

which guaranty commitment was made on or before Dec. 31, 1987, see section 3(c) of Pub. L. 100-253, set out as a note under section 3703 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 3(b) of Pub. L. 100-198 applicable to loans closed on or after Feb. 1, 1988, but not applicable to any loan for which a guaranty commitment is made on or before Dec. 31, 1987, see section 3(d) of Pub. L. 100-198, set out as a note under section 3703 of this title.

Amendment by section 7(b) of Pub. L. 100-198 applicable to loans made more than 30 days after Dec. 21, 1987, see section 7(d) of Pub. L. 100-198, set out as a note under section 3710 of this title.

Amendment by section 8(b) of Pub. L. 100-198 applicable with respect to loans made more than 30 days after Dec. 21, 1987, see section 8(c) of Pub. L. 100-198, set out as a note under section 3704 of this title.

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 sections 401(b) and 402(c) of Pub. L. 96-385 effective Oct. 7, 1980, and Oct. 1, 1980, respectively, see section 601(b), (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 sections 5 and 7(20)-(23) of Pub. L. 94-324 effective July 1, 1976, and June 30, 1976, respectively, see section 9(a), (b) 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

Pub. L. 91-506, § 8, Oct. 23, 1970, 84 Stat. 1114, provided that: "Section 5 of this Act [enacting this section] shall become effective sixty days following the date of enactment [Oct. 23, 1970]."

§ 3713. Release from liability under guaranty

(a) Whenever any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran, the Secretary, upon application made by such veteran and by the transferee incident to such disposal, shall issue to such veteran in connection with such disposal a release relieving the veteran of all further liability to the Secretary on account of such loan (including liability for any loss resulting from any default of the transferee or any subsequent purchaser of such property) if the Secretary has determined, after such investigation as the Secretary may deem appropriate, that (1) the loan is current, and (2) the purchaser of such property from such veteran (A) is obligated by contract to purchase such property and to assume full liability for the repayment of the

balance of the loan remaining unpaid, and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan, and (B) qualifies from a credit standpoint, to the same extent as if the transferee were a veteran eligible for purposes specified in section 3710 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the transferee has assumed liability.

(b) If any veteran disposes of residential property securing a guaranteed, insured, or direct housing loan obtained by the veteran under this chapter without receiving a release from liability with respect to such loan under subsection (a), and a default subsequently occurs which results in liability of the veteran to the Secretary on account of the loan, the Secretary may relieve the veteran of such liability if the Secretary determines, after such investigation as the Secretary deems appropriate, that the property was disposed of by the veteran in such a manner, and subject to such conditions, that the Secretary would have issued the veteran a release from liability under subsection (a) with respect to the loan if the veteran had made application therefor incident to such disposal. Failure of a transferee to assume by contract all of the liabilities of the original veteran-borrower shall bar such release of liability only in cases in which no acceptable transferee, either immediate or remote, is legally liable to the Secretary for the indebtedness of the original veteran-borrower arising from termination of the loan. The failure of a veteran to qualify for release from liability under this subsection does not preclude relief from being granted under section 5302(b) of this title, if the veteran is eligible for relief under that section.

(c) This section shall apply only to loans for which commitments are made before March 1, 1988.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1212, § 1817; Pub. L. 92-328, title II, § 204, June 30, 1972, 86 Stat. 397; Pub. L. 94-324, § 7(18), (19), June 30, 1976, 90 Stat. 722; Pub. L. 97-72, title III, § 303(f), Nov. 3, 1981, 95 Stat. 1060; Pub. L. 100-198, § 10(a)(2), Dec. 21, 1987, 101 Stat. 1323; renumbered § 1813 and amended Pub. L. 100-322, title IV, § 415(b)(2), May 20, 1988, 102 Stat. 550; Pub. L. 101-237, title III, § 313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 3713 and amended Pub. L. 102-83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, § 1201(e)(15), Nov. 2, 1994, 108 Stat. 4686.)

AMENDMENTS

1994—Subsec. (b). Pub. L. 103-446 before period at end substituted "section 5302(b) of this title, if the veteran is eligible for relief under that section" for "subsection 5302(b) of this title, if eligible thereunder".

1991—Pub. L. 102-83, § 5(a), renumbered section 1813 of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "3710" for "1810".

Subsec. (b). Pub. L. 102-40 substituted "5302(b)" for "3102(b)".

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

1988—Pub. L. 100-322, § 415(b)(2)(B), renumbered section 1817 of this title as this section.

Subsec. (a). Pub. L. 100-322, § 415(b)(2)(A), substituted "for purposes specified in section 1810" for "under section 1810".

1987—Subsec. (c). Pub. L. 100-198 added subsec. (c).

1981—Subsec. (a). Pub. L. 97-72, § 303(f)(1), substituted "direct housing loan" for "direct loan".

Subsec. (b). Pub. L. 97-72, § 303(f)(2), substituted "or direct housing loan obtained" for "or direct loan obtained".

1976—Subsec. (a). Pub. L. 94-324, § 7(18), substituted "the veteran" for "him" in two places, "the Administrator may deem" for "he may deem", "the transferee were a veteran" for "he were a veteran", "the transferee has assumed" for "he has assumed", and "is obligated" for "has obligated himself".

Subsec. (b). Pub. L. 94-324, § 7(19), substituted "obtained by the veteran" for "obtained by him", "the Administrator determines" for "he determines", and "the Administrator deems" for "he deems".

1972—Pub. L. 92-328 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

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.

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 1972 AMENDMENT

Pub. L. 92-328, title III, § 301(c), June 30, 1972, 86 Stat. 398, provided that: "Sections 201 through 206 of this Act [amending this section and sections 210, 1820 [now 3720], 3102 [now 5302], and 3503 [now 6103] of this title, and enacting provisions set out as a note under section 5302 of this title] shall take effect upon the date of enactment of this Act [June 30, 1972]."

§ 3714. Assumptions; release from liability

(a)(1) Except as provided in subsection (f) of this section, if a veteran or any other person disposes of residential property securing a loan guaranteed, insured, or made under this chapter and the veteran or other person notifies the holder of the loan in writing before the property is disposed of, the veteran or other person, as the case may be, shall be relieved of all further liability to the Secretary with respect to the loan (including liability for any loss resulting from any default of the purchaser or any subsequent owner of the property) and the application for assumption shall be approved if the holder determines that—

(A) the loan is current; and

(B) the purchaser of the property from such veteran or other person—

(i) is obligated by contract to purchase such property and to assume full liability for the repayment of the balance of the loan remaining unpaid and has assumed by contract all of the obligations of the veteran under the terms of the instruments creating and securing the loan; and

(ii) qualifies from a credit standpoint, to the same extent as if the purchaser were a veteran eligible under section 3710 of this title, for a guaranteed or insured or direct loan in an amount equal to the unpaid balance of the obligation for which the purchaser is to assume liability.

(2) For the purposes of paragraph (1), paragraph (3), and paragraph (4)(C)(ii) of this sub-

section, the Secretary shall be considered to be the holder of the loan if the actual holder is not an approved lender described in section 3702.

(3) If the holder of the loan determines that the loan is not current or that the purchaser of the property does not meet the requirements of paragraph (1)(B) of this subsection, the holder shall—

(A) notify the transferor and the Secretary of such determination; and

(B) notify the transferor that the transferor may appeal the determination to the Secretary.

(4)(A) Upon the appeal of the transferor after a determination described in paragraph (3) is made, the Secretary shall, in a timely manner, review and make a determination (or a redetermination in any case in which the Secretary made the determination described in such paragraph) with respect to whether the loan is current and whether the purchaser of the property meets the requirements of paragraph (1)(B) of this subsection. The Secretary shall transmit, in writing, a notice of the nature of such determination to the transferor and the holder and shall inform them of the action that shall or may be taken under subparagraph (B) of this paragraph as a result of the determination of the Secretary.

(B)(i) If the Secretary determines under subparagraph (A) of this paragraph that the loan is current and that the purchaser meets the requirements of paragraph (1)(B) of this subsection, the holder shall approve the assumption of the loan, and the transferor shall be relieved of all liability to the Secretary with respect to such loan.

(ii) If the Secretary determines under subparagraph (A) of this paragraph that the purchaser does not meet the requirements of paragraph (1)(B) of this subsection, the Secretary may direct the holder to approve the assumption of the loan if—

(I) the Secretary determines that the transferor of the property is unable to make payments on the loan and has made reasonable efforts to find a buyer who meets the requirements of paragraph (1)(B) of this subsection and that, as a result, the proposed transfer is in the best interests of the Department and the transferor;

(II) the transferor has requested, within 15 days after receiving the notice referred to in subparagraph (A) of this paragraph, that the Secretary approve the assumption; and

(III) the transferor will, upon assumption of the loan by the purchaser, be secondarily liable on the loan.

(C) If—

(i) the loan is not approved for assumption under subparagraph (B) of this paragraph or paragraph (1) of this subsection; or

(ii) no appeal is made by the transferor under subparagraph (A) of this paragraph within 30 days after the holder informs the transferor of its determination under paragraph (3) of this subsection,

the holder may demand immediate, full payment of the principal, and all interest earned thereon, of such loan if the transferor disposes of the property.