

SUBCHAPTER IX-B—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES AND MEDICAL PRACTICE FACILITIES

§ 1749aaa. Insurance of mortgages

(a) Authority of Secretary; termination date

The Secretary is authorized (1) to insure mortgages (including advances on such mortgages during construction), upon such terms and conditions as he may prescribe, in accordance with the provisions of this subchapter, and (2) to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon.

(b) Eligibility for insurance

To be eligible for insurance under this subchapter, the mortgage shall (1) be executed by a mortgagor that is a group practice unit or organization or other mortgagor approved by the Secretary, (2) be made to and held by a mortgagee approved by the Secretary as responsible and able to service the mortgage properly, and (3) cover a property or project which is approved for mortgage insurance prior to the beginning of construction or rehabilitation and is designed for use as a group practice facility or medical practice facility which the Secretary finds will be constructed in an economical manner, will not be of elaborate or extravagant design or materials, and will be adequate and suitable for carrying out the purposes of this subchapter. No mortgage shall be insured under this subchapter unless it is shown to the satisfaction of the Secretary that the applicant would be unable to obtain the mortgage loan without such insurance on terms comparable to those specified in subsection (c).

(c) Replacement cost of property; maturity; amortization; interest rate

The mortgage shall—

(1) Repealed. Pub. L. 93-383, title III, §304(l), Aug. 22, 1974, 88 Stat. 678;

(2) not exceed 90 per centum of the amount which the Secretary estimates will be the replacement cost of the property or project when construction or rehabilitation is completed. The replacement cost of the property may include the land and the proposed physical improvements, equipment, utilities within the boundaries of the property, 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)¹ 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, architects' fees, taxes, and interest accruing during construction or rehabilitation, and other miscellaneous charges incident to construction or rehabilitation and approved by the Secretary;

(3) have a maturity satisfactory to the Secretary but not to exceed twenty-five years from the beginning of the amortization of the mortgage, and provide for complete amortiza-

tion of the principal obligation by periodic payments within such term as the Secretary shall prescribe; and

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

(d) Conclusiveness of insurance contract as to eligibility; validity of contract incontestable

Any contract of insurance executed by the Secretary under this subchapter shall be conclusive evidence of the eligibility of the mortgagee for insurance, and the validity of any contract for insurance so executed shall be incontestable in the hands of an approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved mortgagee.

(e) Undertaking

Each mortgage insured under this subchapter shall contain an undertaking (in accordance with regulations prescribed under this subchapter and in force at the time the mortgage is approved for insurance) to the effect that, except as authorized by the Secretary and the mortgagee, the property will be used as a group practice facility or medical practice facility until the mortgage has been paid in full or the contract of insurance otherwise terminated.

(f) Recordkeeping; reports; examination and audit

No mortgage shall be insured under this subchapter unless the mortgagor and the mortgagee certify (1) that they will keep such records relating to the mortgage transaction and indebtedness, to the construction of the facility covered by the mortgage, and to the use of such facility as a group practice facility or medical practice facility as are prescribed by the Secretary at the time of such certification, (2) that they will make such reports as may from time to time be required by the Secretary pertaining to such matters, and (3) that the Secretary shall have access to and the right to examine and audit such records.

(June 27, 1934, ch. 847, title XI, §1101, as added Pub. L. 89-754, title V, §502(a), Nov. 3, 1966, 80 Stat. 1274; amended Pub. L. 90-448, title XVII, §1722(d), Aug. 1, 1968, 82 Stat. 610; Pub. L. 91-78, §2(g), Sept. 30, 1969, 83 Stat. 125; Pub. L. 91-152, title I, §101(i), title IV, §418(f), Dec. 24, 1969, 83 Stat. 379, 402; Pub. L. 91-432, §1(g), Oct. 2, 1970, 84 Stat. 887; Pub. L. 91-473, §1(g), Oct. 21, 1970, 84 Stat. 1065; Pub. L. 91-525, §1(g), Dec. 1, 1970, 84 Stat. 1384; Pub. L. 91-609, title I, §101(i), Dec. 31, 1970, 84 Stat. 1770; Pub. L. 92-503, §1(i), Oct. 18, 1972, 86 Stat. 906; Pub. L. 93-85, §1(i), Aug. 10, 1973, 87 Stat. 220; Pub. L. 93-117, §1(i), Oct. 2, 1973, 87 Stat. 422; Pub. L. 93-383, title III, §§304(l), 312(a)(1)-(4), 316(g), Aug. 22, 1974, 88 Stat. 678, 683, 685; Pub. L. 95-60, §1(h), June 30, 1977, 91 Stat. 257; Pub. L. 95-80, §1(h), July 31, 1977, 91 Stat. 339; Pub. L. 95-128, title III, §301(k), Oct. 12, 1977, 91 Stat. 1131; Pub. L. 95-406, §1(k), Sept. 30, 1978, 92 Stat. 879; Pub. L. 95-557, title III, §301(k), Oct. 31, 1978, 92 Stat. 2096; Pub. L. 96-71, §1(k), Sept. 28, 1979, 93 Stat. 501; Pub. L. 96-105, §1(k), Nov. 8, 1979, 93 Stat. 794; Pub. L. 96-153, title III, §301(k), Dec. 21, 1979, 93 Stat. 1112; Pub. L. 96-372, §1(k), Oct. 3, 1980, 94 Stat. 1363; Pub. L. 96-399, title III,

¹ See References in Text note below.

§§301(k), 310(i), Oct. 8, 1980, 94 Stat. 1639, 1643; Pub. L. 97-35, title III, §331(j), Aug. 13, 1981, 95 Stat. 413; Pub. L. 97-289, §1(k), Oct. 6, 1982, 96 Stat. 1230; Pub. L. 98-35, §1(k), May 26, 1983, 97 Stat. 197; Pub. L. 98-109, §1(k), Oct. 1, 1983, 97 Stat. 745; Pub. L. 98-181, title I [title IV, §401(j)], Nov. 30, 1983, 97 Stat. 1208; Pub. L. 98-479, title I, §104(a)(8), Oct. 17, 1984, 98 Stat. 2225; Pub. L. 99-120, §1(j), Oct. 8, 1985, 99 Stat. 503; Pub. L. 99-156, §1(j), Nov. 15, 1985, 99 Stat. 816; Pub. L. 99-219, §1(j), Dec. 26, 1985, 99 Stat. 1731; Pub. L. 99-267, §1(k), Mar. 27, 1986, 100 Stat. 74; Pub. L. 99-272, title III, §3007(j), 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)(8), Feb. 5, 1988, 101 Stat. 1898.)

Editorial Notes

REFERENCES IN TEXT

Section 8211 of title 42, referred to in subsec. (c)(2), 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.

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-242 struck out at end “No mortgage shall be insured under this subchapter after March 15, 1988, except pursuant to a commitment to insure issued before that date.”

1987—Subsec. (a). 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—Subsec. (a). 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. (a). Pub. L. 99-219 substituted “March 17, 1986” for “December 15, 1985”.

Pub. L. 99-156 substituted “December 15, 1985” for “November 14, 1985”.

Pub. L. 99-120 substituted “November 14, 1985” for “September 30, 1985”.

1984—Subsec. (c)(4). Pub. L. 98-479 substituted “at such rate as may be agreed upon by the mortgagor and the mortgagee,” for “(exclusive of premium charges for insurance, and service charges if any) at a rate of not to exceed 5 per centum per annum of the amount of the principal obligation outstanding at any time, or not to exceed such rate (not in excess of 6 per centum per annum) as the Secretary finds necessary to meet the mortgage market.”

1983—Subsec. (a). Pub. L. 98-181 substituted “September 30, 1985” for “November 30, 1983”.

Pub. L. 98-109 substituted “November 30, 1983” for “September 30, 1983”.

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

1982—Subsec. (a). Pub. L. 97-289 substituted “May 20, 1983” for “September 30, 1982”.

1981—Subsec. (a). Pub. L. 97-35 substituted “1982” for “1981”.

1980—Subsec. (a). Pub. L. 96-399, §301(k), substituted “September 30, 1981” for “October 15, 1980”.

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

Subsec. (c)(2). Pub. L. 96-399, §310(i), inserted provisions relating to solar energy systems and residential energy conservation measures.

1979—Subsec. (a). Pub. L. 96-153 substituted “September 30, 1980” for “November 30, 1979”.

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

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

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

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

1977—Subsec. (a). Pub. L. 95-128 substituted “September 30, 1978” for “September 30, 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”.

1974—Subsec. (a). Pub. L. 93-383, §316(g), substituted “June 30, 1977” for “October 1, 1974”.

Subsec. (b). Pub. L. 93-383, §312(a)(1), (2), in cl. (1) inserted “or other mortgagor” after “or organization”, and in cl. (3) inserted “or medical practice facility” after “group practice facility”.

Subsec. (c)(1). Pub. L. 93-383, §304(l), struck out par. (1) which set forth limitation on amount of mortgage.

Subsecs. (e), (f). Pub. L. 93-383, §312(a)(3), (4), inserted “or medical practice facility” after “group practice facility”.

1973—Subsec. (a). Pub. L. 93-117 substituted “October 1, 1974” for “October 1, 1973”.

Pub. L. 93-85 substituted “October 1, 1973” for “June 30, 1973”.

1972—Subsec. (a). Pub. L. 92-503 substituted “June 30, 1973” for “October 1, 1972”.

1970—Subsec. (a). Pub. L. 91-609 substituted “October 1, 1972” for “January 1, 1971”.

Pub. L. 91-525 substituted “January 1, 1971” for “December 1, 1970”.

Pub. L. 91-473 substituted “December 1, 1970” for “November 1, 1970”.

Pub. L. 91-432 substituted “November 1, 1970” for “October 1, 1970”.

1969—Subsec. (a). Pub. L. 91-152, §101(i), substituted “October 1, 1970” for “January 1, 1970”.

Pub. L. 91-78 substituted “January 1, 1970” for “October 1, 1969”.

Subsec. (c)(2). Pub. L. 91-152, §418(f), substituted “replacement cost” for “value” wherever appearing.

1968—Subsec. (c)(3). Pub. L. 90-448 limited term of mortgage to not more than twenty-five years from beginning of amortization of mortgage.

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.

DECLARATION OF PURPOSE

Pub. L. 89-754, title V, §501, Nov. 3, 1966, 80 Stat. 1273, provided that: “It is the purpose of this title [enacting this subchapter and amending sections 24, 371, 1715c, and 1715r of this title, section 663 of former Title 11, Bankruptcy, and section 77ddd of Title 15, Commerce and Trade] to assure the availability of credit on reasonable terms to units or organizations engaged in the group practice of medicine, optometry, or dentistry, particularly those in smaller communities and those

sponsored by cooperative or other nonprofit organizations, to assist in financing the construction and equipment of group practice facilities.”

§ 1749aaa-1. Premiums and other charges

The Secretary shall fix premium charges for the insurance of mortgages under this subchapter, but such charges shall not be more than 1 per centum per annum of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments. In addition to the premium charge, the Secretary is authorized to charge and collect such amounts as he may deem reasonable for the analysis of a proposed project and the appraisal and inspection of the property and improvements. Where the principal obligation of any mortgage accepted for insurance under this subchapter is paid in full prior to the maturity date, the Secretary is authorized to require the payment by the mortgagee of an adjusted premium charge. This charge shall be in such amount as the Secretary determines to be equitable, but not in excess of the aggregate amount of the premium charges that the mortgagee would otherwise have been required to pay if the mortgage had continued to be insured until the maturity date. Where such prepayment occurs, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, or such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid. Premium charges fixed under this section shall be payable by the mortgagee either in cash, or in debentures which are the obligation of the General Insurance Fund at par plus accrued interest, at such times and in such manner as may be prescribed by the Secretary.

(June 27, 1934, ch. 847, title XI, §1102, as added Pub. L. 89-754, title V, §502(a), Nov. 3, 1966, 80 Stat. 1275.)

§ 1749aaa-2. Payment of insurance benefits

The mortgagee shall be entitled to receive the benefits of the insurance under this subchapter in the manner provided in subsection (g) of section 1713 of this title with respect to mortgages insured under that section. For such purpose the provisions of subsections (g), (h), (i), (j), (k), (l), and (n) of such section 1713 shall apply to mortgages insured under this subchapter and all references in such subsections to such section 1713 shall be deemed to refer to this subchapter.

(June 27, 1934, ch. 847, title XI, §1103, as added Pub. L. 89-754, title V, §502(a), Nov. 3, 1966, 80 Stat. 1275.)

§ 1749aaa-3. Regulations

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

(June 27, 1934, ch. 847, title XI, §1104, as added Pub. L. 89-754, title V, §502(a), Nov. 3, 1966, 80 Stat. 1275; amended Pub. L. 98-479, title II, §201(a)(2), Oct. 17, 1984, 98 Stat. 2227.)

Editorial Notes

AMENDMENTS

1984—Pub. L. 98-479 substituted “Health and Human Services” for “Health, Education, and Welfare”.

§ 1749aaa-4. Administration

(a) Technical assistance

At the request of individuals or organizations operating or contemplating the operation of group practice facilities or medical practice facility (as defined in section 1749aaa-5 of this title), the Secretary may provide or obtain technical assistance in the planning for and construction of such facilities.

(b) Utilization of services and facilities of Federal agencies; payment; advances or reimbursement

With a view to avoiding unnecessary duplication of existing staffs and facilities of the Federal Government, the Secretary is authorized to utilize available services and facilities of any agency of the Federal Government in carrying out the provisions of this subchapter, and to pay for such services and facilities, either in advance or by way of reimbursement, in accordance with an agreement between the Secretary and the head of such agency.

(June 27, 1934, ch. 847, title XI, §1105, as added Pub. L. 89-754, title V, §502(a), Nov. 3, 1966, 80 Stat. 1276; amended Pub. L. 93-383, title III, §312(a)(5), Aug. 22, 1974, 88 Stat. 683.)

Editorial Notes

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-383 substituted “or medical practice facility (as defined in section 1749aaa-5 of this title)” for “(as defined in section 1749aaa-5(1) of this title)”.

§ 1749aaa-5. Definitions

For the purposes of this subchapter—

(1) The term “group practice facility” means a facility in a State for the provision of preventive, diagnostic, and treatment services to ambulatory patients (in which patient care is under the professional supervision of persons licensed to practice medicine or osteopathy in the State or, in the case of optometric care or treatment, is under the professional supervision of persons licensed to practice optometry in the State, or, in the case of dental diagnosis or treatment, is under the professional supervision of persons licensed to practice dentistry in the State, or, in the case of podiatric care or treatment, is under the professional supervision of persons licensed to practice podiatry in the State) and which is primarily for the provision of such health services by a medical or dental group.

(2) The term “medical practice facility” means an adequately equipped facility in which not more than four persons licensed to practice medicine in the State where the facility is located can provide, as may be appropriate, preventive, diagnostic, and treatment services, and which is situated in a rural area or small town, or in a low-income section of an urban area, in which there exists, as deter-