

**(d) Mortgages insured on or after January 1, 1973, but prior to August 1, 1976; requirements; reimbursement from seller; insurance fund chargeable**

The Secretary is authorized to make expenditures to correct or to reimburse the owner for the correction of structural or other major defects which so seriously affect use and liveability as to create a serious danger to the life or safety of inhabitants of any one-, two-, three-, or four-family dwelling which is more than one year old on the date of issuance of the insurance commitment, is located in an older, declining urban area, and is covered by a mortgage insured under section 1709 or 1715<sup>1</sup> of this title on or after January 1, 1973, but prior to August 3, 1976, if (1) the owner requests assistance from the Secretary not more than one year after August 3, 1976, and (2) the defect is one that existed on the date of the issuance of the insurance commitment and is one that a proper inspection could reasonably have been expected to have disclosed. The Secretary may require from the seller of any such dwelling an agreement to reimburse him for any payments made pursuant to this subsection with respect to such dwelling. Expenditures pursuant to this subsection shall be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure to which the expenditures relate. There are hereby authorized to be appropriated such sums as may be necessary to cover the costs of such expenditures not otherwise provided for.

**(e) Report to Congress on effective program for protecting home buyers**

The Secretary of Housing and Urban Development is authorized and directed to conduct a full and complete investigation and study and report to Congress, with recommendations, not later than March 1, 1977, with respect to an effective program for protecting home buyers from hidden or undisclosed defects seriously affecting the use and livability of the home, which would be applicable to existing homes financed with mortgages insured under this chapter. In the study and report the Secretary shall particularly investigate the need for, cost and feasible structure of, a national home inspection and warranty program, with respect to such homes, to be operated by the Federal Government out of fees assessed on the home buyer and amortized over a period of two years. The Secretary's report shall also present an analysis of alternative Federal programs to meet these needs, and the cost and means of financing such programs. In the report the Secretary shall also outline administrative steps which can be taken to provide disclosure to purchasers of existing homes financed with mortgages insured under this chapter of the actual condition of the home and the types of repairs or replacements likely to be needed within a period of two years, such as repairs or replacement of furnace, roof or major appliances, based on age and useful life expectancy of such appurtenances.

(June 27, 1934, ch. 847, title V, § 518, as added Pub. L. 88-560, title I, § 121, Sept. 2, 1964, 78 Stat. 783; amended Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 91-609, title I, § 104, Dec. 31, 1970,

84 Stat. 1771; Pub. L. 93-383, title III, § 306, Aug. 22, 1974, 88 Stat. 678; Pub. L. 94-50, title III, § 302, July 2, 1975, 89 Stat. 256; Pub. L. 94-375, § 9, Aug. 3, 1976, 90 Stat. 1072; Pub. L. 98-181, title I [title IV, § 427], Nov. 30, 1983, 97 Stat. 1218; Pub. L. 102-550, title V, § 515, Oct. 28, 1992, 106 Stat. 3789.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-550 substituted par. (1) and “(2) Expenditures under this subsection may be made for” for “The Secretary is authorized, with respect to any property improved by a one- to four-family dwelling that, before the beginning of construction, was approved for mortgage insurance under this chapter or for guaranty, insurance, or a direct loan under chapter 37 of title 38 and that the Secretary finds to have structural defects, to make expenditures for” and redesignated former cls. (1) to (3) appearing before proviso as cls. (A) to (C), respectively, of par. (2).

1983—Subsec. (a). Pub. L. 98-181 substituted “that, before the beginning of construction, was approved for mortgage insurance under this chapter or for guaranty, insurance, or a direct loan under chapter 37 of title 38 and that the Secretary finds” for “approved for mortgage insurance prior to the beginning of construction which he finds”.

1976—Subsec. (b). Pub. L. 94-375, § 9(a), substituted “not more than four months after August 3, 1976” for “not more than 19 months after August 22, 1974”, and provision requiring expenditures be made from the insurance fund chargeable for insurance benefits on the mortgage covering the structure and appropriating sums for expenditures not otherwise covered for provision requiring expenditures be made from the Special Risk Insurance Fund.

Subsecs. (d), (e). Pub. L. 94-375, § 9(b), added subsecs. (d) and (e).

1975—Subsec. (b). Pub. L. 94-50 substituted “one, two, three, or four” for “one or two”, and “not more than 19 months” for “not more than one year”.

1974—Subsec. (b). Pub. L. 93-383 substituted provisions relating to authorization of the Secretary to make expenditures to correct, or to reimburse the owner for the correction of structural or other major defects of covered one or two family dwellings, for provisions relating to the authorization of the Secretary to make expenditures to correct, or to compensate the owner for, structural or other defects of covered single-family dwellings.

1970—Subsecs. (b), (c). Pub. L. 91-609 added subsec. (b) and redesignated former subsec. (b) as (c).

1967—Subsecs. (a), (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

**§ 1735c. General Insurance Fund**

**(a) Establishment; purpose; mortgages or loans insurable; transfers to**

There is hereby created a General Insurance Fund which shall be used by the Secretary, on and after August 10, 1965, as a revolving fund for carrying out all the insurance provisions of this chapter with the exception of those specified in subsection (e) of this section. All mortgages or loans insured under this chapter pursuant to commitments issued on or after August 10, 1965, except those specified in subsection (e) of this section, and all loans reported for insurance under section 1703 of this title on or after August 10, 1965, shall be insured under the General Insurance Fund. The Secretary shall transfer to the General Insurance Fund—

(1) the assets and liabilities of all insurance accounts and funds, except the Mutual Mortgage Insurance Fund, existing under this chapter immediately prior to August 10, 1965;

(2) all outstanding commitments for insurance issued prior to August 10, 1965, except those specified in subsection (e) of this section;

(3) the insurance on all mortgages and loans insured prior to August 10, 1965, except insurance specified in subsection (e) of this section; and

(4) the insurance of all loans made by approved financial institutions pursuant to section 1703 of this title prior to August 10, 1965.

**(b) Expenses chargeable to Fund**

The general expenses of the operations of the Department of Housing and Urban Development relating to mortgages and loans which are the obligation of the General Insurance Fund may be charged to the General Insurance Fund.

**(c) Deposit or investment of moneys; purchase of debentures**

Moneys in the General Insurance Fund not needed for the current operations of the Department of Housing and Urban Development with respect to mortgages and loans which are the obligation of the General Insurance Fund shall be deposited with the Treasurer of the United States to the credit of such Fund, or invested in bonds or other obligations of, or in bonds or other obligations guaranteed as to principal and interest by, the United States or any agency of the United States: *Provided*, That such moneys shall to the maximum extent feasible be invested in such bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market. The Secretary may, with the approval of the Secretary of the Treasury, purchase in the open market debentures issued as obligations of the General Insurance Fund or issued prior to August 10, 1965, under other provisions of this chapter, except debentures issued under the Mutual Mortgage Insurance Fund. Such purchases shall be made at a price which will provide an investment yield of not less than the yield obtainable from other investments authorized by this section. Debentures so purchased shall be canceled and not reissued.

**(d) Credits and charges to Fund**

Premium charges, adjusted premium charges, and appraisal and other fees received on account of the insurance of any mortgage or loan which is the obligation of the General Insurance Fund, the receipts derived from the property covered by such mortgages and loans and from the claims, debts, contracts, property, and security assigned to the Secretary in connection therewith, and all earnings on the assets of the Fund shall be credited to the General Insurance Fund. The principal of, and interest paid and to be paid on, debentures which are the obligation of such Fund, cash insurance payments and adjustments, and expenses incurred in the handling, management, renovation, and disposal of properties acquired, in connection with mortgages and loans which are the obligation of such Fund, shall be charged to such Fund.

**(e) Restrictions on use of Fund**

The General Insurance Fund shall not be used for carrying out the provisions of section 1709 of

this title, except as determined by the Secretary, or the provisions of section 1715e of this title to the extent that they involve mortgages the insurance for which is the obligation of the Cooperative Management Housing Insurance Fund created by section 1715e(k) of this title, or the provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1 and 1715z-2<sup>1</sup> of this title; and nothing in this section shall apply to or affect any mortgages, loans, commitments, or insurance under such provisions.

**(f) Risk assessment**

The Secretary shall undertake an annual assessment of the risks associated with each of the insurance programs comprising the General Insurance Fund, and shall present findings from such review to the Congress in the FHA Annual Management Report.

(June 27, 1934, ch. 847, title V, §519, as added Pub. L. 89-117, title II, §214, Aug. 10, 1965, 79 Stat. 471; amended Pub. L. 90-19, §1(a)(1), (3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title I, §104(c), Aug. 1, 1968, 82 Stat. 488; Pub. L. 91-609, title I, §117(e), Dec. 31, 1970, 84 Stat. 1775; Pub. L. 94-375, §10, Aug. 3, 1976, 90 Stat. 1073; Pub. L. 95-24, title I, §102, Apr. 30, 1977, 91 Stat. 55; Pub. L. 95-557, title III, §310, Oct. 31, 1978, 92 Stat. 2098; Pub. L. 96-153, title III, §305, Dec. 21, 1979, 93 Stat. 1112; Pub. L. 96-399, title III, §305, Oct. 8, 1980, 94 Stat. 1639; Pub. L. 97-35, title III, §334, Aug. 13, 1981, 95 Stat. 414; Pub. L. 98-181, title I [title IV, §403], Nov. 30, 1983, 97 Stat. 1208; Pub. L. 102-550, title I, §185(c)(2), Oct. 28, 1992, 106 Stat. 3748; Pub. L. 103-233, title I, §§103(g)(2), 105(b), Apr. 11, 1994, 108 Stat. 362, 363; Pub. L. 110-289, div. B, title I, §2118(c)(2), July 30, 2008, 122 Stat. 2835.)

REFERENCES IN TEXT

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

AMENDMENTS

2008—Subsec. (e). Pub. L. 110-289 substituted “1709 of this title, except as determined by the Secretary” for “1709(b) (except as provided in section 1709(v)), (h), and (i) of this title”.

1994—Subsec. (f). Pub. L. 103-233, §105(b), redesignated subsec. (g) as (f) and struck out former subsec. (f) which read as follows: “There are authorized to be appropriated such sums as may be necessary to cover losses sustained by the General Insurance Fund.”

Subsec. (g). Pub. L. 103-233, §105(b)(2), redesignated subsec. (g) as (f).

Pub. L. 103-233, §103(g)(2), added subsec. (g).

1992—Subsec. (e). Pub. L. 102-550 inserted “(except as provided in section 1709(v))” after “1709(b)”.

1983—Subsec. (f). Pub. L. 98-181 inserted “such sums as may be necessary” after “appropriated”, and struck out “not to exceed \$1,738,000,000, which amount shall be increased by \$126,673,000 on October 1, 1981” after “Insurance Fund”.

1981—Subsec. (f). Pub. L. 97-35 inserted provision increasing authorization on Oct. 1, 1981.

1980—Subsec. (f). Pub. L. 96-399 substituted “\$1,738,000,000” for “\$1,341,000,000, which amount shall be increased by \$165,000,000 on October 1, 1978, which shall be increased by not to exceed \$93,000,000 on October 1, 1979”.

1979—Subsec. (f). Pub. L. 96-153 provided for an increase of \$93,000,000 on October 1, 1979.

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

1978—Subsec. (f). Pub. L. 95-557 inserted “which amount shall be increased by \$165,000,000 on October 1, 1978”.

1977—Subsec. (f). Pub. L. 95-24 substituted “\$1,341,000,000” for “\$500,000,000”.

1976—Subsec. (f). Pub. L. 94-375 added subsec. (f).

1970—Subsec. (c). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

1968—Subsec. (e). Pub. L. 90-448 prohibited use of Fund for carrying out provisions of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1 and 1715z-2 of this title.

1967—Pub. L. 90-19 substituted “Department of Housing and Urban Development” for “Federal Housing Administration” wherever appearing in subssecs. (b) and (c) of this section and “Secretary” for “Commissioner” in subssecs. (a), (c), and (d) of this section, respectively.

#### 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.

### § 1735d. Payment of insurance benefits in cash or debentures; borrowing money from Treasury to make payments

(a) Notwithstanding any other provisions of this chapter with respect to the payment of insurance benefits, the Secretary is authorized, in his discretion, to pay in cash or in debentures any insurance claim or part thereof which is paid on or after August 10, 1965, on a mortgage or a loan which was insured under any section of this chapter either before or after such date. If payment is made in cash, it shall be in an amount equivalent to the face amount of the debentures that would otherwise be issued plus an amount equivalent to the interest which the debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary.

(b) The Secretary is authorized to borrow from the Treasury from time to time such amounts as the Secretary shall determine are necessary (1) to make payments in cash (in lieu of issuing debentures guaranteed by the United States, as provided in this chapter) pursuant to the provisions of this section, and (2) to make payments for reinsured and directly insured losses under subchapter IX-C<sup>1</sup> of this chapter: *Provided, however*, That borrowings to make payments for reinsured and directly insured losses under subchapter IX-C<sup>1</sup> of this chapter shall be limited to \$250,000,000 or such further sum as the Congress, by joint resolution, may from time to time determine. Notes or other obligations issued by the Secretary in borrowing under this subsection shall be subject to such terms and conditions as the secretary of the Treasury may prescribe. Each sum borrowed pursuant to this subsection shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of such notes or other obligations.

(June 27, 1934, ch. 847, title V, § 520, as added Pub. L. 89-117, title II, § 215, Aug. 10, 1965, 79 Stat. 472;

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

amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title XI, §1104, Aug. 1, 1968, 82 Stat. 566; Pub. L. 91-609, title VI, §604, Dec. 31, 1970, 84 Stat. 1791.)

#### REFERENCES IN TEXT

Subchapter IX-C of this chapter, referred to in subsec. (b), was classified to section 1749bbb et seq. of this title and was omitted from the Code.

#### AMENDMENTS

1970—Subsec. (b)(2). Pub. L. 91-609 provided for making payments for directly insured losses and made limitation provision applicable to such payments.

1968—Subsec. (b). Pub. L. 90-448 empowered the Secretary to borrow to make payments for reinsured losses under subchapter IX-C of this chapter, and limited such borrowing to \$250,000,000 or such further sum as Congress may determine.

1967—Subsecs. (a), (b). Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

### § 1735e. Acceptance of materials or products used in structures

The Secretary shall adopt a uniform procedure for the acceptance of materials and products to be used in structures approved for mortgages or loans insured under this chapter. Under such procedure any material or product which the Secretary finds is technically suitable for the use proposed shall be accepted. Acceptance of a material or product as technically suitable shall not be deemed to restrict the discretion of the Secretary to determine that a structure, with respect to which a mortgage is executed, is economically sound or an acceptable risk.

(June 27, 1934, ch. 847, title V, § 521, as added Pub. L. 89-117, title II, § 216, Aug. 10, 1965, 79 Stat. 473; amended Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

#### AMENDMENTS

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

### § 1735e-1. Use of American materials and products

In the administration of housing assistance programs, the Secretary of Housing and Urban Development shall encourage the use of materials and products mined and produced in the United States.

(Pub. L. 100-242, title V, § 571, Feb. 5, 1988, 101 Stat. 1950.)

#### CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

### § 1735f. Water and sewerage facilities

Notwithstanding any other provision of this chapter, no mortgage which covers new construction shall be approved for insurance under this chapter (except pursuant to a commitment made prior to August 10, 1965) if the mortgaged property includes housing which is not served by a public or adequate community water and sewerage system: *Provided*, That this limitation shall be applicable only to property which is not served by a system approved by the Secretary