

**Editorial Notes**

## REFERENCES IN TEXT

Subsection (k) of section 1710 of this title, referred to in subsec. (a)(1), was repealed by Pub. L. 105-276, title VI, § 601(c), Oct. 21, 1998, 112 Stat. 2673.

Section 1715z-2 of this title, referred to in subsecs. (a)(1) and (b), was repealed by Pub. L. 110-289, div. B, title I, § 2120(a)(6), July 30, 2008, 122 Stat. 2835.

This chapter, referred to in subsec. (c)(1), was in the original “this Act”, meaning act June 27, 1934, ch. 847, 48 Stat. 1246, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

## AMENDMENTS

1994—Subsec. (b). Pub. L. 103-233, §105(a), struck out after fourth sentence “There is authorized to be appropriated such sums as may be needed from time to time to cover losses sustained by the fund in carrying out the mortgage insurance obligations of sections 1715n(e), 1715x(a)(2), 1715z, 1715z-1, 1715z-2, and 1715z-8 of this title.”

Subsec. (c)(3). Pub. L. 103-233, §103(g)(1), added par. (3).

1977—Subsec. (c). Pub. L. 95-128 substituted provisions of pars. (1) and (2) respecting mortgage insurance for military impacted areas, criteria therefore, and establishment of premiums and other charges for prior subsec. (c), which had authorized use of the Special Risk Insurance Fund to carry out mortgage insurance obligations of sections 1709 and 1713 of this title to provide housing for military personnel, Federal civilian employees, and Federal contractor employees assigned to duty or employed at or in connection with any installation of the Armed Forces in federally impacted areas where in the judgment of the Secretary (1) the residual housing requirements for persons not associated with such installations were insufficient to sustain the housing market in the event of substantial curtailment of employment of personnel assigned to such installations, and (2) the benefits to be derived from such use outweighed the risk of possible cost to the Government.

1974—Subsec. (c). Pub. L. 93-383 added subsec. (c).

1970—Subsec. (a)(1). Pub. L. 91-351, §503(1), inserted references to section 1715z-8 of this title wherever appearing.

Subsec. (b). Pub. L. 91-609 provided for guarantee as to principal and interest by any agency of the United States and for investment of moneys in bonds or other obligations the proceeds of which will be used to directly support the residential mortgage market.

Pub. L. 91-351, §503(2), inserted references to section 1715z-8 of this title wherever appearing.

1969—Subsec. (b). Pub. L. 91-152 increased from \$5,000,000 to a total sum of \$20,000,000, at such times and in such amounts as he may determine to be necessary, the amount authorized to be advanced by the Secretary to the Fund.

**§ 1715z-4. Modifications in terms of mortgages covering multifamily projects; requests for extensions to cure defaults or for modification of mortgage terms; regulations**

The Secretary shall not consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, as defined in the regulations of the Secretary, or for a modification of the terms of such mortgage, except in conformity with regulations prescribed by the Secretary in accordance with the provisions of this section. Such regulations shall require, as a condition to the granting of any such request, that, during the period of such extension or modification, any part of the rents or other funds derived by

the mortgagor from the property covered by the mortgage which is not required to meet actual and necessary expenses arising in connection with the operation of such property, including amortization charges under the mortgage, be held in trust by the mortgagor and distributed only with the consent of the Secretary; except that the Secretary may provide for the granting of consent to any request for an extension of the time for curing a default under any mortgage covering multifamily housing, or for a modification of the term of such mortgage, without regard to the foregoing requirement, in any case or class of cases in which an exemption from such requirement does not (as determined by the Secretary) jeopardize the interests of the United States.

(June 27, 1934, ch. 847, title II, §239, as added Pub. L. 90-448, title III, §302, Aug. 1, 1968, 82 Stat. 506; amended Pub. L. 100-242, title IV, §416(c), Feb. 5, 1988, 101 Stat. 1908.)

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## AMENDMENTS

1988—Pub. L. 100-242 struck out “insured” before “mortgages” in section catchline, and struck out subsec. (a) designation and subsec. (b) which related to violations and penalties imposed for violations of the provisions of former subsec. (a).

**§ 1715z-4a. Double damages remedy for unauthorized use of multifamily housing project assets and income**

**(a) Action to recover assets or income**

(1) The Secretary of Housing and Urban Development (referred to in this section as the “Secretary”) may request the Attorney General to bring an action in a United States district court to recover any assets or income used by any person in violation of (A) a regulatory agreement that applies to a multifamily project, nursing home, intermediate care facility, board and care home, assisted living facility, or hospital whose mortgage is or, at the time of the violations, was insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.]; (B) a regulatory agreement that applies to a multifamily project whose mortgage is or, at the time of the violations, was insured or held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held or, at the time of the violations, was<sup>1</sup> insured or held by the Secretary under section 1715z-22 of this title, but not reinsured under section 1715z-22 of this title; or (D) any applicable regulation. For purposes of this section, a use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation shall include any use for which the documentation in the books and accounts does not establish that the use was made for a reasonable operating ex-

<sup>1</sup> So in original.

pense or necessary repair of the property and has not been maintained in accordance with the requirements of the Secretary and in reasonable condition for proper audit.

(2) For purposes of a mortgage insured or held by the Secretary under title II of the National Housing Act [12 U.S.C. 1707 et seq.], under section 1701q of this title (including section 1701q of this title as it existed before November 28, 1990) and under section 1715z-22 of this title, the term “any person” shall mean any person or entity that owns or operates a property, as identified in the regulatory agreement, including but not limited to—

(A) any stockholder holding 25 percent or more interest of a corporation that owns that property;

(B) any beneficial owner of the property under any business or trust;

(C) any officer, director, or partner of an entity owning or controlling the property;

(D) any nursing home lessee or operator;

(E) any hospital lessee or operator;

(F) any other person or entity that controls the property regardless of that person or entity’s official relationship to the property; and

(G) any heir, assignee, successor in interest, or agent of any person or entity described in the preceding subparagraphs.

**(b) Initiation of proceedings and temporary relief**

The Attorney General, upon request of the Secretary, shall have the exclusive authority to authorize the initiation of proceedings under this section. Pending final resolution of any action under this section, the court may grant appropriate temporary or preliminary relief, including restraining orders, injunctions, and acceptance of satisfactory performance bonds, to protect the interests of the Secretary and to prevent use of assets or income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, and any applicable regulation and to prevent loss of value of the realty and personalty involved.

**(c) Amount recoverable**

In any judgment favorable to the United States entered under this section, the Attorney General may recover double the value of the assets and income of the property that the court determines to have been used in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation, plus all costs relating to the action, including but not limited to reasonable attorney and auditing fees. Notwithstanding any other provision of law, the Secretary may apply the recovery, or any portion of the recovery, to the property or to the applicable insurance fund under the National Housing Act [12 U.S.C. 1701 et seq.] or, in the case of any project for which the mortgage is held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various

programs administered by the Secretary, as appropriate.

**(d) Time limitation**

Notwithstanding any other statute of limitations, the Secretary may request the Attorney General to bring an action under this section at any time up to and including 6 years after the latest date that the Secretary discovers any use of a property’s assets and income in violation of the regulatory agreement, or such other form of regulatory control as may be imposed by the Secretary, or any applicable regulation.

**(e) Continued availability of other remedies**

The remedy provided by this section is in addition to any other remedies available to the Secretary or the United States.

(Pub. L. 100-242, title IV, §421, Feb. 5, 1988, 101 Stat. 1913; Pub. L. 105-65, title V, §563, Oct. 27, 1997, 111 Stat. 1419; Pub. L. 108-447, div. I, title II, §220, Dec. 8, 2004, 118 Stat. 3319; Pub. L. 109-115, div. A, title III, §324, Nov. 30, 2005, 119 Stat. 2466.)

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REFERENCES IN TEXT

The National Housing Act, referred to in subsecs. (a) and (c), is act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to this chapter (§1701 et seq.). Title II of the National Housing Act is classified generally to this subchapter (§1707 et seq.). For complete classification of this Act to the Code, see section 1701 of this title and Tables.

CODIFICATION

Section was enacted as part of the Housing and Community Development Act of 1987, and not as part of the National Housing Act which comprises this chapter.

AMENDMENTS

2005—Subsec. (a)(1)(A). Pub. L. 109-115, §324(1), inserted “or, at the time of the violations, was” after “is”.

Subsec. (a)(1)(C). Pub. L. 109-115, §324(2), inserted “or, at the time of the violations, was insured or held” after “held”.

2004—Subsec. (a)(1). Pub. L. 108-447, §220(3), substituted “property” for “project” in second sentence.

Subsec. (a)(1)(A). Pub. L. 108-447, §220(1), inserted “, nursing home, intermediate care facility, board and care home, assisted living facility, or hospital” after “project”.

Subsec. (a)(1)(B). Pub. L. 108-447, §220(2), inserted “or, at the time of the violations, was” after “whose mortgage is”.

Subsec. (a)(2). Pub. L. 108-447, §220(4), substituted “that owns or operates a property, as identified in the regulatory agreement, including but not limited to—” and subpars. (A) to (G) for “which owns a project, as identified in the regulatory agreement, including but not limited to any stockholder holding 25 percent or more interest of a corporation that owns the project; any beneficial owner under any business or trust; any officer, director, or partner of an entity owning the project; and any heir, assignee, successor in interest, or agent of any owner.”

Subsec. (c). Pub. L. 108-447, §220(5), substituted “property that the court determines” for “project that the court determines” and “property or to the applicable insurance fund” for “project or to the applicable insurance fund”.

Subsec. (d). Pub. L. 108-447, §220(6), substituted “a property’s” for “project”.

1997—Subsec. (a)(1). Pub. L. 105-65, §563(1), substituted “(B) a regulatory agreement that applies to a multi-

family project whose mortgage is insured or held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990); (C) a regulatory agreement or such other form of regulatory control as may be imposed by the Secretary that applies to mortgages insured or held by the Secretary under section 542 of the Housing and Community Development Act of 1992, but not reinsured under section 542 of the Housing and Community Development Act of 1992; or (D)" for "or (B)" in first sentence and inserted ", or such other form of regulatory control as may be imposed by the Secretary," after "regulatory agreement" in second sentence.

Subsec. (a)(2). Pub. L. 105-65, §563(2), inserted "under section 1701q of this title (including section 1701q of this title as it existed before November 28, 1990) and under section 542 of the Housing and Community Development Act of 1992," after "title II of National Housing Act,".

Subsec. (b). Pub. L. 105-65, §563(3), inserted ", or such other form of regulatory control as may be imposed by the Secretary," after "regulatory agreement,".

Subsec. (c). Pub. L. 105-65, §563(4), in first sentence, inserted ", or such other form of regulatory control as may be imposed by the Secretary," after "regulatory agreement" and inserted before period at end of second sentence "or, in the case of any project for which the mortgage is held by the Secretary under section 1701q of this title (including property subject to section 1701q of this title as it existed before November 28, 1990), to the project or to the Department for use by the appropriate office within the Department for administrative costs related to enforcement of the requirements of the various programs administered by the Secretary, as appropriate".

Subsec. (d). Pub. L. 105-65, §563(5), inserted ", or such other form of regulatory control as may be imposed by the Secretary," after "regulatory agreement".

#### § 1715z-5. Purchase of fee simple title from lessors

##### (a) Authorization to insure loans for purpose of financing purchases

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 for the purpose of financing purchases by homeowners of the fee simple title to property on which their homes are located.

##### (b) Definitions

As used in this section—

(1) the term "financial institution" means a lender 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; and

(2) the term "homeowner" means a lessee under a long-term ground lease.

##### (c) Eligibility for insurance

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

(1) relate to property on which there is located a dwelling designed principally for a one-, two-, three-, or four-family residence;

(2) not exceed the cost of purchasing the fee simple title, or \$10,000 (\$30,000, if the property is located in Hawaii) per family unit, whichever is the lesser;

(3) be limited to an amount which when added to any outstanding indebtedness related to the property (as determined by the Sec-

retary) creates a total outstanding indebtedness which does not exceed the applicable mortgage limit prescribed in section 1709(b) of this title;

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

(5) have a maturity satisfactory to the Secretary, but not to exceed twenty years from the beginning of amortization of the loan; and

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

##### (d) Applicability of other provisions of law

The provisions of paragraphs (3), (5), (6), (7), (8), and (10) of section 1715k(h) of this title shall be applicable to loans insured under this section and, as applied to loans insured under this section, references in those paragraphs to "home improvement loans" and "this subsection" shall be construed to refer to loans under this section.

(June 27, 1934, ch. 847, title II, §240, as added Pub. L. 90-448, title III, §304(a), Aug. 1, 1968, 82 Stat. 507; amended Pub. L. 95-557, title III, §314, Oct. 31, 1978, 92 Stat. 2099; Pub. L. 96-399, title III, §333(f), Oct. 8, 1980, 94 Stat. 1653; Pub. L. 98-181, title I [title IV, §404(b)(13)], Nov. 30, 1983, 97 Stat. 1210; Pub. L. 98-479, title II, §204(a)(10), Oct. 17, 1984, 98 Stat. 2232.)

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##### AMENDMENTS

1984—Subsec. (a). Pub. L. 98-479 substituted "purchases" for "purchasers".

1983—Subsec. (c)(4). Pub. L. 98-181 substituted provision that the interest rate be such rate as agreed upon by the mortgagor and the mortgagee for provision that the interest rate not exceed such per centum per annum, not in excess of 6 per centum, on the amount of the principal obligation outstanding at any time, as the Secretary finds necessary to meet market conditions, and such other charges as approved by the Secretary.

1980—Subsec. (c)(5). Pub. L. 96-399 struck out "or three-quarters of the remaining economic life of the home, whichever is the lesser" after "loan".

1978—Subsec. (c)(2). Pub. L. 95-557 inserted "\$30,000, if the property is located in Hawaii)" after "\$10,000".

#### § 1715z-6. Supplemental loans for multifamily projects

##### (a) Authorization to insure; "supplemental loan" defined

With respect to a multifamily project, hospital, or group practice facility covered by a mortgage insured under any section or subchapter of this chapter or covered by a mortgage held by the Secretary, the Secretary is authorized, upon such terms and conditions as he may prescribe, to make commitments to insure, and to insure, supplemental loans (including advances during construction or improvement) made by financial institutions approved by the Secretary. As used in this section, "supplemental loan" means a loan, advance of credit, or purchase of an obligation representing a loan or advance of credit made for the purpose of financing improvements or additions to such project, hospital, or facility: *Provided*, That a loan involving a nursing home, hospital, or a group