

and Urban Development to establish such rates, specified the criteria to be considered in establishing such rates, authorized the Secretary to provide that the interest rate applicable under section 1709(b) of this title be the negotiated interest rate specified in the commitment agreement, limited the amount of mortgages with such negotiated interest rates which may be insured and prohibited such negotiated interest rates with respect to mortgages subject to section 1715z-10 of this title.

MORTGAGE CREDIT INTEREST RATES

Pub. L. 90-301, § 4, May 7, 1968, 82 Stat. 114, as amended by Pub. L. 90-565, Oct. 12, 1968, 82 Stat. 1001; Pub. L. 91-9, Apr. 11, 1969, 83 Stat. 7; Pub. L. 91-38, July 1, 1969, 83 Stat. 43, which established a Commission to study mortgage interest rates and to make recommendations to assure the availability of an adequate supply of mortgage credit at a reasonable cost to the consumer, directed the Commission to make an interim report not later than July 1, 1969, and a final report of its study and recommendations not later than August 1, 1969, to enable the President, Congress, and the Secretary of Housing and Urban Development to take necessary action before October 1, 1969, when the authorization for the increase in interest rates above present statutory ceilings will expire, and provided that the Commission cease to exist sixty days after the submission of its final report, was repealed by Pub. L. 98-181, title I [title IV, § 404(a)], Nov. 30, 1983, 97 Stat. 1208.

§ 1709-1a. State constitutional and legal limits upon interest chargeable on loans, mortgages, or other interim financing arrangements; applicability; covered arrangements

(a) The provisions of the constitution of any State expressly limiting the amount of interest which may be charged, taken, received, or reserved by certain classes of lenders and the provisions of any law of that State expressly limiting the amount of interest which may be charged, taken, received, or reserved shall not apply to—

(1) any loan or mortgage which is secured by a one- to four-family dwelling and which is (A) insured under title I or II [12 U.S.C. 1702 et seq. or 1707 et seq.] of the National Housing Act, or (B) insured, guaranteed, or made under chapter 37 of title 38; or

(2) any temporary construction loan or other interim financing if at the time such loan is made or financing is arranged, the intention to obtain permanent financing substantially by means of loans or mortgages so insured, guaranteed, or made is declared.

(b) The provisions of this section shall apply to such loans, mortgages, or other interim financing made or executed in any State until the effective date (after June 30, 1976) of a provision of law of that State limiting the amount of interest which may be charged, taken, received, or reserved on such loans, mortgages, or financing.

(Pub. L. 94-324, § 8, June 30, 1976, 90 Stat. 722.)

REFERENCES IN TEXT

The National Housing Act, referred to in subsec. (a)(1), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended. Titles I and II of the National Housing Act are classified generally to subchapters I (§1702 et seq.) and II (§1707 et seq.), respectively, of this chapter. For complete classification of this Act to the Code, see section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Veterans Housing Amendments Act of 1976, and not as part of the National Housing Act which comprises this chapter.

EFFECTIVE DATE

Section effective June 30, 1976, see section 9(a) of Pub. L. 94-324, set out as a note under section 3701 of Title 38, Veterans' Benefits.

§ 1709-2. Equity skimming; penalty; persons liable; one dwelling exemption

Whoever, with intent to defraud, willfully engages in a pattern or practice of—

(1) purchasing one- to four-family dwellings (including condominiums and cooperatives) which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage or deed of trust insured or held by the Secretary of Housing and Urban Development or guaranteed by the Department of Veterans Affairs, or the loan is made by the Department of Veterans Affairs,

(2) failing to make payments under the mortgage or deed of trust as the payments become due, regardless of whether the purchaser is obligated on the loan, and

(3) applying or authorizing the application of rents from such dwellings for his own use,

shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both. This section shall apply to a purchaser of such a dwelling, or a beneficial owner under any business organization or trust purchasing such dwelling, or to an officer, director, or agent of any such purchaser. Nothing in this section shall apply to the purchaser of only one such dwelling.

(Pub. L. 91-609, title IX, §912, Dec. 31, 1970, 84 Stat. 1814; Pub. L. 100-242, title IV, §416(a), Feb. 5, 1988, 101 Stat. 1907; Pub. L. 102-54, §13(d)(1), June 13, 1991, 105 Stat. 274.)

CODIFICATION

Section was enacted as part of the Housing and Urban Development Act of 1970, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1991—Par. (1). Pub. L. 102-54 substituted "Department of Veterans Affairs" for "Veterans' Administration" in two places.

1988—Pub. L. 100-242 inserted parenthetical reference to condominiums and cooperatives in par. (1), substituted "due, regardless of whether the purchaser is obligated on the loan" for "due" in par. (2), and substituted "\$250,000" for "\$5,000" and "5" for "three" in closing provisions.

§ 1709a. Determination of loan-to-value ratios

The Secretary of Housing and Urban Development, in establishing maximum loan-to-value ratios for mortgages insured by him under the National Housing Act [12 U.S.C. 1701 et seq.], as amended by sections 101, 102, and 103 of this Act, shall determine that such ratios are in the public interest after taking into consideration (1) the effect of such ratios on the national economy and on conditions in the building industry, and (2) the availability or unavailability of residential mortgage credit assisted under the Servicemen's Readjustment Act of 1944, as amended.

(Pub. L. 85–104, title I, §104, July 12, 1957, 71 Stat. 296; Pub. L. 90–19, §14(a), May 25, 1967, 81 Stat. 24.)

REFERENCES IN TEXT

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

Amendments by sections 101, 102, and 103 of this act, referred to in text, refers to amendment of sections 1709(b), (i), 1715k(d)(3), and 1715m(b) of this title by Pub. L. 85–104. Section 1709(i) of this title was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(1), July 30, 2008, 122 Stat. 2835. Section 1715m of this title was repealed by Pub. L. 110–289, div. B, title I, §2120(a)(5), July 30, 2008, 122 Stat. 2835.

The Servicemen's Readjustment Act of 1944, as amended, referred to in text, is act June 22, 1944, ch. 268, 58 Stat. 284, as amended, which was classified generally to chapter 11C (§§693 to 697g) of former Title 38, Pensions, Bonuses, and Veterans' Relief, and which was repealed by section 14(87) of Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1273, the first section of which enacted Title 38, Veterans' Benefits. For distribution of sections 693 to 697g of former Title 38 to Title 38, Veterans' Benefits, see Table preceding section 101 of Title 38, Veterans' Benefits.

CODIFICATION

Section was enacted as part of the Housing Act of 1957, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

1967—Pub. L. 90–19 substituted "Secretary of Housing and Urban Development" for "Federal Housing Commissioner".

§ 1709b. Repealed. Pub. L. 85–364, § 6, Apr. 1, 1958, 72 Stat. 77

Section, Pub. L. 85–104, title VI, §605, July 12, 1957, 71 Stat. 305, authorized Federal Housing Commissioner and Administrator of Veterans' Affairs to fix reasonable limits on charges, fees, and discounts imposed upon builders, sellers, or purchasers.

§ 1710. Payment of insurance

(a) In general

(1) Authorized claims procedures

The Secretary may, in accordance with this subsection and terms and conditions prescribed by the Secretary, pay insurance benefits to a mortgagee for any mortgage insured under section 1709 of this title through any of the following methods:

(A) Assignment of mortgage

The Secretary may pay insurance benefits whenever a mortgage has been in a monetary default for not less than 3 full monthly installments or whenever the mortgagee is entitled to foreclosure for a nonmonetary default. Insurance benefits shall be paid pursuant to this subparagraph only upon the assignment, transfer, and delivery to the Secretary of—

- (i) all rights and interests arising under the mortgage;
- (ii) all claims of the mortgagee against the mortgagor or others arising out of the mortgage transaction;
- (iii) title evidence satisfactory to the Secretary; and

- (iv) such records relating to the mortgage transaction as the Secretary may require.

(B) Conveyance of title to property

The Secretary may pay insurance benefits if the mortgagee has acquired title to the mortgaged property through foreclosure or has otherwise acquired such property from the mortgagor after a default upon—

- (i) the prompt conveyance to the Secretary of title to the property which meets the standards of the Secretary in force at the time the mortgage was insured and which is evidenced in the manner provided by such standards; and
- (ii) the assignment to the Secretary of all claims of the mortgagee against the mortgagor or others, arising out of mortgage transaction or foreclosure proceedings, except such claims as may have been released with the consent of the Secretary.

The Secretary may permit the mortgagee to tender to the Secretary a satisfactory conveyance of title and transfer of possession directly from the mortgagor or other appropriate grantor, and may pay to the mortgagee the insurance benefits to which it would otherwise be entitled if such conveyance had been made to the mortgagee and from the mortgagee to the Secretary.

(C) Claim without conveyance of title

The Secretary may pay insurance benefits upon sale of the mortgaged property at foreclosure where such sale is for at least the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and upon assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B).

(D) Preforeclosure sale

The Secretary may pay insurance benefits upon the sale of the mortgaged property by the mortgagor after default and the assignment to the Secretary of all claims referred to in clause (ii) of subparagraph (B), if—

- (i) the sale of the mortgaged property has been approved by the Secretary;
- (ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary; and
- (iii) the mortgagor has received an appropriate disclosure, as determined by the Secretary.

(2) Payment for loss mitigation

The Secretary may pay insurance benefits to the mortgagee to recompense the mortgagee for all or part of any costs of the mortgagee for taking loss mitigation actions that provide an alternative to foreclosure of a mortgage that is in default or faces imminent default, as defined by the Secretary (including but not limited to actions such as special forbearance, loan modification, support for borrower housing counseling, partial claims, borrower incentives, preforeclosure sale, and deeds in lieu of foreclosure, but not including assignment of mortgages to the Secretary under section sub-