

used in section 1710(a) of this title shall not include the mortgagee's share of net appreciated value".

§ 1715z-19. Equity skimming penalty

(a) In general

Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of a multifamily project or a 1- to 4-family residence that is security for a mortgage note that is described in subsection (b), willfully uses or authorizes the use of any part of the rents, assets, proceeds, income, or other funds derived from property covered by that mortgage note for any purpose other than to meet reasonable and necessary expenses that include expenses approved by the Secretary if such approval is required, in a period during which the mortgage note is in default or the project is in a nonsurplus cash position, as defined by the regulatory agreement covering the property, or the mortgagor has failed to comply with the provisions of such other form of regulatory control imposed by the Secretary, shall be fined not more than \$500,000, imprisoned not more than 5 years, or both.

(b) Mortgage notes described

For purposes of subsection (a), a mortgage note is described in this subsection if it—

- (1) is insured, acquired, or held by the Secretary pursuant to this chapter;
- (2) is made pursuant to section 1701q of this title (including property still subject to section 1701q program requirements that existed before November 28, 1990); or
- (3) is insured or held pursuant to section 1715z-22 of this title, but is not reinsured under section 1715z-22 of this title.

(June 27, 1934, ch. 847, title II, § 254, as added Pub. L. 100-242, title IV, § 416(b), Feb. 5, 1988, 101 Stat. 1908; amended Pub. L. 105-65, title V, § 552, Oct. 27, 1997, 111 Stat. 1412.)

Editorial Notes

AMENDMENTS

1997—Pub. L. 105-65 amended section generally. Prior to amendment, section read as follows: "Whoever, as an owner, agent, or manager, or who is otherwise in custody, control, or possession of property that is security for a mortgage note that is insured, acquired, or held by the Secretary pursuant to section 1709, 1713, 1715e, 1715k, 1715(d)(3), 1715(d)(4), 1715n(f), 1715v, 1715w, 1715y, 1715z-1, 1715z-3(c), 1715z-6, 1715z-7, 1715z-9, 1743, or 1748h-2 of this title, or subchapter IX-B of this chapter, or is made pursuant to section 1701q of this title, willfully uses or authorizes the use of any part of the rents, assets, proceeds, income or other funds derived from property covered by such mortgage note during a period when the mortgage note is in default or the project is in a nonsurplus cash position as defined by the regulatory agreement covering such property, for any purpose other than to meet actual or necessary expenses that include expenses approved by the Secretary if such approval is required under the terms of the regulatory agreement, shall be fined not more than \$250,000 or imprisoned not more than 5 years, or both."

§ 1715z-20. Insurance of home equity conversion mortgages for elderly homeowners

(a) Purpose

The purpose of this section is to authorize the Secretary to carry out a program of mortgage insurance designed—

(1) to meet the special needs of elderly homeowners by reducing the effect of the economic hardship caused by the increasing costs of meeting health, housing, and subsistence needs at a time of reduced income, through the insurance of home equity conversion mortgages to permit the conversion of a portion of accumulated home equity into liquid assets; and

(2) to encourage and increase the involvement of mortgagees and participants in the mortgage markets in the making and servicing of home equity conversion mortgages for elderly homeowners.

(b) Definitions

For purposes of this section:

(1) The terms "elderly homeowner" and "homeowner" mean any homeowner who is, or whose spouse is, at least 62 years of age or such higher age as the Secretary may prescribe.

(2) The terms "mortgagee", "mortgagor", "real estate,"¹ and "State" have the meanings given such terms in section 1707 of this title.

(3) The term "home equity conversion mortgage" means a first mortgage which provides for future payments to the homeowner based on accumulated equity and which a housing creditor (as defined in section 3802(2) of this title) is authorized to make (A) under any law of the United States (other than section 3803 of this title) or applicable agency regulations thereunder; (B) in accordance with section 3803 of this title, notwithstanding any State constitution, law, or regulation; or (C) under any State constitution, law, or regulation.

(4) MORTGAGE.—The term "mortgage" means a first mortgage or first lien on real estate, in fee simple, a first or subordinate mortgage or lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, or a first mortgage or first lien on a leasehold—

(A) under a lease for not less than 99 years that is renewable; or

(B) under a lease that has a term that ends no earlier than the minimum number of years, as specified by the Secretary, beyond the actuarial life expectancy of the mortgagor or comortgagor, whichever is the later date.

(5) FIRST MORTGAGE.—The term "first mortgage" means such classes of first liens as are commonly given to secure advances on, or the unpaid purchase price of, real estate or a first or subordinate lien on all stock allocated to a dwelling unit in a residential cooperative housing corporation, under the laws of the State in which the real estate or dwelling unit is located, together with the credit instruments, if any, secured thereby.

(c) Insurance authority

The Secretary may, upon application by a mortgagee, insure any home equity conversion mortgage eligible for insurance under this section and, upon such terms and conditions as the

¹ So in original. The comma probably should follow the closed quotes.

Secretary may prescribe, make commitments for the insurance of such mortgages prior to the date of their execution or disbursement to the extent that the Secretary determines such mortgages—

(1) have promise for improving the financial situation or otherwise meeting the special needs of elderly homeowners;

(2) will include appropriate safeguards for mortgagors to offset the special risks of such mortgages; and

(3) have a potential for acceptance in the mortgage market.

(d) Eligibility requirements

To be eligible for insurance under this section, a mortgage shall—

(1) have been originated by a mortgagee approved by the Secretary;

(2) have been executed by a mortgagor who—

(A) qualifies as an elderly homeowner;

(B) has received adequate counseling, as provided in subsection (f), by an independent third party that is not, either directly or indirectly, associated with or compensated by a party involved in—

(i) originating or servicing the mortgage;

(ii) funding the loan underlying the mortgage; or

(iii) the sale of annuities, investments, long-term care insurance, or any other type of financial or insurance product;

(C) has received full disclosure, as prescribed by the Secretary, of all costs charged to the mortgagor, including costs of estate planning, financial advice, and other services that are related to the mortgage but are not required to obtain the mortgage, which disclosure shall clearly state which charges are required to obtain the mortgage and which are not required to obtain the mortgage; and

(D) meets any additional requirements prescribed by the Secretary;

(3) be secured by a dwelling that is designed principally for a 1- to 4-family residence in which the mortgagor occupies 1 of the units;

(4) provide that prepayment, in whole or in part, may be made without penalty at any time during the period of the mortgage;

(5) provide for a fixed or variable interest rate or future sharing between the mortgagor and the mortgagee of the appreciation in the value of the property, as agreed upon by the mortgagor and the mortgagee;

(6) contain provisions for satisfaction of the obligation satisfactory to the Secretary;

(7) provide that the homeowner shall not be liable for any difference between the net amount of the remaining indebtedness of the homeowner under the mortgage and the amount recovered by the mortgagee from—

(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or

(B) the insurance benefits paid pursuant to subsection (i)(1)(C);

(8) contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserve, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may prescribe;

(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

(A) based upon a line of credit;

(B) on a monthly basis over a term specified by the mortgagor;

(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

(D) on a monthly basis over the tenure of the mortgagor;

(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

(F) on any other basis that the Secretary considers appropriate;

(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility; and

(11) have been made with such restrictions as the Secretary determines to be appropriate to ensure that the mortgagor does not fund any unnecessary or excessive costs for obtaining the mortgage, including any costs of estate planning, financial advice, or other related services.

(e) Disclosures by mortgagee

The Secretary shall require each mortgagee of a mortgage insured under this section to make available to the homeowner—

(1) at the time of the loan application, a written list of the names and addresses of third-party information sources who are approved by the Secretary as responsible and able to provide the information required by subsection (f);

(2) at least 10 days prior to loan closing, a statement informing the homeowner that the liability of the homeowner under the mortgage is limited and explaining the homeowner's rights, obligations, and remedies with respect to temporary absences from the home, late payments, and payment default by the lender, all conditions requiring satisfaction of the loan obligation, and any other information that the Secretary may require;

(3) on an annual basis (but not later than January 31 of each year), a statement summarizing the total principal amount paid to the homeowner under the loan secured by the mortgage, the total amount of deferred interest added to the principal, and the outstanding loan balance at the end of the preceding year; and

(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future

loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

(A) the cost for a short-term mortgage; and

(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor.

(f) Counseling services and information for mortgagors

The Secretary shall provide or cause to be provided adequate counseling for the mortgagor, as described in subsection (d)(2)(B). Such counseling shall be provided by counselors that meet qualification standards and follow uniform counseling protocols. The qualification standards and counseling protocols shall be established by the Secretary within 12 months of July 30, 2008. The protocols shall require a qualified counselor to discuss with each mortgagor information which shall include—

(1) options other than a home equity conversion mortgage that are available to the homeowner, including other housing, social service, health, and financial options;

(2) other home equity conversion options that are or may become available to the homeowner, such as sale-leaseback financing, deferred payment loans, and property tax deferral;

(3) the financial implications of entering into a home equity conversion mortgage;

(4) a disclosure that a home equity conversion mortgage may have tax consequences, affect eligibility for assistance under Federal and State programs, and have an impact on the estate and heirs of the homeowner; and

(5) any other information that the Secretary may require.

The Secretary shall consult with consumer groups, industry representatives, representatives of counseling organizations, and other interested parties to identify alternative approaches to providing consumer information required by this subsection that may be feasible and desirable for home equity conversion mortgages insured under this section and other types of reverse mortgages. The Secretary may, in lieu of providing the consumer education required by this subsection, adopt alternative approaches to consumer education that may be developed as a result of such consultations, but only if the alternative approaches provide all of the information specified in this subsection.

(g) Limitation on insurance authority

The aggregate number of mortgages insured under this section may not exceed 275,000. In no case may the benefits of insurance under this section exceed the maximum dollar amount limitation established under section 1454(a)(2) of this title for a 1-family residence.

(h) Administrative authority

The Secretary may—

(1) enter into such contracts and agreements with Federal, State, and local agencies, public and private entities, and such other persons as the Secretary determines to be necessary or

desirable to carry out the purposes of this section;

(2) make such investigations and studies of data, and publish and distribute such reports, as the Secretary determines to be appropriate; and

(3) establish, by notice or mortgagee letter, any additional or alternative requirements that the Secretary, in the Secretary's discretion, determines are necessary to improve the fiscal safety and soundness of the program authorized by this section, which requirements shall take effect upon issuance.

(i) Protection of homeowner and lender

(1) Notwithstanding any other provision of law, and in order to further the purposes of the program authorized in this section, the Secretary shall take any action necessary—

(A) to provide any mortgagor under this section with funds to which the mortgagor is entitled under the insured mortgage or ancillary contracts but that the mortgagor has not received because of the default of the party responsible for payment;

(B) to obtain repayment of disbursements provided under subparagraph (A) from any source; and

(C) to provide any mortgagee under this section with funds not to exceed the limitations in subsection (g) to which the mortgagee is entitled under the terms of the insured mortgage or ancillary contracts authorized in this section.

(2) Actions under paragraph (1) may include—

(A) disbursing funds to the mortgagor or mortgagee from the Mutual Mortgage Insurance Fund;

(B) accepting an assignment of the insured mortgage notwithstanding that the mortgagor is not in default under its terms, and calculating the amount and making the payment of the insurance claim on such assigned mortgage;

(C) requiring a subordinate mortgage from the mortgagor at any time in order to secure repayments of any funds advanced or to be advanced to the mortgagor;

(D) requiring a subrogation to the Secretary of the rights of any parties to the transaction against any defaulting parties; and

(E) imposing premium charges.

(j) Safeguard to prevent displacement of homeowner

The Secretary may not insure a home equity conversion mortgage under this section unless such mortgage provides that the homeowner's obligation to satisfy the loan obligation is deferred until the homeowner's death, the sale of the home, or the occurrence of other events specified in regulations of the Secretary. For purposes of this subsection, the term "homeowner" includes the spouse of a homeowner. Section 1647(b) of title 15 and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.

(k) Insurance authority for refinancings

(1) In general

The Secretary may, upon application by a mortgagee, insure under this subsection any

mortgage given to refinance an existing home equity conversion mortgage insured under this section.

(2) Anti-churning disclosure

The Secretary shall, by regulation, require that the mortgagee of a mortgage insured under this subsection, provide to the mortgagor, within an appropriate time period and in a manner established in such regulations, a good faith estimate of: (A) the total cost of the refinancing; and (B) the increase in the mortgagor's principal limit as measured by the estimated initial principal limit on the mortgage to be insured under this subsection less the current principal limit on the home equity conversion mortgage that is being refinanced and insured under this subsection.

(3) Waiver of counseling requirement

The mortgagor under a mortgage insured under this subsection may waive the applicability, with respect to such mortgage, of the requirements under subsection (d)(2)(B) (relating to third party counseling), but only if—

(A) the mortgagor has received the disclosure required under paragraph (2);

(B) the increase in the principal limit described in paragraph (2) exceeds the amount of the total cost of refinancing (as described in such paragraph) by an amount to be determined by the Secretary; and

(C) the time between the closing of the original home equity conversion mortgage that is refinanced through the mortgage insured under this subsection and the application for a refinancing mortgage insured under this subsection does not exceed 5 years.

(4) Credit for premiums paid

Notwithstanding section 1709(c)(2)(A) of this title, the Secretary may reduce the amount of the single premium payment otherwise collected under such section at the time of the insurance of a mortgage refinanced and insured under this subsection. The amount of the single premium for mortgages refinanced under this subsection shall be determined by the Secretary based on the actuarial study required under paragraph (5).

(5) Actuarial study

Not later than 180 days after December 27, 2000, the Secretary shall conduct an actuarial analysis to determine the adequacy of the insurance premiums collected under the program under this subsection with respect to—

(A) a reduction in the single premium payment collected at the time of the insurance of a mortgage refinanced and insured under this subsection;

(B) the establishment of a single national limit on the benefits of insurance under subsection (g) (relating to limitation on insurance authority); and

(C) the combined effect of reduced insurance premiums and a single national limitation on insurance authority.

(6) Fees

The Secretary may establish a limit on the origination fee that may be charged to a mort-

gagor under a mortgage insured under this subsection, except that such limitation shall provide that the origination fee may be fully financed with the mortgage and shall include any fees paid to correspondent mortgagees approved by the Secretary.

(l) Funding for counseling

The Secretary may use a portion of the mortgage insurance premiums collected under the program under this section to adequately fund the counseling and disclosure activities required under subsection (f), including counseling for those homeowners who elect not to take out a home equity conversion mortgage, provided that the use of such funds is based upon accepted actuarial principles.

(m) Authority to insure home purchase mortgage

(1) In general

Notwithstanding any other provision of this section, the Secretary may insure, upon application by a mortgagee, a home equity conversion mortgage upon such terms and conditions as the Secretary may prescribe, when the home equity conversion mortgage will be used to purchase a 1- to 4-family dwelling unit, one unit of which the mortgagor will occupy as a primary residence, and to provide for any future payments to the mortgagor, based on available equity, as authorized under subsection (d)(9).

(2) Limitation on principal obligation

A home equity conversion mortgage insured pursuant to paragraph (1) shall involve a principal obligation that does not exceed the dollar amount limitation determined under section 1454(a)(2) of this title for a 1-family residence.

(n) Requirements on mortgage originators

(1) In general

The mortgagee and any other party that participates in the origination of a mortgage to be insured under this section shall—

(A) not participate in, be associated with, or employ any party that participates in or is associated with any other financial or insurance activity; or

(B) demonstrate to the Secretary that the mortgagee or other party maintains, or will maintain, firewalls and other safeguards designed to ensure that—

(i) individuals participating in the origination of the mortgage shall have no involvement with, or incentive to provide the mortgagor with, any other financial or insurance product; and

(ii) the mortgagor shall not be required, directly or indirectly, as a condition of obtaining a mortgage under this section, to purchase any other financial or insurance product.

(2) Approval of other parties

All parties that participate in the origination of a mortgage to be insured under this section shall be approved by the Secretary.

(o) Prohibition against requirements to purchase additional products

The mortgagor or any other party shall not be required by the mortgagee or any other party to

purchase an insurance, annuity, or other similar product as a requirement or condition of eligibility for insurance under subsection (c), except for title insurance, hazard, flood, or other peril insurance, or other such products that are customary and normal under subsection (c), as determined by the Secretary.

(p) Study to determine consumer protections and underwriting standards

The Secretary shall conduct a study to examine and determine appropriate consumer protections and underwriting standards to ensure that the purchase of products referred to in subsection (o) is appropriate for the consumer. In conducting such study, the Secretary shall consult with consumer advocates (including recognized experts in consumer protection), industry representatives, representatives of counseling organizations, and other interested parties.

(r)² Limitation on origination fees

The Secretary shall establish limits on the origination fee that may be charged to a mortgagor under a mortgage insured under this section, which limitations shall—

(1) be equal to 2.0 percent of the maximum claim amount of the mortgage, up to a maximum claim amount of \$200,000 plus 1 percent of any portion of the maximum claim amount that is greater than \$200,000, unless adjusted thereafter on the basis of an analysis of—

(A) the costs to mortgagors; and

(B) the impact on the reverse mortgage market;

(2) be subject to a minimum allowable amount;

(3) provide that the origination fee may be fully financed with the mortgage;

(4) include any fees paid to correspondent mortgagees approved by the Secretary;

(5) have the same effective date as subsection (m)(2) regarding the limitation on principal obligation; and

(6) be subject to a maximum origination fee of \$6,000, except that such maximum limit shall be adjusted in accordance with the annual percentage increase in the Consumer Price Index of the Bureau of Labor Statistics of the Department of Labor in increments of \$500 only when the percentage increase in such index, when applied to the maximum origination fee, produces dollar increases that exceed \$500.

(June 27, 1934, ch. 847, title II, §255, as added Pub. L. 100-242, title IV, §417(a), Feb. 5, 1988, 101 Stat. 1908; amended Pub. L. 100-628, title X, §1066, Nov. 7, 1988, 102 Stat. 3275; Pub. L. 101-508, title II, §2106, Nov. 5, 1990, 104 Stat. 1388-20; Pub. L. 101-625, title III, §334(b)-(d), Nov. 28, 1990, 104 Stat. 4141, 4142; Pub. L. 102-389, title II, Oct. 6, 1992, 106 Stat. 1592; Pub. L. 102-550, title V, §503(c)(2), 520, Oct. 28, 1992, 106 Stat. 3779, 3793; Pub. L. 104-99, title IV, §406, Jan. 26, 1996, 110 Stat. 45; Pub. L. 104-120, §6, Mar. 28, 1996, 110 Stat. 835; Pub. L. 105-276, title V, §593(a)-(e)(1), Oct. 21, 1998, 112 Stat. 2654, 2655; Pub. L. 106-569, title II, §201(a)(1), (b), (c)(1), Dec. 27, 2000, 114 Stat. 2948, 2950; Pub. L. 109-13, div. A, title VI,

§6074, May 11, 2005, 119 Stat. 300; Pub. L. 109-289, div. B, §131, Sept. 29, 2006, 120 Stat. 1316; Pub. L. 110-289, div. B, title I, §§2118(b)(2), 2122(a)-(c), July 30, 2008, 122 Stat. 2835-2838; Pub. L. 111-22, div. A, title II, §206, May 20, 2009, 123 Stat. 1654; Pub. L. 113-29, §2, Aug. 9, 2013, 127 Stat. 509.)

Editorial Notes

AMENDMENTS

2013—Subsec. (h)(3). Pub. L. 113-29 added par. (3).

2009—Subsec. (b)(4)(B). Pub. L. 111-22 added subpar. (B) and struck out former subpar. (B), which read as follows: “under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.”

2008—Subsec. (b)(2). Pub. L. 110-289, §2122(a)(1), inserted “‘real estate,’” after “‘mortgagor’”.

Subsec. (b)(4). Pub. L. 110-289, §2122(b)(1), in introductory provisions, inserted “a first or subordinate mortgage or lien” before “on all stock”, “unit” before “in a residential”, and “a first mortgage or first lien” before “on a leasehold”.

Subsec. (b)(5). Pub. L. 110-289, §2122(b)(2), inserted “a first or subordinate lien on” before “all stock”.

Subsec. (d)(1). Pub. L. 110-289, §2122(a)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “have been made to a mortgagee approved by the Secretary as responsible and able to service the mortgage properly;”.

Subsec. (d)(2)(B). Pub. L. 110-289, §2122(a)(3), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “has received adequate counseling by a third party (other than the lender) as provided in subsection (f) of this section;”.

Subsec. (f). Pub. L. 110-289, §2122(a)(4), substituted “Counseling services and information for mortgagors” for “Information services for mortgagors” in heading and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The Secretary shall provide or cause to be provided by entities other than the lender the information required in subsection (d)(2)(B) of this section. Such information shall be discussed with the mortgagor and shall include—”.

Subsec. (g). Pub. L. 110-289, §2122(a)(5), substituted “limitation established under section 1454(a)(2) of this title for a 1-family residence” for “established under section 1709(b)(2) of this title for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located”.

Subsec. (i)(2)(A). Pub. L. 110-289, §2118(b)(2), substituted “Mutual Mortgage Insurance Fund” for “General Insurance Fund”.

Subsec. (l). Pub. L. 110-289, §2122(a)(8), amended subsec. (l) generally. Prior to amendment, subsec. (l) related to funding for counseling and consumer education and outreach.

Pub. L. 110-289, §2122(a)(6), (7), redesignated subsec. (m) as (l) and struck out former subsec. (l) which related to waiver of up-front premiums for mortgages to fund long-term care insurance.

Subsecs. (m) to (p). Pub. L. 110-289, §2122(a)(9), added subsecs. (m) to (p). Former subsec. (m) redesignated (l).

Subsec. (r). Pub. L. 110-289, §2122(c), added subsec. (r). 2006—Subsec. (g). Pub. L. 109-289 substituted “275,000” for “250,000”.

2005—Subsec. (g). Pub. L. 109-13 substituted “250,000” for “150,000”.

2000—Subsec. (b)(2). Pub. L. 106-569, §201(b)(1), struck out “‘mortgage,’” before “‘mortgagee,’”.

Subsec. (b)(4), (5). Pub. L. 106-569, §201(b)(2), added pars. (4) and (5).

Subsecs. (k) to (m). Pub. L. 106-569, §201(a)(1), (c)(1), added subsecs. (k) and (l) and redesignated former subsec. (k) as (m).

1998—Pub. L. 105-276, §593(d)(1), struck out “Demonstration program of” before “Insurance” in section catchline.

² So in original. No subsec. (q) has been enacted.

Subsec. (a). Pub. L. 105-276, §593(d)(2), (3), struck out “demonstration” before “program” in introductory provisions, inserted “and” at end of par. (1), substituted a period for “; and” at end of par. (2), and struck out par. (3) which read as follows: “to require the evaluation of data to determine—

“(A) the extent of the need and demand among elderly homeowners for insured and uninsured home equity conversion mortgages;

“(B) the types of home equity conversion mortgages that best serve the needs and interests of elderly homeowners, the Federal Government, and lenders; and

“(C) the appropriate scope and nature of participation by the Secretary in connection with home equity conversion mortgages for elderly homeowners.”

Subsec. (d)(2)(C), (D). Pub. L. 105-276, §593(e)(1)(A), added subpar. (C) and redesignated former subpar. (C) as (D).

Subsec. (d)(11). Pub. L. 105-276, §593(e)(1)(B)-(D), added par. (11).

Subsec. (f). Pub. L. 105-276, §593(b), inserted concluding provisions.

Subsec. (g). Pub. L. 105-276, §593(a), substituted “The aggregate number of mortgages insured under this section may not exceed 150,000.” for “No mortgage may be insured under this section after September 30, 2000, except pursuant to a commitment to insure issued on or before such date. The total number of mortgages insured under this section may not exceed 50,000.”

Subsec. (i)(1). Pub. L. 105-276, §593(d)(2), struck out “demonstration” before “program” in introductory provisions.

Subsec. (k). Pub. L. 105-276, §593(d)(4), (5), redesignated subsec. (l) as (k) and struck out heading and text of former subsec. (k), which had required interim report not later than Sept. 30, 1989, on design and implementation of demonstration program of insurance of home equity conversion mortgages for elderly homeowners, preliminary evaluation of program incorporating comments and recommendations not later than Mar. 30, 1992, and updated report and evaluation biennially thereafter, including analysis of repayment of home equity conversion mortgages during report period.

Subsec. (l). Pub. L. 105-276, §593(d)(5), redesignated subsec. (l) as (k).

Pub. L. 105-276, §593(c), added subsec. (l).

1996—Subsec. (d)(3). Pub. L. 104-120, §6(c), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “be secured by a dwelling that is designed principally for a 1-family residence and is occupied by the mortgagor;”

Subsec. (g). Pub. L. 104-120, §6(a), (b), substituted “2000” for “1996” and “50,000” for “30,000”.

Pub. L. 104-99 substituted “1996” for “1995” and “30,000” for “25,000”.

1992—Subsec. (g). Pub. L. 102-389 and Pub. L. 102-550, §503(c)(2), amended subsec. (g) identically, substituting “for 1-family residences in the area in which the dwelling subject to the mortgage under this section is located” for “for a 1-family residence”.

Subsec. (j). Pub. L. 102-550, §520, inserted at end “Section 1647(b) of title 15 and any implementing regulations issued by the Board of Governors of the Federal Reserve System shall not apply to a mortgage insured under this section.”

1990—Subsec. (d)(7)(A). Pub. L. 101-625, §334(c), added subpar. (A) and struck out former subpar. (A) which read as follows: “the foreclosure sale; or”.

Subsec. (d)(9), (10). Pub. L. 101-625, §334(b), added pars. (9) and (10).

Subsec. (e)(2). Pub. L. 101-625, §334(d)(1), substituted “statement informing the homeowner that the liability of the homeowner under the mortgage is limited and” for “statement” and struck out “and” at end.

Subsec. (e)(4). Pub. L. 101-625, §334(d)(2), (3), added par. (4).

Subsec. (g). Pub. L. 101-508, §2106, substituted “September 30, 1995” for “September 30, 1991” and “may not exceed 25,000” for “may not exceed 2,500”.

1988—Subsec. (b)(3). Pub. L. 100-628, §1066(a), made technical amendment to reference to section 3802(2) of this title to correct reference to corresponding provision of original act.

Subsec. (d)(3). Pub. L. 100-628, §1066(b), struck out “and that has a value not to exceed the maximum dollar amount established by the Secretary under section 1709(b)(2) of this title for a 1-family residence” after “by the mortgagor”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-569, title II, §201(c)(2), Dec. 27, 2000, 114 Stat. 2951, provided that: “The provisions of section 255(l) of the National Housing Act [former 12 U.S.C. 1715z-20(l)] (as added by paragraph (1) of this subsection) shall apply only to mortgages closed on or after April 1, 2001.”

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105-276, title V, §593(f), Oct. 21, 1998, 112 Stat. 2655, provided that: “This section [amending this section and enacting provisions set out as a note below] shall take effect on, and the amendments made by this section are made on, and shall apply beginning upon, the date of the enactment of this Act [Oct. 21, 1998].”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-120 to be construed to have become effective Oct. 1, 1995, see section 13(a) of Pub. L. 104-120, set out as an Effective and Termination Dates of 1996 Amendments note under section 1437d of Title 42, The Public Health and Welfare.

REGULATIONS

Pub. L. 106-569, title II, §201(a)(2), Dec. 27, 2000, 114 Stat. 2949, provided that: “The Secretary shall issue any final regulations necessary to implement the amendments made by paragraph (1) of this subsection [amending this section], which shall take effect not later than the expiration of the 180-day period beginning on the date of the enactment of this Act [Dec. 27, 2000]. The regulations shall be issued after notice and opportunity for public comment in accordance with the procedure under section 553 of title 5, United States Code, applicable to substantive rules (notwithstanding subsections (a)(2), (b)(B), and (d)(3) of such section).”

Pub. L. 100-242, title IV, §417(b), Feb. 5, 1988, 101 Stat. 1912, directed Secretary of Housing and Urban Development, not later than 6 months after Feb. 5, 1988, to consult with lenders, insurers, and organizations and individuals with expertise in home equity conversion in developing proposed regulations implementing this section and not later than 9 months after Feb. 5, 1988, to issue proposed regulations implementing this section.

IMPLEMENTATION OF 1998 AMENDMENT

Pub. L. 105-276, title V, §593(e)(2), Oct. 21, 1998, 112 Stat. 2655, provided that:

“(A) NOTICE.—The Secretary of Housing and Urban Development shall, by interim notice, implement the amendments made by paragraph (1) [amending this section] in an expeditious manner, as determined by the Secretary. Such notice shall not be effective after the date of the effectiveness of the final regulations issued under subparagraph (B) of this paragraph.

“(B) REGULATIONS.—The Secretary shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act [Oct. 21, 1998], issue final regulations to implement the amendments made by paragraph (1). Such regulations shall be issued only after notice and opportunity for public comment pursuant to the provisions of section 553 of title 5, United States Code (notwithstanding subsections (a)(2) and (b)(3)(B) of such section).”

§ 1715z-21. Delegation of insuring authority to direct endorsement mortgagees

(a) Authority

The Secretary may delegate, to one or more mortgagees approved by the Secretary under the direct endorsement program, the authority of the Secretary under this chapter to insure mortgages involving property upon which there is located a dwelling designed principally for occupancy by 1 to 4 families.

(b) Considerations

In determining whether to delegate authority to a mortgagee under this section, the Secretary shall consider the experience and performance of the mortgagee compared to the default rate of all insured mortgages in comparable markets, and such other factors as the Secretary determines appropriate to minimize risk of loss to the insurance funds under this chapter.

(c) Enforcement of insurance requirements

(1) In general

If the Secretary determines that a mortgage insured by a mortgagee pursuant to delegation of authority under this section was not originated in accordance with the requirements established by the Secretary, and the Secretary pays an insurance claim with respect to the mortgage within a reasonable period specified by the Secretary, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss.

(2) Fraud or misrepresentation

If fraud or misrepresentation was involved in connection with the origination, the Secretary may require the mortgagee approved under this section to indemnify the Secretary for the loss regardless of when an insurance claim is paid.

(d) Termination of mortgagee's authority

If a mortgagee to which the Secretary has made a delegation under this section violates the requirements and procedures established by the Secretary or the Secretary determines that other good cause exists, the Secretary may cancel a delegation of authority under this section to the mortgagee by giving notice to the mortgagee. Such a cancellation shall be effective upon receipt of the notice by the mortgagee or at a later date specified by the Secretary. A decision by the Secretary to cancel a delegation shall be final and conclusive and shall not be subject to judicial review.

(e) Requirements and procedures

Before approving a delegation under this section, the Secretary shall issue regulations establishing appropriate requirements and procedures, including requirements and procedures governing the indemnification of the Secretary by the mortgagee.

(June 27, 1934, ch. 847, title II, §256, as added Pub. L. 104-204, title IV, §427, Sept. 26, 1996, 110 Stat. 2928.)

§ 1715z-22. Multifamily mortgage credit programs

(a) In general

The Secretary of Housing and Urban Development (hereinafter referred to as the "Sec-

retary") shall carry out programs through the Federal Housing Administration to provide new forms of Federal credit enhancement for multifamily loans. In carrying out the programs, the Secretary shall include an evaluation of the effectiveness of entering into partnerships or other contractual arrangements including reinsurance and risk-sharing agreements with State or local housing finance agencies, the Federal Housing Finance Board, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, qualified financial institutions, and other State or local mortgage insurance companies or bank lending consortia.

(b) Risk-sharing program

(1) In general

The Secretary shall carry out a program in conjunction with qualified participating entities to provide Federal credit enhancement for loans for affordable multifamily housing through a system of risk-sharing agreements with such entities.

(2) Program requirements

(A) In general

In carrying out the program under this subsection, the Secretary shall enter into risk-sharing agreements with qualified participating entities.

(B) Mortgage insurance and reinsurance

Agreements under subparagraph (A) may provide for (i) mortgage insurance through the Federal Housing Administration of loans for affordable multifamily housing originated by or through, or purchased by, qualified participating entities, and (ii) reinsurance, including reinsurance of pools of loans, on affordable multifamily housing. In entering into risk-sharing agreements under this subsection covering mortgages, the Secretary may give preference to mortgages that are not already in the portfolios of qualified participating entities.

(C) Risk apportionment

Agreements entered into under this subsection between the Secretary and a qualified participating entity shall specify the percentage of loss that each of the parties to the agreement will assume in the event of default of the insured or reinsured multifamily mortgage. Such agreements shall specify that the qualified participating entity and the Secretary shall share any loss in accordance with the risk-sharing agreement.

(D) Reimbursement capacity

Agreements entered into under this subsection between the Secretary and a qualified participating entity shall provide evidence acceptable to the Secretary of the capacity of such entity to fulfill any reimbursement obligations made pursuant to this subsection. Evidence of such capacity which may be considered by the Secretary may include—

- (i) a pledge of the full faith and credit of a qualified participating entity to fulfill any obligations entered into by the entity;
- (ii) reserves pledged or otherwise restricted by the qualified participating en-