

ulations as are necessary to carry out this subsection.

(Pub. L. 104-204, title II, § 204, Sept. 26, 1996, 110 Stat. 2894; Pub. L. 105-65, title II, § 213, Oct. 27, 1997, 111 Stat. 1366; Pub. L. 105-276, title II, § 206, Oct. 21, 1998, 112 Stat. 2484; Pub. L. 106-74, title V, § 537, Oct. 20, 1999, 113 Stat. 1122; Pub. L. 106-377, § 1(a)(1) [title II, § 204], Oct. 27, 2000, 114 Stat. 1441, 1441A-24; Pub. L. 106-554, § 1(a)(7) [title I, § 141], Dec. 21, 2000, 114 Stat. 2763, 2763A-614; Pub. L. 109-171, title II, § 2003(a), Feb. 8, 2006, 120 Stat. 9.)

#### CODIFICATION

Section was enacted as part of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1997, and not as part of the National Housing Act which comprises this chapter.

#### AMENDMENTS

2006—Subsec. (a). Pub. L. 109-171 inserted at end “A grant provided under this subsection during fiscal years 2006 through 2010 shall be available only to the extent that appropriations are made in advance for such purposes and shall not be derived from the General Insurance Fund.”

2000—Pub. L. 106-554 substituted “Disposition of HUD-owned properties” for “Flexible authority” in section catchline, designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Pub. L. 106-377 substituted “2000, and thereafter” for “and 2000”.

1999—Pub. L. 106-74 substituted “1999, and 2000” for “and 1999” and “, demolition, or construction on the properties (which shall be eligible whether vacant or occupied)” for “or demolition”.

1998—Pub. L. 105-276 substituted “fiscal years 1997, 1998, and 1999” for “fiscal years 1997 and 1998”.

1997—Pub. L. 105-65 inserted “, including, for fiscal years 1997 and 1998, the provision of grants and loans from the General Insurance Fund (12 U.S.C. 1735c) for the necessary costs of rehabilitation or demolition,” after “owned by the Secretary”.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 not applicable to any transaction that formally commences within one year prior to Feb. 8, 2006, see section 2003(c) of Pub. L. 109-171, set out as a note under section 1701z-11 of this title.

### § 1715z-12. Single-family mortgage insurance on Hawaiian home lands

#### (a) One- to four-family residence; eligibility

The Secretary, subject to such conditions as the Secretary may prescribe, may insure under any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Hawaiian home lands, if—

(1) the mortgage is executed by a native Hawaiian on property located within Hawaiian home lands covered under a homestead lease issued under section 207(a) of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the ad-

mission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5);

(2) the property will be used as the principal residence of the mortgagor; and

(3) the Department of Hawaiian Home Lands of the State of Hawaii (A) is a comortgagor; (B) guarantees to reimburse the Secretary for any mortgage insurance claim paid in connection with a property on Hawaiian home lands; or (C) offers other security acceptable to the Secretary.

#### (b) Construction advances

Notwithstanding any other provision of this chapter, the Secretary may, with respect to mortgages eligible for insurance under subsection (a) of this section, insure and make commitments to insure advances made during construction if the Secretary determines that the proposed construction is otherwise acceptable and that no feasible financing alternative is available.

#### (c) Insurance of mortgage as obligation of General Insurance Fund

Notwithstanding any other provision of this chapter, the insurance of a mortgage using the authority contained in this section shall be the obligation of the Mutual Mortgage Insurance Fund. The mortgagee shall be eligible to receive the benefits of insurance as provided in section 1710 of this title with respect to mortgages insured pursuant to this section, except that all references in section 1710 of this title to section 1709 of this title shall be construed to refer to the section under which the mortgage is insured.

#### (d) “Native Hawaiian” and “Hawaiian home lands” defined

For purposes of this section:

##### (1) Native Hawaiian

The term “native Hawaiian” means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778, or, in the case of an individual who is awarded an interest in a lease of Hawaiian home lands through transfer or succession, such lower percentage as may be established for such transfer or succession under section 208 or 209 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 111), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5).

##### (2) Hawaiian home lands

The term “Hawaiian home lands” means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act of 1920 (42 Stat. 110), or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled “An Act to provide for the admission of the State of Hawaii into the Union”, approved March 18, 1959 (73 Stat. 5).

#### (e) Certification of eligibility for existing lessees

Possession of a lease of Hawaiian home lands issued under section 207(a) of the Hawaiian

Homes Commission Act of 1920 (42 Stat. 110), shall be sufficient to certify eligibility to receive a mortgage under this section.

(June 27, 1934, ch. 847, title II, §247, as added Pub. L. 98-181, title I [title IV, §421], Nov. 30, 1983, 97 Stat. 1213; amended Pub. L. 100-202, §101(f) [title I, §101], Dec. 22, 1987, 101 Stat. 1329-187, 1329-191; Pub. L. 100-242, title IV, §§413(a), (b), 429(h), Feb. 5, 1988, 101 Stat. 1906, 1919; Pub. L. 100-628, title X, §1065, Nov. 7, 1988, 102 Stat. 3275; Pub. L. 107-73, title II, §215, Nov. 26, 2001, 115 Stat. 677; Pub. L. 110-289, div. B, title I, §2119(a), July 30, 2008, 122 Stat. 2835.)

#### REFERENCES IN TEXT

The Hawaiian Homes Commission Act, 1920, referred to in subsec. (a)(1), is act July 9, 1921, ch. 42, 42 Stat. 108, as amended. The Hawaiian Homes Commission Act of 1920, referred to in subsecs. (d) and (e), probably means the Hawaiian Homes Commission Act, 1920. Sections 204, 207, 208, and 209 of that Act were classified to sections 698, 701, 702, and 703 of Title 48, Territories and Insular Possessions, and were omitted from the Code.

Section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved Mar. 18, 1959 (73 Stat. 5), referred to in subsecs. (a)(1) and (d), is section 4 of Pub. L. 86-3, Mar. 18, 1959, 73 Stat. 5, which is set out as a note preceding section 491 of Title 48.

#### AMENDMENTS

2008—Subsec. (c). Pub. L. 110-289 substituted "Mutual Mortgage Insurance Fund" for "General Insurance Fund established in section 1735c of this title" and struck out "(1) all references in section 1710 of this title to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund; and (2)" after "except that".

2001—Subsec. (d)(1), (2). Pub. L. 107-73, §215(1), added pars. (1) and (2) and struck out former pars. (1) and (2) which read as follows:

"(1) The term 'native Hawaiian' means any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778 (or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian home lands, such lower percentage as may be established for such succession under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5)).

"(2) The term 'Hawaiian home lands' means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled 'An Act to provide for the admission of the State of Hawaii into the Union', approved March 18, 1959 (73 Stat. 5)."

Subsec. (e). Pub. L. 107-73, §215(2), added subsec. (e). 1988—Subsec. (a)(2). Pub. L. 100-242, §429(h), substituted "mortgagor" for "Mortgagor".

Subsecs. (c), (d). Pub. L. 100-628 clarified amendment by Pub. L. 100-242, §413(a), (b).

Pub. L. 100-242, §413(a), (b), made amendment identical to Pub. L. 100-202. See 1987 Amendment note below.

1987—Subsec. (c). Pub. L. 100-202 added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-202 extended subsec. (c)(1) term "native Hawaiian" to include in the case of succession in an interest in a lease of Hawaiian homelands any descendant of a percentage less than one-half of the blood of the races inhabiting the Hawaiian Islands before Jan. 1, 1778, as may be established under statute

or constitution for succession; and redesignated subsec. (c), including such par. (1), as subsec. (d).

### § 1715z-13. Single family mortgage insurance on Indian reservations

#### (a) One- to four-family residence; eligibility

The Secretary, subject to such special conditions as the Secretary may prescribe, may insure under any provision of this subchapter that authorizes such insurance, a mortgage covering a property upon which there is located a one- to four-family residence, without regard to any limitation in this chapter relating to marketability of title or any other limitation in this chapter that the Secretary determines is contrary to promoting the availability of such insurance on Indian reservations if the mortgage (1) is executed by an Indian tribe and the property is located on trust or otherwise restricted land; or (2) is executed by a member of an Indian tribe who will use the property as a principal residence and the property is on trust or otherwise restricted land.

#### (b) Construction advances; percentage limitation on amount of principal obligation; pledge of income from tribal resources or assets

Notwithstanding any other provision of this chapter, with respect to mortgages covering a property upon which there is located a one- to four-family residence—

(1) the Secretary may insure and make commitments to insure under this subchapter pursuant to this section advances made during construction where the Secretary determines that the proposed construction is otherwise acceptable and meets an applicable tribal or national model building code, and that no feasible financing alternative is available;

(2) the applicable percentage limitation on the amount of the principal obligation of a mortgage based on the appraised value or replacement cost, as appropriate, of a one- to four-family owner-occupied residence contained in this subchapter shall apply in the case of all mortgages insured pursuant to this section without regard to whether the residences are owner-occupied where the residences are owned by the tribe; and

(3)(A) the Secretary may require an Indian tribe, only as a condition of insurance made under this subchapter pursuant to this section, to pledge income from tribal resources or income from tribal assets not subject to a restriction by the Secretary of the Interior or pledge grants under title I of the Housing and Community Development Act of 1974 [42 U.S.C. 5301 et seq.] or any other Federal grant program administered by the Secretary of Housing and Urban Development to be used to reimburse the Secretary for any mortgage insurance claims paid in connection with residences insured pursuant to this section; or

(B) in the case of an individual Indian mortgagor, the Secretary may require a pledge of his or her share of distributed income from tribal resources or income from tribal assets, excluding any Federal grants received by the tribe.

#### (c) Lack of tribal or trust fund income

The Secretary may not refuse to insure a mortgage under this section to an individual