

§ 3730. Use of attorneys in court

(a) The Secretary shall authorize attorneys employed by the Department of Veterans Affairs to exercise the right of the United States to bring suit in court to foreclose a loan made or acquired by the Secretary under this chapter and to recover possession of any property acquired by the Secretary under this chapter. The Secretary may acquire the services of attorneys, other than those who are employees of the Department of Veterans Affairs, to exercise that right. The activities of attorneys in bringing suit under this section shall be subject to the direction and supervision of the Attorney General and to such terms and conditions as the Attorney General may prescribe.

(b) Nothing in this section derogates from the authority of the Attorney General under sections 516 and 519 of title 28 to direct and supervise all litigation to which the United States or an agency or officer of the United States is a party.

(Added Pub. L. 98-369, div. B, title V, §2512(b)(1), July 18, 1984, 98 Stat. 1120, §1830; amended Pub. L. 99-576, title IV, §406, Oct. 28, 1986, 100 Stat. 3282; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; renumbered §3730, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 105-368, title X, §1005(b)(12), Nov. 11, 1998, 112 Stat. 3365.)

AMENDMENTS

1998—Subsec. (a). Pub. L. 105-368 substituted “The Secretary shall” for “Within 180 days after the date of the enactment of this section, the Secretary shall take appropriate steps to”.

1991—Pub. L. 102-83 renumbered section 1830 of this title as this section.

1989—Subsec. (a). Pub. L. 101-237 substituted “Secretary” and “Department of Veterans Affairs” for “Administrator” and “Veterans’ Administration”, respectively, wherever appearing.

1986—Subsec. (a). Pub. L. 99-576 substituted “The” for “With the concurrence of the Attorney General of the United States, the” in second sentence.

EFFECTIVE DATE

Pub. L. 98-369, div. B, title V, §2512(c)(3), July 18, 1984, 98 Stat. 1120, provided that: “The amendments made by subsection (b) [enacting this section] shall take effect on the date of the enactment of this Act [July 18, 1984].”

§ 3731. Appraisals

(a) The Secretary shall—

(1) subject to subsection (b)(2) and in consultation with appropriate representatives of institutions which are regularly engaged in making housing loans, prescribe uniform qualifications for appraisers, including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers;

(2) use such qualifications in determining whether to approve an appraiser to make appraisals of the reasonable value of any property, construction, repairs, or alterations for the purposes of this chapter; and

(3) in consultation with local representatives of institutions described in clause (1) of this

subsection, develop and maintain lists of appraisers who are approved under clause (2) of this subsection to make appraisals for the purposes of this chapter.

(b)(1) The Secretary shall select appraisers from a list required by subsection (a)(3) of this section on a rotating basis to make appraisals for the purposes of this chapter.

(2) If uniform qualifications become applicable for appraisers who perform appraisals for or in connection with the Federal Government, the qualifications required by subsection (a)(1) of this section may be more stringent than such uniform qualifications, but the Secretary may use no written test in determining the qualifications of appraisers other than the test prescribed to implement such uniform qualifications.

(c) Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Secretary for review. Upon receipt of such report, the Secretary shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Secretary shall furnish a copy of the appraisal made of property for the purposes of this chapter to the lender proposing to make the loan which is to be secured by such property and is to be guaranteed under this chapter.

(d) If a lender (other than a lender authorized under subsection (f) of this section to determine reasonable value)—

(1) has proposed to make a loan to be guaranteed under this chapter,

(2) has been furnished a certificate of reasonable value of any property or of any construction, repairs, or alterations of property which is to be the security for such loan, and

(3) within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the lender from the list required by subsection (a)(3) of this section,

the Secretary shall consider both the initial appraisal and the additional appraisal and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(e)(1) In no case may a veteran be required to pay all or any portion of the cost of the additional appraisal described in subsection (d)(3) of this section.

(2) If a veteran, within a reasonable period prescribed by the Secretary, has furnished to the Secretary an additional appraisal of the reasonable value of such property, construction, repairs, or alterations which was made by an appraiser selected by the veteran from the list required by subsection (a)(3) of this section, the Secretary shall consider such appraisal, along with other appraisals furnished to the Secretary, and shall, if appropriate, issue a revised certificate of reasonable value of such property, construction, repairs, or alterations.

(f)(1) Subject to the provisions of paragraphs (2) and (3) of this subsection, the Secretary may,

in accordance with standards and procedures established in regulations prescribed by the Secretary, authorize a lender to determine the reasonable value of property for the purposes of this chapter if the lender is authorized to make loans which are automatically guaranteed under section 3702(d) of this title. In such a case, the appraiser selected by the Secretary pursuant to subsection (b) of this section shall submit the appraisal report directly to the lender for review, and the lender shall, as soon as possible thereafter, furnish a copy of the appraisal to the veteran who is applying for the loan concerned and to the Secretary.

(2) In exercising the authority provided in paragraph (1) of this subsection, the Secretary shall assign a sufficient number of personnel to carry out an appraisal-review system to monitor, on at least a random-sampling basis, the making of appraisals by appraisers and the effectiveness and the efficiency of the determination of reasonable value of property by lenders.

[(3) Repealed. Pub. L. 104-110, title I, §101(g), Feb. 13, 1996, 110 Stat. 768.]

(4) Not later than April 30 of each year following a year in which the Secretary authorizes lenders to determine reasonable value of property under this subsection, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report relating to the exercise of that authority during the year in which the authority was exercised.

(5) A report submitted pursuant to paragraph (4) of this subsection shall include, for the period covered by each report—

(A) the number and value of loans made by lenders exercising the authority of this subsection;

(B) the number and value of such loans reviewed by the appraisal-review monitors referred to in paragraph (2) of this subsection;

(C) the number and value of loans made under this subsection of which the Secretary received notification of default;

(D) the amount of guaranty paid by the Secretary to such lenders by reason of defaults on loans as to which reasonable value was determined under this subsection; and

(E) such recommendations as the Secretary considers appropriate to improve the exercise of the authority provided for in this subsection and to protect the interests of the United States.

(Added Pub. L. 99-576, title IV, §407(a), Oct. 28, 1986, 100 Stat. 3282, §1831; amended Pub. L. 100-198, §11(a), (b), Dec. 21, 1987, 101 Stat. 1324; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §3(b), (c), June 13, 1991, 105 Stat. 267; renumbered §3731 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-547, §7, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104-110, title I, §101(g), Feb. 13, 1996, 110 Stat. 768.)

CODIFICATION

Another section 11(b) of Pub. L. 100-198 amended section 1810 [now 3710] of this title.

AMENDMENTS

1996—Subsec. (f)(3). Pub. L. 104-110 struck out par. (3) which read as follows: "The authority provided in this subsection shall terminate on December 31, 1995."

1992—Subsec. (f)(3). Pub. L. 102-547 substituted "1995" for "1992".

1991—Pub. L. 102-83, §5(a), renumbered section 1831 of this title as this section.

Subsec. (f)(1). Pub. L. 102-83, §5(c)(1), substituted "3702(d)" for "1802(d)".

Subsec. (f)(3). Pub. L. 102-54, §3(b), substituted "December 31, 1992" for "October 1, 1990".

Subsec. (f)(4), (5). Pub. L. 102-54, §3(c), added pars. (4) and (5).

1989—Pub. L. 101-237 substituted "Secretary" for "Administrator" wherever appearing.

1987—Subsec. (a)(1). Pub. L. 100-198, §11(a)(1), inserted "subject to subsection (b)(2) and" at beginning and "including the successful completion of a written test, submission of a sample appraisal, certification of an appropriate number of years of experience as an appraiser, and submission of recommendations from other appraisers" before semicolon at end.

Subsec. (b). Pub. L. 100-198, §11(a)(2), designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub. L. 100-198, §11(b)(1), substituted "Except as provided in subsection (f) of this section, the appraiser shall forward an appraisal report to the Administrator for review. Upon receipt of such report, the Administrator shall determine the reasonable value of the property, construction, repairs, or alterations for purposes of this chapter, and notify the veteran of such determination. Upon request, the Administrator shall" for "The Administrator shall, upon request,".

Subsec. (d). Pub. L. 100-198, §11(b)(2), which directed insertion of "(other than a lender authorized under subsection (f) of this section to determine reasonable value)" after "lender" was executed by making the insertion after "lender" the first place it appears in subsec. (d), as the probable intent of Congress, notwithstanding appearance of "lender" in subsec. (d)(3).

Subsec. (f). Pub. L. 100-198, §11(b)(3), added subsec. (f).

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.

§ 3732. Procedure on default

(a)(1) In the event of default in the payment of any loan guaranteed under this chapter, the holder of the obligation shall notify the Secretary of such default. Upon receipt of such notice, the Secretary may, subject to subsection (c) of this section, pay to such holder the guaranty not in excess of the pro rata portion of the amount originally guaranteed. Except as provided in section 3703(e) of this title, if the Secretary makes such a payment, the Secretary shall be subrogated to the rights of the holder of the obligation to the extent of the amount paid on the guaranty.

(2)(A) Before suit or foreclosure the holder of the obligation shall notify the Secretary of the default, and within thirty days thereafter the Secretary may, at the Secretary's option, pay the holder of the obligation the unpaid balance of the obligation plus accrued interest and receive an assignment of the loan and security. Nothing in this section shall preclude any forbearance for the benefit of the veteran as may be agreed upon by the parties to the loan and approved by the Secretary.