

§ 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—

(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 re-

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

quirements 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 insurance contract were terminated by payment in full of the insured loan or mortgage.

(June 27, 1934, ch. 847, title II, §229, as added Pub. L. 86-372, title I, §113, Sept. 23, 1959, 73 Stat. 662; amended Pub. L. 87-70, title VI, §612(l), June 30, 1961, 75 Stat. 183; Pub. L. 89-117, title XI,

§1108(k), Aug. 10, 1965, 79 Stat. 505; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 101-235, title II, §202(d)(2), Dec. 15, 1989, 103 Stat. 2037.)

REFERENCES IN TEXT

This chapter, referred to in text, was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

The Emergency Low Income Housing Preservation Act of 1987, referred to in text, is title II of Pub. L. 100-242, Feb. 5, 1988, 101 Stat. 1877, which, as amended by Pub. L. 101-625, is known as the Low-Income Housing Preservation and Resident Homeownership Act of 1990. Subtitle B of title II, which was formerly set out as a note under section 1715l of this title and which amended section 1715z-6 of this title, was amended generally by Pub. L. 101-625 and is classified generally to subchapter I (§4101 et seq.) of chapter 42 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of this title and Tables.

AMENDMENTS

1989—Pub. L. 101-235 inserted “and except as specified under section 1715z-15 of this title and subtitle B of the Emergency Low Income Housing Preservation Act of 1987,” after “section 1703 of this title”.

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing.

1965—Pub. L. 89-117 struck out “and Accounts” after “various Insurance Funds”.

1961—Pub. L. 87-70 amended section generally, authorizing voluntary termination of insurance contracts with respect to loans insured under this chapter.

§ 1715u. Authority to assist mortgagors in default

(a) Loss mitigation

Upon default or imminent default, as defined by the Secretary¹ of any mortgage insured under this subchapter, mortgagees shall engage in loss mitigation actions for the purpose of providing an alternative to foreclosure (including but not limited to actions such as special forbearance, loan modification, preforeclosure sale, support for borrower housing counseling, subordinate lien resolution, borrower incentives, and deeds in lieu of foreclosure, as required, but not including assignment of mortgages to the Secretary under section 1710(a)(1)(A) of this title) or subsection (c),² as provided in regulations by the Secretary.

(b) Payment of partial claim

(1) Establishment of program

The Secretary may establish a program for payment of a partial claim to a mortgagee that agrees to apply the claim amount to payment of a mortgage on a 1- to 4-family residence that is in default or faces imminent default, as defined by the Secretary.

(2) Payments and exceptions

Any payment of a partial claim under the program established in paragraph (1) to a mortgagee shall be made in the sole discretion of the Secretary and on terms and conditions acceptable to the Secretary, except that—

(A) the amount of the payment shall be in an amount determined by the Secretary, not

¹ So in original. Probably should be followed by a comma.

² So in original. Probably should be “section 1710(a)(1)(A) of this title or subsection (c).”.

¹ So in original.