

## SUBCHAPTER V—MISCELLANEOUS

**§ 1731. Repealed. June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948**

Section, acts June 27, 1934, ch. 847, title V, § 512, 48 Stat. 1265; Feb. 3, 1938, ch. 13, §§ 9, 10, 52 Stat. 24, 25; June 28, 1941, ch. 261, § 10, 55 Stat. 365, related to penalties. See sections 493, 657, 709, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure.

**§ 1731a. Penalties**

Notwithstanding any other provision of law, the Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor, or dealer, or salesman or sales agent for a builder, contractor or dealer) under subchapter I, II, VI, VII, VIII, IX-B, or X of this chapter to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm (1) has knowingly or willfully violated any provision of this chapter or of title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, or of any regulation issued by the Secretary under this chapter or by the Secretary of Veterans Affairs under said title III, or chapter 37, or (2) has, in connection with any construction, alteration, repair or improvement work financed with assistance under this chapter or under said title III, or chapter 37, or in connection with contracts or financing relating to such work, violated any Federal or State penal statute, or (3) has failed materially to properly carry out contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this chapter or under title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38. Before any such determination is made any person or firm with respect to whom such a determination is proposed shall be notified in writing by the Secretary and shall be entitled, upon making a written request to the Secretary, to a written notice specifying charges in reasonable detail and an opportunity to be heard and to be represented by counsel. Determinations made by the Secretary under this section shall be based on the preponderance of the evidence. For the purposes of compliance with this section the Secretary's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

(June 27, 1934, ch. 847, title V, § 512, as added Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610; amended Pub. L. 85-857, § 13(h), Sept. 2, 1958, 72 Stat. 1265; Pub. L. 86-372, title I, § 119, Sept. 23, 1959, 73 Stat. 665; Pub. L. 89-754, title X, § 1020(e), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 90-19, § 1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, § 204(a)(17), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 101-235, title I, § 133(d)(3), Dec. 15, 1989, 103 Stat. 2027; Pub. L. 102-54, § 13(d)(2)(B), June 13, 1991, 105 Stat. 274.)

## REFERENCES IN TEXT

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch.

268, 58 Stat. 284, as amended. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (§ 694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by section 14(87) of Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1273, the first section of which reenacted title III of such Act as chapter 37 (§ 1801 [now 3701] et seq.) of Title 38, Veterans' Benefits.

## PRIOR PROVISIONS

A prior section 512 of act of June 27, 1934, related to offenses and penalties, and was classified to section 1731 of this title, prior to repeal by act June 25, 1948, ch. 645, § 21, 62 Stat. 862, eff. Sept. 1, 1948. See note under section 1731.

## AMENDMENTS

1991—Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

1989—Pub. L. 101-235 struck out reference to subchapter IX-A after reference to subchapter VIII.

1984—Pub. L. 98-479 substituted "Penalties" for "Denial of benefits in cases of abuses; determination by Secretary; notice and hearing" in section catchline.

1967—Pub. L. 90-16 substituted "Secretary" for "Commissioner" wherever appearing, and "Secretary's" for "Commissioner's".

1966—Pub. L. 89-754 inserted references to subchapters IX-A and IX-B of this chapter.

1959—Pub. L. 86-372 provided that for purposes of compliance with this section the Commissioner's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

1958—Pub. L. 85-857 inserted references to chapter 37 of title 38.

## EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding part I of Title 38, Veterans' Benefits.

**§ 1731b. Prohibition against transient housing****(a) Intent of Congress**

The Congress declares that it has been its intent since the enactment of this chapter that housing built with the aid of mortgages insured under this chapter is to be used principally for residential use; and that this intent excludes the use of such housing for transient or hotel purposes while such insurance on the mortgage remains outstanding.

**(b) Exceptions to prohibition**

Notwithstanding any other provisions of this chapter, no new, existing, or rehabilitated multifamily housing with respect to which a mortgage is insured under this chapter shall be operated for transient or hotel purposes unless (1) on or before May 28, 1954, the Secretary has agreed in writing to the rental of all or a portion of the accommodations in the project for transient or hotel purposes (in which case no accommodations in excess of the number so agreed to by the Secretary shall be rented on such basis), or (2) the project covered by the insured mortgage is located in an area which the Secretary determines to be a resort area, and the Secretary finds that prior to May 28, 1954, a portion of the accommodations in the project had been made available for rent for transient or hotel purposes (in which case no accommodations in excess of the number which had been made

available for such use shall be rented on such basis).

**(c) Certification as to use as requisite for insurance; exceptions to prohibition against insuring**

Notwithstanding any other provisions of this chapter, no mortgage with respect to multifamily housing shall be insured under this chapter (except pursuant to a commitment to insure issued prior to August 2, 1954), and (except as to housing coming within the provisions of clause (1) or clause (2) of subsection (b) of this section) no mortgage with respect to multifamily housing shall be insured for an additional term, unless (1) the mortgagor certifies under oath that while such insurance remains outstanding he will not rent, or permit the rental of, such housing or any part thereof for transient or hotel purposes, and (2) the Secretary has entered into such contract with, or purchased such stock of, the mortgagor as the Secretary deems necessary to enable him to prevent or terminate any use of such property or project for transient or hotel purposes while the mortgage insurance remains outstanding.

**(d) Enforcement by Secretary**

The Secretary is authorized and directed to enforce the provisions of this section by all appropriate means at his disposal, as to all existing multifamily housing with respect to which a mortgage was insured under this chapter prior to August 2, 1954, as well as to all multifamily housing with respect to which a mortgage is hereafter insured under this chapter: *Provided*, That no criminal penalty shall, by reason of enactment of this section, be applicable to the rental or operation of any such existing multifamily housing in violation of any provision of subsection (b) of this section at any time prior to August 2, 1954.

**(e) Definitions**

As used in this section, (1) the term "rental for transient or hotel purposes" shall have such meaning as prescribed by the Secretary but rental for any period less than thirty days shall in any event constitute rental for such purposes, and (2) the term "multifamily housing" shall mean (i) a property held by a mortgagor upon which there are located five or more single family dwellings, or upon which there is located a two-, three-, or four-family dwelling, or (ii) a property or project covered by mortgage insured or to be insured under section 1713 of this title, 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) thereof, under section 1715k of this title if the mortgage is within the provisions of paragraph (3) (B) of subsection (d) thereof, under section 1715l of this title if the mortgage is within the provisions of paragraph (3) of subsection (d) thereof, under section 1743, 1748b, or 1750g of this title, or (iii) a project with respect to which an insurance contract pursuant to subchapter VII of this chapter is outstanding.

**(f) Investigation after notice of violation; cease order**

Promptly after receipt of written notice that any portion of any building is being rented or

operated in violation of any provision of this section or of any rule or regulation lawfully issued thereunder, the Secretary shall investigate the existence of the facts alleged in the written notice and shall order such violation, if found to exist, to cease forthwith.

**(g) Prosecution by Attorney General for continued violation**

If such violation does not cease in accordance with such order, the Secretary shall forward the complaint to the Attorney General of the United States for prosecution of such civil or criminal action, if any, which the Attorney General may find to be involved in such violation.

**(h) Judicial procedure for injunction or other order**

Whenever he finds a violation of any provision of this section has occurred or is about to occur, the Attorney General shall petition the district court of the United States or the district court of any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and upon a showing by the Attorney General that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted without bond.

**(i) Injunctive relief for hotel owners**

Any person owning or operating a hotel within a radius of fifty miles of a place where a violation of any provision of this section has occurred or is about to occur, or any group or association of hotel owners or operators within said fifty-mile radius, at his or their sole charge or cost, may petition any district court of the United States or the district court or any Territory or other place subject to United States jurisdiction within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation of this section shall be found, for an order enjoining such acts or practices, and, upon a showing that such acts or practices constituting such violation have been engaged in or are about to be engaged in, a permanent or temporary injunction, restraining order, or other order, with or without such injunction or restraining order, shall be granted.

**(j) Jurisdiction of district courts**

The several district courts of the United States and the several district courts of the Territories of the United States or other place subject to United States jurisdiction, within whose jurisdictional limits the person doing or committing the acts or practices constituting the alleged violation shall be found, shall, where-soever such acts or practices may have been done or committed, have full power and jurisdiction to hear, try, and determine such matter under subsections (h) and (i) of this section.

(June 27, 1934, ch. 847, title V, § 513, as added Aug. 2, 1954, ch. 649, title I, § 132, 68 Stat. 610; amended

Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, §204(a)(18), Oct. 17, 1984, 98 Stat. 2232.)

#### PRIOR PROVISIONS

A prior section 513 of act June 27, 1934, was renumbered section 513A of act June 27, 1934, and is classified to section 1732 of this title.

#### AMENDMENTS

1984—Pub. L. 98-479 substituted “Prohibition against transient housing” for “Prohibition against use of insured multifamily housing for transient or hotel purposes” in section catchline.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (b) to (d), (e)(1), (f), and (g).

### § 1732. Separability

If any provision of this chapter, or the application thereof to any person or circumstances, is held invalid, the remainder of the chapter, and the application of such provision to other persons or circumstances, shall not be affected thereby.

(June 27, 1934, ch. 847, title V, §513A, formerly §513, 48 Stat. 1265; renumbered Pub. L. 98-479, title II, §204(a)(19), Oct. 17, 1984, 98 Stat. 2232.)

#### REFERENCES IN OTHER LAWS

Pub. L. 98-479, title II, §204(a)(19), Oct. 17, 1984, 98 Stat. 2232, provided in part that: “Any reference in any law, regulation, order, document, record, or other paper of the United States to the section redesignated in this paragraph [this section] hereby is deemed to refer to section 513A of the National Housing Act [this section].”

### § 1733. Application of other laws

The provisions of section 1430(a)(1)<sup>1</sup> and 1430b of this title; the seventh paragraph of section 24 of this title; section 371 of this title; subsection (n) of section 77B of the Bankruptcy Act, as amended (49 Stat. 664); section 606i of title 15, continuing and extending the functions of the Reconstruction Finance Corporation; and all other provisions of law establishing rights under mortgages insured in accordance with the provisions of this chapter, shall be held to apply to such chapter, as amended.

(June 27, 1934, ch. 847, title V, §514, as added Feb. 3, 1938, ch. 13, §11, 52 Stat. 26.)

#### REFERENCES IN TEXT

Section 1430(a) of this title, referred to in text, was amended by Pub. L. 106-102, title VI, §604(a), Nov. 12, 1999, 113 Stat. 1451, and, as so amended, the provisions formerly appearing in section 1430(a)(1) now appear in section 1430(a)(3)(A).

Section 77B of the Bankruptcy Act, referred to in text, was classified to section 207 of former Title 11, Bankruptcy. The Bankruptcy Act (act July 1, 1898, ch. 541, 30 Stat. 544, as amended), which was classified generally to former Title 11, was repealed effective Oct. 1, 1979, by Pub. L. 95-598, §§401(a), 402(a), Nov. 6, 1978, 92 Stat. 2682, section 101 of which enacted Revised Title 11. See table preceding section 101 of Revised Title 11.

Section 606i of title 15, referred to in text, was omitted from the Code. See note under section 606i of Title 15, Commerce and Trade.

#### ABOLITION OF RECONSTRUCTION FINANCE CORPORATION

See section 6(a) of Reorg. Plan No. 1 of 1957, effective June 30, 1957, 22 F.R. 4633, 71 Stat. 647, set out in the

Appendix to Title 5, Government Organization and Employees.

### § 1734. Amendment, extension, or increase of commitment amounts

At any time prior to final endorsement for insurance, the Secretary, in his discretion, may amend, extend, or increase the amount of any commitment, provided the mortgage, as finally endorsed for insurance is eligible for insurance under the provisions of this chapter and the rules and regulations thereunder, in effect at the time the original commitment to insure was issued.

(June 27, 1934, ch. 847, title V, §515 as added Oct. 25, 1949, ch. 729, §3, 63 Stat. 906; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, §204(a)(20), Oct. 17, 1984, 98 Stat. 2232.)

#### AMENDMENTS

1984—Pub. L. 98-479 struck out “; mortgage conditions” after “amounts” in section catchline.

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

### § 1735. Payment of certain funds to Treasury

The following funds shall be deemed an indebtedness to the United States of the particular insurance fund involved, and the Secretary is authorized and directed to pay the amount of such indebtedness to the Secretary of the Treasury, with simple interest thereon from the date the funds were advanced to the date of final payment at a rate determined by the Secretary of the Treasury, taking into consideration the average rate on outstanding marketable obligations of the United States from the date the funds were advanced until the date of final payment—

(1) funds made available to the Secretary pursuant to the provisions of sections 1705 and 1708 of this title, exclusive of amounts heretofore refunded, (a) for carrying out this subchapter and section 484d of title 48 with respect to mortgages insured under section 1709 of this title where such funds were credited to the general reinsurance account in the Mutual Mortgage Insurance Fund, and (b) for the payment of salaries and expenses with respect to mortgage insurance under sections 1713 and 1715a of this title where such funds were credited to the Housing Insurance Fund;

(2) funds made available to the Secretary pursuant to sections 1737 and 1748a<sup>1</sup> of this title; and

(3) funds made available to the Secretary by the Secretary of the Treasury pursuant to section 1747i<sup>1</sup> of this title.

Payments to the Secretary of the Treasury under this section shall be made in such amounts and at such times as the Secretary determines, after consultations with the Secretary of the Treasury, that funds are available for that purpose, taking into consideration the continued solvency of the funds involved. All payments made pursuant to this section shall be covered into the Treasury as miscellaneous receipts.

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

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