

Secretary to make interest subsidy payments under contracts entered into under this section. The aggregate amount of contracts to make such payments shall not exceed amounts approved in appropriation Acts, and payments pursuant to such contracts shall not exceed \$105,000,000 during the first year of such contracts prior to July 1, 1971, which amount shall be increased by an additional \$105,000,000 during the first year of an additional number of such contracts on July 1 of each of the years 1971 and 1972.

(2) No interest subsidy payments under this section shall be made after June 30, 1973, except pursuant to contracts entered into on or before such date.

(i) Determination of family income; exclusion of income of minors

In determining the income of any family for the purposes of this section, income from all sources of each member of the family in the household shall be included, except that the Secretary shall exclude income earned by any minor person.

(j) Insurance of mortgages executed by mortgagors meeting eligibility requirements for assistance payments; issuance of commitment; eligibility requirements for insurance

(1) The Secretary is authorized, upon application by the mortgagee, to insure a mortgage executed by a mortgagor who meets the eligibility requirements for assistance payments prescribed by the Secretary under subsection (b). Commitments for the insurance of such mortgages may be issued by the Secretary prior to the date of their execution or disbursement thereon, upon such terms and conditions as the Secretary may prescribe.

(2) To be eligible for insurance under this subsection, a mortgage shall meet the requirements of section 1715(d)(2) or 1715y(c) of this title, except as such requirements are modified by this subsection: *Provided, however*, That in the discretion of the Secretary 25 per centum of the authority conferred by this section and subject to all the terms thereof may be used for mortgages on existing housing.

(3) A mortgage to be insured under this section shall—

(i) involve a single-family dwelling which has been approved by the Secretary prior to the beginning of construction, or a one-family unit in a condominium project (together with an undivided interest in the common areas and facilities serving the project) which is released from a multifamily project, the construction of which has been completed within two years prior to the filing of the application for assistance payments with respect to such family unit and the unit shall have had no previous occupant other than the mortgagor;

(ii) involve a single-family dwelling whose appraised value, as determined by the Secretary, is not in excess of \$20,000 (which amount may be increased by not more than 50 per centum in any geographical area where the Secretary authorizes an increase on the basis of a finding that the cost level so requires); and

(iii) be executed by a mortgagor who shall have paid in cash or its equivalent on account

of the property (A) 3 per centum of the first \$15,000 of the appraised value of the property, (B) 10 per centum of such value in excess of \$15,000 but not in excess of \$25,000, and (C) 20 per centum of such value in excess of \$25,000.

(June 27, 1934, ch. 847, title II, § 243, as added Pub. L. 91-351, title V, § 502, July 24, 1970, 84 Stat. 458; amended Pub. L. 98-479, title II, § 204(a)(14), (15), Oct. 17, 1984, 98 Stat. 2232.)

Editorial Notes

REFERENCES IN TEXT

Section 501 of the Emergency Home Finance Act of 1970, referred to in subsec. (a), is section 501 of Pub. L. 91-351, which is set out as a note below.

AMENDMENTS

1984—Subsec. (d)(2). Pub. L. 98-479, § 204(a)(14), redesignated subpars. (1), (2), and (3) as subpars. (A), (B), and (C), respectively.

Subsec. (j)(3)(ii). Pub. L. 98-479, § 204(a)(15), substituted “; and” for period at end.

Statutory Notes and Related Subsidiaries

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE

Pub. L. 91-351, title V, § 501, July 24, 1970, 84 Stat. 458, provided that: “The Congress finds that—

“(1) periodic episodes of monetary stringency and high interest rates make it extremely difficult for families of middle income to obtain mortgage credit at rates which they can afford to pay;

“(2) periods of monetary stringency and high interest rates are directly related to the Government’s monetary and fiscal policies;

“(3) a disproportionate share of the burden of sustaining these anti-inflationary policies of the Government falls on families of middle income who are buyers or prospective buyers of homes; and

“(4) the Government has a responsibility to lessen the disproportionate burden which such families bear as a result of such policies.

It is the purpose of this title [enacting this section, and amending sections 1715z-3 and 1719 of this title] to provide, during periods of high mortgage interest rates, a source of mortgage credit for such families which is within their financial means.”

§ 1715z-9. Co-insurance of eligible mortgage, advance, or loan

(a) Authority of Secretary; request of mortgagee; premium charges; provisions of contract of co-insurance; non-applicability of state insurance laws

In addition to providing insurance as otherwise authorized under this chapter, and notwithstanding any other provision of this chapter inconsistent with this section, the Secretary, upon request of any mortgagee and for such mortgage insurance premium as he may prescribe (which premium, or other charges to be paid by the mortgagor, shall not exceed the premium, or other charges, that would otherwise be applicable), may insure and make a commitment to insure under any provision of this subchapter any mortgage, advance, or loan otherwise eligible under such provision, pursuant to a co-insurance contract providing that the mortgagee will—

(1) assume a percentage of any loss on the insured mortgage, advance, or loan in direct proportion to the amount of the co-insurance,

which co-insurance shall not be less than 10 per centum, subject to any reasonable limit or limits on the liability of the mortgagee that may be specified in the event of unusual or catastrophic losses that may be incurred by any one mortgagee; and

(2) carry out (under a delegation or otherwise and with or without compensation but subject to audit, exception, or review requirements) such credit approval, appraisal, inspection, commitment, property disposition, or other functions as the Secretary, pursuant to regulations, shall approve as consistent with the purposes of this chapter.

Any contract of co-insurance under this section shall contain such provisions relating to the sharing of premiums on a sound actuarial basis, establishment of mortgage reserves, manner of calculating insurance benefits, conditions with respect to foreclosure, handling and disposition of property prior to claim or settlement, rights of assignees (which may elect not to be subject to the loss sharing provisions), and other similar matters as the Secretary may prescribe pursuant to regulations. A mortgagee which enters into a contract of co-insurance under this section shall not by reason of such contract, or its adherence to such contract or applicable regulations of the Secretary, including provisions relating to the retention of risks in the event of sale or assignment of a mortgage, be made subject to any State law regulating the business of insurance.

(b) Inspection of construction of dwellings or projects as prerequisite; minimum standards or criteria applicable

No insurance shall be granted pursuant to this section with respect to dwellings or projects approved for insurance prior to the beginning of construction unless the inspection of such construction is conducted in accordance with at least the minimum standards and criteria used with respect to dwellings or projects approved for mortgage insurance pursuant to other provisions of this subchapter.

(c) Repealed. Pub. L. 100-242, title IV, § 414(a), Feb. 5, 1988, 101 Stat. 1907

(d) Repealed. Pub. L. 100-242, title IV, § 401(a)(3), Feb. 5, 1988, 101 Stat. 1898

(e) Availability unaffected insurance otherwise authorized; criteria for exercise of authority by Secretary

The Secretary shall not withdraw, deny, or delay insurance otherwise authorized under any other provision of this chapter by reason of the availability of insurance pursuant to this section. The Secretary shall exercise his authority under this section only to the extent that he finds that the continued exercise of such authority will not adversely affect the flow of mortgage credit to older and declining neighborhoods and to the purchasers of older and lower cost housing.

(f) Multifamily housing project; contract provisions; aggregate principal amount of all mortgages insured; loans on defaulted mortgages; insurance for state assisted projects and projects under construction; definitions; amount of reserves

(1) Where the mortgage covers a multifamily housing project, the co-insurance contract may provide that the mortgagee assume (i) the full amount of any loss on the insured mortgage up to an amount equal to a fixed percentage of the outstanding principal balance of the mortgage at the time of claim for insurance benefits, or (ii) the full amount of any losses on insured mortgages in a portfolio of mortgages approved by the Secretary up to an amount equal to a fixed percentage of the outstanding principal balance of all mortgages in such portfolio at the time of claim for insurance benefits on a mortgage in the portfolio, plus a share of any loss in excess of the amount under clause (i) or (ii), whichever is applicable.

(2) The Secretary may make loans, from the applicable insurance fund, to public housing agencies in connection with mortgages which have been insured pursuant to this subsection and which are in default.

(3) The Secretary may insure and make a commitment to insure in connection with a co-insurance contract pursuant to this subsection (A) a mortgage on a project assisted under the second proviso in the first sentence of section 1715z-1(b) of this title, and (B) a mortgage or advance on a mortgage made to a public housing agency on a project under construction which is not approved for insurance prior to construction.

(4) As used in this subsection, the term “public housing agency” has the meaning given such term in section 1437a(b)(6) of title 42.

(5) Notwithstanding any other provision of this chapter, the Secretary may include in the determination of replacement cost of a project to be covered by a mortgage made to a public housing agency and insured pursuant to this subsection, such reserves and development costs, not to exceed 5 per centum of the amount otherwise allowable, as may be established or authorized by the public housing agency consistent with such agency’s procedures and underwriting standards.

(g) Redesignated (f)

(h) Acceptable co-insurance provisions for rental rehabilitation; termination date

Notwithstanding any other provision of this section, in the case of a mortgage insured under section 1715n(f) of this title secured by property which is to be rehabilitated or developed under section 1437o¹ of title 42, such co-insurance may include provisions that—

(1) insurance benefits shall equal the sum of (A) 90 per centum of the mortgage on the date of institution of foreclosure proceedings (or on the date of acquisition of the property otherwise after default), and (B) 90 per centum of interest arrears on the date benefits are paid;

(2) the mortgagee shall remit to the Secretary, for credit to the General Insurance

¹ See References in Text note below.

Fund, 90 per centum of any proceeds of the property, including sale proceeds, net of the mortgagee's actual and reasonable costs related to the property and the enforcement of security;

(3) payment of such benefits shall be made in cash unless the mortgagee submits a written request for debenture payment; and

(4) the underwriter of co-insurance may reinsure 10 per centum of the mortgage amount with a private mortgage insurance company or with a State mortgage insurance agency.

(i)² Authority of mortgagee to assign its interest in any note or mortgage subject to a contract of co-insurance; terms and conditions respecting retention of co-insurance risk of such note or mortgage

Any mortgagee which enters into a contract of co-insurance under this section shall have the authority to assign its interest in any note or mortgage subject to a contract of co-insurance to a warehouse bank or other financial institution which provides interim funding for a loan co-insured under this section, and to retain the co-insurance risk of such note or mortgage, upon such terms and conditions as the Secretary shall prescribe.

(i)² Annual review of, and assessment of compliance with, requirements; report; adjustment of requirements

The Secretary shall, by January 15 and July 15 of each year (1) review the adequacy of capital and other requirements for mortgagees under this section, (2) assess the compliance by mortgagees with such requirements, and (3) make such adjustment to such requirements as the Secretary, after providing opportunity for hearing, determines to be appropriate to improve the long-term financial soundness of the Federal Housing Administration funds. Such requirements shall include the minimum capital or net worth of mortgagees; the ratio that mortgagees shall maintain between the mortgagee's capital and the volume of mortgages co-insured by such mortgagee; and such other requirements as the Secretary determines to be appropriate to ensure the long-term financial soundness of the Federal Housing Administration funds. The Secretary shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the review and assessment under the previous sentence, and an explanation of the Secretary's reasons for making any adjustment in requirements authorized under this section.

(June 27, 1934, ch. 847, title II, §244, as added Pub. L. 93-383, title III, §307, Aug. 22, 1974, 88 Stat. 679; amended Pub. L. 94-375, §6, Aug. 3, 1976, 90 Stat. 1070; Pub. L. 95-60, §1(d), June 30, 1977, 91 Stat. 257; Pub. L. 95-80, §1(d), July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, §301(f), Oct. 12, 1977, 91 Stat. 1131; Pub. L. 95-406, §1(f), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title III, §301(f), Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96-71, §1(f), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(f), Nov. 8, 1979, 93 Stat. 794; Pub. L.

96-153, title III, §301(f), Dec. 21, 1979, 93 Stat. 1111; Pub. L. 96-372, §1(f), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title III, §301(f), Oct. 8, 1980, 94 Stat. 1638; Pub. L. 96-470, title I, §107(a), Oct. 19, 1980, 94 Stat. 2238; Pub. L. 97-35, title III, §331(f), Aug. 13, 1981, 95 Stat. 413; Pub. L. 97-289, §1(f), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(f), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(f), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title III, §303(a), title IV, §§401(e), 434], Nov. 30, 1983, 97 Stat. 1206, 1207, 1222; Pub. L. 98-479, title I, §104(a)(5), Oct. 17, 1984, 98 Stat. 2225; Pub. L. 99-120, §1(e), Oct. 8, 1985, 99 Stat. 502; Pub. L. 99-156, §1(e), Nov. 15, 1985, 99 Stat. 815; Pub. L. 99-219, §1(e), Dec. 26, 1985, 99 Stat. 1730; Pub. L. 99-267, §1(e), Mar. 27, 1986, 100 Stat. 73; Pub. L. 99-272, title III, §3007(e), Apr. 7, 1986, 100 Stat. 105; Pub. L. 99-289, §1(b), May 2, 1986, 100 Stat. 412; Pub. L. 99-345, §1, June 24, 1986, 100 Stat. 673; Pub. L. 99-430, Sept. 30, 1986, 100 Stat. 986; Pub. L. 100-122, §1, Sept. 30, 1987, 101 Stat. 793; Pub. L. 100-154, Nov. 5, 1987, 101 Stat. 890; Pub. L. 100-170, Nov. 17, 1987, 101 Stat. 914; Pub. L. 100-179, Dec. 3, 1987, 101 Stat. 1018; Pub. L. 100-200, Dec. 21, 1987, 101 Stat. 1327; Pub. L. 100-242, title IV, §§401(a)(3), 414, 429(g), Feb. 5, 1988, 101 Stat. 1898, 1907, 1919; Pub. L. 101-235, title I, §139(a), Dec. 15, 1989, 103 Stat. 2029.)

Editorial Notes

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (e), and (f)(5), was in the original "this Act", meaning act June 27, 1934, ch. 847, 48 Stat. 1246, as amended, which is classified principally to this chapter (§1701 et seq.). For complete classification of this Act to the Code, see Tables.

Section 1437o of title 42, referred to in subsec. (h), was repealed by Pub. L. 101-625, title II, §289(b), Nov. 28, 1990, 104 Stat. 4128.

AMENDMENTS

1989—Subsec. (i). Pub. L. 101-235 added subsec. (i) relating to annual review of, and assessment of compliance with, requirements.

1988—Subsec. (c). Pub. L. 100-242, §414(a), struck out subsec. (c) which read as follows: "No insurance shall be granted pursuant to this section unless the Secretary has, after due consultation with the mortgage lending industry, determined that the demonstration program of co-insurance authorized by this section will not disrupt the mortgage market or reduce the availability of mortgage credit to borrowers who depend upon mortgage insurance provided under this chapter."

Subsec. (d). Pub. L. 100-242, §401(a)(3), struck out subsec. (d) which read as follows: "No mortgage, advance, or loan shall be insured pursuant to this section after March 15, 1988, except pursuant to a commitment to insure made before that date."

Subsec. (f). Pub. L. 100-242, §429(g)(1), which directed that subsec. (g) be amended by striking out par. (2) which read: "The second sentence of subsection (d) of this section shall not apply to mortgages made to public housing agencies, but for purposes of such second sentence such mortgages shall not be counted in the aggregate principal amount of all mortgages insured under this subchapter.", and by redesignating former pars. (3) to (6) as (2) to (5), was executed to subsec. (f) to reflect the probable intent of Congress, because of the prior redesignation of subsec. (g) as (f) by Pub. L. 96-470, §107(a).

Subsec. (h). Pub. L. 100-242, §§414(b)(1), 429(g)(2), made identical amendments, substituting "co-insurance" for "coinsurance" in introductory provision and par. (4).

Pub. L. 100-242, §401(a)(3), struck out at end "No commitment for insurance pursuant to this subsection may be issued after March 15, 1988."

² So in original. Two subsecs. (i) have been enacted.

Subsec. (i). Pub. L. 100-242, §414(b)(2), added subsec. (i).

1987—Subsecs. (d), (h). Pub. L. 100-200 substituted “March 15, 1988” for “December 16, 1987”.

Pub. L. 100-179 substituted “December 16, 1987” for “December 2, 1987”.

Pub. L. 100-170 substituted “December 2, 1987” for “November 15, 1987”.

Pub. L. 100-154 substituted “November 15, 1987” for “October 31, 1987”.

Pub. L. 100-122 substituted “October 31, 1987” for “September 30, 1987”.

1986—Subsecs. (d), (h). Pub. L. 99-430 substituted “September 30, 1987” for “September 30, 1986”.

Pub. L. 99-345 substituted “September 30, 1986” for “June 6, 1986”.

Pub. L. 99-289 substituted “June 6, 1986” for “April 30, 1986”.

Pub. L. 99-272 made amendment identical to Pub. L. 99-219. See 1985 Amendment note below.

Pub. L. 99-267 substituted “April 30, 1986” for “March 17, 1986”.

1985—Subsec. (d). Pub. L. 99-219, §1(e)(1), substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-156, §1(e)(1), substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120, §1(e)(1), substituted “November 14, 1985” for “September 30, 1985”.

Subsec. (h). Pub. L. 99-219, §1(e)(2), substituted “after March 17, 1986” for “on or after December 16, 1985”.

Pub. L. 99-156, §1(e)(2), substituted “December 16, 1985” for “November 15, 1985”.

Pub. L. 99-120, §1(e)(2), substituted “November 15, 1985” for “October 1, 1985”.

1984—Subsec. (d). Pub. L. 98-479 amended subsec. (d) generally, thereby striking out last sentence which provided: “The aggregate principal amount of mortgages and loans insured pursuant to this section in any fiscal year beginning on or after July 1, 1974, and ending prior to October 1, 1985, shall not exceed 20 per centum of the aggregate principal amount of all mortgages and loans insured under this subchapter during such fiscal year.”

1983—Subsec. (d). Pub. L. 98-181, §401(e)(3), which directed that last two sentences of subsec. (d) be struck out was executed by striking out last sentence which provided that the overall percentage limitation specified in the preceding sentence also apply separately within each of the categories of mortgages and loans covering one- to four-family dwellings and mortgages and loans covering projects with five or more dwelling units, as the probable intent of Congress, in view of the amendment to the next to last sentence by section 401(e)(2) of Pub. L. 98-181.

Pub. L. 98-181, §401(e)(1), (2), substituted “September 30, 1985” for “November 30, 1983” and “October 1, 1985” for “December 1, 1983”.

Pub. L. 98-109 substituted “November 30, 1983” for “September 30, 1983” and “December 1, 1983” for “October 1, 1983”.

Pub. L. 98-35 substituted “September 30, 1983” for “May 20, 1983” and “October 1, 1983” for “May 21, 1983”.

Subsec. (f)(1). Pub. L. 98-181, §434(1), struck out “the mortgagee is a public housing agency or an insured depository institution and” after “Where”. Notwithstanding the directory language that amendment be made to subsec. (g)(1), the amendment was executed to subsec. (f)(1) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (f) by Pub. L. 96-470.

Subsec. (f)(5). Pub. L. 98-181, §434(2), substituted reference to section 1437a(b)(6) of title 42 for reference to section 1437a(6) of title 42 and struck out provision which defined the term “insured depository institution” as any savings bank, savings and loan association, commercial bank or other such depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, by the Federal Savings and Loan Insurance Corporation, or by an agency or instrumentality of a State. Notwithstanding the direc-

tory language that amendment be made to subsec. (g)(5), the amendment was executed to subsec. (f)(5) to reflect the probable intent of Congress and the intervening redesignation of subsec. (g) as (f) by Pub. L. 96-470.

Subsec. (h). Pub. L. 98-181, §303(a), added subsec. (h). 1982—Subsec. (d). Pub. L. 97-289 substituted “May 20, 1983” and “May 21, 1983” for “September 30, 1982” and “October 1, 1982”, respectively.

1981—Subsec. (d). Pub. L. 97-35 substituted “1982” for “1981” in two places.

1980—Subsec. (d). Pub. L. 96-399 substituted “September 30, 1981” and “October 1, 1981” for “October 15, 1980” and “October 16, 1980”, respectively.

Pub. L. 96-372 substituted “October 15, 1980” and “October 16, 1980” for “September 30, 1980” and “October 1, 1980”, respectively.

Subsecs. (f), (g). Pub. L. 96-470 struck out subsec. (f) and redesignated subsec. (g) as (f).

1979—Subsec. (d). Pub. L. 96-153 substituted “September 30, 1980” for “November 30, 1979” and “October 1, 1980” for “December 1, 1979”.

Pub. L. 96-105 substituted “November 30, 1979” and “December 1, 1979” for “October 31, 1979” and “November 1, 1979”, respectively.

Pub. L. 96-71 substituted “October 31, 1979” and “November 1, 1979” for “September 30, 1979” and “October 1, 1979”, respectively.

1978—Subsec. (d). Pub. L. 95-557 substituted “September 30, 1979” for “October 31, 1978” and “October 1, 1979” for “November 1, 1978”.

Pub. L. 95-406 substituted “October 31, 1978” for “September 30, 1978” and “November 1, 1978” for “October 1, 1978”.

1977—Subsec. (d). Pub. L. 95-128 substituted “September 30, 1978” for “September 30, 1977” and “October 1, 1978” for “October 1, 1977”.

Pub. L. 95-80 substituted “September 30, 1977” for “July 31, 1977”.

Pub. L. 95-60 substituted “July 31, 1977” for “June 30, 1977”.

1976—Subsec. (a). Pub. L. 94-375, §6(b), inserted, in text following par. (2), a provision excluding a mortgagee which enters into a contract under this section from regulation by state insurance laws.

Subsec. (g). Pub. L. 94-375, §6(a), added subsec. (g).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

Committee on Banking, Finance and Urban Affairs of House of Representatives treated as referring to Committee on Banking and Financial Services of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2. The Congress. Committee on Banking and Financial Services of House of Representatives abolished and replaced by Committee on Financial Services of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred from Committee on Energy and Commerce of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

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.

§ 1715z-10. Repealed. Pub. L. 110-289, div. B, title I, § 2120(a)(7), July 30, 2008, 122 Stat. 2835

Section, act June 27, 1934, ch. 847, title II, §245, as added Pub. L. 93-383, title III, §308, Aug. 22, 1974, 88 Stat. 680; amended Pub. L. 94-375, §7, Aug. 3, 1976, 90 Stat. 1071; Pub. L. 95-128, title III, §§301(g), 310, Oct. 12, 1977, 91 Stat. 1131, 1136; Pub. L. 95-406, §1(g), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title III, §301(g), Oct. 31, 1978, 92 Stat. 2096; Pub. L. 95-630, title XV, §1503,