

1981—Subsec. (c)(2). Pub. L. 97-35 inserted “therein” after “installation” and struck out “therein” after “measure”.

1980—Subsec. (c)(2). Pub. L. 96-399 inserted proviso relating to increase of dollar amount limitations due to installation of a solar energy system.

1979—Subsec. (c)(2). Pub. L. 96-153 substituted “75 per centum” for “50 per centum” and inserted exception that the dollar amount limitations may be exceeded by not be exceed 90 per centum where the Secretary determines it to be necessary.

1976—Subsec. (c)(2). Pub. L. 94-375 substituted “50 per centum in any geographical area” for “75 per centum in any geographical area”, “\$18,450” for “\$12,300”, “\$20,625” for “\$17,188”, “\$24,630” for “\$20,525”, “\$29,640” for “\$24,700”, “\$34,846” for “\$29,038”, “\$20,962” for “\$13,975”, “\$24,030” for “\$20,025”, “\$29,220” for “\$24,350”, “\$37,800” for “\$31,500”, and “\$41,494” for “\$34,578”.

1975—Subsec. (c)(2). Pub. L. 94-173 raised from 45 per centum to 75 per centum the amount by which any dollar limitation may, by regulation, be increased.

1974—Subsec. (c)(1). Pub. L. 93-383, § 304(f), struck out par. (1) which set forth limits on principal obligations of mortgages.

Subsec. (c)(2). Pub. L. 93-383, § 303(f), substituted “\$12,300” for “\$8,800”, “\$13,975” for “\$10,450”, “\$17,188” for “\$12,375”, “\$20,025” for “\$14,850”, “\$20,525” for “\$14,850”, “\$24,350” for “\$17,600”, “\$24,700” for “\$18,700”, “\$29,038” for “\$21,175”, “\$31,500” for “\$22,000”, and “\$34,578” for “\$25,025”.

1969—Subsec. (c)(2). Pub. L. 91-152 substituted “\$8,800” for “\$8,000”, “\$10,450” for “\$9,500”, “\$12,375” for “\$11,250”, “\$14,850” for “\$13,500” wherever appearing, “\$17,600” for “\$16,000”, “\$18,700” for “\$17,000”, “\$21,175” for “\$19,250”, “\$22,000” for “\$20,000”, and “\$25,025” for “\$22,750”.

1968—Subsec. (c)(6). Pub. L. 90-301 increased limitation on interest rates from 5½ to 6 per centum per annum.

1967—Pub. L. 90-19, § 1(a)(3), substituted “Secretary” for “Commissioner” wherever appearing in subsecs. (b), (c)(2) to (7), (d), and (f).

Subsec. (c)(3), (4). Pub. L. 90-19, § 1(a)(4), substituted “Secretary’s” for “Commissioner’s”.

1965—Subsec. (c)(2). Pub. L. 89-117, § 207(e), substituted “\$17,000 per family unit with three bedrooms, and \$19,250 per family unit with four or more bedrooms” for “and \$17,000 per family unit with three or more bedrooms” and “\$20,000 per family unit with three bedrooms, and \$22,750 per family unit with four or more bedrooms” for “and \$20,000 per family unit with three or more bedrooms”.

Subsec. (c)(4). Pub. L. 89-117, § 1108(l)(1), substituted “General Insurance Fund” for “section 207 Housing Insurance Fund”.

Subsec. (e). Pub. L. 89-117, § 1108(l)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (c)(2). Pub. L. 88-560, § 107(e), changed limits on mortgages for property or project attributable to dwelling use from “\$2,250 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit)” to “\$8,000 per family unit without a bedroom, \$11,250 per family unit with one bedroom, \$13,500 per family unit with two bedrooms, and \$17,000 per family unit with three or more bedrooms”, changed such mortgage limits on project consisting of elevator-type structures from a sum “of \$2,250 per room to not to exceed \$2,750 per room, and the dollar amount limitation of \$9,000 per family unit to not to exceed \$9,400 per family unit” to dollar amount limitations “per family unit to not to exceed \$9,500 per family unit without a bedroom, \$13,500 per family unit with one bedroom, \$16,000 per family unit with two bedrooms, and \$20,000 per family unit with three or more bedrooms”, and substituted provisions authorizing an increase “by not to exceed 45 per centum” of any of such limits because of cost levels for former provision authorizing such increase “by not to exceed \$1,250 per room, without regard to the number of rooms being less than four, or four or more”.

Subsec. (f). Pub. L. 88-560, § 203(c), added subsec. (f).

1961—Subsec. (c)(2). Pub. L. 87-70 increased the maximum amount of mortgages from not more than \$9,000 per dwelling unit for such part of such property or project as may be attributable to dwelling use to not more than \$2,250 per room (or \$9,000 per family unit if the number of rooms in such property or project is less than four per family unit) for such part of such property or project as may be attributable to dwelling use (excluding exterior land improvements), and permitted an increase of from \$2,250 per room to not more than \$2,750 per room to compensate for the higher costs incident to the construction of elevator-type structures.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, see section 371 of Pub. L. 97-35, set out as an Effective Date note under section 3701 of this title.

REPEALS

The directory language of, but not the amendment made by, Pub. L. 90-301, § 3(d), May 7, 1968, 82 Stat. 114, cited as a credit to this section, was repealed by Pub. L. 98-181, title I [title IV, § 404(a)], Nov. 30, 1983, 97 Stat. 1208.

LIMITATION ON NUMBER OF DWELLING UNITS WITH MORTGAGES NOT PROVIDING FOR COMPLETE AMORTIZATION

For limitation on the number of dwelling units with mortgages not providing for complete amortization pursuant to authority granted by amendment to subsec. (c)(5) by section 446 of Pub. L. 98-181, see section 446(f) of Pub. L. 98-181, set out as a note under section 1713 of this title.

AMENDMENTS TO PROVISIONS FOR FAMILY UNIT LIMITS ON RENTAL HOUSING; EQUITABLE APPLICATION OF SUCH AMENDMENTS OR PRE-AMENDMENT PROVISIONS TO PROJECTS SUBMITTED FOR CONSIDERATION PRIOR TO SEPTEMBER 2, 1964

Equitable application of amendment to subsec. (c)(2) of this section by section 107(e) of Pub. L. 88-560 or pre-amendment provisions to projects submitted for consideration prior to Sept. 2, 1964, see section 107(g) of Pub. L. 88-560, set out as a note under section 1713 of this title.

§ 1715w. Mortgage insurance for nursing homes, intermediate care facilities, and board and care homes

(a) Purpose

The purpose of this section is to assist in the provision of facilities for any of the following purposes or for a combination of such purposes:

(1) The development of nursing homes for the care and treatment of convalescents and other persons who are not acutely ill and do not need hospital care but who require skilled nursing care and related medical services, including additional facilities for the non-resident care of elderly individuals and others who are able to live independently but who require care during the day.

(2) The development of intermediate care facilities and board and care homes for the care of persons who, while not in need of nursing home care and treatment, nevertheless are unable to live fully independently and who are in need of minimum but continuous care provided by licensed or trained personnel, including additional facilities for the nonresident care of elderly individuals and others who are

able to live independently but who require care during the day.

(3) The development of assisted living facilities for the care of frail elderly persons.

(b) Definitions

For the purposes of this section—

(1) the term “nursing home” means a public facility, proprietary facility or facility of a private nonprofit corporation or association, licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located), for the accommodation of convalescents or other persons who are not acutely ill and not in need of hospital care but who require skilled nursing care and related medical services, in which such nursing care and medical services are prescribed by, or are performed under the general direction of, persons licensed to provide such care or services in accordance with the laws of the State where the facility is located;

(2) the term “intermediate care facility” means a proprietary facility or facility of a private nonprofit corporation or association licensed or regulated by the State (or, if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located) for the accommodation of persons who, because of incapacitating infirmities, require minimum but continuous care but are not in need of continuous medical or nursing services;

(3) the term a¹ “nursing home” or “intermediate care facility” may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day;

(4) the term “mortgage” means a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof (A) under a lease for not less than ninety-nine years which is renewable, or (B) under a lease having a period of not less than ten years to run beyond the maturity date of the mortgage. The term “first mortgage” means such classes of first liens as are commonly given to secure advances (including but not limited to advances during construction) on, or the unpaid purchase price of, real estate under the laws of the State in which the real estate is located, together with the credit instrument or instruments, if any, secured thereby, and any mortgage may be in the form of one or more trust mortgages or mortgage indentures or deeds of trust, securing notes, bonds, or other credit instruments, and, by the same instrument or by a separate instrument, may create a security interest in initial equipment, whether or not attached to the realty. The term “mortgagor” shall have the meaning set forth in section 1713(a) of this title;

(5) the term “board and care home” means any residential facility providing room, board,

and continuous protective oversight that is regulated by a State pursuant to the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)], so long as the home is located in a State that, at the time of an application is made for insurance under this section, has demonstrated to the Secretary that it is in compliance with the provisions of such section 1616(e);

(6) the term “assisted living facility” means a public facility, proprietary facility, or facility of a private nonprofit corporation that—

(A) is licensed and regulated by the State (or if there is no State law providing for such licensing and regulation by the State, by the municipality or other political subdivision in which the facility is located);

(B) makes available to residents supportive services to assist the residents in carrying out activities of daily living, such as bathing, dressing, eating, getting in and out of bed or chairs, walking, going outdoors, using the toilet, laundry, home management, preparing meals, shopping for personal items, obtaining and taking medication, managing money, using the telephone, or performing light or heavy housework, and which may make available to residents home health care services, such as nursing and therapy; and

(C) provides separate dwelling units for residents, each of which may contain a full kitchen and bathroom, and which includes common rooms and other facilities appropriate for the provision of supportive services to the residents of the facility; and

(7) the term “frail elderly person” has the meaning given the term in section 8011(k) of title 42.

(c) Authorization

The Secretary is authorized to insure any mortgage (including advances on such mortgage during construction) in accordance with the provisions of this section upon such terms and conditions as he may prescribe and to make commitments for insurance of such mortgage prior to the date of its execution or disbursement thereon.

(d) Terms and conditions; limitation on maximum amount of mortgage; amortization; interest; certification from State agency

In order to carry out the purposes of this section, the Secretary is authorized to insure any mortgage which covers a new or rehabilitated nursing home,² assisted living facility, or intermediate care facility, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated, or any combination of nursing home, assisted living facility, and intermediate care facility or a board and care home, including equipment to be used in its operation, subject to the following conditions:

(1) The mortgage shall be executed by a mortgagor approved by the Secretary. The Secretary may in his discretion require any

¹ So in original. The word “a” probably should not appear.

² So in original.

such mortgagor to be regulated or restricted as to charges and methods of financing, and, in addition thereto, if the mortgagor is a corporate entity, as to capital structure and rate of return. As an aid to the regulation or restriction of any mortgagor with respect to any of the foregoing matters, the Secretary may make such contracts with and acquire for not to exceed \$100 such stock or interest in such mortgagor as he may deem necessary. Any stock or interest so purchased shall be paid for out of the General Insurance Fund, and shall be redeemed by the mortgagor at par upon the termination of all obligations of the Secretary under the insurance.

(2) The mortgage shall involve a principal obligation in an amount not to exceed 90 percentum of the estimated value of the property or project, or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private nonprofit corporation or association (under the meaning given such term for purposes of section 1715l(d)(3) of this title), including—

(A) equipment to be used in the operation of the home or facility or combined home and facility when the proposed improvements are completed and the equipment is installed; or

(B) a solar energy system (as defined in subparagraph (3) of the last paragraph of section 1703(a) of this title) or residential energy conservation measures (as defined in section 8211(11)(A) through (G) and (I) of title 42)³ in cases where the Secretary determines that such measures are in addition to those required under the minimum property standards and will be cost-effective over the life of the measure.

(3) The mortgage shall—

(A) provide for complete amortization by periodic payments within such terms as the Secretary shall prescribe; and

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee.

The Secretary shall not promulgate regulations or establish terms or conditions that interfere with the ability of the mortgagor and mortgagee to determine the interest rate; and⁴

(4)(A) With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the Secretary shall not insure any mortgage under this section unless he has received, from the State agency designated in accordance with section 604(a)(1) or section 1521³ of the Public Health Service Act [42 U.S.C. 291d (a)(1), 300m] for the State in which is located the nursing home or intermediate care facility or combined nursing home and intermediate care facility covered by the mortgage, a certification that (i) there is a need for such home or facility or combined home and facility, and (ii) there are in force in such State or in the municipality or other political subdivision of the

State in which the proposed home or facility or combined home and facility is to be located reasonable minimum standards of licensure and methods of operation governing it. No such mortgage shall be insured under this section unless the Secretary has received such assurance as he may deem satisfactory from the State agency that such standards will be applied and enforced with respect to any home or facility or combined home and facility located in the State for which mortgage insurance is provided under this section. If no such State agency exists, or if the State agency exists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 604(a)(1) or section 1521³ of the Public Health Service Act. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.

(B) With respect to board and care homes, the Secretary shall not insure any mortgage under this section unless he has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)].

(C) With respect to assisted living facilities or any such facility combined with any other home or facility, the Secretary shall not insure any mortgage under this section unless—

(i) the Secretary determines that the level of financing acquired by the mortgagor and

³ See References in Text note below.

⁴ So in original. The “; and” probably should be a period.

any other resources available for the facility will be sufficient to ensure that the facility contains dwelling units and facilities for the provision of supportive services in accordance with subsection (b)(6);

(ii) the mortgagor provides assurances satisfactory to the Secretary that each dwelling unit in the facility will not be occupied by more than 1 person without the consent of all such occupants; and

(iii) the appropriate State licensing agency for the State, municipality, or other political subdivision in which the facility is or is to be located provides such assurances as the Secretary considers necessary that the facility will comply with any applicable standards and requirements for such facilities.

(e) Release of part of mortgaged property or project from lien

The Secretary may consent to the release of a part or parts of the mortgaged property or project from the lien of any mortgage insured under this section upon such terms and conditions as he may prescribe.

(f) Applicability of other laws

The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 1713 of this title shall apply to mortgages insured under this section and all references therein to section 1713 of this title shall refer to this section.

(g) Regulations covering intermediate care facilities; consultations

The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section relating to intermediate care facilities, after consulting with the Secretary of Health and Human Services with respect to any health or medical aspects of the program which may be involved in such regulations.

(h) Consultations concerning need for and availability of intermediate care facilities

The Secretary shall also consult with the Secretary of Health and Human Services as to the need for and the availability of intermediate care facilities in any area for which an intermediate care facility is proposed under this section.

(i) Fire safety equipment for nursing homes, assisted living facilities, intermediate care facilities, or board and care homes

(1) The Secretary is authorized upon such terms and conditions as he may prescribe to make commitments to insure and to insure loans made by financial institutions or other approved mortgagees to nursing homes, assisted living facilities, and intermediate care facilities or to board and care homes to provide for the purchase and installation of fire safety equipment necessary for compliance with the 1967 edition of the Life Safety Code of the National Fire Protection Association (or any subsequent edition specified by the Secretary of Health and Human Services) or other such codes or requirements approved by the Secretary of Health and Human Services as conditions of participation for providers of services under title XVIII and title XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] or as mandated by a

State under the provisions of section 1616(e) of such Act [42 U.S.C. 1382e(e)].

(2) To be eligible for insurance under this subsection a loan shall—

(A) not exceed the Secretary's estimate of the reasonable cost of the equipment fully installed;

(B) bear interest at such rate as may be agreed upon by the mortgagor and the mortgagee;

(C) have a maturity satisfactory to the Secretary;

(D) be made by a financial institution or other mortgagee approved by the Secretary as eligible for insurance under section 1703 of this title or a mortgagee approved under section 1709(b)(1) of this title;

(E) comply with other such terms, conditions, and restrictions as the Secretary may prescribe; and

(F) in the case of board and care homes, be made with respect to such a home located in a State with respect to which the Secretary has received from the appropriate State licensing agency a statement verifying that the State in which the home is or is to be located is in compliance with the provisions of section 1616(e) of the Social Security Act [42 U.S.C. 1382e(e)].

(3) The provisions of paragraphs (5), (6), (7), (9), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this subsection, except that all references to "home improvement loans" shall be construed to refer to loans under this subsection.

(4) The provisions of subsections (c), (d), and (h) of section 1703 of this title shall apply to loans insured under this subsection, and for the purpose of this subsection references in such subsections to "this section" or "this title" shall be construed to refer to this subsection.

(j) Schedules and deadlines for processing and approval of applications

The Secretary shall establish schedules and deadlines for the processing and approval (or provision of notice of disapproval) of applications for mortgage insurance under this section. The Secretary shall submit a report to the Congress annually describing such schedules and deadlines and the extent of compliance by the Department with the schedules and deadlines during the year.

(June 27, 1934, ch. 847, title II, §232, as added Pub. L. 86-372, title I, §115, Sept. 23, 1959, 73 Stat. 663; amended Pub. L. 87-70, title VI, §610, June 30, 1961, 75 Stat. 180; Pub. L. 88-560, title I, §117, Sept. 2, 1964, 78 Stat. 779; Pub. L. 89-117, title XI, §1108(m), Aug. 10, 1965, 79 Stat. 505; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17; Pub. L. 90-448, title III, §314, Aug. 1, 1968, 82 Stat. 511; Pub. L. 91-152, title I, §111, Dec. 24, 1969, 83 Stat. 382; Pub. L. 93-204, Dec. 28, 1973, 87 Stat. 883; Pub. L. 93-383, title III, §304(g), Aug. 22, 1974, 88 Stat. 678; Pub. L. 95-128, title III, §308(a), Oct. 12, 1977, 91 Stat. 1135; Pub. L. 95-557, title III, §312, Oct. 31, 1978, 92 Stat. 2099; Pub. L. 96-399, title III, §310(f), Oct. 8, 1980, 94 Stat. 1643; Pub. L. 98-181, title I [title IV, §§404(b)(10), 437], Nov. 30, 1983, 97 Stat. 1209, 1222, 1223; Pub. L. 98-479, title I, §104(a)(1),

Oct. 17, 1984, 98 Stat. 2224; Pub. L. 100-242, title IV, §§ 410(a), (b), 429(e), Feb. 5, 1988, 101 Stat. 1904, 1918; Pub. L. 102-550, title V, § 511(a)–(e), Oct. 28, 1992, 106 Stat. 3784–3786; Pub. L. 105-65, title II, § 216, Oct. 27, 1997, 111 Stat. 1367; Pub. L. 105-276, title II, § 214(a), Oct. 21, 1998, 112 Stat. 2486.)

Editorial Notes

REFERENCES IN TEXT

The General Insurance Fund, referred to in subsec. (d)(1), was established by section 1735c of this title.

Section 8211 of title 42, referred to in subsec. (d)(2)(B), was omitted from the Code pursuant to section 8229 of Title 42, The Public Health and Welfare, which terminated authority under that section on June 30, 1989.

Section 1521 of the Public Health Service Act, referred to in subsec. (d)(4)(A), is section 1521 of act July 1, 1944, which was classified to section 300m of Title 42, The Public Health and Welfare, prior to repeal, effective Jan. 1, 1987, by Pub. L. 99-660, title VII, § 701(a), Nov. 14, 1986, 100 Stat. 3799.

The Social Security Act, referred to in subsec. (i)(1), is act Aug. 13, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1998—Subsec. (b)(4)(B). Pub. L. 105-276 made technical correction to directory language of Pub. L. 105-65. See 1997 Amendment note below.

1997—Subsec. (b)(4)(B). Pub. L. 105-65, as amended by Pub. L. 105-276, substituted “ten years to run beyond the maturity date of the mortgage” for “fifty years to run from the date the mortgage was executed”.

1992—Subsec. (a). Pub. L. 102-550, § 511(a)(1), substituted “any” for “either” in introductory provisions.

Subsec. (a)(3). Pub. L. 102-550, § 511(a)(2), added par. (3).

Subsec. (b)(6), (7). Pub. L. 102-550, § 511(b), added pars. (6) and (7).

Subsec. (d). Pub. L. 102-550, § 511(c)(1), in introductory provisions, inserted “, assisted living facility,” after “rehabilitated nursing home,” substituted “any combination of nursing home, assisted living facility, and intermediate care facility” for “combined nursing home and intermediate care facility”, and inserted “, including a new addition to an existing nursing home, assisted living facility, or intermediate care facility and regardless of whether the existing home or facility is being rehabilitated,” after first reference to “intermediate care facility”.

Subsec. (d)(2). Pub. L. 102-550, § 511(c)(2), inserted “or 95 percent of the estimated value of the property or project in the case of a mortgagor that is a private non-profit corporation or association (under the meaning given such term for purposes of section 1715(d)(3) of this title),” before “including” in introductory provisions.

Subsec. (d)(3). Pub. L. 102-550, § 511(c)(3), inserted concluding provisions.

Subsec. (d)(4)(C). Pub. L. 102-550, § 511(c)(4), added subpar. (C).

Subsec. (i)(1). Pub. L. 102-550, § 511(d), inserted “, assisted living facilities,” after “nursing homes”.

Subsec. (j). Pub. L. 102-550, § 511(e), added subsec. (j).

1988—Subsec. (b)(1). Pub. L. 100-242, § 410(a), inserted “public facility,” before “proprietary”.

Subsec. (b)(3) to (5). Pub. L. 100-242, § 429(e)(1), indented as par. (3) former run-in cl. (3) defining “nursing home” and “intermediate care facility”, inserted “the term”, and struck out “and” after semicolon at end, redesignated as par. (4) former par. (3) defining “mortgage”, and redesignated as par. (5) former par. (4).

Subsec. (d)(4)(A). Pub. L. 100-242, § 410(b), inserted “If no such State agency exists, or if the State agency ex-

ists but is not empowered to provide a certification that there is a need for the home or facility or combined home and facility as required in clause (i) of the first sentence, the Secretary shall not insure any mortgage under this section unless (i) the State in which the home or facility or combined home and facility is located has conducted or commissioned and paid for the preparation of an independent study of market need and feasibility that (I) is prepared in accordance with the principles established by the American Institute of Certified Public Accountants; (II) assesses, on a marketwide basis, the impact of the proposed home or facility or combined home and facility on, and its relationship to, other health care facilities and services, the percentage of excess beds, demographic projections, alternative health care delivery systems, and the reimbursement structure of the home, facility, or combined home and facility; (III) is addressed to and is acceptable to the Secretary in form and substance; and (IV) in the event the State does not prepare the study, is prepared by a financial consultant who is selected by the State or the applicant for mortgage insurance and is approved by the Secretary; and (ii) the State complies with the other provisions of this subparagraph that would otherwise be required to be met by a State agency designated in accordance with section 291d(a)(1) or section 300m of title 42. The proposed mortgagor may reimburse the State for the cost of the independent feasibility study required in the preceding sentence. In the case of a small intermediate care facility for the mentally retarded or developmentally disabled, or a board and care home housing less than 10 individuals, the State program agency or agencies responsible for licensing, certifying, financing, or monitoring the facility or home may, in lieu of the requirements of clause (i) of the third sentence, provide the Secretary with written support identifying the need for the facility or home.”

Subsec. (i)(2)(B). Pub. L. 100-242, § 429(e)(2), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “bear interest at not to exceed a rate determined by the Secretary to be necessary to meet the loan market”.

1984—Pub. L. 98-479 inserted reference to board and care homes in section catchline.

1983—Subsec. (a)(2). Pub. L. 98-181, § 437(a), inserted “and board and care homes” after “intermediate care facilities”.

Subsec. (b)(4). Pub. L. 98-181, § 437(b), added par. (4).

Subsec. (d). Pub. L. 98-181, § 437(c)(1), in provisions preceding par. (1) inserted “or a board and care home” after “and intermediate care facility.”

Subsec. (d)(3)(B). Pub. L. 98-181, § 404(b)(10), substituted provision that the interest rate be at such a rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate, exclusive of premium charges for insurance, not exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.

Subsec. (d)(4). Pub. L. 98-181, § 437(c)(2), designated existing provision as subpar. (A), substituted “With respect to nursing homes and intermediate care facilities and combined nursing home and intermediate care facilities, the” for “The” and “(i)” and “(ii)” for “(A)” and “(B)”, respectively, and added subpar. (B).

Subsecs. (g), (h). Pub. L. 98-181, § 437(d), (e), substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (i)(1). Pub. L. 98-181, § 437(f)(1), inserted “or to board and care homes” after “intermediate care facilities”, “(or any subsequent edition specified by the Secretary of Health and Human Services)” after “Association”, and “or as mandated by a State under provisions of section 1616(e) of such Act” after “Social Security Act”, and substituted “Health and Human Services” for “Health, Education, and Welfare”.

Subsec. (i)(2)(F). Pub. L. 98-181, § 437(f)(2), added subpar. (F).

1980—Subsec. (d)(2). Pub. L. 96-399 revised existing provisions into introductory paragraph and subpar. (A) and added subpar. (B).

1978—Subsec. (a). Pub. L. 95-557, §312(a), inserted “, including additional facilities for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day” after pars. (1) and (2).

Subsec. (b)(2). Pub. L. 95-557, §312(b), inserted “(3) a ‘nursing home’ or ‘intermediate care facility’ may include such additional facilities as may be authorized by the Secretary for the nonresident care of elderly individuals and others who are able to live independently but who require care during the day”.

1977—Subsec. (d)(4). Pub. L. 95-128 inserted reference to section 300m of title 42.

1974—Subsec. (d)(2). Pub. L. 93-383 struck out “not to exceed \$12,500,000, and” after “an amount”.

1973—Subsec. (i). Pub. L. 93-204 added subsec. (i).

1969—Subsec. (a). Pub. L. 91-152, §111(1), added to stated purpose of this section of developing nursing homes, the development of intermediate care facilities or the development of such facilities in combination with nursing home facilities.

Subsec. (b). Pub. L. 91-152, §111(2), (3), struck out “and” after “is located;” in par. (1), redesignated par. (2) as (3), and added par. (2).

Subsec. (d). Pub. L. 91-152, §111(4), inserted provision authorizing the Secretary to insure any mortgage which covers an intermediate care facility or combined nursing home and intermediate care facility.

Subsec. (d)(2). Pub. L. 91-152, §111(5), substituted “operation of the home or facility or combined home or facility” for “operation of the nursing home”.

Subsec. (d)(4). Pub. L. 91-152, §111(6), substituted “section 291d(a)(1) of title 42” for “section 291b(a)(1) of title 42”, and made provisions applicable to the insurance of mortgages covering intermediate care facilities or combined nursing home and intermediate care facilities.

Subsecs. (g), (h). Pub. L. 91-152, §111(7), added subsecs. (g) and (h).

1968—Subsec. (b)(2). Pub. L. 90-448, §314(1), redefined term “mortgage” to mean a first mortgage on real estate in fee simple, or on the interest of either the lessor or lessee thereof under a lease for not less than ninety-nine years which is renewable, or under a lease having a period of not less than fifty years to run from the date the mortgage was executed, and inserted definition of “first mortgage”.

Subsec. (d). Pub. L. 90-448, §314(2), (3), authorized the Secretary to insure a mortgage which includes equipment to be used in the operation of a nursing home, and permitted the value of the equipment to be included in the calculation of the 90 per centum of the estimated value.

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

1965—Subsec. (d)(1). Pub. L. 89-117, §1108(m)(1), substituted “General Insurance Fund” for “section 207 Housing Insurance Fund”.

Subsec. (f). Pub. L. 89-117, §1108(m)(2), struck out references to subsecs. (f), (m) and (p) of section 1713 of this title.

1964—Subsec. (b)(1). Pub. L. 88-560 inserted “or facility of a private nonprofit corporation or association” after “proprietary facility”.

1961—Subsec. (d)(2). Pub. L. 87-70 substituted “90 per centum” for “75 per centum”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title II, §214(b), Oct. 21, 1998, 112 Stat. 2486, provided that: “The amendment made by subsection (a) [amending this section] shall be construed to have taken effect on October 27, 1997.”

REGULATIONS

Pub. L. 100-242, title IV, §410(c), Feb. 5, 1988, 101 Stat. 1904, provided that: “The Secretary of Housing and

Urban Development shall issue such regulations as may be necessary to carry out the amendments made by this section [amending this section] by not later than the expiration of the 90-day period following the date of the enactment of this Act [Feb. 5, 1988].”

TERMINATION OF REPORTING REQUIREMENTS

For termination, effective May 15, 2000, of reporting provisions in subsec. (j) of this section, see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance, and page 105 of House Document No. 103-7.

DELEGATION OF PROCESSING OF MORTGAGE INSURANCE

Secretary of Housing and Urban Development to implement system of mortgage insurance for mortgages insured under this section that delegates processing functions to selected approved mortgagees, with Secretary to retain authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute firm commitments, see section 328 of Pub. L. 101-625, set out as a note under section 1713 of this title.

§ 1715x. Experimental housing insurance

(a) Purpose; authorization

(1) In order to assist in lowering housing costs and improving housing standards, quality, livability, or durability or neighborhood design through the utilization of advanced housing technology, or experimental property standards, the Secretary is authorized to insure and to make commitments to insure, under this section, mortgages (including home improvement loans, and including advances on mortgages during construction) secured by properties including dwellings involving the utilization and testing of advanced technology in housing design, materials, or construction, or experimental property standards for neighborhood design if the Secretary determines that (A) the property is an acceptable risk, giving consideration to the need for testing advanced housing technology or experimental property standards, (B) the utilization and testing of the advanced technology or experimental property standards involved will provide data or experience which the Secretary deems to be significant in reducing housing costs or improving housing standards, quality, livability, or durability, or improving neighborhood design, and (C) the mortgages are eligible for insurance under the provisions of this section and under any further terms and conditions which may be prescribed by the Secretary to establish the acceptability of the mortgages for insurance.

(2) The Secretary is further authorized to insure and to make commitments to insure, under this section, mortgages (including advances on mortgages during construction) secured by properties in projects to be carried out in accordance with plans approved by the Secretary under section 1701z of this title.

(b) Eligibility for insurance; conditions; limits

To be eligible for insurance under this section, a mortgage shall meet the requirements of one of the other sections or subchapters of this chapter; except that, in lieu of determining the appraised value or the replacement cost of the property in cases involving new construction or the estimated cost of repair and rehabilitation or improvement in cases involving existing properties, the Secretary shall estimate the cost