

finds that it is not feasible, within the dollar amount limitation in this clause on the principal obligation of the mortgage, to construct dwellings containing three or four bedrooms without sacrifice of sound standards of construction, design, and livability, he may increase such dollar amount limitation by not exceeding \$850 for each additional bedroom (as defined by the Secretary) in excess of two contained in each such dwelling if he finds that such dwelling meets sound standards of design and livability as a three-bedroom unit or a four-bedroom unit, as the case may be, but the amount computed under this clause for each such dwelling shall not exceed, in any event, \$7,650.

With respect to the insurance of advances during construction, the Secretary is authorized to approve advances by the mortgagee to cover the cost of materials delivered upon the mortgaged property and labor performed in the fabrication or erection thereof;

(4) provide for complete amortization by periodic payments within such term as the Secretary shall prescribe and shall bear interest (exclusive of premium charges for insurance) as not to exceed 4 per centum per annum on the amount of the principal obligation outstanding at any time: *Provided*, That the Secretary with the approval of the Secretary of the Treasury, may prescribe by regulation a higher maximum rate of interest, not exceeding 4½ per centum per annum on the amount of the principal obligation outstanding at any time, if he finds that the mortgage market demands it. The Secretary may consent to the release of a part or parts of the mortgaged property from the lien of the mortgage upon such terms and conditions as he may prescribe and the mortgage may provide for such release, and the mortgage may provide that, upon the completion of the construction of the project, such mortgage may be replaced by individual mortgages covering each individual dwelling in the project. Each such individual mortgage may be insured under this section with the mortgagor being either the builder who constructed the dwellings or the owner and occupant of the dwelling at the time, and where the mortgagor is the owner and occupant, may involve a principal obligation in such amount and have such maturity and interest rate as a mortgage eligible for insurance under section 1709(b)(2)(D) of this title.

**(c) Preferences in occupancy for veterans and hardship cases**

Preference or priority of opportunity in the occupancy of the mortgaged property for veterans of World War II and their immediate families and for hardship cases as defined by the Secretary shall be provided under such regulations and procedures as may be prescribed by the Secretary.

**(d) Applicability of other provisions**

The provisions of subsections (c), (d), (e), and (f) of section 1743 of this title shall be applicable to mortgages insured under this section covering a project described in subsection (b) of this section, and the provisions of subsections (a) to

(f), and (h) of section 1739 of this title shall be applicable to the individual mortgages insured pursuant to subsection (b)(4) of this section covering individual dwellings in the project.

(June 27, 1934, ch. 847, title VI, §611, as added Aug. 10, 1948, ch. 832, title I, §101(f), 62 Stat. 1271; amended Apr. 20, 1950, ch. 94, title I, §§121, 122, 64 Stat. 58, 59; Pub. L. 90-19, §1(a)(3), May 25, 1967, 81 Stat. 17.)

**Editorial Notes**

REFERENCES IN TEXT

Section 1709(b)(2)(D) of this title, referred to in subsec. (b)(4), is a reference to subsec. (b)(2)(D) of section 1709 prior to amendment by section 104 of act Aug. 2, 1954, ch. 649, 68 Stat. 590.

AMENDMENTS

1967—Pub. L. 90-19 substituted “Secretary” for “Commissioner” wherever appearing in subsections (a), (b), and (c).

1950—Act Apr. 20, 1950, §122, substituted “Commissioner” for “Administrator” wherever appearing.

Subsec. (b)(3). Act Apr. 20, 1950, §121(1), (2), substituted “85” for “80” in cl. (A), and inserted entirely new material in cl. (B).

Subsec. (b)(4). Act Apr. 20, 1950, §121(2), inserted “, and the mortgage may provide that, upon the completion of the construction of the project, such mortgage may be replaced by individual mortgages covering each individual dwelling in the project. Each such individual mortgage may be insured under this section with the mortgagor being either the builder who constructed the dwellings or the owner and occupant of the dwelling at the time, and where the mortgagor is the owner and occupant, may involve a principal obligation in such amount and have such maturity and interest rate as a mortgage eligible for insurance under section 1709(b)(2)(D) of this title”.

Subsec. (d). Act Apr. 20, 1950, §121(3), inserted “covering a project described in subsection (b) of this section, and the provisions of subsections (a) to (f), and (h) of section 1739 of this title shall be applicable to the individual mortgages insured pursuant to subsection (b)(4) of this section covering individual dwellings in the project”.

**§ 1746a. Termination of commitment authority under this subchapter**

Notwithstanding any other provision of this subchapter, no mortgage or loan shall be insured under any section of this subchapter after August 2, 1954 except pursuant to a commitment to insure issued on or before such date.

(June 27, 1934, ch. 847, title VI, §612, as added Aug. 2, 1954, ch. 649, title I, §127, 68 Stat. 609.)

**SUBCHAPTER VII—INSURANCE FOR INVESTMENTS IN RENTAL HOUSING FOR FAMILIES OF MODERATE INCOME**

**§ 1747. Purpose of subchapter; authorization; terms and conditions; expiration of insurance contract**

The purpose of this subchapter is to supplement the existing systems of mortgage insurance for rental housing under this chapter by a special system of insurance designed to encourage equity investment in rental housing at rents within the capacity of families of moderate income. To effectuate this purpose, the Secretary is authorized, upon application by the investor,

to insure as hereinafter provided, and, prior to the execution of insurance contracts and upon such terms as the Secretary shall prescribe, to make commitments to insure, the minimum annual amortization charge and an annual return on the outstanding investment of such investor in any project which is eligible for insurance as hereinafter provided in an amount (herein called the "insured annual return") equal to such rate of return, not exceeding 2¾ per centum per annum, on such outstanding investment as shall, after consultation with the Secretary of the Treasury, be fixed in the insurance contract or in the commitment to insure: *Provided*, That any insurance contract made pursuant to this subchapter shall expire as of the first day of the operating year for which the outstanding investment amounts to not more than 10 per centum of the established investment.

(June 27, 1934, ch. 847, title VII, § 701, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Pub. L. 86-372, title I, § 118, Sept. 23, 1959, 73 Stat. 664; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17.)

### Editorial Notes

#### AMENDMENTS

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

1959—Pub. L. 86-372 struck out provisions which limited the aggregate amount of contingent liabilities outstanding at any one time under insurance contracts and commitments to insure made pursuant to this subchapter to not more than \$1,000,000,000.

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator" wherever appearing.

### Statutory Notes and Related Subsidiaries

#### SEPARABILITY

Act Aug. 10, 1948, ch. 832, title V, § 505, 62 Stat. 1285, provided that: "Except as may be otherwise expressly provided in this Act [sections 1701c, 1701e to 1701g-3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746 and 1747 to 1747l of this title, section 846 of former Title 31, Money and Finance, section 694 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and section 1404a of Title 42, The Public Health and Welfare], all powers and authorities conferred by this Act shall be cumulative and additional to and not in derogation of any powers and authorities otherwise existing. Notwithstanding any other evidences of the intention of Congress, it is hereby declared to be the controlling intent of Congress that if any provisions of this Act, or the application thereof to any person or circumstances, shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act or its application to other persons and circumstances, but shall be confined in its operation to the provisions of this Act, or the application thereof to the persons and circumstances, directly involved in the controversy in which such judgment shall have been rendered."

#### INCONSISTENT PROVISIONS

Act Aug. 10, 1948, ch. 832, title V, § 504, 62 Stat. 1285, provided that: "Insofar as the provisions of any other law are inconsistent with the provisions of this Act [sections 1701c, 1701e to 1701g-3, 1702, 1703, 1709, 1710, 1713, 1716, 1738, 1743 to 1746 and 1747 to 1747l of this title, section 846 of former Title 31, Money and Finance, section 694 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and section 1404a of Title 42, The Public

Health and Welfare], the provisions of this Act shall be controlling."

### § 1747a. Eligibility for insurance

(a) To be eligible for insurance under this subchapter, a project shall meet the following conditions:

(1) The Secretary shall be satisfied that there is, in the locality or metropolitan area of such project, a need for new rental dwellings at rents comparable to the rents proposed to be charged for the dwellings in such project.

(2) Such project shall be economically sound, and the dwellings in such project shall be acceptable to the Secretary as to quality, design, size, and type.

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

(c) After completion of the project the investor must establish in a manner satisfactory to the Secretary that the project is free and clear of liens and that there are no other outstanding unpaid obligations contracted in connection with the construction of the project, except taxes and such other liens and obligations as may be approved or prescribed by the Secretary. Debentures issued by the investor which are payable out of net income from the project and from the benefits of the insurance contract shall not be construed as "unpaid obligations" as such term is used in this subsection.

(June 27, 1934, ch. 847, title VII, § 702, as added Aug. 10, 1948, ch. 832, title IV, § 401, 62 Stat. 1276; amended Apr. 20, 1950, ch. 94, title I, § 122, 64 Stat. 59; Sept. 1, 1951, ch. 378, title VI, § 609(a), 65 Stat. 316; Pub. L. 90-19, § 1(a)(3), May 25, 1967, 81 Stat. 17.)

### Editorial Notes

#### AMENDMENTS

1967—Pub. L. 90-19 substituted "Secretary" for "Commissioner" wherever appearing in subsecs. (a)(1), (2), (b), and (c).

1951—Subsec. (c). Act Sept. 1, 1951, added subsec. (c).

1950—Act Apr. 20, 1950, substituted "Commissioner" for "Administrator" wherever appearing.

### § 1747b. Premium charges; fees for examination and inspection

(a) For insurance granted pursuant to this subchapter the Secretary shall fix and collect a premium charge in an amount not exceeding one-half of 1 per centum of the outstanding investment for the operating year for which such premium charge is payable without taking into account the excess earnings, if any, applied, in addition to the minimum annual amortization charge, to amortization of the outstanding investment. Such premium charge shall be payable annually in advance by the investor, either in cash or in debentures issued by the Secretary under this subchapter at par plus accrued inter-