

June 28, 1941, ch. 261, §10, 55 Stat. 365, related to penalties. See sections 493, 657, 709, 1006, and 1008 to 1010 of Title 18, Crimes and Criminal Procedure.

### § 1731a. Penalties

Notwithstanding any other provision of law, the Secretary is authorized to refuse the benefits of participation (either directly as an insured lender or as a borrower, or indirectly as a builder, contractor, or dealer, or salesman or sales agent for a builder, contractor or dealer) under subchapter I, II, VI, VII, VIII, IX-B, or X of this chapter to any person or firm (including but not limited to any individual, partnership, association, trust, or corporation) if the Secretary has determined that such person or firm (1) has knowingly or willfully violated any provision of this chapter or of title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38, or of any regulation issued by the Secretary under this chapter or by the Secretary of Veterans Affairs under said title III, or chapter 37, or (2) has, in connection with any construction, alteration, repair or improvement work financed with assistance under this chapter or under said title III, or chapter 37, or in connection with contracts or financing relating to such work, violated any Federal or State penal statute, or (3) has failed materially to properly carry out contractual obligations with respect to the completion of construction, alteration, repair, or improvement work financed with assistance under this chapter or under title III of the Servicemen's Readjustment Act of 1944, as amended, or of chapter 37 of title 38. Before any such determination is made any person or firm with respect to whom such a determination is proposed shall be notified in writing by the Secretary and shall be entitled, upon making a written request to the Secretary, to a written notice specifying charges in reasonable detail and an opportunity to be heard and to be represented by counsel. Determinations made by the Secretary under this section shall be based on the preponderance of the evidence. For the purposes of compliance with this section the Secretary's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

(June 27, 1934, ch. 847, title V, §512, as added Aug. 2, 1954, ch. 649, title I, §132, 68 Stat. 610; amended Pub. L. 85-857, §13(h), Sept. 2, 1958, 72 Stat. 1265; Pub. L. 86-372, title I, §119, Sept. 23, 1959, 73 Stat. 665; Pub. L. 89-754, title X, §1020(e), Nov. 3, 1966, 80 Stat. 1296; Pub. L. 90-19, §1(a)(3), (4), May 25, 1967, 81 Stat. 17; Pub. L. 98-479, title II, §204(a)(17), Oct. 17, 1984, 98 Stat. 2232; Pub. L. 101-235, title I, §133(d)(3), Dec. 15, 1989, 103 Stat. 2027; Pub. L. 102-54, §13(d)(2)(B), June 13, 1991, 105 Stat. 274.)

#### REFERENCES IN TEXT

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. Title III of the Servicemen's Readjustment Act of 1944 was classified generally to subchapter II (§694 et seq.) of chapter 11C of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by section 14(87) of Pub. L. 85-857, Sept. 2,

1958, 72 Stat. 1273, the first section of which reenacted title III of such Act as chapter 37 (§1801 [now 3701] et seq.) of Title 38, Veterans' Benefits.

#### PRIOR PROVISIONS

A prior section 512 of act of June 27, 1934, related to offenses and penalties, and was classified to section 1731 of this title, prior to repeal by act June 25, 1948, ch. 645, §21, 62 Stat. 862, eff. Sept. 1, 1948. See note under section 1731.

#### AMENDMENTS

1991—Pub. L. 102-54 substituted "Secretary of Veterans Affairs" for "Administrator of Veterans' Affairs".

1989—Pub. L. 101-235 struck out reference to subchapter IX-A after reference to subchapter VIII.

1984—Pub. L. 98-479 substituted "Penalties" for "Denial of benefits in cases of abuses; determination by Secretary; notice and hearing" in section catchline.

1967—Pub. L. 90-16 substituted "Secretary" for "Commissioner" wherever appearing, and "Secretary's" for "Commissioner's".

1966—Pub. L. 89-754 inserted references to subchapters IX-A and IX-B of this chapter.

1959—Pub. L. 86-372 provided that for purposes of compliance with this section the Commissioner's notice of a proposed determination under this section shall be considered to have been received by the interested person or firm if the notice is properly mailed to the last known address of such person or firm.

1958—Pub. L. 85-857 inserted references to chapter 37 of title 38.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-857 effective Jan. 1, 1959, see section 2 of Pub. L. 85-857, set out as an Effective Date note preceding part I of Title 38, Veterans' Benefits.

### § 1731b. Prohibition against transient housing

#### (a) Intent of Congress

The Congress declares that it has been its intent since the enactment of this chapter that housing built with the aid of mortgages insured under this chapter is to be used principally for residential use; and that this intent excludes the use of such housing for transient or hotel purposes while such insurance on the mortgage remains outstanding.

#### (b) Exceptions to prohibition

Notwithstanding any other provisions of this chapter, no new, existing, or rehabilitated multifamily housing with respect to which a mortgage is insured under this chapter shall be operated for transient or hotel purposes unless (1) on or before May 28, 1954, the Secretary has agreed in writing to the rental of all or a portion of the accommodations in the project for transient or hotel purposes (in which case no accommodations in excess of the number so agreed to by the Secretary shall be rented on such basis), or (2) the project covered by the insured mortgage is located in an area which the Secretary determines to be a resort area, and the Secretary finds that prior to May 28, 1954, a portion of the accommodations in the project had been made available for rent for transient or hotel purposes (in which case no accommodations in excess of the number which had been made available for such use shall be rented on such basis).