value which may be payable to a mortgagee as the mortgagee's share. The Secretary shall also establish disclosure requirements applicable to mortgagees making mortgage loans pursuant to this section, to assure that mortgagors are informed of the characteristics of such mortgages.

(e) Inapplicability of State constitution, statute, etc., limiting or prohibiting increases in outstanding loan balance

Mortgages insured pursuant to this section which contain provisions for sharing appreciation or which otherwise require or permit increases in the outstanding loan balance which are authorized under this section or under applicable regulations shall not be subject to any State constitution, statute, court decree, common law, rule, or public policy limiting or prohibiting increases in the outstanding loan balance after execution of the mortgage.

(f) Number of dwelling units

The number of dwelling units included in properties covered by mortgages insured pursuant to this section in any fiscal year may not exceed 5,000.

(June 27, 1934, ch. 847, title II, § 253, as added Pub. L. 98–181, title I [title IV, § 445], Nov. 30, 1983, 97 Stat. 1226; amended Pub. L. 100–242, title IV, § 429(j), Feb. 5, 1988, 101 Stat. 1919.)

AMENDMENTS

1988—Subsec. (b). Pub. L. 100–242, § 429(j)(1), substituted ''For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the actual project cost after completion, as approved by the Secretary'' for ''For purposes of this section, the term 'net appreciated value' means the amount by which the sales price of the property (less the mortgagor's selling costs) exceeds the value (or replacement cost, as appropriate) of the property at the time the commitment to insure is issued (with adjustments for capital improvements stipulated in the loan contract)''.

Subsec. (c). Pub. L. 100–242, § 429(j)(2), (3), substituted ''in accordance with section 1713 of this title'' for ''in accordance with section 1710 of this title'' and ''The term 'original principal face amount of the mortgage' as used in section 1713 of this title shall not include the mortgagee's share of net appreciated value'' for ''The term 'original principal obligation of the mortgage' as used in section 1710(a) of this title shall not include the mortgagee's share of net appreciated value''.

§ 1715z–19. Equity skimming penalty

(a) In general

Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b) of this section, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than $500,000, imprisoned not more than 5 years, or both.

(b) Mortgage notes described

For purposes of subsection (a) of this section, a mortgage note is described in this subsection if it—

(1) is insured, acquired, or held by the Secretary pursuant to this chapter;

(2) is made pursuant to section 1701q of this title (including property still subject to section 1701q program requirements that existed before November 28, 1990); or

(3) is insured or held pursuant to section 1715z–22 of this title, but is not reinsured under section 1715z–22 of this title.

(June 27, 1934, ch. 847, title II, § 254, as added Pub. L. 100–242, title IV, § 416(b), Feb. 5, 1988, 101 Stat. 1908; amended Pub. L. 105–65, title V, § 552, Oct. 27, 1997, 111 Stat. 1412.)

AMENDMENTS

1997—Pub. L. 105–65 amended section generally. Prior to amendment, section read as follows: ''Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 1709, 1713, 1715e, 1715k, 1715*l*(d)(3), 1715*l*(d)(4), 1715n(f), 1715v, 1715w, 1715y, 1715z–1, 1715z–3(c), 1715z–6, 1715z–7, 1715z–9, 1743, or 1748h–2 of this title, or subchapter IX–B of this chapter, or is made pursuant to section 1701q of this title, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than $250,000 or imprisoned not more than 5 years, or both.''

§ 1715z–20. Insurance of home equity conversion mortgages for elderly homeowners

(a) Purpose

The purpose of this section is to authorize the Secretary to carry out a program of mortgage insurance designed—

(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets; and

(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners.

(b) Definitions

For purposes of this section:

(1) The terms ''elderly homeowner'' and ''homeowner'' mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.