

Section 1819 was renumbered section 1812 of this title.

SUBCHAPTER III—ADMINISTRATIVE
PROVISIONS

§ 3720. Powers of Secretary

(a) Notwithstanding the provisions of any other law, with respect to matters arising by reason of this chapter, the Secretary may—

(1) sue and be sued in the Secretary's official capacity in any court of competent jurisdiction, State or Federal, but nothing in this clause shall be construed as authorizing garnishment or attachment against the Secretary, the Department of Veterans Affairs, or any of its employees;

(2) subject to specific limitations in this chapter, consent to the modification, with respect to rate of interest, time of payment of principal or interest or any portion thereof, security or other provisions of any note, contract, mortgage or other instrument securing a loan which has been guaranteed, insured, made or acquired under this chapter;

(3) pay, or compromise, any claim on, or arising because of, any such guaranty or insurance;

(4) pay, compromise, waive or release any right, title, claim, lien or demand, however acquired, including any equity or any right of redemption;

(5) purchase at any sale, public or private, upon such terms and for such prices as the Secretary determines to be reasonable, and take title to, property, real, personal or mixed; and similarly sell, at public or private sale, exchange, assign, convey, or otherwise dispose of any such property; and

(6) complete, administer, operate, obtain and pay for insurance on, and maintain, renovate, repair, modernize, lease, or otherwise deal with any property acquired or held pursuant to this chapter. The acquisition of any such property shall not deprive any State or political subdivision thereof of its civil or criminal jurisdiction of, on, or over such property (including power to tax) or impair the rights under the State or local law of any persons on such property. Without regard to section 3302(b) of title 31 or any other provision of law not expressly in limitation of this paragraph, the Secretary may permit brokers utilized by the Secretary in connection with such properties to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with the management, repair, sale, or lease of any such properties and remit the net balances to the Secretary.

(b) The powers granted by this section may be exercised by the Secretary without regard to any other provision of law not enacted expressly in limitation of this section, which otherwise would govern the expenditure of public funds, except that division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.

(c) The financial transactions of the Secretary incident to, or arising out of, the guaranty or in-

urance of loans pursuant to this chapter, and the acquisition, management, and disposition of property, real, personal, or mixed, incident to such activities and pursuant to this section, shall be final and conclusive upon all officers of the Government.

(d) The right to redeem provided for by section 2410(c) of title 28 shall not arise in any case in which the subordinate lien or interest of the United States derives from a guaranteed or insured loan.

[(e) Repealed. Pub. L. 105-368, title VI, §602(c)(1), Nov. 11, 1998, 112 Stat. 3346.]

(f) Whenever loss, destruction, or damage to any residential property securing loans guaranteed, insured, made, or acquired by the Secretary under this chapter occurs as the result of a major disaster as determined by the President under the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), the Secretary shall (1) provide counseling and such other service to the owner of such property as may be feasible and shall inform such owner concerning the disaster assistance available from other Federal agencies and from State or local agencies, and (2) pursuant to subsection (a)(2) of this section, extend on an individual case basis such forbearance or indulgence to such owner as the Secretary determines to be warranted by the facts of the case and the circumstances of such owner.

(g) The Secretary shall, at the request of the Secretary of Housing and Urban Development and without reimbursement, certify to such Secretary whether an applicant for assistance under any law administered by the Department of Housing and Urban Development is a veteran.

(h) The Secretary may, upon such terms and conditions as the Secretary considers appropriate, issue or approve the issuance of, and guarantee the timely payment of principal and interest on, certificates or other securities evidencing an interest in a pool of mortgage loans made in connection with the sale of properties acquired under this chapter.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, §1820; Pub. L. 88-151, §1, Oct. 17, 1963, 77 Stat. 271; Pub. L. 88-560, title VII, §701(e)(1), Sept. 2, 1964, 78 Stat. 800; Pub. L. 89-625, Oct. 4, 1966, 80 Stat. 874; Pub. L. 89-769, §3(c), Nov. 6, 1966, 80 Stat. 1316; Pub. L. 90-448, title VIII, §807(h), Aug. 1, 1968, 82 Stat. 545; Pub. L. 91-606, title II, §233, Dec. 31, 1970, 84 Stat. 1753; Pub. L. 92-328, title II, §205, June 30, 1972, 86 Stat. 397; Pub. L. 93-288, title VII, §702(l), formerly title VI, §602(l), May 22, 1974, 88 Stat. 164, renumbered title VII, §702(l), Pub. L. 103-337, div. C, title XXXIV, §3411(a)(1), (2), Oct. 5, 1994, 108 Stat. 3100; Pub. L. 94-324, §7(24)-(26), June 30, 1976, 90 Stat. 722; Pub. L. 95-117, title IV, §403(a), Oct. 3, 1977, 91 Stat. 1066; Pub. L. 97-258, §3(k)(3), Sept. 13, 1982, 96 Stat. 1065; Pub. L. 97-295, §4(67), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 98-160, title VII, §702(14), Nov. 21, 1983, 97 Stat. 1009; Pub. L. 99-576, title IV, §404, Oct. 28, 1986, 100 Stat. 3281; Pub. L. 100-707, title I, §109(n), Nov. 23, 1988, 102 Stat. 4709; Pub. L. 101-237, title III, §313(b)(1), (2), Dec. 18, 1989, 103 Stat. 2077; Pub. L. 102-54, §4(a), June 13, 1991, 105 Stat. 268; renumbered §3720 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102-291, §5(a), May 20, 1992, 106 Stat. 179;

Pub. L. 102-547, §4, Oct. 28, 1992, 106 Stat. 3636; Pub. L. 104-110, title I, §101(f), Feb. 13, 1996, 110 Stat. 768; Pub. L. 104-275, title II, §201, Oct. 9, 1996, 110 Stat. 3330; Pub. L. 105-33, title VIII, §8011, Aug. 5, 1997, 111 Stat. 664; Pub. L. 105-368, title VI, §§602(c)(1), 604(a), Nov. 11, 1998, 112 Stat. 3346, 3348; Pub. L. 106-419, title IV, §402(a), Nov. 1, 2000, 114 Stat. 1861; Pub. L. 107-103, title IV, §405(b), Dec. 27, 2001, 115 Stat. 994; Pub. L. 111-350, §5(j)(3), Jan. 4, 2011, 124 Stat. 3850; Pub. L. 112-154, title VII, §702(a), Aug. 6, 2012, 126 Stat. 1205; Pub. L. 114-228, title IV, §410, Sept. 29, 2016, 130 Stat. 940; Pub. L. 115-62, title IV, §409, Sept. 29, 2017, 131 Stat. 1165; Pub. L. 115-251, title I, §123, Sept. 29, 2018, 132 Stat. 3169.)

REFERENCES IN TEXT

The Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), referred to in subsec. (f), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, known as the Robert T. Stafford Disaster Relief and Emergency Assistance Act, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (h). Pub. L. 115-251 struck out par. (1) designation before “The Secretary may, upon” and struck out par. (2) which read as follows: “The Secretary may not under this subsection guarantee the payment of principal and interest on certificates or other securities issued or approved after September 30, 2018.”

2017—Subsec. (h)(2). Pub. L. 115-62 substituted “September 30, 2018” for “December 31, 2017”.

2016—Subsec. (h)(2). Pub. L. 114-228 substituted “December 31, 2017” for “December 31, 2016”.

2012—Subsec. (h)(2). Pub. L. 112-154 substituted “December 31, 2016” for “December 31, 2011”.

2011—Subsec. (b). Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2001—Subsec. (h)(2). Pub. L. 107-103 substituted “December 31, 2011” for “December 31, 2008”.

2000—Subsec. (h)(2). Pub. L. 106-419 substituted “December 31, 2008” for “December 31, 2002”.

1998—Subsec. (b). Pub. L. 105-368, §604(a), substituted “, except that title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section.” for “; however, section 3709 of the Revised Statutes (41 U.S.C. 5) shall apply to any contract for services or supplies on account of any property acquired pursuant to this section if the amount of such contract exceeds the amount prescribed in clause (1) of the first sentence of such section.”

Subsec. (e). Pub. L. 105-368, §602(c)(1), struck out subsec. (e), which authorized Secretary to set aside first mortgage loans and installment sales contracts owned or held by Secretary under this chapter as basis for sale of participation certificates, authorized agreements, including trust agreements, for this purpose, and set forth provisions relating to allocation, deposit, and set aside of proceeds.

1997—Subsec. (h)(2). Pub. L. 105-33 substituted “December 31, 2002” for “December 31, 1997”.

1996—Subsec. (h)(2). Pub. L. 104-275 substituted “December 31, 1997” for “December 31, 1996”.

Pub. L. 104-110 substituted “December 31, 1996” for “December 31, 1995”.

1992—Subsec. (h). Pub. L. 102-547 substituted “December 31, 1995” for “December 31, 1992” in par. (2).

Pub. L. 102-291 added subsec. (h).

1991—Pub. L. 102-83, §5(a), renumbered section 1820 of this title as this section.

Subsec. (e)(2). Pub. L. 102-83, §5(c)(1), substituted “3723 and 3724” for “1823 and 1824” in two places.

Subsec. (g). Pub. L. 102-54 added subsec. (g).

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

1988—Subsec. (f). Pub. L. 100-707 substituted “and Emergency Assistance Act” for “Act of 1974”.

1986—Subsec. (b). Pub. L. 99-576 substituted “the amount prescribed in clause (1) of the first sentence of such section” for “\$1,000”.

1983—Subsec. (a)(6). Pub. L. 98-160 struck out comma after “title 31”.

Subsec. (b). Pub. L. 98-160 substituted “section 3709 of the Revised Statutes (41 U.S.C. 5)” for “section 5 of title 41”.

1982—Subsec. (a)(6). Pub. L. 97-258 substituted “section 3302(b) of title 31” for “section 3617, Revised Statutes (31 U.S.C. 484)”.

Subsec. (f). Pub. L. 97-295 inserted “(42 U.S.C. 5121 et seq.)” after “the Disaster Relief Act of 1974”.

1977—Subsec. (a)(1). Pub. L. 95-117 inserted prohibition relating to garnishment or attachment against the Administrator, etc.

1976—Subsec. (a)(1). Pub. L. 94-324, §7(24), substituted “the Administrator’s” for “his”.

Subsec. (a)(5). Pub. L. 94-324, §7(24), substituted “the Administrator” for “he”.

Subsec. (a)(6). Pub. L. 94-324, §7(25), substituted “utilized by the Administrator” for “utilized by him”.

Subsec. (e)(1). Pub. L. 94-324, §7(26), substituted “the Administrator determines” for “he determines”, “by the Administrator” for “by him”, “the Administrator shall periodically” for “he shall periodically”, “set aside by the Administrator” for “set aside by him”, “the Administrator’s commitment” for “his commitment”, and “to pay the Administrator’s” for “to pay his”.

Subsec. (e)(2). Pub. L. 94-324, §7(26), substituted “as the Administrator determines” for “as he determines”.

1974—Subsec. (f). Pub. L. 93-288 substituted “Disaster Relief Act of 1974” for “Disaster Assistance Act of 1970.”

1972—Subsec. (a)(4). Pub. L. 92-328 struck out provisions relating to the authority to waive or release claims, including partial or total waiver of payment, following default and loss of property.

1970—Subsec. (a)(2). Pub. L. 91-606, §233(1), substituted “a loan which has been guaranteed, insured, made or acquired under this chapter” for “a loan which has been guaranteed or insured under this chapter”.

Subsec. (f). Pub. L. 91-606, §233(2), directed the Administrator in major disaster areas to provide the owner of property lost, destroyed, or damaged as the result of a major disaster with counseling and other services, to inform him of disaster assistance available from other Federal, state, or local agencies and to extend such forbearance on an individual case basis as he determines to be warranted by the facts of the case.

1968—Subsec. (e)(1). Pub. L. 90-448 substituted “Government National Mortgage Association” for “Federal National Mortgage Association” wherever appearing.

1966—Subsec. (a)(6). Pub. L. 89-625 authorized brokers utilized by Administrator in connection with properties acquired or held pursuant to this chapter to deduct from rental collections amounts covering authorized fees, costs, and expenses incurred in connection with management, repair, sale, or lease of properties and to remit the net balances to Administrator.

Subsec. (f). Pub. L. 89-769 added subsec. (f).

1964—Subsec. (e). Pub. L. 88-560 added subsec. (e).

1963—Subsec. (a)(4). Pub. L. 88-151 provided for waiver of indebtedness to the United States in certain cases arising out of default on loans guaranteed or made by the Veterans’ Administration.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 602(c)(1) of Pub. L. 105-368 effective Oct. 1, 1998, see section 602(f) of Pub. L. 105-368, set out as a note under section 2106 of this title.

Pub. L. 105-368, title VI, §604(b), Nov. 11, 1998, 112 Stat. 3348, provided that: "The amendment made by subsection (a) [amending this section] shall apply with respect to contracts entered into under section 3720 of title 38, United States Code, after the end of the 60-day period beginning on the date of the enactment of this Act [Nov. 11, 1998]."

EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-117, title IV, §403(b), Oct. 3, 1977, 91 Stat. 1066, provided that: "The amendment made by subsection (a) of this section [amending this section] shall be effective on the date of enactment of this Act [Oct. 3, 1977]."

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 1974 AMENDMENT

Amendment by Pub. L. 93-288 effective Apr. 1, 1974, see section 605 of Pub. L. 93-288, formerly set out as an Effective Date note under section 5121 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-328 effective June 30, 1972, see section 301(c) of Pub. L. 92-328, set out as a note under section 3713 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-606 effective Dec. 31, 1970, see section 304 of Pub. L. 91-606, set out as a note under section 165 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-448 effective from and after a date, no more than 120 days following Aug. 1, 1968, as established by the Secretary of Housing and Urban Development, see section 808 of Pub. L. 90-448, set out as an Effective Date note under section 1716b of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-769 applicable with respect to any major disaster occurring after Oct. 3, 1964, see section 14 of Pub. L. 89-769.

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.

PROPERTY MANAGEMENT

Pub. L. 100-198, §9, Dec. 21, 1987, 101 Stat. 1320, as amended by Pub. L. 102-40, title IV, §402(d)(2), May 7, 1991, 105 Stat. 239; Pub. L. 102-83, §6(i), Aug. 6, 1991, 105 Stat. 408, provided for programs under which the Secretary could (1) convey to nonprofit entities or to States or political subdivisions of States real property or improvements to real property acquired by the Secretary as the result of a default of a loan made under this chapter to use the properties to provide shelter for homeless veterans and their families, or (2) convey such properties to entities for use in job training pro-

grams for property rehabilitation and later sale to homeless veterans. Authority to carry out the programs terminated on Oct. 1, 1990.

HOUSING SOLAR ENERGY AND WEATHERIZATION STUDY; REPORT NOT LATER THAN MARCH 1, 1978

Pub. L. 95-202, title III, §311, Nov. 23, 1977, 91 Stat. 1449, directed Administrator of Veterans' Affairs, in consultation with Secretary of Energy and Secretary of Housing and Urban Development, to conduct a study to determine the most effective methods of using the programs carried out under, or amending provisions of, this chapter in order to aid and encourage present and prospective veteran homeowners to install solar heating and cooling in their homes and to apply residential energy conservation measures and that a report on such study be submitted to Congress not later than Mar. 1, 1978.

WAIVER OF INDEBTEDNESS; REPORT TO CONGRESS

Pub. L. 88-151, §2, Oct. 17, 1963, 77 Stat. 271, provided that: "The Administrator of Veterans' Affairs shall submit to the Committee on Labor and Public Welfare of the Senate and the Committee on Veterans' Affairs of the House of Representatives, not later than December 31 of each year, a written report concerning each case in which a waiver of indebtedness has been made under the authority of the amendment made by the first section of this Act [amending subsec. (a)(4) of this section]. Such report shall include, together with such other information as the Administrator deems appropriate, the name and address of each person with respect to which a waiver of indebtedness has been made and the total amount of such waiver."

ADMINISTRATION OF TRUSTS BY FEDERAL NATIONAL MORTGAGE ASSOCIATION

Provision for participation sales and administration of trusts by Federal National Mortgage Association not to be construed as a repeal or modification of the provisions of subsection (e) of this section respecting the authority of the Administrator of Veterans' Affairs, see section 6(a) of Pub. L. 89-429, set out as a note under section 1717 of Title 12, Banks and Banking.

§ 3721. Incontestability

Any evidence of guaranty or insurance issued by the Secretary shall be conclusive evidence of the eligibility of the loan for guaranty or insurance under the provisions of this chapter and of the amount of such guaranty or insurance. Nothing in this section shall preclude the Secretary from establishing, as against the original lender, defenses based on fraud or material misrepresentation. The Secretary shall not, by reason of anything contained in this section, be barred from establishing, by regulations in force at the date of such issuance or disbursement, whichever is the earlier, partial defenses to the amount payable on the guaranty or insurance.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1213, §1821; Pub. L. 101-237, title III, §313(b)(1), Dec. 18, 1989, 103 Stat. 2077; renumbered §3721, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102-83 renumbered section 1821 of this title as this section.

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

§ 3722. Veterans Housing Benefit Program Fund

(a) There is hereby established in the Treasury of the United States a fund known as the Veterans Housing Benefit Program Fund (hereinafter in this section referred to as the "Fund").