

AMENDMENTS

2008—Pub. L. 110-289 designated introductory provisions as subsec. (a) and inserted heading, in subsec. (a), as redesignated, substituted “Except as provided in subsection (b) and notwithstanding” for “Notwithstanding”, redesignated cls. (a) and (b) as cls. (A) and (B), respectively, and struck out “As used in this section—” at end, added subsec. (b), inserted heading and introductory provisions of subsec. (c), and designated former subssecs. (a) to (c) as pars. (1) to (3), respectively, of subsec. (c) and subcls. (1) and (2) of cls. (i) and (ii) of former subsec. (c) as subcls. (I) and (II), respectively, of cls. (i) and (ii), respectively, of par. (3) of subsec. (c).

1968—Subsec. (a). Pub. L. 90-448, §201(b)(2), included mortgages insured or to be insured under section 1715z-1 of this title.

Subsec. (c). Pub. L. 90-448, §201(b)(3), substituted “section 1715x, or 1715z-1 of this title” for “section 1715x(b)(2) of this title”, in two places.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” in subssecs. (b) and (c), and “Secretary’s” for “Commissioner’s” in text preceding subsec. (a) and in subsec. (c).

1966—Pub. L. 89-754, §502(b), made the certification requirement applicable to mortgage covering property or project described in subchapter IX-B.

Subsec. (a). Pub. L. 89-754, §1020(b), substituted “subsection (b)” for “subsection (b)(2)” in cl. (vi).

1964—Subsec. (a). Pub. L. 88-560 included mortgages insured or to be insured under section 1715y(d) of this title.

1961—Subsec. (a). Pub. L. 87-70, §612(k)(1), included property covered by a mortgage insured or to be insured under section 1715x of this title if the mortgage meets the requirements of subsection (b)(2).

Subsec. (b). Pub. L. 87-70, §612(k)(2), substituted “value, cost, or replacement cost” for “value or replacement cost”.

Subsec. (c). Pub. L. 87-70, §612(k)(3), substituted “section 1715(d)(3), 1715(d)(4), 1715v, or 1715x(b)(2) of this title” for “section 1715l of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title” in second and third sentences.

1959—Subsec. (a). Pub. L. 86-372, §112(a), included mortgages insured or to be insured under subsec. (d)(4) of section 1715l of this title, under section 1715v of this title, and under section 1748h-2 of this title, and struck out provisions which related to mortgages insured or to be insured under sections 1748b, 1750b and 1750g of this title.

Subsec. (c). Pub. L. 86-372, §112(b), substituted “under section 1715k of this title, section 1715l of this title if the mortgage meets the requirements of paragraph (4) of subsection (d) thereof, or section 1715v of this title” for “under section 1715k of this title” in two places.

1956—Act Aug. 7, 1956, §109, inserted sentence preceding subsec. (a), that upon Commissioner’s approval, certification shall be final and incontestable, except for fraud or misrepresentation by mortgagor.

Subsec. (a). Act Aug. 7, 1956, §105(d), inserted “or with respect to any property or project of a mortgagor of the character described in paragraph (3) of subsection (a) of section 1715e of this title,” before “(iii)”.

Subsec. (b). Act Aug. 7, 1956, §109, inserted provision that if the insured mortgage is to assist financing of repairs and no part of proceeds will be used to purchase the land or structure involved, the approved percentage shall be 100 percent.

Subsec. (c). Act Aug. 7, 1956, §109, inserted “such allocations of general overhead items as are acceptable to the Commissioner,” after “legal expenses” wherever appearing; struck out “(without reduction by reason of the application of the approved percentage requirements of this section)” before “secured by such land and improvements,” in cl. (ii)(B), amended proviso to provide that additional amount under (B) of cl. (ii) should not exceed the approved percentage of the Commissioner’s estimate of the fair market value of the

land and improvements; and inserted provisions at end relating to 10 percent allowance for builder’s profit in mortgages issued under section 1715k.

1955—Act Aug. 11, 1955, substituted “under section 1715l of this title if the mortgage meets the requirements of paragraph (3) of subsection (d) of such section” for “under section 1715l of this title”.

§ 1715s. Treatment of mortgages covering tax credit projects

(a) Definition

For purposes of this section, the term “insured mortgage covering a tax credit project” means a mortgage insured under any provision of this subchapter that is executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity¹ provided through any low-income housing tax credit pursuant to section 42 of title 26.

(b) Acceptance of letters of credit

In the case of an insured mortgage covering a tax credit project, the Secretary may not require the escrowing of equity provided by the sale of any low-income housing tax credits for the project pursuant to section 42 of title 26, or any other form of security, such as a letter of credit.

(c) Asset management requirements

In the case of an insured mortgage covering a tax credit project for which project the applicable tax credit allocating agency is causing to be performed periodic inspections in compliance with the requirements of section 42 of title 26, such project shall be exempt from requirements imposed by the Secretary regarding periodic inspections of the property by the mortgagee. To the extent that other compliance monitoring is being performed with respect to such a project by such an allocating agency pursuant to such section 42, the Secretary shall, to the extent that the Secretary determines such monitoring is sufficient to ensure compliance with any requirements established by the Secretary, accept such agency’s evidence of compliance for purposes of determining compliance with the Secretary’s requirements.

(d) Streamlined processing pilot program

(1) In general

The Secretary shall establish a pilot program to demonstrate the effectiveness of streamlining the review process, which shall include all applications for mortgage insurance under any provision of this subchapter for mortgages executed in connection with the construction, rehabilitation, purchase, or refinancing of a multifamily housing project for which equity¹ provided through any low-income housing tax credit pursuant to section 42 of title 26. The Secretary shall issue instructions for implementing the pilot program under this subsection not later than the expiration of the 180-day period beginning upon July 30, 2008.

(2) Requirements

Such pilot program shall provide for—

¹ So in original. Probably should be followed by “is”.

(A) the Secretary to appoint designated underwriters, who shall be responsible for reviewing such mortgage insurance applications and making determinations regarding the eligibility of such applications for such mortgage insurance in lieu of the processing functions regarding such applications that are otherwise performed by other employees of the Department of Housing and Urban Development;

(B) submission of applications for such mortgage insurance by mortgagees who have previously been expressly approved by the Secretary; and

(C) determinations regarding the eligibility of such applications for such mortgage insurance to be made by the chief underwriter pursuant to requirements prescribed by the Secretary, which shall include requiring submission of reports regarding applications of proposed mortgagees by third-party entities expressly approved by the chief underwriter.

(June 27, 1934, ch. 847, title II, §228, as added Pub. L. 110-289, div. B, title VIII, §2834(c), July 30, 2008, 122 Stat. 2870.)

PRIOR PROVISIONS

A prior section 1715s, which was based in part on act Aug. 2, 1954, ch. 649, title VIII, §814, 68 Stat. 647, provided for the keeping of records with respect to multifamily housing and examination and audit thereof. Section 814 of act Aug. 2, 1954, was transferred and is classified in full to section 1434 of Title 42, The Public Health and Welfare.

APPROVALS BY DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Pub. L. 110-289, div. B, title VIII, §2832, July 30, 2008, 122 Stat. 2867, provided that:

“(a) ADMINISTRATIVE AND PROCEDURAL CHANGES.—

“(1) IN GENERAL.—The Secretary of Housing and Urban Development (in this section referred to as the ‘Secretary’) shall, not later than the expiration of the 6-month period beginning upon after [sic] the date of the enactment of this Act [July 30, 2008], implement administrative and procedural changes to expedite approval of multifamily housing projects under the jurisdiction of the Department of Housing and Urban Development that meet the requirements of the Secretary for such approvals.

“(2) PROJECTS.—The multifamily housing projects referred to in paragraph (1) shall include—

“(A) projects for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] or tax-exempt housing bonds; and

“(B) existing public housing projects and assisted housing projects, for which approval of the Secretary is necessary for transactions, in conjunction with any such low-income housing tax credits or tax-exempt housing bonds, involving the preservation or rehabilitation of the project.

“(3) CHANGES.—The administrative and procedural changes referred to in paragraph (1) shall include all actions necessary to carry out paragraph (1), which may include—

“(A) improving the efficiency of approval procedures;

“(B) simplifying approval requirements,

“(C) establishing time deadlines or target deadlines for required approvals;

“(D) modifying division of approval authority between field and national offices;

“(E) improving outreach to project sponsors regarding information that is required to be submitted for such approvals;

“(F) requesting additional funding for increasing staff, if necessary; and

“(G) any other actions which would expedite approvals.

Any such changes shall be made in a manner that provides for full compliance with any existing requirements under law or regulation that are designed to protect families receiving public and assisted housing assistance, including income targeting, rent, and fair housing provisions, and shall also comply with requirements regarding environmental review and protection and wages paid to laborers.

“(b) CONSULTATION.—The Secretary shall consult with the Commissioner of the Internal Revenue Service and take such actions as are appropriate in conjunction with such consultation to simplify the coordination of rules, regulations, forms, and approval requirements for multifamily housing projects projects [sic] for which assistance is provided by such Department in conjunction with any low-income housing tax credits under section 42 of the Internal Revenue Code of 1986 [26 U.S.C. 42] or tax-exempt housing bonds.

“(c) RECOMMENDATIONS.—In implementing the changes required under this section, the Secretary shall solicit recommendations regarding such changes from project owners and sponsors, investors and stakeholders in housing tax credits, State and local housing finance agencies, public housing agencies, tenant advocates, and other stakeholders in such projects.

“(d) REPORT.—Not later than the expiration of the 9-month period beginning on the date of the enactment of this Act [July 30, 2008], the Secretary shall submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate that—

“(1) identifies the actions taken by the Secretary to comply with this section;

“(2) includes information regarding any resulting improvements in the expedited approval for multifamily housing projects;

“(3) identifies recommendations made pursuant to subsection (c);

“(4) identifies actions taken by the Secretary to implement the provisions in the amendments made by sections 2834 and 2835 of this Act [enacting this section and sections 1437z-8 and 11403f-1 of Title 42, The Public Health and Welfare, and amending sections 1701q and 1715r of this title and sections 1437f, 3545, 11403g, 11403h, 11404, 11405, 11405b, 11406, 11407, and 11407b of Title 42]; and

“(5) makes recommendations for any legislative changes that are needed to facilitate prompt approval of assistance for such projects.”

§ 1715t. Voluntary termination of insurance

Notwithstanding any other provision of this chapter and with respect to any loan or mortgage heretofore or hereafter insured under this chapter, except under section 1703 of this title and except as specified under section 1715z-15 of this title and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,¹ the Secretary is authorized to terminate any insurance contract upon request by the borrower or mortgagor and the financial institution or mortgagee and upon payment of such termination charge as the Secretary determines to be equitable, taking into consideration the necessity of protecting the various insurance Funds. Upon such termination, borrowers and mortgagors and financial institutions and mortgagees shall be entitled to the rights, if any, to which they would be entitled under this chapter if the in-

¹ So in original.