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*** CURRENT THROUGH P.L. 109-245, APPROVED 7/26/2006 ***

TITLE 12. BANKS AND BANKING
CHAPTER 13. NATIONAL HOUSING
MORTGAGE INSURANCE

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12 USCS § 1709

§ 1709. Insurance of mortgages

(a) Authorization. The Secretary is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Secretary may prescribe, 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 section a mortgage shall comply with the following:

(1) Have been made to, and be held by, a mortgagee approved by the Secretary as responsible and able to service the mortgage properly.

(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount--

(A) not to exceed the lesser of--

(i) in the case of a 1-family residence, 95 percent of the median 1-family house price in the area, as determined by the Secretary; in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

(ii) 87 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act [12 USCS § 1454(a)(2)] for a residence of the applicable size; except that the dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999 [enacted Oct. 20, 1999] or 48 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act [12 USCS § 1454(a)(2)] for a residence of the applicable size; and

(B) not to exceed an amount equal to the sum of--

(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

(ii) in the case of--

(I) a mortgage for a property with an appraised value equal to or less than \$ 50,000, 98.75 percent of the appraised value of the property;

(II) a mortgage for a property with an appraised value in excess of \$ 50,000 but not in excess of \$ 125,000, 97.65 percent of the appraised value of the property;

(III) a mortgage for a property with an appraised value in excess of \$ 125,000, 97.15 percent of the appraised value of the property; or

(IV) notwithstanding subclauses (II) and (III), a mortgage for a property with an appraised value in excess of \$ 50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.

For purposes of the preceding sentence, the term "area" means a metropolitan statistical area as established by the Office of Management and Budget; and the median 1-family house price for an area shall be equal to the median 1-family house price of the county within the area that has the highest such median price. For purposes of this paragraph, the term "average closing cost" means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages. Notwithstanding any other provision of this section, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, such mortgage shall not exceed 90 per centum of the entire appraised value of the property as of the date the mortgage is accepted for insurance, unless (i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code [38 USCS § § 3701 et seq.], prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction. As used herein, the term "veteran" means any person who served on active duty in the armed forces of the United States for a period of not less than ninety days (or is certified by the Secretary of Defense as having performed extra-hazardous service), and who was discharged or released therefrom under conditions other than dishonorable, except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) [5303A(d)] of title 38, United States Code. Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act [subpara. (3) of last para of 12 USCS § 1703(a)]) therein.

Notwithstanding any other provision of this paragraph, the Secretary may not insure, or enter into a commitment to insure, a mortgage under this section that is executed by a first-time homebuyer and that involves a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 97 percent of the appraised value of the property unless the mortgagor has completed a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary; except that the Secretary may, in the discretion of the Secretary, waive the applicability of this requirement.

(3) Have a maturity satisfactory to the Secretary, but not to exceed, in any event, thirty-five years (or thirty years if such mortgage is not approved for insurance prior to construction) from the date of the beginning of amortization of the mortgage.

(4) Contain complete amortization provisions satisfactory to the Secretary requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Secretary.

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

(6) Provide, in a manner satisfactory to the Secretary, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

(7) Contain such terms and provisions with respect to insurance, repairs, alteration, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Secretary may in his discretion prescribe.

(8) [Repealed]

(9) Be executed by a mortgagor who shall have paid on account of the property (except with respect to a mortgage executed by a mortgagor who is a veteran) at least 3 per centum, or such larger amount as the Secretary may determine, of the Secretary's estimate of the cost of acquisition (excluding the mortgage insurance premium paid at the time the mortgage is insured) in cash or its equivalent: *Provided*, That with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is endorsed for insurance or with respect to a mortgage meeting the requirements of subsection (i) of this section, or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 207 of the Housing Act of 1961 [42 USCS § 1436], or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act, the mortgagor's payment required by this subsection may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Secretary may prescribe: *Provided further*, That for purposes of this paragraph, the Secretary shall consider as cash or its equivalent any amounts borrowed from a family member (as such term is defined in section 201 [12 USCS § 1707]), subject only to the requirements that, in any case in which the repayment of such borrowed amounts is secured by a lien against the property, such lien shall be subordinate to the mortgage and the sum of the principal obligation of the mort-

gage and the obligation secured by such lien may not exceed 100 percent of the appraised value of the property plus any initial service charges, appraisal, inspection, and other fees in connection with the mortgage.

(10) [Deleted]

(c) Premium charges.

(1) The Secretary is authorized to fix premium charges for the insurance of mortgages under the separate sections of this title but in the case of any mortgage such charge shall be not less than an amount equivalent to one-fourth of 1 per centum per annum nor more than an amount equivalent to 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: *Provided*, That premium charges fixed for insurance (1) under section 245, 247, 251, 252, or 253 [12 USCS § 1715z-10, 1715z-12, 1715z-16, 1715z-17, or 1715z-18], or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2) under subsection (n) are not required to be the same as the premium charges for mortgages insured under the other provisions of this section, but in no case shall premium charges under subsection (n) exceed 1 per centum per annum: *Provided*, That any reduced premium charge so fixed and computed may, in the discretion of the Secretary, also be made applicable in such manner as the Secretary shall prescribe to each insured mortgage outstanding under the section or sections involved at the time the reduced premium charge is fixed. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Secretary under this title at par plus accrued interest, in such manner as may be prescribed by the Secretary: *Provided*, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund or account to which such premium charges are to be credited: *Provided further*, That the Secretary may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Secretary finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Secretary may prescribe; but no mortgage shall be accepted for insurance under this section unless the Secretary finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance under this title is paid in full prior to the maturity date, the Secretary is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge 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 such maturity date; and in the event that the principal obligation is paid in full as herein set forth, the Secretary is authorized to refund to the mortgagee for the account of the mortgagor all, of such portion as he shall determine to be equitable, of the current unearned premium charges theretofore paid: *Provided*, That with respect to mortgages (1) for which the Secretary requires, at the time the mortgage is insured, the payment of a single premium charge to cover the total premium obligation for the insurance of the mortgage, and (2) on which the principal obligation is paid before the number of years on which the premium with respect to a particular mortgage was based, or the property is sold subject to the mortgage or is sold and the mortgage is assumed prior to such time, the Secretary shall provide for refunds, where appropriate, of a portion of the premium paid and shall provide for appropriate allocation of the premium cost among the mortgagors over the term of the mortgage, in accordance with procedures established by the Secretary which take into account sound financial and actuarial considerations.

(2) Notwithstanding any other provision of this section, each mortgage secured by a 1- to 4-family dwelling that is an obligation of the Mutual Mortgage Insurance Fund or of the General Insurance Fund pursuant to subsection (v), and each mortgage that is insured under subsection (k) or section 234(c) [12 USCS § 1715y(c)], shall be subject to the following requirements:

(A) The Secretary shall establish and collect, at the time of insurance, a single premium payment in an amount not exceeding 2.25 percent of the amount of the original insured principal obligation of the mortgage. In the case of a mortgage for which the mortgagor is a first-time homebuyer who completes a program of counseling with respect to the responsibilities and financial management involved in homeownership that is approved by the Secretary, the premium payment under this subparagraph shall not exceed 2.0 percent of the amount of the original insured principal obligation of the mortgage. Upon payment in full of the principal obligation of a mortgage prior to the maturity date of the mortgage, the Secretary shall refund all of the unearned premium charges paid on the mortgage pursuant to this subparagraph, provided that the mortgagor refinances the unpaid principal obligation under title II of this Act.

(B) In addition to the premium under subparagraph (A), the Secretary shall establish and collect annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of

the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments) for the following periods:

(i) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 11 years of the mortgage term.

(ii) For any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than or equal to 90 percent of such value, for the first 30 years of the mortgage term; except that notwithstanding the matter preceding clause (i), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is greater than 95 percent of such value, the annual premium collected during the 30-year period under this clause shall be in an amount not exceeding 0.55 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments).

(d) Increase in maximum amount of mortgage. Notwithstanding any provision of this title governing maximum mortgage amounts for insuring a mortgage secured by a one- to four-family dwelling, the maximum amount of the mortgage determined under any such provision may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured.

(e) Contract of insurance as evidence of eligibility. Any contract of insurance heretofore or hereafter executed by the Secretary under this title shall be conclusive evidence of the eligibility of the loan or mortgage for insurance, and the validity of any contract of insurance so executed shall be incontestable in the hands of an approved financial institution or approved mortgagee from the date of the execution of such contract, except for fraud or misrepresentation on the part of such approved financial institution or approved mortgagee.

(f) Disclosure of other mortgage products.

(1) In general. In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a 1-page analysis of mortgage products offered by that lender and for which the borrower would qualify.

(2) Notice. The notice required under paragraph (1) shall include--

(A) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under subsection (b) with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and

(B) a statement regarding when the requirement of the mortgagor to pay the mortgage insurance premiums for a mortgage insured under this section would terminate, or a statement that the requirement shall terminate only if the mortgage is refinanced, paid off, or otherwise terminated.

(g) Limitation on use of single family mortgage insurance by investors.

(1) The Secretary may insure a mortgage under this title that is secured by a 1- to 4-family dwelling, or approve a substitute mortgagor with respect to any such mortgage, only if the mortgagor is to occupy the dwelling as his or her principal residence or as a secondary residence, as determined by the Secretary. In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary.

(2) The occupancy requirement established in paragraph (1) shall not apply to any mortgagor (or co-mortgagor, as appropriate) that is--

(A) a public entity, as provided in section 214 or 247 [12 USCS § 1715d or 1715g-12], or any other State or local government or an agency thereof;

(B) a private nonprofit or public entity, as provided in section 221(h) or 235(j) [12 USCS § 1715l(h) or 1715z(j)], or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 [26 USCS § 501(c)(3)] and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;

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(C) an Indian tribe, as provided in section 248 [12 USCS § 1715z-13];

(D) a serviceperson who is unable to meet such requirement because of his or her duty assignment, as provided in section 216 or subsection (b)(4) or (f) of section 222 [12 USCS § 1715g or 1715m(b)(4) or (f)];

(E) a mortgagor or co-mortgagor under subsection (k); or

(F) a mortgagor that, pursuant to section 223(a)(7) [12 USCS 1715n(a)(7)], is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.

(3) For purposes of this subsection, the term "substitute mortgagor" means a person who, upon the release by a mortgagee of a previous mortgagor from personal liability on the mortgage note, assumes such liability and agrees to pay the mortgage debt.

(4) [Redesignated]

(h) Disaster housing. Notwithstanding any other provision of this section, the Secretary is authorized to insure any mortgage which involves a principal obligation not in excess of the applicable maximum dollar limit under subsection (b) and not in excess of 100 per centum of the appraised value of a property upon which there is located a dwelling designed principally for a single-family residence, where the mortgagor establishes (to the satisfaction of the Secretary) that his home which he occupied as an owner or as a tenant was destroyed or damaged to such an extent that reconstruction is required as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe which the President, pursuant to sections 102(2) and 401 of the Disaster Relief and Emergency Assistance Act [42 USCS § § 5122(2) and 5170], has determined to be a major disaster.

(i) Single-family housing in outlying areas. The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of 75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section and not in excess of 97 per centum (or, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code [38 USCS § § 3701 et seq.], prior to the beginning of construction, 90 per centum) of the appraised value of a property located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence: *Provided*, That under the foregoing provisions of this subsection the Secretary is authorized to insure any mortgage issued with respect to a farm home in a plot of land two and one-half or more acres in size adjacent to an all-weather public road.

(j) Real estate loans by national banks. Loans secured by mortgages insured under this section shall not be taken into account in determining the amount of real estate loans which a national bank may make in relation to its capital and surplus or its time and savings deposits.

(k) Rehabilitation of one- to four-family structures; definitions; eligibility; refinancing and extension; General Insurance Fund.

(1) The Secretary may, in order to assist in the rehabilitation of one- to four-family structures used primarily for residential purposes, insure and make commitments to insure rehabilitation loans (including advances made during rehabilitation) made by financial institutions on and after 180 days following the date of the enactment of the Housing and Community Development Amendments of 1978. Such commitments to insure and such insurance shall be made upon such terms and conditions which the Secretary may prescribe and which are consistent with the provisions of subsections (b), (c), (e), (i), and (j) of this section, except as modified by the provisions of this subsection.

(2) For the purpose of this subsection--

(A) the term "rehabilitation 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--

(i) the rehabilitation of an existing one- to four-unit structure which will be used primarily for residential purposes;

(ii) the rehabilitation of such a structure and the refinancing of the outstanding indebtedness on such structure and the real property on which the structure is located; or

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(iii) the rehabilitation of such a structure and the purchase of the structure and the real property on which it is located; and

(B) the term "rehabilitation" means the improvement (including improvements designed to meet cost-effective energy conservation standards prescribed by the Secretary) or repair of a structure, or facilities in connection with a structure, and may include the provision of such sanitary or other facilities as are required by applicable codes, a community development plan, or a statewide property insurance plan to be provided by the owner or tenant of the project. The term "rehabilitation" may also include measures to evaluate and reduce lead-based paint hazards, as such terms are defined in section 1004 of the Residential Lead-Based Paint Hazard Reduction Act of 1992 [42 USCS § 4851b].

(3) To be eligible for insurance under this subsection, a rehabilitation loan shall--

(A) involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount which does not exceed, when added to any outstanding indebtedness of the borrower which is secured by the structure and the property on which it is located, the amount specified in subsection (b)(2); except that, in determining the amount of the principal obligation for purposes of this subsection, the Secretary shall establish as the appraised value of the property an amount not to exceed the sum of the estimated cost of rehabilitation and the Secretary's estimate of the value of the property before rehabilitation;

(B) bear interest at such rate as may be agreed upon by the borrower and the financial institution;

(C) be an acceptable risk, as determined by the Secretary; and

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

(4) Any rehabilitation loan insured under this subsection may be refinanced and extended in accordance with such terms and conditions as the Secretary may prescribe, but in no event for an additional amount or term which exceeds the maximum provided for in this subsection.

(5) All funds received and all disbursements made pursuant to the authority established by this subsection shall be credited or charged, as appropriate, to the General Insurance Fund, and insurance benefits shall be paid in cash out of such Fund or in debentures executed in the name of such Fund. Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 204 [12 USCS § 1710], except that all references in section 204 [12 USCS § 1710] to the Mutual Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h) [12 USCS § 1715k (h)(6)(7)], except that reference to "this subsection" in such paragraphs shall be construed as referring to this subsection.

(l) [Repealed]

(m) [Repealed]

(n) Cooperative housing projects; definitions.

(1) The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a dwelling unit in a cooperative housing project which is covered by a blanket mortgage insured under this Act or the construction of which was completed more than a year prior to the application for the mortgage insurance. The mortgage amount as determined under the other provisions of subsection (b) of this section shall be reduced by an amount equal to the portion of the unpaid balance of the blanket mortgage covering the project which is attributable (as of the date the mortgage is accepted for insurance) to such unit.

(2) For the purpose of this subsection--

(A) The terms "home mortgage" and "mortgage" include a first lien given (in accordance with the laws of the State where the property is located and accompanied by such security and other undertakings as may be required under regulations of the Secretary) to secure a loan made to finance the purchase of stock or membership in a cooperative ownership housing corporation the permanent occupancy of the dwelling units of which is restricted to members of such corporation, where the purchase of such stock or membership will entitle the purchaser to the permanent occupancy of one of such units.

(B) The terms "appraised value of the property", "value of the property", and "value" include the appraised value of a dwelling unit in a cooperative housing project of the type described in subparagraph (A) where the purchase of the stock or membership involved will entitle the purchaser to the permanent occupancy of that unit; and the term "property" includes a dwelling unit in such a cooperative project.

(C) The term "mortgagor" includes a person or persons giving a first lien (of the type described in subparagraph (A)) to secure a loan to finance the purchase of stock or membership in a cooperative housing corporation.

(o) Insurance of mortgages on owner occupied homes in communities subject to adverse economic conditions resulting from Indian claims to ownership of land; obligation of Special Risk Insurance Fund.

(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation may prescribe to further the purpose of this subsection, in any community where the Secretary determines that--

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or Nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise;

(C) as a direct result of the community's temporarily impaired economic condition, owner occupants of homes in the community have been involuntarily unemployed or underemployed and have thus incurred substantial reductions in income which significantly impair their ability to continue timely payment of their mortgages;

(D) as a result, widespread mortgage foreclosures and distress sales of homes are likely in the community; and

(E) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to December 31, 1976, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, or Nation.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this title relating to a mortgagor's reasonable ability to pay, economic soundness, marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner of a home in a community specified in paragraph (1) who, as a direct result of the community's temporarily impaired economic condition, has been involuntarily unemployed or underemployed and has thus incurred a substantial reduction in income which significantly impairs the owner's ability to continue timely payment of the mortgage. The Secretary is authorized to encourage or afford directly to or on behalf of mortgagors whose mortgages are insured under subsection (b) as modified by this subsection forbearance, assignment of mortgages to the Secretary, or such other relief as the Secretary deems appropriate and consistent with the purpose of this subsection. The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of this title [12 USCS § 1708], the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 238 of this title [12 USCS § 1715z-3].

(p) Insurance of mortgages in communities subject to temporary adverse economic conditions as a result of claims to ownership of land in the community by an American Indian Tribe, band, or nation; eligibility, authorities, etc.

(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary is authorized to insure, and to commit to insure, under subsection (b) of this section as modified by this subsection a mortgage which meets both the requirements of this subsection and such criteria as the Secretary by regulation shall prescribe to further the purpose of this subsection, in any community where the Secretary determines that--

(A) temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, or nation;

(B) such ownership claims are reasonably likely to be settled, by court action or otherwise; and

(C) fifty or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving claims to ownership of land in the community by an American Indian tribe, band, group, or nation pursuant to a dispute involving the Articles of Confederation, Trade and Intercourse Act of 1790 [unclassified], or any similar State or Federal law.

(2) A mortgage shall be eligible for insurance under subsection (b) of this section as modified by this subsection without regard to limitations in this title relating to marketability of title, or any other statutory restriction which the Secretary determines is contrary to the purpose of this subsection, but only if the mortgagor is an owner of a home in a community specified in paragraph (1). The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities which the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority,

or responsibilities where the Secretary deems such action to be necessary because of the special nature of the mortgage involved. Notwithstanding section 202 of this title [12 USCS § 1708], the insurance of a mortgage under subsection (b) of this section as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created pursuant to section 238 of this title [12 USCS § 1715z-3].

(q) Insurance of mortgages secured by property on certain lands leased by Seneca Nation of New York Indians.

(1) Notwithstanding any other provision of this section or any other section of this title, the Secretary shall insure and commit to insure, under subsection (b) as modified by this subsection, any mortgage secured by property located on land that--

(A) is within the Allegany Reservation of the Seneca Nation of New York Indians; and

(B) is subject to a lease entered into for a term of 99 years pursuant to the Act of February 19, 1875 (Chapter 90; 18 Stat. 330) and the Act of September 30, 1890 (Chapter 1132; 26 Stat. 558).

(2) A mortgage shall be eligible for insurance under subsection (b) as modified by this subsection without regard to limitations in this title relating to marketability of title or any other statutory restriction that the Secretary determines is contrary to the purpose of this subsection.

(3) The Secretary, in connection with any mortgage insured under subsection (b) as modified by this subsection, shall have all statutory powers, authority, and responsibilities that the Secretary has with respect to other mortgages insured under subsection (b), except that the Secretary may modify such powers, authority, or responsibilities if the Secretary determines such action to be necessary because of the special nature of the mortgage involved.

(4) Notwithstanding section 202 [12 USCS § 1708], the insurance of a mortgage under subsection (b) as modified by this subsection shall be the obligation of the Special Risk Insurance Fund created in section 238 [12 USCS § 1715z-3].

(r) Actions to reduce losses under single family mortgage insurance program. The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this title. Such actions shall include--

(1) an annual review by the Secretary of the rate of early serious defaults and claims, in accordance with section 533 [12 USCS § 1735f-11];

(2) requiring that at least one person acquiring ownership of a one- to four-family residential property encumbered by a mortgage insured under this title be determined to be credit-worthy under standards prescribed by the Secretary, whether or not such person assumes personal liability under the mortgage (except that acquisitions by devise or descent shall not be subject to this requirement);

(3) in any case where personal liability under a mortgage is assumed, requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability; and

(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under this section 203 (12 U.S.C. 1709), using the Fund to pay for such counseling.

In any case where the homeowner does not request a release from liability, the purchaser and the homeowner shall have joint and several liability for any default for a period of 5 years following the date of the assumption. After the close of such 5-year period, only the purchaser shall be liable for any default on the mortgage unless the mortgage is in default at the time of the expiration of the 5-year period.

(s) Suspension or revocation of approval of mortgagee; notice and statement of reasons. Whenever the Secretary has taken any discretionary action to suspend or revoke the approval of any mortgagee to participate in any mortgage insurance program under this title, the Secretary shall provide prompt notice of the action and a statement of the reasons for the action to--

(1) the Secretary of Veterans Affairs;

(2) the chief executive officer of the Federal National Mortgage Association;

(3) the chief executive officer of the Federal Home Loan Mortgage Corporation;

(4) the Administrator of the Farmers Home Administration;

(5) if the mortgagee is a national bank, or a subsidiary or affiliate of such a bank, the Comptroller of the Currency;

(6) if the mortgagee is a State bank that is a member of the Federal Reserve System or a subsidiary or affiliate of such a bank, or a bank holding company or a subsidiary or affiliate of such a company, the Board of Governors of the Federal Reserve System;

(7) if the mortgagee is a State bank that is not a member of the Federal Reserve System or is a subsidiary or affiliate of such a bank, the Board of Directors of the Federal Deposit Insurance Corporation; and

12 USCS § 1709

(8) if the mortgagee is a Federal or State savings association or a subsidiary or affiliate of a savings association, the Director of the Office of Thrift Supervision.

(t) Disclosure regarding interest due upon mortgage prepayment.

(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment. This paragraph shall apply to any insured mortgage outstanding on or after the expiration of the 90-day period beginning on the date of effectiveness of final regulations implementing this paragraph.

(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to an such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act [enacted Nov. 28, 1990]) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment. This paragraph shall apply to any mortgage executed after the expiration of the period under paragraph (1).

(u) Accountability of mortgage lenders.

(1) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of the mortgagee, as determined by the Secretary pursuant to section 539 [12 USCS § 1735f-17], provide for a variation in mortgage charge rates that exceeds 2 percent for insured mortgages made by the mortgagee on dwellings located within an area. The Secretary shall ensure that any permissible variations in the mortgage charge rates of any mortgagee are based only on actual variations in fees or costs to the mortgagee to make the loan.

(2) For purposes of this subsection--

(A) the term "area" shall have the meaning given the term under subsection (b)(2);

(B) the term "mortgage charges" includes the interest rate, discount points, loan origination fee, and any other amount charged to a mortgagor with respect to an insured mortgage; and

(C) the term "mortgage charge rate" means the amount of mortgage charges for an insured mortgage expressed as a percentage of the initial principal amount of the mortgage.

(v) Use of FHA insurance with assistance under 42 USCS 1437f. Notwithstanding section 202 of this title [12 USCS § 1708] the insurance of a mortgage under this section in connection with the assistance provided under section 8(y) of the United States Housing Act of 1937 [42 USCS § 1437f(y)] shall be the obligation of the General Insurance Fund created pursuant to section 519 of this title [12 USCS § 1735c]. The provisions of subsections (a) through (h), (j), and (k) of section 204 [12 USCS § 1710] shall apply to such mortgages, except that (1) all references in section 204 [12 USCS § 1710] to the Mutual Mortgage Insurance Fund or the Fund shall be construed to refer to the General Insurance Fund, and (2) any excess amounts described in section 204(f)(1) [12 USCS § 1710(f)(1)] shall be retained by the Secretary and credited to the General Insurance Fund.

(w) Annual report. The Secretary of Housing and Urban Development shall submit to the Congress an annual report on the single family mortgage insurance program under this section. Each report shall set forth--

(1) an analysis of the income groups served by the single family insurance program, including--

(A) the percentage of borrowers whose incomes do not exceed 100 percent of the median income for the area;

(B) the percentage of borrowers whose incomes do not exceed 80 percent of the median income for the area; and

(C) the percentage of borrowers whose incomes do not exceed 60 percent of the median income for the area;

(2) an analysis of the percentage of minority borrowers annually assisted by the program; the percentage of central city borrowers assisted and the percentage of rural borrowers assisted by the program;

(3) the extent to which the Secretary in carrying out the program has employed methods to ensure that needs of low and moderate income families, underserved areas, and historically disadvantaged groups are served by the program; and

(4) the current impediments to having the program serve low and moderate income borrowers; borrowers from central city areas; borrowers from rural areas; and minority borrowers.

The report required under this subsection shall include the report required under section 540(c) [12 USCS § 1735f-18(c)] and the report required under section 205(g) [12 USCS § 1711(g)].

(x) Management deficiencies report.

(1) In general. Not later than 60 days after the date of the enactment of this subsection [enacted Oct. 21, 1998], and annually thereafter, the Secretary shall submit to Congress a report on the plan of the Secretary to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation (as defined by the Director of the Office of Management and Budget) identified in the most recent audited financial statement of the Federal Housing Administration submitted under section 3515 of title 31, United States Code.

(2) Contents of annual report. Each report submitted under paragraph (1) shall include--

(A) an estimate of the resources, including staff, information systems, and contract assistance, required to address each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1), and the costs associated with those resources;

(B) an estimated timetable for addressing each material weakness, reportable condition, and noncompliance with an applicable law or regulation described in paragraph (1); and

(C) the progress of the Secretary in implementing the plan of the Secretary included in the report submitted under paragraph (1) for the preceding year, except that this subparagraph does not apply to the initial report submitted under paragraph (1).

HISTORY:

(June 27, 1934, ch 847, Title II, § 203, 48 Stat. 1248; May 28, 1935, ch 150, § 29(a), 49 Stat. 299; Aug. 23, 1935, ch 614, Title III, § 344(c), 49 Stat. 722; Feb. 3, 1938, ch 13, § 3, 52 Stat. 10; June 3, 1939, ch 175, § § 6-8, 53 Stat. 805, 806; June 28, 1941, ch 261, § 8, 55 Stat. 365; Oct. 15, 1943, ch 259, § 2, 57 Stat. 571; July 1, 1946, ch 531, 60 Stat. 408; Aug. 10, 1948, ch 832, Title I, § 101(g)-(k), 62 Stat. 1272; July 15, 1949, ch 338, Title II, § 201(2), 63 Stat. 421; Aug. 30, 1949, ch 524, § 1(2), 63 Stat. 681; Oct. 25, 1949, ch 729, § 1(2), 63 Stat. 905; April 20, 1950, ch 94, Title I, § § 103, 104(a), 122, 64 Stat. 51, 59; June 30, 1953, ch 170, § 3, 67 Stat. 121; Aug. 2, 1954, ch 649, Title I, § § 104-110, 68 Stat. 591; Aug. 7, 1956, ch 1029, Title I, § § 102, 104(a), 70 Stat. 1091, 1092; July 12, 1957, P.L. 85-104, Title I, § § 101, 106, 71 Stat. 294, 297; April 1, 1958, P.L. 85-364, § 1(a), 72 Stat. 73; Sept. 23, 1959, P.L. 86-372, Title I, § § 102, 103, Title VIII, § 809, 73 Stat. 654, 688; June 30, 1961, P.L. 87-70, Title I, § 102(b), Title VI, § § 604(b), 605, 606, 612(a), 75 Stat. 157, 177, 178, 180; Sept. 2, 1964, P.L. 88-560, Title I, § § 102, 103, 105(c)(1), 78 Stat. 769, 772; Aug. 10, 1965, P.L. 89-117, Title II, § § 203-206, Title XI, § 1108(c), 79 Stat. 466, 504; Nov. 3, 1966, P.L. 89-754, Title III, § § 301, 302, 80 Stat. 1266; May 25, 1967, P.L. 90-19, § 1(a)(3), (4), 81 Stat. 17; Aug. 1, 1968, P.L. 90-448, Title I, § 103(b), Title III, § § 317, 318, Title XI, § 1106(d), 82 Stat. 486, 512, 567; Dec. 24, 1969, P.L. 91-152, Title I, § § 102(a), 113(a), 83 Stat. 379, 383; Dec. 31, 1970, P.L. 91-606, Title III, § 301(c), 84 Stat. 1758; May 22, 1974, P.L. 93-288, Title VII [VI], § 702(c) [602(c)], 88 Stat. 163; Aug. 22, 1974, P.L. 93-383, Title III, § § 302(a), 310(a), 88 Stat. 676, 682; Oct. 18, 1974, P.L. 93-449, § 4(b), 88 Stat. 1367; Oct. 12, 1977, P.L. 95-128, Title III, § § 303(a), (g), 304(a), (b), 305, 307, 91 Stat. 1132-1134; Oct. 31, 1978, P.L. 95-557, Title I, § 101(c)(1), (2), 92 Stat. 2082; Nov. 9, 1978, P.L. 95-619, Title II, Part 3, § 248(a), 92 Stat. 3235; Dec. 21, 1979, P.L. 96-153, Title III, § § 310, 312(a), 318, 93 Stat. 1114, 1116, 1119; Oct. 8, 1980, P.L. 96-399, Title III, § § 321, 328, 333(a), 336 94 Stat. 1646, 1651, 1653, 1654; Sept. 8, 1982, P.L. 97-253, Title II, § 201(a), (b), 96 Stat. 789; July 30, 1983, P.L. 98-63, Title I, Ch VI in part, 97 Stat. 321; Nov. 30, 1983, P.L. 98-181, Title IV, Part A, Subpart 1, § 404(b)(2), (3), Subpart 2, § § 419, 423(a), (b)(1), 424(a), 425, Subpart 4, § 447, 97 Stat. 1209, 1212, 1216, 1218, 1228; Oct. 17, 1984, P.L. 98-479, Title II, § 204(a)(2), 98 Stat. 2232; Nov. 5, 1986, P.L. 99-601, 100 Stat. 3357; Feb. 5, 1988, P.L. 100-242, Title IV, Subtitle A, § § 403, 404, 405(1), 406(a), (b)(1)-(6), (c), 407(a)(1), 422(b), 423, 429(c), 101 Stat. 1899, 1900, 1902, 1914, 1918; Act Nov. 7, 1988, P.L. 100-628, Title X, Subtitle D, § § 1061, 1062, 1063(a), 102 Stat. 3274; Nov. 23, 1988, P.L. 100-707, Title I, § 109(e)(2), 102 Stat. 4708; Nov. 9, 1989, P.L. 101-144, Title II, 103 Stat. 852; Dec. 15, 1989, P.L. 101-235, Title I, Subtitle C, § § 132(a), 135, 143(a), (b), 103 Stat. 2026, 2028, 2036; Oct. 1, 1990, P.L. 101-402, § 3, 104 Stat. 866; Nov. 5, 1990, P.L. 101-507, Title II, § 104 Stat. 1369; Nov. 5, 1990, P.L. 101-508, Title II, Subtitle B, § § 2101-2103(a), 104 Stat. 1388-17; Nov. 28, 1990, P.L. 101-625, Title III, Subtitle B, § § 326(a), 327, 329, 330, Title IV, Subtitle B, § 429, 104 Stat. 4137, 4138, 4171; Oct. 6, 1992, P.L. 102-389, Title II, 106 Stat. 1591, 1593; Oct. 28, 1992, P.L. 102-550, Title I, Subtitle E, § 185(c)(1), Title V, Subtitle A, § § 503(a), 504-507, Title X, Subtitle A, § 1012(k)(2), 106 Stat. 3747, 3779, 3780, 3907; Feb. 12, 1994, P.L. 103-211, Title I, Ch 7, 108 Stat. 12; Sept. 28, 1994, P.L. 103-327, Title II, 108 Stat. 2314; Oct. 5, 1994, P.L. 103-337, Div C, Title XXXIV, Subtitle B, § 3411(a)(1), (2), 108 Stat. 3100; Sept. 26, 1996, P.L. 104-204, Title IV, § § 424, 425(a), 426, 110 Stat. 2927, 2928; Oct. 27, 1997, P.L. 105-65, Title II, § 211, 111 Stat. 1366; Oct. 21, 1998, P.L. 105-276, Title II, § § 212, 224(a), 225(a), 228, 112 Stat. 2486, 2489, 2490, 2491; Oct. 20, 1999, P.L. 106-74, Title II, § 207, 113 Stat 1072; Oct. 6, 2000, P.L. 106-281, § 2, 114 Stat. 865; Oct. 27, 2000, P.L. 106-377, § 1(a)(1), 114 Stat. 1441; Dec. 27, 2000, P.L. 106-569, Title XI, § 1103(f),

114 Stat. 3031; Nov. 26, 2001, P.L. 107-73, Title II, § 207(a), 115 Stat. 674; Dec. 4, 2002, P.L. 107-326, § 2, 116 Stat. 2792; Oct. 30, 2004, P.L. 108-386, § 8(b), 118 Stat. 2231; Dec. 8, 2004, P.L. 108-447, Div I, Title II, § § 222, 223, 118 Stat. 3321; May 11, 2005, P.L. 109-13, Div A, Title VI, § 6073, 119 Stat. 300.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This title" and "title II of this Act", referred to in this section, is Title II of Act of June 27, 1934, ch 847, which appears generally as 12 USCS § § 1707 et seq. For full classification of such Title, consult USCS Tables volumes.

"This Act", referred to in this section, is the National Housing Act, which appears generally as 12 USCS § § 1701 et seq. For full classification of such Act, consult the USCS Tables volumes.

The "Acts of February 19, 1875 (Chapter 90; 18 Stat. 330), and September 30, 1890 (Chapter 1132; 26 Stat. 558)", referred to in subsec. (q)(1)(B), which related to leasing of lands by the Seneca Nation of New York Indians, are not classified to the Code.

The "Homeownership and Opportunity Through HOPE Act", referred to in subsec. (b)(9), is Title IV of Act Nov. 28, 1990, P.L. 101-625. For full classification of such Title, consult USCS Tables volumes.

The "Housing and Community Development Amendments of 1978", referred to in subsec. (k), is Act Oct. 31, 1978, P.L. 95-557. For full classification of such Act, consult USCS Tables volumes.

The "Robert T. Stafford Disaster Relief and Emergency Assistance Act", referred to in this section, is Act May 27, 1974, P.L. 98-288, which amended this section, among other things. For full classification of such Act, consult USCS Tables volumes.

"Section 207 of the Housing Act of 1961", referred to in subsec. (b)(9), was classified to 42 USCS § 1436 and was repealed by Act Dec. 31, 1970, P.L. 91-609, Title V, § 503(4), 84 Stat. 1786.

Explanatory notes:

The section designation "5303A(d)" has been inserted in brackets in subsec. (b)(2) on the authority of § 402(d)(2) of Act May 7, 1991, P.L. 102-40, which provides that any reference in a provision of law, other than Title 38, to a section redesignated by § 402(b) of Act May 7, 1991, shall be deemed to refer to the section as so redesignated.

The comma in subsec. (c)(2) has been enclosed in brackets to indicate the probable intent of Congress to delete such punctuation.

The amendments made by § 1(a)(1) of Act Oct. 27, 2000, P.L. 106-377, are based on § § 209(a) and 225 of Title II of H.R. 5482 (114 Stat. 1441A-25, 30), as introduced on Oct. 18, 2000, which was enacted into law by such § 1(a)(1).

Amendments:

1934. Act June 27, 1934, originally enacted this section to read: "(a) The Administrator is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him within one year from the date of its execution which is eligible for insurance as hereinafter provided, and, upon such terms as the Administrator may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That except with the approval of the President, (1) the aggregate principal obligation of all mortgages on property and low-cost housing projects existing on the date of enactment of this Act and insured under this title shall not exceed \$ 1,000,000,000, and (2) the insurance of mortgages on property and low-cost housing projects constructed after the passage of this Act shall be limited to a similar amount.

"(b) To be eligible for insurance under this section a mortgage shall--

"(1) Have, or be held by, a mortgagee approved by the Administrator as responsible and able to service the mortgage properly.

"(2) Involve a principal obligation (including such initial service charges and appraisal and other fees as the Administrator shall approve) in an amount not to exceed \$ 16,000, and not to exceed 80 per centum of the appraised value of the property as of the date the mortgage is executed.

"(3) Have a maturity satisfactory to the Administrator, but not to exceed twenty years.

"(4) Contain complete amortization provisions satisfactory to the Administrator requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Administrator.

"(5) Bear interest (exclusive of premium charges for insurance) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed 6 per centum per annum if the Administrator finds that in certain areas or under special circumstances the mortgage market demands it.

"(6) Provide, in a manner satisfactory to the Administrator, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

"(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Administrator may in his discretion prescribe.

"(c) The Administrator is authorized to fix a premium charge for the insurance of mortgages under this section (to be determined in accordance with the risk involved) which in no case shall be less than one-half of 1 per centum nor more than 1 per centum per annum of the original face value of the mortgage, and which shall be payable annually in advance by the mortgagee. If the Administrator finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Administrator may prescribe; but no mortgage shall be accepted for insurance under this section unless the Administrator finds that the project with respect to which the mortgage is executed is economically sound.

"(d) The Administrator is authorized and directed to make such rules and regulations as may be necessary to carry out the provisions of this section."

1935. Act May 28, 1935, added to the end of original subsec. (c) a sentence which read: "In the event that the principal obligation of any mortgage accepted for insurance under this section is paid in full prior to the maturity date specified in the mortgage, the Administrator is further authorized in his discretion to require the payment by the mortgagor of a premium charge in such amount as the Administrator 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 under this section until such maturity date."

Act Aug. 23, 1935, in subsec. (a)(1), inserted "property and" before "projects".

1938. Act Feb. 3, 1938 substituted for original subsecs. (a)-(d) the following: "(a) The Administrator is authorized, upon application by the mortgagee, to insure as hereinafter provided any mortgage offered to him which is eligible for insurance as hereinafter provided, and, upon such terms as the Administrator may prescribe, to make commitments for the insuring of such mortgages prior to the date of their execution or disbursement thereon: *Provided*, That the aggregate amount of principal obligations of all mortgages insured under this title and outstanding at any one time shall not exceed \$ 2,000,000,000, except that with the approval of the President such aggregate amount may be increased to not to exceed \$ 3,000,000,000: *Provided further*, That on and after July 1, 1939, no mortgages shall be insured under this title except mortgages (1) that cover property which is approved for mortgage insurance prior to the completion of the construction of such property, or (2) that cover property the construction of which was commenced after January 1, 1937, and was completed prior to July 1, 1939, or (3) that cover property which has been previously covered by a mortgage insured by the Administrator.

"(b) To be eligible for insurance under this section a mortgage shall--

"(1) Have been made to, and be held by, a mortgagee approved by the Administrator as responsible and able to service the mortgage properly.

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Administrator shall approve) in an amount--

"(A) not to exceed \$ 16,000 and not to exceed 80 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property upon which there is located a dwelling or dwellings designed principally for residential use for not more than four families in the aggregate, irrespective of whether such dwelling or dwellings have a party wall or are otherwise physically connected with another dwelling or dwellings, or

"(B) not to exceed \$ 5,400 and not to exceed 90 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for a single-family residence (i) the construction of which is begun after the date of enactment of the National Housing Act Amendments of 1938 and which is approved for mortgage insurance prior to the beginning of construction, or (ii) the construction of which was begun after January 1, 1937, and prior to the date of enactment of the National Housing Act Amendments of 1938, and which has not been sold or occupied since completion: *Provided*, That with respect to mortgages insured under this paragraph the mortgagor shall be the owner and occupant of the property at the time of the insurance and shall have paid on account of the property at least 10 per centum of the appraised value in cash or its equivalent, or

"(C) not to exceed \$ 8,600, and not to exceed the sum of (i) 90 per centum of \$ 6,000 of the appraised value (as of the date the mortgage is accepted for insurance) and (ii) 80 per centum of such value in excess of \$ 6,000 and not in

excess of \$ 10,000, of a property of the character described in paragraph (2)(B) of this subsection and subject to the same limitations and conditions which apply to such property.

"(3) Have a maturity satisfactory to the Administrator, but not to exceed twenty years from the date of the insurance of the mortgage: *Provided*, That until July 1, 1939, a mortgage of the character described in paragraph (2)(B) of this subsection shall be eligible for insurance under this section if it has a maturity satisfactory to the Administrator, but not to exceed twenty-five years from the date of the insurance of the mortgage.

"(4) Contain complete amortization provisions satisfactory to the Administrator requiring periodic payments by the mortgagor not in excess of his reasonable ability to pay as determined by the Administrator.

"(5) Bear interest (exclusive of premium charges for insurance) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed 6 per centum per annum if the Administrator finds that in certain areas or under special circumstances the mortgage market demands it.

"(6) Provide, in a manner satisfactory to the Administrator, for the application of the mortgagor's periodic payments (exclusive of the amount allocated to interest and to the premium charge which is required for mortgage insurance as hereinafter provided) to amortization of the principal of the mortgage.

"(7) Contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes, default reserves, delinquency charges, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the Administrator may in his discretion prescribe.

"(c) The Administrator is authorized to fix a premium charge for the insurance of mortgages under this title but in the case of any mortgage such charge shall not be less than an amount equivalent to one-half of 1 per centum per annum nor more than an amount equivalent to 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: *Provided*, That a premium charge so fixed and computed shall also be applicable to each mortgage insured prior to the date of enactment of the National Housing Act Amendments of 1938 in lieu of any premium charge which would otherwise become due after such date with respect to such mortgage: *Provided further*, That in the case of any mortgage described in section 203(b)(2)(B) and accepted for insurance after such date and prior to July 1, 1939, the premium charge shall be one-fourth of 1 per centum per annum on such outstanding principal obligation. Such premium charges shall be payable by the mortgagee, either in cash, or in debentures issued by the Administrator under this title at par plus accrued interest, in such manner as may be prescribed by the Administrator: *Provided*, That the Administrator may require the payment of one or more such premium charges at the time the mortgage is insured, at such discount rate as he may prescribe not in excess of the interest rate specified in the mortgage. If the Administrator finds upon the presentation of a mortgage for insurance and the tender of the initial premium charge or charges so required that the mortgage complies with the provisions of this section, such mortgage may be accepted for insurance by endorsement or otherwise as the Administrator may prescribe; but no mortgage shall be accepted for insurance under this section unless the Administrator finds that the project with respect to which the mortgage is executed is economically sound. In the event that the principal obligation of any mortgage accepted for insurance under this section or section 210 is paid in full prior to the maturity date, the Administrator is further authorized in his discretion to require the payment by the mortgagee of an adjusted premium charge in such amount as the Administrator 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 under this section until such maturity date; and in the event that the principal obligation is paid in full as herein set forth and a mortgage on the same property is accepted for insurance at the time of such payment, the Administrator 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.

"(d) The Administrator is authorized to insure, pursuant to the provisions of this section, any mortgage which (A) covers a farm upon which a farm house or other farm buildings are to be constructed or repaired, and (B) otherwise would be eligible for insurance under the provisions of paragraph (b) of this section: *Provided*, That the construction and repairs to be undertaken on such farm shall involve the expenditure for materials and labor of an amount not less than 15 per centum of the total principal obligation of said mortgage."

1939. Act June 3, 1939, in subsec. (a), substituted "\$ 3,000,000,000" for "\$ 2,000,000,000", "\$ 4,000,000,000" for "\$ 3,000,000,000", and "Provided further, That the aggregate amount of principal obligations of all mortgages that cover property the construction of which was completed more than one year prior to the date of the application for insurance, and that are insured under this title after the effective date of this amendment and outstanding at any one time, shall not exceed 25 per centum of the total amount of the principal obligations of mortgages with respect to which insurance may be granted under this title after such effective date: *Provided further*, That on and after July 1, 1941, no mortgages shall be insured under this title except mortgages that cover property which is approved for mortgage insurance prior to the completion of the construction of such property, or which has been previously covered by a mortgage insured by the

Administrator." for the second proviso as it appears in Act Feb. 3, 1938; deleted from subsec. (b) as it appears in the Act of Feb. 3, 1938 "until July 1, 1939"; and added subsecs. (e) and (f).

1941. Act June 28, 1941, substituted "\$ 4,000,000,000" for "\$ 3,000,000,000", "\$ 5,000,000,000" for "\$ 4,000,000,000", substituted "June 3, 1939, and outstanding at any one time shall not exceed 35 per centum of the total amount of the principal obligations of mortgages with respect to which insurance may be granted under this title after such date" for "the effective date of this amendment and outstanding at any one time, shall not exceed 25 per centum of the total amount of the principal obligations of mortgages with respect to which insurance may be granted under this title after such effective date" in the then existing second proviso; and substituted "July 1, 1944" for "July 1, 1941" in the third proviso.

1943. Act Oct. 15, 1943, substituted "1946" for "1944" in the third proviso of subsec. (a).

1946. Act July 1, 1946, in subsec. (a), deleted the second and third provisos and substituted a "." for the ":" at the end of the first proviso.

1948. Act Aug. 10, 1948, in clause (B) of para. (2) of subsec. (b), substituted "\$ 6,300" for "\$ 5,400"; in clause (c) of para. (2) of subsec. (b), substituted "\$ 9,500" for "\$ 8,600", "\$ 7,000" for "\$ 6,000" each place it appears, "\$ 11,000" for "\$ 10,000"; at the end of clause (C) of para. (2) in subsec. (b), substituted ", or" for the period; added clause (D) to para. (2) of subsec. (b); in para. (3) of subsec. (b), substituted "on property approved for insurance prior to the beginning of construction" for "of the character described in paragraph (2)(B) of this subsection"; in para. (3) of subsec., substituted ", or not to exceed thirty years in the case of a mortgage insured under paragraph (2)(D) of this subsection." for the period; in para. (5) of subsec. (b), substituted ", or not to exceed 4 per centum per annum in the case of a mortgage insured under paragraph (2)(D) of this subsection, or not to exceed such per centum per annum, not in excess of 5 per centum, as the Administrator finds necessary to meet the mortgage market." for the period; in subsec (c) substituted "title" for "section or section 210" and deleted "under this section" and "and a mortgage on the same property is accepted for insurance at the time of such payment," in the last sentence thereof.

1949. Act July 15, 1949 (effective 6/30/49 as provided by § 202 of such Act.), in the proviso of subsec. (a), substituted "\$ 5,300,000,000" for "\$ 4,000,000,000" and "\$ 5,500,000,000" for "\$ 5,000,000,000".

Act Aug. 30, 1949, in the proviso of subsec. (a), substituted "\$ 5,500,000,000" for "\$ 5,300,000,000" and "\$ 6,000,000,000" for "\$ 5,500,000,000".

Act Oct. 25, 1949, in the proviso of subsec. (a), substituted "\$ 6,000,000,000" for "\$ 5,500,000,000" and "\$ 6,750,000,000" for "\$ 6,000,000,000".

1950. Act April 20, 1950, in subsec. (a), substituted "Provided, That the aggregate amount of principal obligations of all mortgages insured under this title and outstanding at any one time shall not exceed \$ 7,750,000,000, except that with the approval of the President such aggregate amount may be increased at any time or times by additional amounts aggregating not more than \$ 1,250,000,000 upon a determination by the President, taking into account the general effect of any such increase upon conditions in the building industry and upon the national economy, that such increase is in the public interest." for the then existing proviso; reenacted para. (2) of subsec. (b) to read: "(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Commissioner shall approve) in an amount--

"(A) not to exceed \$ 16,000 and not to exceed 80 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property upon which there is located a dwelling or dwellings designed principally for residential use for not more than four families in the aggregate, irrespective of whether such dwelling or dwellings have a party wall or are otherwise physically connected with another dwelling or dwellings: *Provided*, That the Commissioner may increase such dollar amount limitation by not exceeding \$ 4,500 for each additional family dwelling unit in excess of two located on such property, or

"(B) Repealed.)

"(C) not to exceed \$ 9,450 and not to exceed the sum of (i) 95 per centum of \$ 7,000 of the appraised value (as of the date the mortgage is accepted for insurance) and (ii) 70 per centum of such value in excess of \$ 7,000 and not in excess of \$ 11,000, of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for a single-family residence and which is approved for mortgage insurance prior to the beginning of construction: *Provided*, That with respect to mortgages insured under this paragraph the mortgagor shall be the owner and occupant of the property and shall have paid on account of the property at least 5 per centum of the appraised value, or such larger amount as the Commissioner may determine, in cash or its equivalent, or

"(D) not to exceed \$ 6,650, except that the Commissioner may by regulation increase this amount to not to exceed \$ 7,600 in any geographical area where he finds that cost levels so require, and not to exceed 95 per centum of the appraised value (as of the date the mortgage is accepted for insurance) of a property, urban, suburban, or rural, upon which there is located a dwelling designed principally for a single-family residence and which is approved for mortgage insur-

ance prior to the beginning of construction: *Provided*, That if the Commissioner finds that it is not feasible, within the aforesaid dollar amount limitation, 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 \$ 950 for each additional bedroom (as defined by the Commissioner) in excess of two contained in 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: *Provided further*, That with respect to mortgages insured under this paragraph the mortgagor shall be the owner and occupant of the property and shall have paid on account of the property at least 5 per centum of the appraised value in cash or its equivalent, or shall be the builder constructing the dwelling in which case the principal obligation shall not exceed \$ 5,950 for a one-bedroom unit or a two-bedroom unit, \$ 6,800 for a three-bedroom unit, or \$ 7,650 for a unit having four or more bedrooms, except that the Commissioner may by regulation increase each of the maximum dollar amount limitations contained in this proviso by not to exceed \$ 850 in any geographical area where he finds that cost levels so require, and shall not exceed 85 per centum of the appraised value of the property: *And provided further*, That the Commissioner may by regulation provide that the maximum dollar amount limitations in this paragraph (D) shall be fixed at lesser amounts where he finds, for any section or locality or for the country as a whole or at any time, that it is feasible, within such lesser dollar amount limitations, to construct dwellings for families of lower income without sacrifice of sound standards of construction, design, and livability."; and substituted "Commissioner" for "Administrator" wherever it appears.

1953. Act June 30, 1953, added subsec. (g).

1954. Act Aug. 2, 1954, reenacted paras. (2), (3), and (5) of subsec. (b) to read:

"(2) Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Commissioner shall approve) in an amount not to exceed \$ 20,000 in the case of property upon which there is located a dwelling designed principally (whether or not it may be intended to be rented temporarily for school purposes) for a one- or two-family residence; or \$ 27,500 in the case of a three-family residence; or \$ 35,000 in the case of a four-family residence; and not to exceed an amount equal to the sum of (i) 95 per centum (but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, 90 per centum) of \$ 9,000 of the appraised value (as of the date the mortgage is accepted for insurance), and (ii) 75 per centum of such value in excess of \$ 9,000, except that the President may increase such dollar amounts up to not to exceed \$ 10,000 if, after taking into consideration the general effect of such higher dollar amounts upon conditions in the building industry and upon the national economy, he determines such action to be in the public interest: *Provided*, that if the mortgagor is not the occupant of the property the principal obligation of the mortgage shall not exceed an amount equal to 85 per centum of the amount computed under the foregoing provisions of this paragraph (2): *Provided further*, That the mortgagor shall have paid on account of the property at least 5 per centum (or such larger amount as the Commissioner may determine) of the Commissioner's estimate of the cost of acquisition in cash or its equivalent.

"(3) Have a maturity satisfactory to the Commissioner, but not to exceed, in any event, thirty years from the date of the insurance of the mortgage or three-quarters of the Commissioner's estimate of the remaining economic life of the building improvements, whichever is the lesser."

"(5) Bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Commissioner finds necessary to meet the mortgage market.";

substituted in the then second sentence of subsec. (c) "Provided, That debentures presented in payment of premium charges shall represent obligations of the particular insurance fund to which such premium charges are to be credited: *Provided further*" for "*Provided*"; in subsec. (d) substituted "*And provided further*, That no mortgage shall be insured pursuant to this subsection after the effective date of the Housing Act of 1954, except pursuant to a commitment to insure issued on or before such date." for the period at the end; repealed subsecs. (f) and (g); and added subsecs. (h) and (i).

1956. Act Aug. 7, 1956, inserted in para. (2) of subsec. (b), ", unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance," and ", except that with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is accepted for insurance, the mortgagor's payment required by this proviso may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Commissioner may prescribe"; in subsec. (h), substituted "\$ 12,000" for "\$ 7,000".

1957. Act July 12, 1957, in para. (2) of subsec. (b), substituted "97" for "95", "\$ 10,000" for "\$ 9,000" in two places, "of the property," for "(", a comma for ")", and "and "85" for "75", inserted "but not in excess of \$ 16,000" and clause (iii) and deleted "except that the President may increase such dollar amounts up to not to exceed \$ 10,000 if, after taking into consideration the general effect of such higher dollar amounts upon conditions in the building industry and upon the national economy, he determines such action to be in the public interest: *Provided*, That if the mortgagor is not the

occupant of the property the principal obligation of the mortgage shall not exceed an amount equal to 85 per centum of the amount computed under the foregoing provisions of this paragraph (2): *Provided further*, That the mortgagor shall have paid on account of the property at least 5 per centum (or such larger amount as the Commissioner may determine) of the Commissioner's estimate of the cost of acquisition in cash or its equivalent, except that with respect to a mortgage executed by a mortgagor who is sixty years of age or older as of the date the mortgage is accepted for insurance, the mortgagor's payment required by this proviso may be paid by a corporation or person other than the mortgagor under such terms and conditions as the Commissioner may prescribe."; added paras. (8) and (9) to subsec. (b); deleted subsec. (d); and substituted subsec. (i) which read "(i) The Commissioner is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection, which involves a principal obligation not in excess of \$ 8,000 and not in excess of 97 per centum of the appraised value of a property located in an area where the Commissioner finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single-family residence, and which is approved for mortgage insurance prior to the beginning of construction: *Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property: *Provided further*, That the Commissioner finds that the property with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: *Provided further*, That under the foregoing provisions of this subsection the Commissioner is authorized to insure any mortgage issued with respect to the construction of a farm home on a plot of land five or more acres in size adjacent to a public highway, the total amount of insurance outstanding at any one time under this proviso not to exceed \$ 100,000,000." for subsec. (i) as added Act Aug. 2, 1954, which read: "(i) Notwithstanding any other provision of this section, the Commissioner is authorized to insure any mortgage which involves a principal obligation not in excess of \$ 6,650 and not in excess of 95 per centum of the appraised value, as of the date the mortgage is accepted for insurance, of a property in an area where the Commissioner finds it is not practicable to obtain conformity with many of the requirements essential to the insurance of mortgages on housing in built-up urban areas, upon which there is located a dwelling designed principally for a single family residence, and which is approved for mortgage insurance prior to the beginning of construction: *Provided*, That (1) the mortgagor shall be the owner and occupant of the property at the time of insurance and shall have paid on account of the property at least 5 per centum of the Commissioner's estimate of the cost of acquisition in cash or its equivalent, or (2) the mortgagor shall be the owner and occupant of the property at the time of insurance, regardless of his credit standing, with whom a person or corporation having a credit standing satisfactory to the Commissioner, shall have entered into a written contract (a) to pay on behalf of the prospective owner and occupant all or part of the downpayment required by this paragraph agreeing to take as security a note from the latter bearing interest at the rate of not more than 4 per centum per annum, maturing after the last maturity date of principal due on the insured mortgage, with a right in the holder to accelerate maturity to a date following prepayment of the entire mortgage debt, under the terms of which note all rights of such person or corporation are subordinated to the rights of the mortgagee or assignees of the mortgagee, and (b) to guarantee payment of the insured mortgage by the owner and occupant according to the terms of the mortgage, or (3) shall be the builder constructing the dwelling; in which case the principal obligation shall not exceed 85 per centum of the appraised value of the property or \$ 5,950: *Provided further*, That the Commissioner finds that the project with respect to which the mortgage is executed is an acceptable risk, giving consideration to the need for providing adequate housing for families of low and moderate income particularly in suburban and outlying areas or small communities: *Provided further*, That under the foregoing provisions of this subsection the Commissioner is authorized to insure any mortgage issued with respect to the construction of a farm home on a plot of land five or more acres in size adjacent to a public highway, the total amount of insurance outstanding at any one time under this proviso not to exceed \$ 100,000,000."

1958. Act April 1, 1958, in para. (2) of subsec. (b), substituted "\$ 13,500" for "\$ 10,000" in two places.

1959. Act Sept. 23, 1959, in para. (2) of subsec. (b), substituted "\$ 22,500" for "\$ 20,000", "90" for "85", "\$ 18,000" for "\$ 16,000" wherever appearing, and "such one- or two-family residence" for "it", inserted "for a one-family residence; or \$ 25,000 in the case of a two-family residence", and "or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction", and deleted "for one- or two-family residence" following the second parenthetical phrase; in para. (8) of subsec. (b), added the proviso; in subsec. (i), substituted "\$ 9,000" for "\$ 8,000", inserted the parenthetical phrase, and deleted ", and which is approved for mortgage insurance prior to the beginning of construction" preceding the first proviso, "the construction of" preceding "a farm", and ", the total amount of insurance outstanding at any one time under this proviso not to exceed \$ 100,000,000" at the end; and added subsec. (j).

1961. Act June 30, 1961, in subsec. (a), deleted "*Provided*, That the aggregate amount of principal obligations of all mortgages insured under this title and outstanding at any one time shall not exceed \$ 7,750,000,000, except that with the approval of the President such aggregate amount may be increased at any time or times by additional amounts aggregating not more than \$ 1,250,000,000 upon a determination by the President, taking into account the general effect of any such increase upon conditions in the building industry and upon the national economy, that such increase is in the public interest."; in para. (2) of subsec. (b), substituted "\$ 15,000" for "\$ 13,500", "\$ 20,000" for "\$ 18,000", "75" for "70", "\$ 25,000" for "\$ 22,500", and "\$ 27,500" for "\$ 25,000"; in para. (3) of subsec. (b), substituted "thirty-five" for "thirty" and "beginning of amortization" for "insurance" and inserted the parenthetical phrase; in subsec. (c), substituted "premium charges" for "a premium charge", "one-fourth" for "one-half", and the proviso for "Provided, That a premium charge so fixed and computed shall also be applicable to each mortgage insured prior to the date of enactment of the National Housing Act Amendments of 1938 in lieu of any premium charge which would otherwise become due after such date with respect to such mortgage: *Provided, further*, That in the case of any mortgage described in section 203(b)(2)(B) and accepted for insurance after such date and prior to July 1, 1939, the premium charge shall be one-fourth of 1 per centum per annum on such outstanding principal obligation." and inserted "the separate sections of" in the first sentence and inserted "or account" in the second sentence; in subsec. (e), inserted "loan or" and "financial institution or approved"; and added subsec. (k).

1964. Act Sept. 2, 1964, in para. (2) of subsec. (b), substituted "\$ 30,000" for "\$ 25,000", "\$ 32,500" for "\$ 27,500" in two places, and "\$ 37,500" for "\$ 35,000"; in subsec. (i), substituted "\$ 11,000" for "\$ 9,000"; in clause (2) of subsec. (k) substituted "an acceptable risk" for "economically sound", and in clause (4) of subsec. (k) substituted "insurance benefits shall be paid in cash out of the Section 203 Home Improvement Account or in debentures executed in the name of such Account" for "insurance benefits shall be paid in debentures executed in the name of the Section 203 Home Improvement Account", and the first fourteen words in the third sentence for "Debentures issued with respect to loans insured under this subsection shall be issued", and added "If the insurance . . . by the Commissioner."

1965. Act Aug. 10, 1965, in para. (2) of subsec. (b), substituted "80" for "75", inserted the third parenthetical phrase, and added the last two sentences which read "If the mortgagor . . . than dishonorable."; in para. (9) of subsec. (b), inserted the parenthetical phrase and "or with respect to a mortgage covering a single-family home being purchased under the low-income housing demonstration project assisted pursuant to section 207 of the Housing Act of 1961,"; in subsec. (i), substituted "\$ 12,500" for "\$ 11,000" in subsec. (k), substituted "the General" for "a separate section 203 Home Improvement Account to be maintained as hereinafter provided under the Mutual Mortgage", "General Insurance Fund" for "section 203 Home Improvement Account", and "Fund" for "Account" and deleted part of the third and all of the fourth, fifth, and sixth sentences which read: ", references to the Section 220 Home Improvement Account shall be construed to refer to the Section 203 Home Improvement Account, and references to the Section 220 Housing Insurance Fund shall be construed to refer to the Mutual Mortgage Insurance Fund. All of the provisions in section 220(h)(4) relative to the Section 220 Home Improvement Account shall be equally applicable to the Section 203 Home Improvement Account. There is hereby created a separate Section 203 Home Improvement Account under the Mutual Mortgage Insurance Fund which shall be used by the Commissioner as a revolving fund for carrying out the provisions of this subsection, and the Commissioner is authorized to transfer to such Account the sum of \$ 1,000,000 for the War Housing Insurance Fund established pursuant to the provisions of section 602 of this Act. The provisions of section 205(c) shall not be applicable to loans insured under this subsection."

1966. Act Nov. 3, 1966, in para. (2) of subsec. (b), deleted "who has not received any direct, guaranteed, or insured loan under laws administered by the Veterans' Administration for the purchase, construction, or repair of a dwelling (including a farm dwelling) which was to be owned and occupied by him as his home" following "veteran" in the next to the last sentence; added subsec. (l).

1967. Act May 25, 1967, substituted "Secretary" and "Secretary's" for "Commissioner" and "Commissioner's" throughout the section.

1968. Act Aug. 1, 1968, in subsec. (h), inserted "riot or civil disorder"; in subsec. (i), substituted "\$ 13,500" for "\$ 12,500"; deleted subsec. (l) which read: "The Secretary is authorized to insure under this section any mortgage meeting the requirements of this section, other than the requirement in subsection (c) relating to economic soundness, if he determines that (1) the dwelling covered by the mortgage is situated in an area in which rioting or other civil disorders have occurred or are threatened, (2) as a result of such actual or threatened rioting or other disorders the property with respect to which the mortgage is executed cannot meet the normal requirements with respect to economic soundness, and (3) such property is an acceptable risk giving due consideration to the need for providing adequate housing for families of low and moderate income in such area."; added subsec. (m).

1969. Act Dec. 24, 1969, in clause (2) of subsec. (b), substituted "\$ 25,000", "\$ 33,000", "\$ 35,750", and "\$ 41,250" for "\$ 20,000", "\$ 30,000", "\$ 32,500", and "\$ 37,500" respectively wherever they appear; in subsec. (i) substituted "\$ 14,400" for "\$ 12,000" in subsec. (h); "\$ 16,200" for "\$ 13,500"; in subsec. (m), substituted "\$ 18,000" for "\$ 15,000".

1970. Act Dec. 31, 1970, in subsec. (h), substituted "section 102(1) of the Disaster Relief Act of 1970" for "section 2(a) of the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters and for other purposes' (Public Law 875, Eighty-first Congress, approved September 30, 1950), as amended".

1974. Act May 22, 1974 (eff. 4/1/74 as provided by § 605 of such Act.) Sec. 602(c) substituted in subsec. (h) "sections 102(2) and 301 of the Disaster Relief Act of 1974" for "section 102(1) of the Disaster Relief Act of 1970".

Act Aug. 22, 1974, in clause (i) of para. (2) of subsec. (b), substituted "\$ 25,000" for "\$ 15,000" in the first and second sentences; in clause (ii) of para. (2) of subsec. (b), substituted "\$ 25,000" and "\$ 35,000" for "\$ 15,000" and "\$ 25,000" in the first and second sentences; in clause (iii) of para. (2) of subsec. (b), and substituted "\$ 35,000" for "\$ 25,000" in the first and second sentences; in para. (2) of subsec. (b), substituted "\$ 45,000", "\$ 48,750", and "\$ 56,000" for "\$ 33,000", "\$ 45,750", and "\$ 41,250", respectively.

Act Oct. 18, 1974, added subsec. (n).

1977. Act Oct. 12, 1977, in subsec. (b)(2), deleted "(but, in any case where the dwelling is not approved for mortgage insurance prior to the beginning of construction, unless the construction of the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction 90 per centum)" following "(i) 97 per centum", substituted "and (ii) 95 per centum of such value in excess of \$ 25,000." for "(ii) 90 per centum of such value in excess of \$ 25,000 but not in excess of \$ 35,000, and (iii) 80 per centum of such value in excess of \$ 35,000." and substituted "and (ii) 95 per centum of such value in excess of \$ 25,000." for "90 per centum of such value in excess of \$ 25,000 but not in excess of \$ 35,000, and (iii) 85 per centum of such value in excess of \$ 35,000."; substituted "\$ 60,000", "\$ 65,000", and "\$ 75,000", for "\$ 45,000", "\$ 48,750", and "\$ 56,000", respectively; inserted sentence "Notwithstanding any other provision . . . prior to the beginning of construction."; in subsec. (c) inserted proviso beginning "Provided, That premium charges fixed . . . 1 per centum per annum"; in subsec. (i) substituted "75 per centum of the limit on the principal obligation applicable to a one-family residence under subsection (b) of this section" for "\$ 16,200" and added subsec. (o).

1978. Act Oct. 31, 1978 (effective 10/1/78 as provided by § 104 if said Act, in subsec. (c), substituted "subsections (n) and (k) are" for "subsection (n) is", inserted "or (k)"; and substituted subsec. (k) for one which read:

"(k) Home improvement loans; eligibility; conditions; General Insurance Fund; debentures. To supplement the mortgage insurance provisions of this section in order to assist the conservation, improvement, and alteration of housing, the Secretary is authorized to make commitments to insure and to insure a home improvement loan (including advances during construction or improvement) under this subsection in accordance with the provisions of section 220(h), except that (1) the structures improved shall be designed for occupancy by not more than four families and shall not be required to be located in the area of an urban renewal project, (2) the Secretary shall find that the project with respect to which the loan is executed is an acceptable risk, (3) all funds received and all disbursements made shall be credited or charged, as appropriate, to the General Insurance Fund, and (4) insurance benefits shall be paid in cash out of the General Insurance Fund or in debentures executed in the name of such Fund. For the purposes of this subsection, the Secretary shall have all the authority provided in section 220(h). Insurance benefits paid with respect to loans insured under this subsection shall be paid in accordance with sections 220(h)(6) and 220(h)(7), except that as applied to those loans references in section 220(h) to "this subsection" shall be construed to refer to this section 203(k). If the insurance payment is made in cash, there shall be added to such payment an amount equivalent to the interest which debentures would have earned, computed to a date to be established pursuant to regulations issued by the Secretary."

Act Nov. 9, 1978, in subsec. (b)(2), added "Notwithstanding any other provision of this paragraph, the amount which may be insured under this section may be increased by up to 20 percent if such increase is necessary to account for the increased cost of the residence due to the installation of a solar energy system (as defined in subparagraph (3) of the last paragraph of section 2(a) of this Act) therein."

1979. Act Dec. 21, 1979, in subsec. (b)(2) in the sentence beginning "Involve a principal . . ." substituted "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$ 67,500 in the case of property upon which there is located a dwelling designed principally for a one-family residence; or \$ 76,000 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or \$ 92,000 in the case of a three-family residence, or \$ 107,000 in the case of a four-family residence;" for "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$ 60,000 in the case of property upon which there is located a dwelling designed principally for a one-family resi-

dence; or \$ 65,000 in the case of a two-family residence (whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes); or \$ 65,000 in the case of a three-family residence; or \$ 75,000 in the case of a four-family residence;" in the sentence beginning "Notwithstanding any other provision of this section, in any case . . ." substituted "(i) the dwelling was completed more than one year prior to the application for mortgage insurance, or (ii) the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction, or (iii) the dwelling is covered by a consumer protection or warranty plan acceptable to the Secretary and satisfies all requirements which would have been applicable if such dwelling had been approved for mortgage insurance prior to the beginning of construction" for "the dwelling was completed more than one year prior to the application for mortgage insurance, or the dwelling was approved for guaranty, insurance, or a direct loan under chapter 37 of title 38, United States Code, prior to the beginning of construction"; in subsec. (i) in the last proviso substituted "two and one-half" for "five" and "an all-weather public road" for "a public highway".

1980. Act Oct. 8, 1980, in subsec. (b), in para. (2), inserted "; except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 133 1/3 per centum of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price", in para. (3), deleted "or three-quarters of the Secretary's estimate of the remaining economic life of the building improvements, whichever is the lesser" following "amortization of the mortgage"; in subsec. (k)(5), substituted "Insurance benefits paid with respect to loans secured by a first mortgage and insured under this subsection shall be paid in accordance with section 204, except that all references in section 204 to the Mutual Mortgage Insurance Fund shall be construed as referring to the General Insurance Fund. Insurance benefits paid with respect to loans secured by a mortgage other than a first mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection." for "Insurance benefits paid with respect to loans insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that any reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection."; and added subsec. (p).

1982. Act Sept. 8, 1982 (implemented as provided by section 201(g) of such Act, which appears as a note to this section), in subsec. (b), in para. (2), inserted ": *Provided*, that the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured", in para. (9), inserted "(excluding the mortgage insurance premium paid at the time the mortgage is insured)"; and in subsec. (c), inserted the proviso beginning ": *Provided*, That with respect to mortgages (1) . . .".

1983. Act July 30, 1983, in subsec. (h), substituted "the applicable maximum dollar limit under subsection (b)" for "\$ 14,400".

Act Nov. 30, 1983, in subsec. (b), substituted para. (5) for one which read: "Bear interest (exclusive of premium charges for insurance, and service charges if any) at not to exceed 5 per centum per annum on the amount of the principal obligation outstanding at any time, or not to exceed such per centum per annum not in excess of 6 per centum as the Secretary finds necessary to meet the mortgage market.", and, in para. (8), substituted "the lesser of (A) the otherwise applicable maximum dollar amount prescribed under paragraph (2), or (B) 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance:" for "85 per centum of the amount computed under the provisions of paragraph (2) of this subsection:"; in subsec. (c), inserted "(1) under section 245, 247, 251, 252, or 253, or any other financing mechanism providing alternative methods for repayment of a mortgage that is determined by the Secretary to involve additional risk, or (2)"; substituted subsec. (k)(3)(B) for one which read: "bear interest at a rate permitted by the Secretary for mortgages insured under this section; except that the Secretary may permit a higher rate of interest to be applied to the loan with respect to the period beginning with the making of the loan and ending with the completion of the rehabilitation or such earlier time as the Secretary may determine"; and, in subsec. (n), in para. (1), inserted "or the construction of which was completed more than a year prior to the application for the mortgage insurance", and, in para. (2)(A), deleted "nonprofit" preceding "cooperative".

Such Act further (effective as provided by § 423(c) of such Act, which appears as a note to this section), in subsec. (b)(2), deleted ": *Provided*, That the foregoing maximum mortgage amounts may be increased by the amount of the mortgage insurance premium paid at the time the mortgage is insured" following "150 per centum of such median price"; and added subsec. (d).

Such Act further (effective as provided by § 424(b) of such Act, which appears as a note to this section), in subsec. (b)(2), substituted "(except as otherwise provided in this paragraph)" for "(except as provided in the next to the last sentence of this paragraph)", and inserted the sentence beginning "If the mortgage to be . . .".

1984. Act Oct. 17, 1984, in subsec. (n)(2)(A), substituted "membership in a cooperative" for "membership in an cooperative".

1986. Act Nov. 5, 1986 added subsec. (q).

1988. Act Feb. 5, 1988, in subsec. (b), in para. (2), inserted "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.", in cl. (A), substituted "150 percent" for "13 1/3 per centum"; in subsec. (c), added the sentence beginning "In the case of any mortgage . . ."; in subsec. (k), in para. (3), in subpara. (B), substituted "borrower" for "mortgagor", and "financial institution" for "mortgagee"; and, in subsec. (q)(1), substituted "Secretary shall" for "Secretary may".

Such Act further, as amended by Act Nov. 7, 1988, P.L. 100-628, in subsec. (b)(2), in the sentence beginning "As used herein, the term 'veteran' . . .", inserted ", except that persons enlisting in the armed forces after September 7, 1980, or entering active duty after October 16, 1981, shall have their eligibility determined in accordance with section 3103A(d) of title 38, United States Code".

Such Act further (applicable as provided by § 406(d) of such Act, which appears as a note to this section), in subsec. (b)(2), deleted "(whether or not such one- or two-family residence may be intended to be rented temporarily for school purposes)" preceding "; or \$ 92,000", deleted para. (8) which read: "In the case of a mortgagor who is not the occupant of the property, have a principal obligation not in excess of an amount equal to the lesser of (A) the otherwise applicable maximum dollar amount prescribed under paragraph (2), or (B) 85 percent of the appraised value of the property as of the date the mortgage is accepted for insurance: *Provided*, That such 85 per centum limitation shall not be applicable if the mortgagor and mortgagee assume responsibility in a manner satisfactory to the Secretary for the reduction of the mortgage by an amount not less than 15 per centum of the outstanding principal amount thereof in the event the mortgaged property is not, prior to the due date of the eighteenth amortization payment of the mortgage, sold to a purchaser acceptable to the Secretary who is the occupant of the property and who assumes and agrees to pay the mortgage indebtedness."; inserted a new subsec. (g); in subsec. (h), deleted "is the owner and occupant and" following "where the mortgagor"; in subsec. (i), deleted the proviso which read: "*Provided*, That if the mortgagor is not the occupant of the property at the time of insurance, the principal obligation of the mortgage shall not exceed 85 per centum of the appraised value of the property:" preceding "*Provided*, That the Secretary", and deleted "*further*" following "*Provided*"; deleted subsec. (m) which read: "The Secretary is authorized to insure under this section any mortgage meeting the requirements of subsection (b) of this section, except as modified by this subsection. To be eligible, the mortgage shall involve a principal obligation not in excess of \$ 18,000 and not in excess of 75 per centum of the appraised value of the property, as of the date the mortgage is accepted for insurance. The mortgage shall cover a dwelling for single-family occupancy which is approved for mortgage insurance prior to the beginning of construction. The dwelling need not be designed for year-round occupancy, but it shall (1) meet standards prescribed by the Secretary, and (2) be located in an area where the Secretary finds it is not practicable to obtain conformity with many of the requirements essential to the insuring of mortgages on housing in built-up urban areas. The development of the property with respect to which the mortgage is executed shall be consistent with the conservation of water and other natural resources of the area, and such property shall be an acceptable risk, giving consideration to the economic potential of the area in which the dwelling is located and the contribution that the housing will make toward improving the area. The Secretary may suspend the issuance of commitments under this subsection for the insurance of mortgages secured by properties situated in any area, whenever he determines that (i) there is a serious and unusual shortage of mortgage funds for residential construction in such area, (ii) such insurance would affect materially and adversely the availability of mortgage funds for residential construction in such area, and (iii) such suspension would not have an adverse impact upon the balanced economic development of the area. "; in subsec. (o)(2), deleted "occupant" following "mortgagor is an owner"; and in subsec. (p)(2), substituted "owner" for "owner-occupant".

Such Act further (applicable as provided by § 406(d) of such Act, which appears as a note to this section), as amended by Act Nov. 7, 1988, P.L. 100-628, in subsec. (b)(2), deleted "to be occupied as the principal residence of the owner" following "four-family residence".

Such Act further (applicable as provided by § 407(b)(2) of such Act, which appears as a note to this section) added subsec. (r).

Act Nov. 7, 1988, § 1062(a), in subsec. (g)(3), in subpara. (D), deleted "or" following the concluding semicolon, in subpara. (E), substituted "; or" for the concluding period, and added subpara. (F).

Such Act further in section (r)(2), struck "date on which the mortgage is endorsed for insurance" each place it appears and inserted "date on which the mortgage is executed".

Act Nov. 23, 1988, in subsec. (h), deleted "riot or civil disorder," preceding "or other catastrophe" and substituted "102(2) and 401 of the Disaster Relief and Emergency Assistance Act" for "102(2) and 301 of the Disaster Relief Act of 1974".

1989. Act Nov. 9, 1989, in subsec. (b)(2)(A), inserted "(185 percent during fiscal year 1990)".

Act Dec. 15, 1989 added subsec. (s).

Such Act further (applicable as provided by § 143(c) of such Act, which appears as a note to this section), in subsec. (g), in para. (3), in subpara. (A), substituted ", or any other State or local government or an agency thereof;" for a concluding semicolon and, in subpara. (B), substituted ", or other private nonprofit organization that is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 and intends to sell or lease the mortgaged property to low or moderate-income persons, as determined by the Secretary;" for a concluding semicolon, deleted para. (2) which read:

"(2) The occupancy requirement established in paragraph (1) shall apply only if the mortgage involves a principal obligation that exceeds, as appropriate, 75 percent of--

"(A) the appraised value of the dwelling;

"(B) the estimate of the Secretary of the replacement cost of the property;

"(C) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the value of the property before repair and rehabilitation; or

"(D) the sum of the estimates of the Secretary of the cost of repair and rehabilitation and the amount (as determined by the Secretary) required to refinance existing indebtedness secured by the property, and, in the case of a property refinanced under section 220(d)(3)(A), any existing indebtedness incurred in connection with improving, repairing, or rehabilitating the property.";

and redesignated paras. (3) and (4) as paras. (2) and (3).

Such Act further (applicable as provided by § 132(b) of such Act, which appears as a note to this section), in subsec. (r), in the introductory matter, substituted "The Secretary shall take appropriate actions to reduce losses under the single-family mortgage insurance programs carried out under this title." for "The Secretary shall take appropriate actions to reduce losses under the mortgage insurance program carried out under this section.", and substituted paras. (2) and (3) for ones which read:

"(2) requiring reviews of the credit standing of each person seeking to assume a mortgage insured under this section (A) during the 12-month period following the date on which the mortgage is executed, or (B) during the 24-month period following the date on which the mortgage is executed in the case of an investor originated mortgage; and

"(3) in any case where a mortgage is assumed after the period specified in paragraph (2), requiring that the original mortgagor be advised of the procedures by which he or she may be released from liability."

1990. Act Oct. 1, 1990, in subsec. (b), in para. (2), substituted "until October 31, 1990" for "during fiscal year 1990".

Act Nov. 5, 1990, (P.L. 101-507), in subsec. (b)(2), substituted "(185 percent during fiscal year 1991)" for "(185 percent during fiscal year 1990)".

Act Nov. 5, 1990, (P.L. 101-508), in subsec. (b)(2), substituted "184 percent of the dollar amount specified" for "150 percent (185 percent until October 31, 1990) of the dollar amount specified", and added an undesignated concluding para.; and, in subsec. (c), designated the existing provisions as para. (1), in para. (1) as so designated, deleted "In the case of any mortgage secured by a 1- to 4-family dwelling, the total premium charge shall not exceed an amount equal to 3.8 percent of the original principal obligation of the mortgage if the Secretary requires (1) a single premium charge to cover the total premium obligation of the insurance of the mortgage; or (2) a periodic premium charge over less than the term of the mortgage." following "financial and actuarial considerations." and added para. (2).

Act Nov. 28, 1990, in subsec. (b)(9), inserted "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity Through HOPE Act" after "Housing Act of 1961".

Such Act further (applicable as provided by § 326(b) of such Act, which appears as a note to this section), in subsec. (g)(1), added the two sentences beginning "In making this determination . . ." and "In no event may a secondary residence . . ."; in subsec. (r), in para. (2), deleted "and" after the concluding semicolon, in para. (3), substituted "; and" for the concluding period, and added para. (4).

Such Act also added subsecs. [(t)](s) and [(u)](t).

1992. Act Oct. 6, 1992, in subsec. (b)(2), substituted the first sentence for one which read: Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount not to exceed \$ 67,500 in the case of property upon which there is located a dwelling designed principally for a

one-family residence; or \$ 76,000 in the case of a two-family residence; or \$ 92,000 in the case of a three-family residence, or \$ 107,000 in the case of a four-family residence; except that the Secretary may increase the preceding maximum dollar amounts on an area-by-area basis to the extent the Secretary deems necessary, after taking into consideration the extent to which moderate and middle income persons have limited housing opportunities in the area due to high prevailing housing sales prices, but in no case may such limits, as so increased, exceed the lesser of (A) 185 percent of the dollar amount specified, or (B) in the case of a one-family residence, 95 per centum of the median one-family house price in the area, as determined by the Secretary; in the case of a two-family residence, 107 per centum of such median price; in the case of a three-family residence, 130 per centum of such median price; or in the case of a four-family residence, 150 per centum of such median price or \$ 75,000 in the case of a four-family residence; and (except as otherwise provided in this paragraph) not to exceed an amount equal to the sum of (i) 97 per centum of \$ 25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of \$ 25,000."

Such Act further, in subsec. (b)(2), inserted the concluding sentence after "does not apply."

Act Oct. 28, 1992 (effective and applicable on enactment, as provided by § 2 of such Act, which appears as 42 USCS § 5301 note), in subsec. (b)(2), in the concluding matter, in the second paragraph, substituted "Except with respect to mortgages execute by mortgagors who are veterans," for "Notwithstanding any other provision of this paragraph," and, in para. (9), substituted "(except with respect to a mortgage executed by a mortgagor who is a veteran)" for "(except in a case to which the next to the last sentence of paragraph (2) applies)"; in subsec. (c)(2), in the introductory matter, inserted "or of the General Insurance Fund pursuant to subsection (v)", in subpara. (A), substituted "not exceeding" for "equal to", in subpara. (B), in the introductory matter, substituted "not exceeding" for "equal to" and, in cl. (ii), substituted "not exceeding 0.55 percent" for "equal to 0.55 percent"; in subsec. (k)(2)(B), added the sentence beginning "The term 'rehabilitation' may also include . . ."; and added subsecs. (v) and [(w)](v).

Such Act further (applicable only to mortgages executed on or after 1/1/93, as provided by § 503(b) of such Act), in subsec. (b)(2), substituted the sentence beginning "Involve a principal obligation . . ." for one which read: "Involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in an amount--

"(A) not to exceed the lesser of--

"(i) in the case of the 1-family residence, 95 percent of the median 1-family house price in the area (as determined by the Secretary); in the case of a 2-family residence, 107 percent of such median price; in the case of a 3-family residence, 130 percent of such median price; or in the case of a 4-family residence, 150 percent of such median price; or

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as adjusted annually under such section) for a residence of the applicable size;

except that the applicable dollar amount limitation in effect for any area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992; and

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of--

"(i) 97 percent of \$ 25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of \$ 25,000 but not in excess of \$ 125,000; and

"(iii) 90 percent of such value in excess of \$ 125,000."

Such Act further (applicable to mortgages for which commitments for insurance are issued after the expiration of the 12-month period beginning on enactment, as provided by § 506(b) of such Act), in subsec. (b)(2), in the concluding matter, added the paragraph which begins: "Notwithstanding any other provision of this paragraph, the Secretary . . .".

1994. Act Feb. 12, 1994 (effective only for the 18-month period following the date of enactment of such Act (see note below regarding higher mortgage limits, etc., for victims of Jan. 1994 earthquake in Southern California)), in subsec. (h), substituted "Robert T. Stafford Disaster Relief and Emergency Assistance Act" for "sections 102(2) and 401 of the Disaster Relief and Emergency Assistance Act" and added "In any case in which the single family residence to be insured under this subsection is within a jurisdiction in which the President has declared a major disaster to have occurred, the Secretary is authorized, for a temporary period not to exceed 18 months from the date of such Presidential declaration, to enter into agreements to insure a mortgage which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for single family residence, and not in excess of 100 percent of the appraised value." following "disaster."; and, in subsec. (k), added para. (6), which read: "The Secretary is authorized, for a temporary period not to exceed 18 months from the date on which the President has declared a major disaster to have occurred, to enter into agreements to insure a rehabilitation loan under this subsection which involves a principal obligation of up to 100 percent of the dollar limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size, if

such loan is secured by a structure and property that are within a jurisdiction in which the President has declared such disaster, pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and if such loan otherwise conforms to the loan-to-value ratio and other requirements of this subsection."

Act Sept. 28, 1994, in subsec. (b)(2), in subpara. (A), substituted cl. (ii) for one which read: "(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (as in effect on September 30, 1992) for a residence of the applicable size;" and, in the concluding matter, substituted "except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994 or 38 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;" for "except that the applicable dollar amount limitation in effect for an area under this subparagraph (A) may not be less than the dollar amount limitation in effect under this section for the area on May 12, 1992;"

1996. Act Sept. 26, 1996, in subsec. (b), in para. (9), added the second proviso, and added para. (10); and, in subsec. (c)(2)(A), added the sentence beginning "In the case of a mortgage for which the mortgagor . . .".

1997. Act Oct. 27, 1997, in subsec. (b)(10)(A), substituted "fiscal years 1997 and 1998" for "fiscal year 1997".

1998. Act Oct. 21, 1998, in subsec. (b), in para. (2), in subpara. (A), substituted cl. (ii) for former cl. (ii) and concluding matter, which read:

"(ii) 75 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size;
except that the applicable dollar amount limitation in effect for any area under this subparagraph may not be less than the greater of the dollar amount limitation in effect under this section for the area on the date of enactment of the Housing Choice and Community Investment Act of 1994 or 38 percent of the dollar amount limitation determined under section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act for a residence of the applicable size; and",
and, in the concluding matter of para. (2), in the first paragraph, substituted the sentence beginning "For purposes of the preceding sentence, the term 'area' . . ." for "For purposes of the preceding sentence, the term 'area' means a county, or a metropolitan statistical area as established by the Office of Management and Budget, whichever results in the higher dollar amount.", and added the paragraph beginning "In conjunction with any loan . . .", and, in para. (10) substituted the heading for one which read: "Alaska and Hawaii." and, in subpara. (A), substituted "executed for insurance in fiscal years 1998, 1999, and 2000" for "originated in the State of Alaska or the State of Hawaii and endorsed for insurance in fiscal years 1997 and 1998,;" and added subsec. (x).

1999. Act Oct. 20, 1999, in subsec. (b)(2)(A)(ii), inserted "the greater of the dollar amount limitation in effect under this section for the area on the date of the enactment of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act for Fiscal Year 1999 or".

2000. Act Oct. 6, 2000, in subsec. (b)(10)(A), in the introductory matter, substituted "closed on or before October 30, 2000" for "executed for insurance in fiscal years 1998, 1999, and 2000".

Act Oct. 27, 2000, in subsec. (b)(10)(A), in the introductory matter, substituted "mortgage closed on or before December 31, 2002, involving" for "mortgage closed on or before October 30, 2000 involving"; redesignated subsec. [u](t) as subsec. (u); redesignated subsec. [(t)](s) as subsec. (t); and redesignated subsec. [(w)](v) as subsec. (w).

Act Dec. 27, 2000, purported to amend this section by adding "The report required under this subsection shall include the report required under section 540(c) and the report required under section 205(g)." at the end of subsec. (v); however, the amendment was executed by adding the sentence at the end of subsec. (w) (formerly subsec. [(w)](v)) in order to effectuate the probable intent of Congress.

2001. Act Nov. 26, 2001 (applicable as provided by § 207(b) of such Act, which appears as a note to this section), in subsec. (c), in para. (1), substituted "or (k)" for "and (k)" following "subsections (n)" and, in para. (2), in the introductory matter, deleted "and executed on or after October 1, 1994," following "dwelling".

Such Act further (applicable as above) purported to amend subsec. (c)(2) by inserting "and each mortgage that is insured under subsection (k) or section 234(c)," after "subsection (v)"; however, the amendment was executed by inserting the new matter after "subsection (v)," in order to effectuate the probable intent of Congress.

2002. Act Dec. 4, 2002, in subsec. (b), in the introductory matter, substituted "shall comply with the following:" for "shall--", in para. (2), in subpara. (A), made technical corrections which did not affect the text, substituted subpara. (B) for one which read:

"(B) except as otherwise provided in this paragraph (2), not to exceed an amount equal to the sum of--

"(i) 97 percent of \$ 25,000 of the appraised value of the property, as of the date the mortgage is accepted for insurance;

"(ii) 95 percent of such value in excess of \$ 25,000 but not in excess of \$ 125,000; and

"(iii) 90 percent of such value in excess of \$ 125,000.",

in the first undesignated paragraph of the concluding matter, substituted the sentence beginning "For purposes of this paragraph, the term 'average closing cost' means . . ." for "If the mortgage to be insured under this section covers property on which there is located a one- to four-family residence, and the appraised value of the property, as of the date the mortgage is accepted for insurance, does not exceed \$ 50,000, the principal obligation may be in an amount not to exceed 97 percent of such appraised value. If the mortgagor is a veteran, and the mortgage to be insured under this section covers property upon which there is located a dwelling designed principally for a one-family residence, the principal obligation may be in an amount equal to the sum of (i) 100 per centum of \$ 25,000 of the appraised value of the property as of the date the mortgage is accepted for insurance, and (ii) 95 per centum of such value in excess of \$ 25,000.", deleted the second undesignated paragraph of the concluding matter, which read: "Except with respect to mortgages executed by mortgagors who are veterans, a mortgage may not involve a principal obligation (including such initial service charges, appraisal, inspection, and other fees as the Secretary shall approve) in excess of 98.75 percent of the appraised value of the property (97.75 percent, in the case of a mortgage with an appraised value in excess of \$ 50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, the term 'appraised value' means the amount set forth in the written statement required under section 226, or a similar amount determined by the Secretary if section 226 does not apply. Notwithstanding the authority of the Secretary to establish the terms of insurance under this section and approve the initial service charges, appraisal, inspection, and other fees (and subject to any other limitations under this section on the amount of a principal obligation), the Secretary may not (by regulation or otherwise) limit the percentage or amount of such approved charges and fees that may be included in the principal obligation of a mortgage.", deleted the fourth undesignated paragraph of the concluding matter, which read: "In conjunction with any loan insured under this section, an original lender shall provide to each prospective borrower a disclosure notice that provides a one page analysis of mortgage products offered by that lender and for which the borrower would qualify. This notice shall include: (i) a generic analysis comparing the note rate (and associated interest payments), insurance premiums, and other costs and fees that would be due over the life of the loan for a loan insured by the Secretary under this subsection with the note rates, insurance premiums (if applicable), and other costs and fees that would be expected to be due if the mortgagor obtained instead other mortgage products offered by the lender and for which the borrower would qualify with a similar loan-to-value ratio in connection with a conventional mortgage (as that term is used in section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(2)) or section 302(b)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(2)), as applicable), assuming prevailing interest rates; and (ii) a statement regarding when the mortgagor's requirement to pay the mortgage insurance premiums for a mortgage insured under this section would terminate or a statement that the requirement will terminate only if the mortgage is refinanced, paid off, or otherwise terminated.", and deleted para. (10) which read:

"(10) Calculation of downpayment.

(A) In general. Notwithstanding any other provision of this subsection, with respect to a mortgage closed on or before December 31, 2002, involving a principal obligation not in excess of the sum of--

"(i) the amount of the mortgage insurance premium paid at the time the mortgage is insured; and

"(i)

(I) in the case of a mortgage for a property with an appraised value equal to or less than \$ 50,000, 98.75 percent of the appraised value of the property;

(II) in the case of a mortgage for a property with an appraised value in excess of \$ 50,000 but not in excess of \$ 125,000, 97.65 percent of the appraised value of the property;

(III) in the case of a mortgage for a property with an appraised value in excess of \$ 125,000, 97.15 percent of the appraised value of the property; or

(IV) notwithstanding subclauses (II) and (III), in the case of a mortgage for a property with an appraised value in excess of \$ 50,000 that is located in an area of the State for which the average closing cost exceeds 2.10 percent of the average, for the State, of the sale price of properties located in the State for which mortgages have been executed, 97.75 percent of the appraised value of the property.

"(B) Average closing cost. For purposes of this paragraph, the term 'average closing cost' means, with respect to a State, the average, for mortgages executed for properties that are located within the State, of the total amounts (as determined by the Secretary) of initial service charges, appraisal, inspection, and other fees (as the Secretary shall approve) that are paid in connection with such mortgages.";

and inserted subsec. (f).

2004. Act Oct. 30, 2004 (effective on enactment, as provided by § 8(i) of such Act, which appears as 12 USCS § 321 note), in subsec. (s)(5), deleted "or District bank" following "national bank".

Act Dec. 8, 2004, § 222, provided that subsec. (c)(1) was to be amended by striking "subsections (n) and (k)" and inserting "subsection (n)" and striking "or (k)"; however, such § 222 was deleted by Act May 11, 2005.

Such Act further (applicable to loans that become insured on or after enactment, as provided by § 223 of such Act, which appears as a note to this section), in subsec. (c)(2)(A), inserted ", provided that the mortgagor refinances the unpaid principal obligation under title II of this Act".

2005. Act May 11, 2005, deleted § 222 of Act Dec. 8, 2004, which amended subsec. (c)(1) of this section.

Such Act further, in subsec. (c)(1), substituted "subsection" for "subsections" following "or (2) under", and deleted "or (k)" following "(n)" in two places.

Redesignation:

Section 602(c) of Title VI of Act May 22, 1974, P.L. 93-288, which amended this section, was redesignated § 702(c) of Title VII of such Act by Act Oct. 5, 1994, P.L. 103-337, Div C, Title XXXIV, Subtitle B, § 3411(a)(1), (2), 108 Stat. 3100.

Short titles:

Section 1 of Act July 12, 1957, provides: "This Act may be cited as the 'Housing Act of 1957'." For full classification of such Act, consult USCS Tables volumes.

Other provisions:

Effect of repeal of former subsec. (b)(2)(B). Subsec. (b) of § 104 of Act April 20, 1950, ch 94, Title I, 64 Stat. 59, provided that the repeal of (B) of subsec. (b)(2) of this section "shall not affect the right of the Commissioner to insure under said section any mortgage (1) for the insurance of which application has been filed prior to the effective date of this Act [effective April 20, 1950], or (2) with respect to a property covered by a mortgage insured under any section of the National Housing Act, as amended [12 USCS § § 1701 et seq.]."

Insurance protection for homeowners. Section 109 of Act Aug. 1, 1968, P.L. 90-448, Title I, 82 Stat. 496, provided:

"(a) The Secretary of Housing and Urban Development is authorized, in cooperation with the private insurance industry, to develop a plan for the establishment at the earliest practicable date of an insurance program to help homeowners in meeting mortgage payments in times of personal economic adversity. Such insurance program shall be designed to protect mortgagors against foreclosure due to curtailment of income resulting from factors beyond their effective control, including such factors as death, disability, illness, and unemployment. Such insurance program shall also be designed to be actuarially sound through the use of premiums, fees, extended or increased payment schedules, or other similar methods, in conjunction with such Federal participation as may be necessary.

"(b) Within six months following the date of enactment of this Act [enacted Aug. 1, 1968], the Secretary shall report to the Congress on his actions under this section, and shall recommend to the Congress such legislation as he deems appropriate to authorize him to enter into agreements with any insurance company, or any corporation or joint enterprise formed to provide home mortgage insurance protection, for the purpose of reinsuring insurance reserve funds, subsidizing premium payments on behalf of lower income mortgagors, or otherwise making possible the insurance protection of homeowners in accordance with subsection (a). In preparing such recommendations the Secretary shall consult with other agencies or instrumentalities of the United States which insure or guarantee home mortgages in order that such legislation as may be recommended affords equal benefits to mortgagors participating in their programs."

Studies of mortgage insurance premiums and alternatives to statutory mortgage amounts. Act Dec. 21, 1979, P.L. 96-153, Title III, § 309, 93 Stat. 1114, provided:

"(a) The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') shall conduct a study of the relative risks of loss which exist with respect to the various classes of mortgages which may be insured under sections 203(b) and 213 of the National Housing Act, [42 USCS § § 1437f note, 1439]. Such study shall be conducted for the purpose of making recommendations on the advisability of reducing, in accordance with sound actuarial and accounting practices, some or all of the mortgage insurance premiums required for such classes of mortgages. The Secretary shall transmit such recommendations to the Congress within eighteen months from the date of the enactment of this Act [enacted Dec. 21, 1979].

"(b) The Secretary shall conduct a study of alternatives to the present fixed statutory maximum amounts for mortgages insured by the Department of Housing and Urban Development under titles I and II of the National Housing Act [Act Aug. 22, 1974, P.L. 93-383, 88 Stat. 633]. Such study shall include an examination of possible alternatives, including but not limited to flexible mortgage ceilings, prototype cost limits, ceilings based on regional housing costs, sales prices of homes, and construction costs. The Secretary shall report to the Congress on the results of such study, together with recommendations for legislation, no later than March 1, 1980."

Implementation of amendments made by § 201 of Act Sept. 8, 1982. Act Sept. 8, 1982, P.L. 97-253, Title II, § 201(g), 96 Stat. 790, provided: "The amendments made by this section [amending 12 USCS § § 1709(b)(2), (9), (c), 1715e(b)(2), 1715l(d)(2), 1715y(c)(A), and 1715z(i)(3)], other than by subsection (b) [amending subsec. (c) of this section], may be implemented only if the Secretary determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by this section, is actuarially sound."

Effective date of amendments made by § 423 of Act Nov. 30, 1983. Act Nov. 30, 1983, P.L. 98-181, Title IV, Part A, Subpart 2, § 423(c), 97 Stat. 1217, provides: "The amendments made by this section [which amended this section, among other things; for full classification, consult USCS Tables volumes] shall take effect only if the Secretary of Housing and Urban Development determines that the program of advance payment of insurance premiums, with specific regard to the effect of the provisions authorized by the amendments made by [to] such sections, is actuarially sound."

Effective date of amendment made by § 424(a) of Act Nov. 30, 1983. Act Nov. 30, 1983, P.L. 98-181, Title IV, Part A, Subpart 2, § 424(b), 97 Stat. 1217, provides: "The amendment made by subsection (a) [amendment of subsec. (b)(2) of this section; see the 1983 Amendments notes] shall take effect only if the Secretary finds and reports to the Congress that such amendment [amendment of subsec. (b)(2) of this section; see the 1983 Amendments notes], taking into account the higher loan-to-value ratio resulting from the advance payment of mortgage insurance premiums, will not adversely affect the actuarial soundness of the Federal Housing Administration mortgage insurance program."

Report on home equity conversion mortgages for the elderly. Act Nov. 30, 1983, P.L. 98-181, Title IV, Part A, Subpart 4, 97 Stat. 1228, provides:

"The Secretary of Housing and Urban Development shall evaluate the existing use of home equity conversion mortgages for the elderly and, not later than the expiration of the 1-year period following the date of the enactment of this Act, submit to the Congress a report setting forth the results of such evaluation. Such report shall include--

"(1) an evaluation of whether the use of such mortgages improves the financial situation, or otherwise meets the special needs, of elderly homeowners;

"(2) an evaluation of any risks incurred by mortgagors as a result of the use of such mortgages, and any recommendations of the Secretary for appropriate safeguards to be included in such mortgages to minimize such risks;

"(3) an evaluation of the potential for acceptance of such mortgages in the private market; and

"(4) any recommendations of the Secretary for the establishment of a Federal program of insuring such mortgages."

Application of Feb. 5, 1988 amendments. Act Feb. 5, 1988, P.L. 100-242, Title IV, Subtitle A, § 406(d), 101 Stat. 1902, provides:

"The amendments made by this section [amending this section, and generally 12 USCS § § 1715d et seq.; for full classification, consult USCS Tables volumes] shall apply only with respect to--

"(1) mortgages insured--

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

"(B) in accordance with the direct endorsement program (24 CFR 200.163), if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, referred to in the amendment made by subsection (a), if the original mortgagor was subject to such amendment."

Transitions provisions; 1988 amendments. Act Feb. 5, 1988, P.L. 100-242, Title IV, Subtitle A, § 406(e), 101 Stat. 1902, provides: "Any mortgage insurance provided under title II of the National Housing Act [generally 12 USCS § § 1707 et seq.], as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions specified in subsections (a) through (c) [amending generally 12 USCS § § 1709 et seq.], as such provisions existed immediately before such date."

Application of subsec. (r). Act Feb. 5, 1988, P.L. 100-242, Title IV, Subtitle A, § 407(b)(2), 101 Stat. 1902; Nov. 7, 1988, P.L. 100-628, Title X, Subtitle D, § 1063(b), 102 Stat. 3274, "The amendment made by paragraph (1) [enacting subsec. (r) of this section] shall apply to each mortgage originated pursuant to an application for commitment for insurance signed by the applicant on or after December 1, 1986."

Application of Dec. 15, 1989 amendments of subsec. (r). Act Dec. 15, 1989, P.L. 101-235, Title I, Subtitle C, § 132(b), provides:

"The amendments made by subsection (a) [amending subsec. (r) of this section] shall apply only with respect to--

"(1) mortgages insured--

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

"(B) in accordance with the direct endorsement program (24 C.F.R. 200.163), if the approved underwriter of the mortgage signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Transition provisions; 1989 amendment of subsec (r). Act Dec. 15, 1989, P.L. 101-235, Title I, Subtitle C, § 132(c), 103 Stat. 2027, provides:

"Any mortgage insurance provided under title II of the National Housing Act [12 USCS § § 1707 et seq.] as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(r) of the National Housing Act [subsec. (r) of this section], as such section existed immediately before such date."

Application of Dec. 15, 1989 amendments of subsec. (g). Act Dec. 15, 1989, P.L. 101-235, Title I, Subtitle C, § 143(c), 103 Stat. 2036, provides:

"The amendments made by this section [amending subsec. (g) of this section] shall apply only with respect to--

"(1) mortgages insured--

"(A) pursuant to a conditional commitment issued on or after the date of the enactment of this Act; or

"(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgagee signs the appraisal report for the property on or after the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Transition provisions; 1989 amendment of subsec. (g). Act Dec. 15, 1989, P.L. 101-235, Title I, Subtitle C, § 143(d), 103 Stat. 2036, provides: "Any mortgage insurance provided under title II of the National Housing Act [12 USCS § § 1707 et seq.], as it existed immediately before the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions amended by subsections (a) and (b) [subsec. (g) of this section] as such provisions existed immediately before such date."

Effective date of temporary extension of Emergency Low Income Housing Preservation Act of 1987; correction of any repeal. Act Oct. 31, 1990, P.L. 101-494, § 1, 104 Stat. 1185, provides:

"(a) Effective date of extender. Public Law 101-402 [amending Act Feb. 2, 1988, P.L. 100-242, Title II, subtitles A, B, § § 201 et seq., 101 Stat. 1877, which appears as a note to 12 USCS § 17151] shall be deemed to have taken effect as if such law were enacted on September 29, 1990.

"(b) Status of Act. The Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 17151 note) shall be deemed to have been in effect on and after September 29, 1990, as if Public Law 101-402 had been enacted on September 29, 1990.

"(c) Correction of any repeal. The provisions of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 17151 note), other than section 203, are amended to read as such provisions were in effect on September 29, 1990. The amendment made by this subsection shall take effect as if this Act were enacted on September 29, 1990.

"(d) Effective date. If the Cranston-Gonzalez National Affordable Housing Act is enacted before the enactment of this Act, this section shall be deemed to have taken effect immediately before the enactment of the Cranston-Gonzalez National Affordable Housing Act."

Mortgage insurance limitation increase. Act Oct. 31, 1990, P.L. 101-494, § 4, 104 Stat. 1186, provides:

"(a) Extension. If upon enactment of this Act, section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) provides for an increase in the maximum dollar amount limitations on the principal obligations of mortgages insured under such section until October 31, 1990, then notwithstanding such section, such maximum dollar amount limitations may be increased (to the percent specified in such section) until November 30, 1990.

"(b) Limitations. If upon enactment of this Act such section 203(b)(2) provides for an increase in the maximum dollar amount limitations (referred to in subsection (a)) until a date other than October 31, 1990, this section shall not apply. This section shall not apply with respect to any amendment to section 203(b)(2) of the National Housing Act [subsec. (b)(2) of this section] made after the date of the enactment of this Act."

Mortgage insurance premiums. Act Nov. 5, 1990, P.L. 101-508, Title II, Subtitle B, § 2103(b), (c), 104 Stat. 1388-18; Oct. 28, 1992, P.L. 102-550, Title I, Subtitle E, § 185(c)(3), Title V, § 507(b), 106 Stat. 3748, 3782, provides:

"(b) Notwithstanding section 203(c) of the National Housing Act [subsec. (c) of this section] (as amended by subsection (a)), mortgage insurance premiums on mortgages executed during fiscal years 1991 through 1994 and that are obligations of the Mutual Mortgage Insurance Fund or of the General Insurance Fund pursuant to section 203(v) of the National Housing Act [subsec. (v) of this section] shall be subject to the following requirements:

"(1) 1991, 1992. For mortgages executed during fiscal years 1991 and 1992 (but after the date of the effectiveness of regulations issued under subsection (c)), the Secretary shall establish and collect the following premiums:

"(A) Up-front. At the time of insurance, a single premium payment in an amount not exceeding 3.80 percent of the amount of the original insured principal obligation of the mortgage.

"(B) Annual. In addition to the premium under subparagraph (A), annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance at-

tributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is--

"(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 5 years of the mortgage term;

"(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 8 years of the mortgage term; and

"(iii) greater than 95 percent of such value, for the first 10 years of the mortgage term.

"(2) 1993 and 1994. For mortgages executed during fiscal years 1993 and 1994, the Secretary shall establish and collect the following premiums:

"(A) Up-front. At the time of insurance, a single premium payment in an amount not exceeding 3.00 percent of the amount of the original insured principal obligation of the mortgage.

"(B) Annual. In addition to the premium under subparagraph (A), annual premium payments in an amount not exceeding 0.50 percent of the remaining insured principal balance (excluding the portion of the remaining balance attributable to the premium collected under subparagraph (A) and without taking into account delinquent payments or prepayments), for any mortgage involving an original principal obligation (excluding any premium collected under subparagraph (A)) that is--

"(i) less than 90 percent of the appraised value of the property (as of the date the mortgage is accepted for insurance), for the first 7 years of the mortgage term;

"(ii) greater than or equal to 90 percent of such value but equal to or less than 95 percent of such value, for the first 12 years of the mortgage term; and

"(iii) greater than 95 percent of such value, for the first 30 years of the mortgage term.

"(3) Refunds. With respect to any mortgage subject to premiums under this subsection, the Secretary shall refund all of the unearned premium charges paid on a mortgage pursuant to paragraph (1)(A) or (2)(A) upon payment in full of the principal obligation of the mortgage prior to the maturity date.

"(c) Regulations. The Secretary shall issue regulations to carry out this section and the amendments made by this section [amending subsec. (c) of this section] not later than the expiration of the 90-day period beginning on the date of the enactment of this Act."

Applicability of Nov. 28, 1990 amendment of subsec. (g)(1). Act Nov. 28, 1990, P.L. 101-625, Title III, Subtitle B, § 326(b), 104 Stat. 4137, provides:

"The amendments made by subsection (a) [amending subsec. (g)(1) of this section] shall apply only with respect to--

"(1) mortgages insured--

"(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act; or

"(B) in accordance with the endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments."

Transition provisions; 1990 amendment of subsec. (g)(1). Act Nov. 28, 1990, P.L. 101-625, Title III, Subtitle B, § 326(b), (c), 104 Stat. 4137, provides:

"(b) Applicability. The amendments made by subsection (a) [amending subsec. (g)(1) of this section] shall apply only with respect to--

"(1) mortgages insured--

"(A) pursuant to a conditional commitment issued after the expiration of the 60-day period beginning on the date of the enactment of this Act; or

"(B) in accordance with the direct endorsement program, if the approved underwriter of the mortgages signs the appraisal report for the property after the expiration of the 60-day period beginning on the date of the enactment of this Act; and

"(2) the approval of substitute mortgagors, if the original mortgagor was subject to such amendments.

"(c) Transition Provisions. Any mortgage insurance provided under title II of the National Housing Act [12 USCS § 1707 et. seq.] before the expiration of the 60-day period beginning on the date of the enactment of this Act, shall continue to be governed (to the extent applicable) by the provisions of section 203(g)(1) of the National Housing Act [subsec. (g)(1) of this section] as such provisions existed before the date of the enactment of this Act."

Mutual Mortgage Insurance Fund premiums. Act Aug. 10, 1993, P.L. 103-66, Title III, § 3005, 107 Stat. 340, provides: "To improve the actuarial soundness of the Mutual Mortgage Insurance Fund under the National Housing Act

[12 USCS §§ 1701 et seq., generally; for full classification, consult USCS Tables volumes], the Secretary of Housing and Urban Development shall increase the rate at which the Secretary earns the single premium payment collected at the time of insurance of a mortgage that is an obligation of such Fund (with respect to the rate in effect on the date of the enactment of this Act). In establishing such increased rate, the Secretary shall consider any current audit findings and reserve analyses and information regarding the expected average duration of mortgages that are obligations of such Fund and may consider any other information that the Secretary determines to be appropriate."

Higher mortgage limits and improved access to mortgage insurance for victims of January 1994 Southern California earthquake. Act Feb. 12, 1994, P.L. 103-211, Title I, Ch 7, 108 Stat. 12, provides:

"For higher mortgage limits and improved access to mortgage insurance for victims of the January 1994 earthquake in Southern California, title II of the National Housing Act [12 USCS §§ 1707 et seq.], as amended, is further amended, as follows:

"(1)-(3) [Omitted; see 1994 Amendment notes to this section and 12 USCS § 1715y regarding the amendments made by these paragraphs.]

"Eligibility for loans made under the authority granted by the preceding paragraph shall be limited to persons whose principal residence was damaged or destroyed as a result of the January 1994 earthquake in Southern California: *Provided*, That the provisions under this heading shall be effective only for the 18-month period following the date of enactment of this Act."

Disclosure notice under subsec. (b)(2). Act Oct. 21, 1998, P.L. 105-276, Title II, § 225(b), 112 Stat. 2490, provides: "The Secretary of Housing and Urban Development shall develop the disclosure notice under subsection (a) [amending the concluding matter of subsec. (b)(2) of this section] within 150 days of the enactment through notice and comment rulemaking."

Application of Nov. 26, 2001 amendments. Act Nov. 26, 2001, P.L. 107-73, Title II, § 207(b), 115 Stat. 675, provides:

"The amendments made by subsection (a) [amending subsec. (c) of this section] shall--

"(1) apply only to mortgages that are executed on or after the date of enactment of this Act; and

"(2) be implemented in advance of any necessary conforming changes to regulations."

Application of amendment made by § 223 of Div I of Act Dec. 8, 2004. Act Dec. 8, 2004, P.L. 108-447, Div I, Title II, § 223, 118 Stat. 3321, provides: "This provision [amending subsec. (c)(2)(A) of this section] shall apply to loans that become insured on or after date of enactment of this Act."

NOTES:

Code of Federal Regulations:

Office of the Secretary, Department of Housing and Urban Development--Mortgagee Review Board, 24 CFR Part 25.

Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development--Single family mortgage insurance, 24 CFR Part 203.

Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development--Mortgage insurance and insured improvement loans for urban renewal and concentrated development areas, 24 CFR Part 220.

Office of Assistant Secretary for Housing-Federal Housing Commissioner, Department of Housing and Urban Development--Disposition of HUD-acquired single family property, 24 CFR Part 291.

Related Statutes & Rules:

Construction of reference to section, 12 USCS § 1706c(g).

Construction of reference to section, 12 USCS § 1715k(f)(1).

Construction of reference to section, 12 USCS § 1715l(g)(1).

Construction of reference to section, 12 USCS § 1715m(e).

Construction of reference to section, 12 USCS § 1748h-1(e).

This section is referred to in 12 USCS §§ 1441a, 1703, 1706c, 1707, 1708, 1710, 1711, 1712, 1713, 1715e, 1715k, 1715l, 1715m, 1715n, 1715q, 1715w, 1715x, 1715y, 1715z, 1715z-2, 1715z-3, 1715z-10, 1715z-12, 1715z-13, 1715z-14, 1715z-19, 1715z-20, 1717, 1723h, 1735, 1735b, 1735c, 1735f-17, 1735f-18, 1748h-1, 1748h-2, 1750b, 2703; 15 USCS §§ 77d, 78c; 38 USCS § 1803; 42 USCS §§ 1472, 1490k.

Research Guide:

Federal Procedure:

4B Fed Proc L Ed, Banking and Financing § § 8:1760, 1770, 1772.

Am Jur:

- 40A Am Jur 2d, Housing Laws and Urban Redevelopment § 7.
- 69 Am Jur 2d, Securities Regulation--Federal (1993) § 324.
- 77 Am Jur 2d, Veterans and Veterans' Laws § 113.

Annotations:

Who is "prevailing party" so as to be entitled to award of attorneys' fees by court under Equal Access to Justice Act (28 USCS § 2412(d)). 105 ALR Fed 110.

Interpretive Notes and Decisions:

1. Generally 2. Constitutionality 3. Purpose 4. Construction, generally 5. HUD guidelines 6. Appraisal 7. Misrepresentation and violation of provisions 8. Incontestability 9. Period of redemption 10. Private right of action

1. Generally

Claim of Federal Housing Administration [now Department of Housing and Urban Development], against bankrupt, resulting from insurance of loan, was allowable as debt due to United States with priority. *In re Wilson* (1938, DC Tex) 23 F Supp 236.

There is discretion vested in the secretary of housing and urban development to determine the question of economic desirability of insuring and, in the absence of evidence of an abuse of that discretion, the secretary's determination will not be set aside by the courts. *Shillman v Hobstetter* (1968) 249 Md 678, 241 A2d 570.

Government under mortgage insurance and mortgage assistance programs of National Housing Act was sufficiently involved with private lenders holding mortgages under Act to bring actions of such lenders within purview of Fifth Amendment, where plaintiff claimed that such lenders had instituted foreclosure proceedings in violation of due process clause. *Brown v Lynn* (1974, ND Ill) 385 F Supp 986, reh den (1975, ND Ill) 392 F Supp 559.

Debentures issued against insured mortgages were valid and enforceable against mutual mortgage insurance fund. (1935) 38 Op Atty Gen 258.

2. Constitutionality

1940 amendment of § 275 of New York real property act, eliminating from assignment when mortgage becomes due any mortgage which federal housing administrator [now Secretary of Housing and Urban Development] has insured or has made commitment to insure, is constitutional. *Application of Fleetwood Acres, Inc.* (1945) 186 Misc 299, 62 NYS2d 669, affd (1946) 270 App Div 1050, 63 NYS2d 238.

3. Purpose

Evident purpose of 12 USCS § 1709 is to make it possible for Secretary of Housing and Urban Development to acquire insured property, in event of default foreclosure and demand for insurance benefit, free and clear of all incumbrances, including tenancies, so that Secretary can deal effectively with property either by preparing it for market and marketing it, rehabilitating it, or otherwise disposing of it in terms of overall responsibilities of Secretary in his office and under this and other Acts under which he has administrative responsibilities. *Manners v Secretary of Housing & Urban Development* (1971, ED NY) 333 F Supp 829.

Congress intended to allow co-operatives to be eligible mortgagors under 12 USCS § 1713; Congress affirmatively intended to encourage co-operative housing by providing for insurance of mortgages on individual co-operative units, providing for mortgage assistance payments for co-operative owners, providing for interest reduction payments for co-operative members and providing mortgage assistance for middle income co-operative members. *Angleton v Pierce* (1983, DC NJ) 574 F Supp 719, affd without op (1984, CA3 NJ) 734 F2d 3, cert den (1984) 469 US 880, 83 L Ed 2d 183, 105 S Ct 245, reh den (1984) 469 US 1067, 83 L Ed 2d 438, 105 S Ct 551.

National housing program was designed to make homes more accessible to low income families by means of extensive mortgage insurance which will permit mortgagees to accept limited downpayments, reduced interest rates and longer maturities than are available in the market; intent of National Housing Act provisions and regulations concerning foreclosure, although not couched in mandatory terms, is that, on mortgagor's default, mortgagee be encouraged to pur-

sue alternative measures and seek foreclosure relief only as last resort. *Federal Nat'l Mortg. Asso. v Ricks* (1975) 83 Misc 2d 814, 372 NYS2d 485.

4. Construction, generally

In using word "misrepresentation" in 12 USCS § 1709(e), Congress merely intended to exclude from scope of incontestability provision misrepresentation of such character as would render policy of insurance voidable under general insurance law. *Jay F. Zook, Inc. v Brownstein* (1965, ND Ohio) 237 F Supp 800.

5. HUD guidelines

Department of Housing and Urban Development guidelines concerning servicing of mortgages under mortgage assistance program which were not issued pursuant to Administrative Procedure Act contained only statements of policy and were not regulations, per se, having force and effect of law, and were unenforceable in courts. *Brown v Lynn* (1974, ND Ill) 385 F Supp 986, reh den (1975, ND Ill) 392 F Supp 559.

Failure to comply with servicing regulations which are mandatory and have force and effect of law can be raised in foreclosure proceeding as affirmative defense; HUD rules requiring that no mortgagee commence foreclosure until arrangement of face to face interview with mortgagor or reasonable effort to arrange such meeting before 3 full monthly installments are unpaid set forth violations which may be raised as affirmative defense in foreclosure action. *Bankers Life Co. v Denton* (1983, 3d Dist) 120 Ill App 3d 576, 76 Ill Dec 64, 458 NE2d 203.

Participating mortgagees under National Housing Act and their assignees were obligated to follow guidelines established in handbook of Department of Housing and Urban Development in event of mortgagor's default, notwithstanding that handbook did not have force and affect of law as validly promulgated rule or regulation; failure of mortgagee to comply with such guidelines may constitute unconscionable conduct so as to deny to mortgagee foreclosure relief it seeks, and such failure to comply may thus be interposed as defense. *Federal Nat'l Mortg. Asso. v Ricks* (1975) 83 Misc 2d 814, 372 NYS2d 485.

6. Appraisal

Procedure of appraisal was designed to effectuate purpose of National Housing Act, to encourage construction of housing by giving aid to prospective purchasers, and at same time to protect government from loss that would be incurred by insuring undesirable property. *United States v Neustadt* (1960, CA4 Va) 281 F2d 596, revd on other grounds (1961) 366 US 696, 6 L Ed 2d 614, 81 S Ct 1294.

Allegedly improper inspection and appraisal of property insured under provisions of National Housing Act (12 USCS §§ 1709 and 1715(d)(2)) cannot give rise to claim for breach of contract or support third-party beneficiary theory since inspection and appraisal is not required by contract of insurance; primary objective of FHA appraisal system is protection of government insurance funds; there is no legal relationship between FHA and individual mortgagor so as to give rise to claims for damages for allegedly negligent inspection. *Cason v United States* (1974, WD Mo) 381 F Supp 1362, affd (1975, CA8 Mo) 510 F2d 123, cert den (1975) 423 US 851, 46 L Ed 2d 75, 96 S Ct 95.

Inspection requirements for appraisal of property as condition of Federal Housing Administration [now Department of Housing and Urban Development] insured loan do not impose upon mortgagee duty of care concerning safety; failure of Federal Housing Administration [now Department of Housing and Urban Development] inspector to discovery deficiency in heating system which caused deaths by carbon monoxide poisoning does not state cause of action against mortgagee. *Clark v Grover* (1984) 132 Mich App 476, 347 NW2d 748.

7. Misrepresentation and violation of provisions

Real estate broker who advanced money to purchasers so that they could qualify for financing through Federal Housing Administration [now Department of Housing and Urban Development] under 12 USCS § 1709 for full amount of their loan is guilty of knowing and willfully falsifying application for loans within province of Federal Housing Administration [now Department of Housing and Urban Development]. *Pruit v United States* (1967, CA9 Or) 382 F2d 277.

In government suit against bank for recovery of money paid under mistake of fact, 12 USCS § 1709 precluded government recovery where government failed to demonstrate that, after mortgage default occurred, bank sought payment of mortgage insurance by fraud or misrepresentation. *United States v Miller* (1981, CA5 La) 645 F2d 473.

Government, having ignored what it knew to be false statement, was estopped from denying validity of insurance contract on basis of alleged misrepresentation. *Jay F. Zook, Inc. v Brownstein* (1965, ND Ohio) 237 F Supp 800.

Apartments purchaser/developer cannot compel HUD to issue its final endorsement of mortgage securing loan for development and conversion of complex, where HUD refuses on basis that developer's marketers misrepresented that 51 percent of units had been sold prior to closing, and now insists on reduction of over \$ 1 million in amount of mortgage to be coinsured by HUD, because 12 USCS § 1709(e) allows HUD to deny final endorsement after initial endorsement based on misrepresentation, even if coinsuring lender and developer were equally fooled by deception of marketer and made misrepresentation to HUD innocently. *Jayson Invest., Inc. v Kemp* (1990, ND Ill) 746 F Supp 807.

Evidence sustained conviction for illegally engaging in practice of law which shows that company is engaged in business of insuring titles to real estate and through its lay employee supervised and carried through many, if not all, transactions involving sale of homes with purchase-money bond and mortgages which are guaranteed by Federal Housing Administration [now Department of Housing and Urban Development], for which services and for title insurance policy company received fees for each home transaction. *People v Lawyers Title Corp.* (1940) 282 NY 513, 27 NE2d 30.

Note for loan given broker by purchaser of home to provide adequate funds for closing is in violation of 12 USCS § 1709 and will not be enforced. *Messapelle v Nicastro* (1977) 89 Misc 2d 501, 391 NYS2d 951.

Where seller of real estate cooperated with purchaser in procuring mortgage to be insured by Federal Housing Administration [now Department of Housing and Urban Development], by representing that purchaser had paid to seller, in cash, sum equal to 10 per cent of appraised value of mortgage property, as required by 12 USCS 1709, when in fact purchaser had paid only part of said sum, but had orally agreed to pay remainder at later date, courts could not assist seller to recover unpaid balance. *G. A. Nichols Bldg. Co. v Fowler* (1946) 197 Okla 476, 172 P2d 636.

8. Incontestability

HUD insurance program does not impose duty upon HUD to others, except to insure lender's mortgage if it complies with 12 USCS § 1709 and applicable HUD regulations, and individual who wished to purchase mobile home could not sue HUD on basis of HUD's conditional commitment to lender to insure mortgage where it was subsequently discovered that sewage disposal system proposed by individual did not meet regulations, HUD officials who processed application had no authority to waive regulations, and there was no privity between individual and HUD. *De Roo v United States* (1987) 12 Cl Ct 356.

Basic purpose behind 12 USCS § 1709(e) was not to provide incontestability clause identical to those contained in life insurance contracts, but rather to provide incontestability clause which limits basis of contest to certain actions on part of approved mortgagee. *Jay F. Zook, Inc. v Brownstein* (1965, ND Ohio) 237 F Supp 800.

9. Period of redemption

Even though National Housing Act [12 USCS § § 1701 et seq.] does not authorize period of redemption upon mortgage foreclosure, allowance of redemption period does not conflict with federal policy, as one purpose of this act is protection of the security interest of the Federal Housing Administration [now Department of Housing and Urban Development]. *United States v West Willow Apartments, Inc.* (1965, ED Mich) 245 F Supp 755, 9 FR Serv 2d 60B.11, Case 1.

10. Private right of action

Fact that fraud was committed in order to procure Federal Housing Administration [now Department of Housing and Urban Development] insured mortgage loan does not of itself create federal question jurisdiction where plaintiff's right to recover derives solely from state law. *Miller v Long* (1945, CA4 SC) 152 F2d 196.

National Housing Act does not constitute consent on part of United States to be sued, and court is therefore without jurisdiction to entertain counterclaim against United States in foreclosure proceeding to recover on note secured by mortgage insured by Federal Housing Administration [now Department of Housing and Urban Development]. *Waylyn Corp. v United States* (1956, CA1 Puerto Rico) 231 F2d 544, cert den (1956) 352 US 827, 1 L Ed 2d 49, 77 S Ct 40.

Mortgage insurance provided under National Housing Act (12 USCS § § 1701 et seq.) is insufficient predicate for implication of private cause of action. *Shivers v Landrieu* (1981, App DC) 218 US App DC 247, 674 F2d 906.

12 USCS § 1709

Tenants in small apartment buildings on which federally insured mortgages have been foreclosed, and where title has reverted to insuring agency, have standing to seek to enjoin their eviction from apartments under 12 USCS § 1709. *Manners v Secretary of Housing & Urban Development* (1971, ED NY) 333 F Supp 829.

Beneficiaries of mortgage assurance and mortgage assistance programs of National Housing Act against whom mortgage foreclosing proceedings had been instituted had standing to challenge actions of Department of Housing and Urban Development which plaintiffs alleged violated statutory obligations. *Brown v Lynn* (1974, ND Ill) 385 F Supp 986, reh den (1975, ND Ill) 392 F Supp 559.

In class action for declaratory and injunctive relief against Department of Housing and Urban Development and Director of Chicago Area HUD office, seeking declaration and concomitant injunctive order that HUD's "vacancy requirement", as enforced and administered, violated various provisions of National Housing Acts, while jurisdiction was not present under 12 USCS § 1702, which merely renders defendants amenable to suit, claim arising under National Housing Acts was cognizable under 28 USCS § 1337, which provides that district courts have original jurisdiction over civil actions or proceedings arising under any act of Congress regulating commerce; where action arose under § § 203 and 204 of National Housing Acts of 1934 [12 USCS § § 1709, 1710] and where commerce clause was significant source of federal power for Act, jurisdiction of complaint existed under 28 USCS § 1337. *Metropolitan Area Housing Alliance v United States Dep't of Housing & Urban Development* (1976, ND Ill) 69 FRD 633, 22 FR Serv 2d 241.