

this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-198, §3(d), Dec. 21, 1987, 101 Stat. 1316, provided that: “The amendments made by this section [amending this section and sections 1810, 1811, and 1819 [now 3710, 3711, and 3712] of this title] shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.”

#### EFFECTIVE DATE OF 1981 AMENDMENTS

Amendment by Pub. L. 97-72 effective at end of 180-day period beginning on Nov. 3, 1981, see section 305 of Pub. L. 97-72, set out as an Effective Date note under section 3741 of this title.

Amendment by Pub. L. 97-66 effective Oct. 17, 1981, see section 701(b)(1) of Pub. L. 97-66, set out as a note under section 1114 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-385 effective Oct. 7, 1980, see section 601(d) of Pub. L. 96-385, set out as a note under section 1114 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-476 effective Oct. 1, 1978, see section 108(a) of Pub. L. 95-476, set out as a note under section 3702 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

#### EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90-77, set out as a note under section 101 of this title.

#### IMPLEMENTATION OF AMENDMENT BY PUB. L. 111-22

Pub. L. 111-22, div. A, title I, §102(b), May 20, 2009, 123 Stat. 1636, provided that: “The Secretary of Veterans Affairs may implement the amendments made by this section [amending this section] through notice, procedure notice, or administrative notice.”

#### TEMPORARY INCREASE IN MAXIMUM LOAN GUARANTY AMOUNT FOR CERTAIN HOUSING LOANS GUARANTEED BY SECRETARY OF VETERANS AFFAIRS

Pub. L. 110-389, title V, §501, Oct. 10, 2008, 122 Stat. 4175, as amended by Pub. L. 112-154, title VII, §702(c), Aug. 6, 2012, 126 Stat. 1205, provided that: “Notwithstanding subparagraph (C) of section 3703(a)(1) of title 38, United States Code, for purposes of any loan described in subparagraph (A)(i)(IV) of such section that is originated during the period beginning on the date of the enactment of this Act [Oct. 10, 2008] and ending on December 31, 2014, the term ‘maximum guaranty amount’ shall mean an amount equal to 25 percent of the higher of—

“(1) the limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) for the calendar year in which the loan is originated for a single-family residence; or

“(2) 125 percent of the area median price for a single-family residence, but in no case to exceed 175 per-

cent of the limitation determined under such section 305(a)(2) for the calendar year in which the loan is originated for a single-family residence.”

#### RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

#### ANNUAL REPORTS ON GUARANTEE AND INSURANCE OF LOANS BEARING NEGOTIATED INTEREST RATES AND POINTS

Pub. L. 102-547, §10(b), Oct. 28, 1992, 106 Stat. 3643, as amended by Pub. L. 103-446, title XII, §1202(d), Nov. 2, 1994, 108 Stat. 4689, directed Secretary of Veterans Affairs to transmit report on guarantee and insurance of loans bearing negotiated interest rates and points to Committees on Veterans' Affairs of Senate and House of Representatives no later than Dec. 31, 1993, and annually thereafter, prior to repeal by Pub. L. 104-110, title II, §201(b), Feb. 13, 1996, 110 Stat. 770.

#### EXPIRATION OF LOAN BENEFIT ENTITLEMENT OF CERTAIN WORLD WAR II VETERANS

Pub. L. 90-77, title IV, §403(c), Aug. 31, 1967, 81 Stat. 190, provided that the World War II loan benefit entitlement of any veteran whose period of entitlement as computed under former subsec. (a)(3)(A) of this section extended beyond July 25, 1967, was not to be deemed to expire earlier than ninety days after the effective date of section 403 of Pub. L. 90-77 [see section 405(a) of Pub. L. 90-77, set out as an Effective Date of 1967 Amendment note under section 101 of this title].

### § 3704. Restrictions on loans

(a) No loan for the purchase or construction of residential property shall be financed through the assistance of this chapter unless the property meets or exceeds minimum requirements for planning, construction, and general acceptability prescribed by the Secretary; however, this subsection shall not apply to a loan for the purchase of residential property on which construction is fully completed more than one year before such loan is made.

(b) Subject to notice and opportunity for a hearing, the Secretary may refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person identified with housing previously sold to veterans under this chapter as to which substantial deficiencies have been discovered, or as to which there has been a failure or indicated inability to discharge contractual liabilities to veterans, or as to which it is ascertained that the type of contract of sale or the methods or practices pursued in relation to the marketing of such properties were unfair or unduly prejudicial to veteran purchasers. The Secretary may also refuse to appraise any dwelling or housing project owned, sponsored, or to be constructed by any person refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(c)(1) Except as provided in paragraph (2) of this subsection, no loan for the purchase or con-

struction of residential property shall be financed through the assistance of this chapter unless the veteran applicant, at the time that the veteran applies for the loan, and also at the time that the loan is closed, certifies in such form as the Secretary may require, that the veteran intends to occupy the property as the veteran's home. Except as provided in paragraph (2) of this subsection, no loan for the repair, alteration, or improvement of residential property shall be financed through the assistance of the provisions of this chapter unless the veteran applicant, at the time that the veteran applies to the lender for the loan, and also at the time that the loan is closed, certifies, in such form as may be required by the Secretary, that the veteran occupies the property as the veteran's home. Notwithstanding the foregoing provisions of this subsection, in the case of a loan automatically guaranteed under this chapter, the veteran shall be required to make the certification only at the time the loan is closed. For the purposes of this chapter the requirement that the veteran recipient of a guaranteed or direct home loan must occupy or intend to occupy the property as the veteran's home means that the veteran as of the date of the veteran's certification actually lives in the property personally as the veteran's residence or actually intends upon completion of the loan and acquisition of the dwelling unit to move into the property personally within a reasonable time and to utilize such property as the veteran's residence. Notwithstanding the foregoing requirements of this subsection, the provisions for certification by the veteran at the time the veteran applies for the loan and at the time the loan is closed shall be considered to be satisfied if the Secretary finds that (1) in the case of a loan for repair, alteration, or improvement the veteran in fact did occupy the property at such times, or (2) in the case of a loan for construction or purchase the veteran intended to occupy the property as the veteran's home at such times and the veteran did in fact so occupy it when, or within a reasonable time after, the loan was closed.

(2) In any case in which a veteran is in active-duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of this chapter shall be considered to be satisfied if—

(A) the spouse of the veteran occupies or intends to occupy the property as a home and the spouse makes the certification required by paragraph (1) of this subsection; or

(B) a dependent child of the veteran occupies or will occupy the property as a home and the veteran's attorney-in-fact or legal guardian of the dependent child makes the certification required by paragraph (1) of this subsection.

(d) Subject to notice and opportunity for a hearing, whenever the Secretary finds with respect to guaranteed or insured loans that any lender or holder has failed to maintain adequate loan accounting records, or to demonstrate proper ability to service loans adequately or to exercise proper credit judgment or has willfully or negligently engaged in practices otherwise detrimental to the interest of veterans or of the Government, the Secretary may refuse either temporarily or permanently to guarantee or in-

sure any loans made by such lender or holder and may bar such lender or holder from acquiring loans guaranteed or insured under this chapter; however, the Secretary shall not refuse to pay a guaranty or insurance claim on loans theretofore entered into in good faith between a veteran and such lender. The Secretary may also refuse either temporarily or permanently to guarantee or insure any loans made by a lender or holder refused the benefits of participation under the National Housing Act pursuant to a determination of the Secretary of Housing and Urban Development.

(e) Any housing loan which is financed through the assistance of this chapter and to which section 3714 of this chapter applies shall include a provision that the loan is immediately due and payable upon transfer of the property securing such loan to any transferee unless the acceptability of the assumption of the loan is established pursuant to such section 3714.

(f) A loan for the purchase or construction of new residential property, the construction of which began after the energy efficiency standards under section 109 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12709), as amended by section 101(c) of the Energy Policy Act of 1992, take effect, may not be financed through the assistance of this chapter unless the new residential property is constructed in compliance with such standards.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1206, § 1804; Pub. L. 86-73, § 3, June 30, 1959, 73 Stat. 156; Pub. L. 86-665, § 5, July 14, 1960, 74 Stat. 532; Pub. L. 89-117, title II, § 217(b), Aug. 10, 1965, 79 Stat. 473; Pub. L. 90-19, § 25(2), May 25, 1967, 81 Stat. 28; Pub. L. 91-506, § 2(d), Oct. 23, 1970, 84 Stat. 1108; Pub. L. 93-569, § 2(d), (e), Dec. 31, 1974, 88 Stat. 1863, 1864; Pub. L. 94-324, § 7(7), (8), June 30, 1976, 90 Stat. 721; Pub. L. 97-295, § 4(64), Oct. 12, 1982, 96 Stat. 1309; Pub. L. 100-198, §§ 8(a)(1), 10(b), Dec. 21, 1987, 101 Stat. 1319, 1323; Pub. L. 100-322, title IV, § 415(c)(3), May 20, 1988, 102 Stat. 551; Pub. L. 101-237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered § 3704 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-486, title I, § 101(c)(2), Oct. 24, 1992, 106 Stat. 2787; Pub. L. 103-446, title IX, § 903, Nov. 2, 1994, 108 Stat. 4676; Pub. L. 112-154, title II, § 207, Aug. 6, 2012, 126 Stat. 1179.)

#### REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (b) and (d), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to chapter 13 (§ 1701 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see section 1701 of Title 12 and Tables.

#### AMENDMENTS

2012—Subsec. (c)(2). Pub. L. 112-154 amended par. (2) generally. Prior to amendment, par. (2) read as follows: "In any case in which a veteran is in active duty status as a member of the Armed Forces and is unable to occupy a property because of such status, the occupancy requirements of—

"(A) paragraph (1) of this subsection;

"(B) paragraphs (1) through (5) and paragraph (7) of section 3710(a) of this title;

"(C) section 3712(a)(5)(A)(i) of this title; and

"(D) section 3712(e)(5) of this title;

shall be considered to be satisfied if the spouse of the veteran occupies the property as the spouse's home and

the spouse makes the certification required by paragraph (1) of this subsection."

1994—Subsecs. (e) to (g). Pub. L. 103-446 redesignated subsecs. (f) and (g) as (e) and (f), respectively, and struck out former subsec. (e) which read as follows: "No loan for the purchase or construction of new residential property (other than property served by a water and sewerage system approved by the Secretary of Housing and Urban Development pursuant to title X of the National Housing Act (12 U.S.C. 1749aa et seq.)) shall be financed through the assistance of this chapter, except pursuant to a commitment made prior to August 10, 1965, if such property is not served by a public or adequate community water and sewerage system and is located in an area where the appropriate local officials certify that the establishment of such systems is economically feasible. For purposes of this subsection, the economic feasibility of establishing public or adequate community water and sewerage systems shall be determined without regard to whether such establishment is authorized by law or is subject to approval by one or more local governments or public bodies."

1992—Subsec. (g). Pub. L. 102-486 added subsec. (g).

1991—Pub. L. 102-83, §5(a), renumbered section 1804 of this title as this section.

Subsec. (c)(2). Pub. L. 102-83, §5(c)(1), substituted "3710(a)" for "1810(a)" in subpar. (B), "3712(a)(5)(A)(i)" for "1812(a)(5)(A)(i)" in subpar. (C), and "3712(e)(5)" for "1812(e)(5)" in subpar. (D).

Subsec. (f). Pub. L. 102-83, §5(c)(1), substituted "3714" for "1814" in two places.

1989—Subsecs. (a) to (c)(1), (d). Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1988—Subsec. (c)(2)(C). Pub. L. 100-322, §415(c)(3)(A), substituted "1812(a)(5)(A)(i)" for "1819(a)(5)(A)(i)".

Subsec. (c)(2)(D). Pub. L. 100-322, §415(c)(3)(b), substituted "1812(e)(5)" for "1819(e)(5)".

Subsec. (f). Pub. L. 100-322, §415(c)(3)(C), substituted "section 1814" for "section 1817A" in two places.

1987—Subsec. (c). Pub. L. 100-198, §8(a), designated existing provision as par. (1), substituted "Except as provided in paragraph (2) of this subsection, no" for "No" in first and second sentences, and added par. (2).

Subsec. (f). Pub. L. 100-198, §10(b), added subsec. (f).

1982—Subsec. (e). Pub. L. 97-295 inserted "(12 U.S.C. 1749aa et seq.)" after "the National Housing Act", and substituted "August 10, 1965" for "the date of the enactment of the Housing and Urban Development Act of 1965".

1976—Subsec. (c). Pub. L. 94-324, §7(7), substituted "the veteran" for "he" in six places and "the veteran's" for "his" wherever appearing.

Subsec. (d). Pub. L. 94-324, §7(8), substituted "the Administrator may" for "he may".

1974—Subsec. (b). Pub. L. 93-569, §2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

Subsec. (c). Pub. L. 93-569, §2(d), inserted provision that, the foregoing provisions notwithstanding, in the case of an automatically guaranteed loan, the veteran is required to make certification only at the time of loan closing.

Subsec. (d). Pub. L. 93-569, §2(e), struck out "under section 512 of that Act" after "determination of the Secretary of Housing and Urban Development".

1970—Subsec. (b). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, the" for "The".

Subsec. (d). Pub. L. 91-506 substituted "Subject to notice and opportunity for a hearing, whenever" for "Whenever".

1967—Subsecs. (b), (d), (e). Pub. L. 90-19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

1965—Subsec. (e). Pub. L. 89-117 added subsec. (e).

1960—Subsec. (c). Pub. L. 86-665 inserted sentence respecting satisfaction of provisions for certification by the veteran at the time he applies for the loan and at the time the loan is closed.

1959—Subsec. (b). Pub. L. 86-73, §3(a), authorized the Administrator to refuse to appraise any property if the builder or sponsor of the property had been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

Subsec. (d). Pub. L. 86-73, §3(b), authorized the Administrator to refuse to guarantee or insure loans if the lender or holder of the loans has been barred by the Federal Housing Commissioner from participation in the FHA insurance program.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-198, §8(c), Dec. 21, 1987, 101 Stat. 1320, provided that: "The amendments made by this section [amending this section and sections 1810 and 1819 [now 3710 and 3712] of this title] shall apply with respect to loans made more than 30 days after the date of the enactment of this Act [Dec. 21, 1987]."

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-324 effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of this title.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-569 effective Dec. 31, 1974, see section 10 of Pub. L. 93-569, set out as a note under section 3702 of this title.

### § 3705. Warranties

(a) The Secretary shall require that in connection with any property upon which there is located a dwelling designed principally for not more than a four-family residence and which is appraised for guaranty or insurance before the beginning of construction, the seller or builder, and such other person as may be required by the Secretary to become warrantor, shall deliver to the purchaser or owner of such property a warranty that the dwelling is constructed in substantial conformity with the plans and specifications (including any amendments thereof, or changes and variations therein, which have been approved in writing by the Secretary) on which the Secretary based the Secretary's valuation of the dwelling. The Secretary shall deliver to the builder, seller, or other warrantor the Secretary's written approval (which shall be conclusive evidence of such appraisal) of any amendment of, or change or variation in, such plans and specifications which the Secretary deems to be a substantial amendment thereof, or change or variation therein, and shall file a copy of such written approval with such plans and specifications. Such warranty shall apply only with respect to such instances of substantial non-conformity to such approved plans and specifications (including any amendments thereof, or changes or variations therein, which have been approved in writing, as provided in this section, by the Secretary) as to which the purchaser or home owner has given written notice to the warrantor within one year from the date of conveyance of title to, or initial occupancy of, the dwelling, whichever first occurs. Such warranty shall be in addition to, and not in derogation of, all other rights and privileges which such purchaser or owner may have under any other law or instrument. The provisions of this section shall apply to any such property covered by a mortgage insured or guaranteed by the Secretary on and after October 1, 1954, unless such mortgage is insured or guaranteed pursuant to a