2), struck out references to subssecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (c)(2). Pub. L. 88-560, §107(e), changed limits on mortgages for property or project attributable to dwelling use from "\$2,250 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)" to "\$8,000 per family unit without a bedroom, \$11,250 per family

unit with one bedroom, \$13,500 per family unit with two bedrooms, and \$17,000 per family unit with three or more bedrooms”, changed such mortgage limits on project consisting of elevator-type structures from a sum “of \$2,250 per room to not to exceed \$2,750 per room, and the dollar amount limitation of \$9,000 per family unit to not to exceed \$9,400 per family unit” to dollar amount limitations “per family unit to not to exceed \$9,500 per family unit without a bedroom, \$13,500 per family unit with one bedroom, \$16,000 per family unit with two bedrooms, and \$20,000 per family unit with three or more bedrooms”, and substituted provisions authorizing an increase “by not to exceed 45 per centum” of any of such limits because of cost levels for former provision authorizing such increase “by not to exceed \$1,250 per room, without regard to the number of rooms being less than four, or four or more”.

Subsec. (f). Pub. L. 88-560, § 203(c), added subsec. (f).

1961—Subsec. (c)(2). Pub. L. 87-70 increased the maximum amount of mortgages from not more than \$9,000 per dwelling unit for such part of such property or project as may be attributable to dwelling use to not more than \$2,250 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), and permitted an increase of from \$2,250 per room to not more than \$2,750 per room to compensate for the higher costs incident to the construction of elevator-type structures.

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.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, § 3(d), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, § 404(a)], Nov. 30, 1983, 97 Stat. 1208.

LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

For limitation on the number of dwelling units with mortgages not providing for complete amortization pursuant to authority granted by amendment to subsec. (c)(5) by section 446 of Pub. L. 98-181, see section 446(f) of Pub. L. 98-181, set out as a note under section 1713 of this title.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (c)(2) of this section by section 107(e) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

§ 1715w. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes

(a) Purpose

The purpose of this section is to assist in the provision of facilities for any of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services, in-

cluding additional facilities for the non-resident care of elderly individuals and others who are able to live independently but who require care during the day.

(2) The development of intermediate care facilities and board and care homes for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day.

(3) The development of assisted living facilities for the care of frail elderly persons.

(b) Definitions

For the purposes of this section—

(1) the term “nursing home” means a public facility, proprietary facility or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term “intermediate care facility” means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services;

(3) the term a¹ “nursing home” or “intermediate care facility” may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;

(4) 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 years which is renewable, or (B) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage. The term “first mortgage” means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located,

¹ So in original. The word “a” probably should not appear.